



CITY OF COLUSA
Department of Public Works

CONTRACT DOCUMENTS
FOR
2026 WILL S. GREEN AVENUE
PUMP STATION PROJECT
CITY PROJECT NO. 2026-020
SRF LOAN PROJECT NO. C-06-8613-110
VOLUME 1

PRE BID MEETING – August 5th, 2026, 10:00 a.m. at Project Site
BID OPENING – August 20th, 2026, 3:00p.m. at City Hall

Mayor:	Denise Conrado
Mayor Pro Tem:	Dave Markss
Council Members:	Ryan Codorniz Greg Ponciano Daniel Vaca
City Manager:	Jesse Cain
Public Works Administrative Director:	Jesse Cain

**CONTRACT DOCUMENTS
AND
SPECIFICATIONS
FOR
CITY OF COLUSA 2026 WILL S. GREEN AVENUE
PUMP STATION PROJECT**

**CITY PROJECT NO. 2026-020
SRF LOAN PROJECT NO. C-06-8613-110**

VOLUME 1

JULY 2026

BID SET

Prepared by:



**NEXGEN Utility Management, Inc
4010 Lennane Drive,
Sacramento. CA 95834**

CITY OF COLUSA

2026 WILL S. GREEN AVENUE PUMP STATION PROJECT

LICENSEE RESPONSIBLE FOR SPECIFICATIONS

Contract Documents prepared by or under the direction of the following registered persons:

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Sacramento, CA 95834
916-564-8000



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TABLE OF CONTENTS
CITY OF COLUSA 2026 WILL S. GREEN AVENUE PUMP STATION PROJECT
IN THE CITY OF COLUSA, CALIFORNIA
CITY PROJECT NO. 2026-020

VOLUME 1: CONTRACT DOCUMENTS

DIVISION 0: BIDDING REQUIREMENTS, CONTRACT FORMS, AND CONDITIONS OF THE CONTRACT

00100	NOTICE INVITING SEALED BIDS
00200	INSTRUCTION TO BIDDERS
00410	BID PROPOSAL
00520	CONTRACT AGREEMENT FORMS
00700	STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT
00800	SUPPLEMENTARY CONDITIONS

VOLUME 2: TECHNICAL SPECIFICATIONS (attached)

VOLUME 3: CONTRACT DRAWINGS

APPENDICES:

APPENDIX A	GEOTECHNICAL ENGINEERING INVESTIGATION REPORT PROPOSED CITY OF COLUSA WASTEWATER TREATMENT PLANT INFRASTRUCTURE IMPROVEMENTS
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SECTION 00100
NOTICE INVITING SEALED BIDS
CITY OF COLUSA 2026 WILL S. GREEN AVENUE PUMP STATION PROJECT
IN THE CITY OF COLUSA, CALIFORNIA

CITY PROJECT NO. 2026-020

ARTICLE 1 – NOTICE INVITING SEALED BIDS

PUBLIC NOTICE IS HEREBY GIVEN that the City of Colusa as Owner, invites sealed bids for the **CITY OF COLUSA 2026 WILL S. GREEN AVENUE PUMP STATION PROJECT** and will receive such bids in the office of the:

City Clerk
425 Webster Street
Colusa, California 95932

Up to the hour of 3:00 p.m., on the 20th day of August 2026, at which time bids will be opened in the Colusa City Hall Council Chambers. No phones are available at the City offices for use by the bidders. The clock in the City Clerk's Office will be the final determination of the time. Late submittals will be returned to the bidder unopened.

ARTICLE 2- DESCRIPTION OF PROJECT

The project constructs a new wastewater pump station on Will S. Green Avenue in the City of Colusa, including two manholes, two wet wells, four pumps, two sewer force mains, two storm drain drop inlets, a control building, a backup diesel generator, an on-site recycled water booster pump station, associated piping, and raising the site about 2-3 feet above the floodplain.

The work to be performed is estimated to cost \$ 5,500,000.00

ARTICLE 3 - OBTAINING CONTRACT DOCUMENTS

Drawings, specifications and other contract documents are available for viewing at the City of Colusa, Public Works Administrator's office, 425 Webster Street, Colusa, California 95932.

Contract documents are also available for downloading free of charge through publicpurchase.com under the City of Colusa agency page. You must sign up to use this service which will automatically inform you of updates and amendments.

ARTICLE 4 - CONTRACTOR LICENSE

In accordance with the provisions of California Public Contract Code § 3300, and Business and Professions Code § 7028.15(e), the OWNER has determined that the contractor shall possess a valid Class A contractor's license at the time that the contract is awarded. Failure to possess the specified license shall render a bidder's bid as non-responsive and shall bar award of the contract to any bidder not possessing the specified license at the time of the award.

CONTRACTORS ARE REQUIRED BY LAW TO BE LICENSED AND REGULATED BY THE CONTRACTORS' STATE LICENSE BOARD. ANY QUESTIONS CONCERNING A

CONTRACTOR MAY BE REFERRED TO THE REGISTRAR, CONTRACTORS' STATE LICENSE BOARD, P.O. BOX 2600, SACRAMENTO, CA 95826. At the time the contract is awarded, the contractor shall be properly licensed in accordance with the laws of this state. The first payment for work or material shall not be made unless and until the Registrar of Contractors verifies to the OWNER that the records of the Contractors' State License Board indicate that the contractor was properly licensed at the time the contract was awarded. Any bidder or contractor not so licensed shall be subject to all legal penalties imposed by law including, but not limited to, any appropriate disciplinary action by the Contractors' State Board. Failure of the bidder to obtain proper and adequate licensing for an award of a contract shall constitute a failure to execute the contract and shall result in the forfeiture of the security of the bidder. (Public Contract Code § 20103.5)

CONTRACTORS AND SUBCONTRACTORS ARE ALSO REQUIRED TO BE REGISTERED WITH THE CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS FOR ANY BID PROPOSAL SUBMITTED ON OR AFTER MARCH 1, 2015, AND FOR ANY CONTRACT FOR PUBLIC WORK ENTERED INTO ON OR AFTER APRIL 1, 2015. A contractor or subcontractor shall not be qualified to bid on, be listed on a bid proposal for, or perform any public work contract unless it is currently registered with the California Department of Industrial Relations as described in Labor Code § 1725.5.

ARTICLE 5 - SUBMISSION OF BIDS

Bids must be prepared on the approved bid forms in conformance with INSTRUCTIONS TO BIDDERS and submitted in the envelopes provided, sealed and plainly marked on the outside:

"SEALED BID FOR CITY OF COLUSA 2026 WILL S. GREEN AVENUE PUMP STATION PROJECT,

**CITY OF COLUSA PUBLIC WORKS DEPT
DO NOT OPEN WITH REGULAR MAIL"**

ARTICLE 6 - PRE-BID CONFERENCE

A non-mandatory Pre-Bid Conference is scheduled for August 5th, 2026 at 10:00am, at 1480 WILL S. GREEN AVENUE, COLUSA, CA 95932.

ARTICLE 7 - BID BONDS

The bid must be accompanied by a bid guarantee in the amount of 10% of the total bid by 3:00 p.m. ON THE DATE ADVERTISED FOR THE OPENING OF BIDS.

More specifically, pursuant to Public Contract Code §§ 20170 and 20171, all bids for the project shall be presented, under sealed cover and shall be accompanied by one of the following forms of bidder's security in the amount of ten percent (10%) of the bid: (a) cash; (b) a cashier's check made payable to the City of COLUSA; (c) a certified check made payable to the City of COLUSA; or (d) a bidder's bond executed by an admitted surety insurer made payable to the City of COLUSA. Such security shall be forfeited should the successful bidder to whom the contract is awarded fails to timely execute the contract and to deliver the necessary bonds and insurance certificates as specified in the contract documents.

To the extent applicable, at any time during the term of the Agreement for the proposed project, the successful bidder may, at its own expense, substitute securities equivalent to the amount withheld as retention (or the retained percentage) in accordance with Public Contract Code § 22300.

ARTICLE 8 - PERFORMANCE AND MAINTENANCE BONDS

Pursuant to California Civil Code § 3247, the Contractor, awarded any contract by a public entity except as provided in subdivision (d) of Section 7103 of the Public Contract Code, involving an expenditure in excess of twenty-five thousand dollars (\$25,000) for any public work shall before entering upon the performance of work, file a payment bond with and approved by the officer or public entity by whom the contract was awarded.

If bid is accepted, Contractor shall agree to furnish the Performance Bond and the Labor and Materials Bond (each to be 100% of the bid amount), the Maintenance Bond (to be 50% of the bid amount) within ten (10) calendar days after written NOTICE OF AWARD of contract. The Labor and Materials Bond shall remain in force until 6 months after the date of recordation of the Notice of Completion. The performance bond shall remain in force until the date of recordation of the Notice of Completion. The maintenance Bond shall remain in force until one (1) year after the date of recordation of the notice of Completion.

The successful Bidder will be required to purchase and maintain insurance as stipulated in SECTION 00520 and Section 00700 of the Contract Documents.

All bonds are to be secured from a surety company acceptable to the OWNER and that meets all of the State of California bonding requirements, as defined in Code of Civil Procedure section 995.120, and is authorized by the State of California, and all documents required by Code of Civil Procedure section 995.660, to the extent required by law.

ARTICLE 9 - LABOR CODE (PREVAILING WAGE)

The OWNER has determined that the proposed project is a public works subject to the provisions of Labor Code § 1720 thereby requiring the Contractor to pay the prevailing wage rates for all work performed under the Contract. Accordingly, the proposed project is subject to compliance monitoring and enforcement by the California Department of Industrial Relations.

ARTICLE 10 - AWARD - OWNER'S RIGHTS

The award shall be made to the lowest responsive, responsible bidder whose Bid complies with the specified requirements. The award of Contract will be made by the City Council. The Contractor shall execute the Contract within ten (10) work days after receipt of the Contract from the OWNER.

The OWNER reserves the right to reject any and all bids.

ARTICLE 11 - ESCROW OF BID DOCUMENTS

The first, second and third low bidders will be required to provide escrow of bid documents as specified in the Instructions to Bidders.

ARTICLE 12 - DISQUALIFICATION OF BIDDERS

If there is reason to believe that collusion exists among any bidders, none of the bids of the participants in such collusion will be considered and the City may likewise elect to reject all bids received.

ARTICLE 13 - BRAND OR TRADE NAME

Pursuant to Public Contract Code Section 3400(b) the City may make a finding that designates certain materials, products, things, or services by specific brand or trade name for the statutorily enumerated purposes. As required by Section 3400 (b) the City has made such findings as further described in the Supplemental Conditions. These findings, as well as the materials, products, things, or services and their specific brand or trade names that must be used for the Project may be found in Section 1.6 of the Supplemental Conditions.

ARTICLE 14 – ADDENDA

The City will not accept written questions beyond August 7th, 2026 at 5p.m.

ARTICLE 15 – DISADVANTAGED BUSINESS REQUIREMENTS

The proposed project is not subject to Disadvantages Business Enterprise (DBE) requirements.

ARTICLE 16 – CITY CONTACTS

If you have any questions, please contact **JESSE CAIN**, City Manager, at citymanager@cityofcolusa.gov or (530)-458-4941 ext. 3105.

Questions regarding project details see Section 00200 Article 8 for appropriate contacts.

SECTION 00200

INSTRUCTION TO BIDDERS

CITY OF COLUSA 2026 WILL S. GREEN AVENUE PUMP STATION PROJECT IN THE CITY OF COLUSA, CALIFORNIA

CITY PROJECT NO. 2026-020

Each bid shall be made in accordance with the Notice Inviting Bids, Instruction to Bidders, Bid forms, Bonds, General Conditions, Supplemental Conditions plans and specifications and any and all other documents related to this Project ("Contract Documents"). Sets of Contract Documents may be purchased as set forth in the Notice Inviting Bids.

ARTICLE 1 - DEFINED TERMS

Terms used in these instructions have meanings indicated in the General Conditions and Supplementary Conditions. Additional terms used in these instructions to Bidders have the meanings indicated below:

- A. Bidder – The individual or entity who submits a Bid directly to the OWNER.
- B. Successful Bidder – The lowest responsible Bidder submitting responsive Bid to whom the OWNER makes an award.

ARTICLE 2 - COPIES OF BIDDING DOCUMENTS (PLANS)

Copies of plans may be obtained as indicated in the Notice Inviting Sealed Bids.

ARTICLE 3 - INSPECTION OF SITE OF WORK

Bidders are required to inspect the site of the work in order to satisfy themselves, by personal examination or by such other means as they may prefer, of the location of the proposed work and as to the actual conditions of and at the site of work. If, during the course of his/her examination, a bidder finds facts or conditions which appear to him/her to conflict with the letter or spirit of the contract documents, or with any other data furnished him/her, he/she may apply to the OWNER in writing in accordance with **Article 8 - INTERPRETATION OF CONTRACT DOCUMENTS AND ADDENDA** of this section for additional information and explanation before submitting his/her bid.

The submission of a proposal by the bidder shall constitute the acknowledgment that, if awarded the contract, he/she has relied and is relying on his/her own examination of (a) the site of the work, (b) the access to the site, and (c) all other data, matters, and things requisite to the fulfillment of the work and on his/her own knowledge of existing services and utilities on and in the vicinity of the site of the work to be constructed under the contract, and not on any representation or warranty of the OWNER. No claim for additional compensation will be allowed which is based upon a lack of knowledge of these items.

ARTICLE 4 - EXAMINATION OF CONTRACT DOCUMENTS

Each bidder shall thoroughly examine and be familiar with legal and procedural documents, general conditions, specifications, drawings and addenda (if any). The submission of a proposal shall constitute an acknowledgment upon which the OWNER may rely that the bidder has thoroughly examined and is familiar with the contract documents. The bidders' attention is

directed to the need, if any, for special invoicing for this project. The failure or neglect of a bidder to receive or examine any of the contract documents shall in no way relieve him/her from any obligations with respect to his/her proposal or to the contract. No claim for additional compensation will be allowed which is based upon a lack of knowledge of any contract document.

ARTICLE 5 - PRE BID CONFERENCE

A Pre-Bid Conference will be held at the location, time, and date set forth in the Notice Inviting Sealed Bids. Representatives of the OWNER and Engineer will be present to discuss the Project. Bidders are encouraged to attend and participate in the conference. The Engineer will transmit to all prospective Bidders of record such addenda as the Engineer considers necessary in response to questions arising at the conference. Oral statements may not be relied upon and will not be binding or legally effective.

ARTICLE 6 - SITE AND OTHER AREAS

The site is identified in the Bidding Documents. Easements for permanent structures or permanent changes in existing facilities are to be paid for by the OWNER unless provided in the Bidding Documents. All additional lands and access thereto required for temporary construction facilities, construction equipment, or storage of materials and equipment to be incorporated in the work are to be obtained and paid for by the Contractor.

ARTICLE 7 - CONTRACT PERIOD/CONSTRUCTION COMPLETION DATE

Bidder's attention is called to the provisions set forth in SECTION 700 and Section 800 particularly those pertaining to the contract period and liquidated damages for avoidable delays.

The Contractor shall begin work within fifteen (15) calendar days after the date of the Notice to Proceed, and shall diligently prosecute said work to completion before the expiration **365 CALENDAR DAYS**. The Contractor shall pay to the OWNER the sum of \$800.00 per day, for each and every calendar day delay in finishing the work in excess of the number of working days prescribed above.

ARTICLE 8 - INTERPRETATION OF CONTRACT DOCUMENTS AND ADDENDA

No oral interpretations will be made to any bidder as to the meaning of the contract documents. Requests for an interpretation shall be made in writing and delivered to the OWNER before the time announced in Section 00100- Article 14. Interpretations by the OWNER will be in the form of addenda to the contract documents and, when issued, will be sent as promptly as is practical to all parties to whom the contract documents have been issued. OWNER makes no guarantee that all bidders will receive all addenda. Copies of addenda will be made available for inspection at the office where contract documents are on file for inspection as indicated on the Notice Inviting Sealed Bids. All such addenda shall become part of the contract. All questions shall be addressed JIMENA GAMERO, NEXGEN UTILITY MANAGEMENT, (650) 440-3429, jdiaz@nexgenum.com.

ARTICLE 9 - SOIL INFORMATION

Where the OWNER has made investigations of surface and subsurface conditions in areas where work is to be performed under the Contract, or in other areas, or where the OWNER possesses report(s) of such investigations, some of which may constitute possible local material sources, such investigations were made only for the purpose of study and design. Where such investigations have been made, bidders may, upon written request, inspect the records of the Engineer as to such investigations subject to and upon the conditions hereinafter set forth. Such

inspection of records may be made at the office of the Engineer. A geotechnical engineering investigation for the Project was developed by NV5 (Appendix A).

ARTICLE 10 - PROPOSAL

Proposals shall be made on the forms enclosed in **SECTION 00410** of these specifications with or without removal from the bound contract documents. All proposals shall give the prices proposed, both in words and in numbers, shall give all other information requested herein, and shall be signed by the bidder or his/her authorized representative, with his/her address. If the proposal is made by an individual, his/her name, signature and mailing address must be shown; if made by firm or partnership, the name and mailing address of the firm or partnership and the signature of at least one of the general partners must be shown; if made by a corporation, the proposal shall show the name of the state under the laws of which the corporation is chartered, the name and mailing address of the corporation, and the name and title of the person who signs on behalf of the corporation. If the proposal is made by a corporation, a certified copy of the bylaws or resolution of the board of directors of the corporation shall be furnished demonstrating the authority of the officer signing the proposal to execute contracts on behalf of the corporation.

Each proposal shall be enclosed in a sealed envelope, labeled as specified in **SECTION 00100 - NOTICE INVITING SEALED BIDS**. Bidders are warned against making erasures or alterations of any kind, and proposals which contain omissions, erasures or irregularities of any kind may be rejected. No oral, telegraphic or telephonic proposals or modifications will be considered.

In conformance with the Business and Profession Code, § 7028.15, the Contractor must state clearly his/her license number and expiration date. In addition he/she shall sign a statement that these representations were made under the penalty of perjury. This statement shall be made on the **CONSTRUCTION CONTRACTOR'S QUALIFICATION STATEMENT FOR ENGINEERED CONSTRUCTION** in **SECTION C**.

The contractor will be required to pay prevailing wage pursuant to California Law, including California Labor Code §§ 1770 et seq. Copies of the prevailing rate of per diem wages are on file at the offices of the OWNER and are also available at the following California website: <http://www.dir.ca.gov/dlsr/PWD/index.htm>. The successful bidder shall post a copy thereof at each job site. The requirement to pay these wage rates is further detailed in Section 00520-4.2 of General Conditions. It shall be mandatory upon the bidder to whom the Contract is awarded, and upon any subcontractor under him to comply with all Labor Code provisions, which include, but are not limited to the payment of not less than the said specified rates to all workers employed by them in the execution of the Contract, employment of apprentices, hours of labor and debarment of contractors and subcontractors.

ARTICLE 11 - ADDENDA

Each proposal shall include specific acknowledgment in the space provided on **SECTION 00410- BID PROPOSAL** of receipt of all addenda issued during the bidding period. Failure to so acknowledge may result in the proposal being rejected as not responsive.

ARTICLE 12 - BID PRICES

Bid prices shall include everything necessary for the completion of construction and fulfillment of the contract including, but not limited to, furnishing all materials, equipment, tools, plant and other facilities and all management, superintendence, labor and services, except as may be provided otherwise in the contract documents. In the event of a difference between a price quoted in words and a price quoted in numbers for the same quotation, the words shall be the amount bid.

In preparing bid prices, bidder represents that he/she has carefully examined the Contract Documents and the site where the work is to be performed and that he/she has familiarized himself with all local conditions and federal, state and local laws, ordinances, rules, and regulations that may affect the performance of the work in any manner. The bidder further represents that he/she has studied all surveys and investigation reports about subsurface and physical conditions pertaining to the job site, that he/she has performed such additional surveys and investigations as he/she deems necessary to complete the work at his/her bid price, and that he/she has correlated the results of all such data with the requirements of the Contract Documents. The submittal of a bid shall be conclusive evidence that the bidder has investigated and is satisfied as to the conditions to be encountered, including locality, uncertainty of weather and all other contingencies, and as to the character, quality, quantities, and scope of the work.

The plans and specifications for the work show subsurface conditions or otherwise hidden conditions as the Design Engineer supposes or believes them to exist, but is not intended or to be inferred that the conditions as shown thereon constitute a representation that such conditions are actually existent. Except as otherwise specifically provided in the Contract Documents, the OWNER, the Design Engineer and their consultants or agents shall not be liable for any loss sustained by the Contractor as a result of any variance of such conditions as shown on the plans and the actual conditions revealed during the progress of the work or otherwise.

The Contractor shall perform an independent take-off of the plans and bid accordingly. Quantities listed in the **BID SCHEDULE** in **SECTION 00410** are intended only as a guide for the Contractor as to the anticipated order of magnitude of work. Contractor shall be responsible for verifying all estimated quantities. Contractor will be reimbursed for the quantity of items actually installed as required by the Contract Documents and shown on the plans to neat line and grade.

The Contractor will not be reimbursed for unauthorized work performed outside of that required by the Contract Documents.

ARTICLE 13 - DISCREPANCIES

In the case of discrepancy between unit prices and totals, unit prices will prevail. In case of discrepancy between words and figures, words will prevail.

ARTICLE 14 - TAXES

No mention shall be made in the proposal of sales tax, use tax, or any other tax, as all amounts bid will be deemed and held to include any such taxes which may be applicable.

ARTICLE 15 - RECOGNITION OF BONDING COMPANIES

All bonding companies used by the Contractor in this contract must be recognized by the Federal Government within Circular 570. All proposals or contracts received that include bonds posted by bonding companies not recognized in Circular 570 will result in the disqualification of the bid proposal and forfeiture of the bid bond.

ARTICLE 16 - QUALIFICATION OF BIDDERS

Before a bid is considered for award, the OWNER may, in addition to the Construction Contractors Qualification for engineered construction and Experience Qualifications form set forth in Section C, require a bidder to submit a statement of facts and detail as to its business, technical organization and financial resources and equipment available and to be used in performing the

work. Additionally, the OWNER may require evidence that the bidder has performed other work of comparable magnitude and type.

Each bidder shall be skilled and regularly engaged in the general class or type of work called for under the contract. A statement setting forth his/her experience shall be submitted by each bidder on the **CONSTRUCTION CONTRACTOR'S QUALIFICATIONS STATEMENTS FOR ENGINEERED CONSTRUCTION** form provided in **SECTION 00410**

Each bidder shall possess a valid Contractor's License issued by the Contractor's State License Board at the time his/her bid is submitted. The class of license shall be applicable to the work specified in the contract. **Each bidder shall also have no less than five (5) years' experience in the magnitude and character of the work bid.**

It is the intention of the OWNER to award a contract to a bidder who furnished satisfactory evidence that he/she has the requisite experience and ability, and that he/she has sufficient capital, facilities, and plant to enable him/her to prosecute the work successfully and properly, and to complete it within the time stated in the contract.

To determine the degree of responsibility to be credited to the bidder, the OWNER will weigh any evidence that the bidder has performed satisfactorily other contracts of like nature, magnitude and comparable difficulty and comparable rates of progress. If in the opinion of the OWNER, a bidder is determined to be insufficiently qualified, then that bidder will not be considered for award of the contract.

ARTICLE 17 - DESIGNATION OF SUPPLIERS AND SUBCONTRACTORS

The Contractor shall perform at least 40 % of the Contract Bid Amount. This portion of the work shall encompass the performance of Work by the Contractor's forces and equipment, the procurement of materials and equipment by the Contractor and field related general conditions required to support and supervise the construction effort. Sub-contractors shall not be responsible for the performance of any work or procurement of materials or equipment within the above Contractor's work percentage allotment.

The value of the work subcontracted shall be determined by summing all of the percentages identified for the sub-contractors listed on the **DESIGNATION OF SUPPLIERS AND SUBCONTRACTOR** provided in Section 00410. In addition, the contractor shall submit the sub-contractors experience statement. If the sum of such percentages exceeds 40 %, the OWNER may treat the bid as non-responsive and reject it on that basis.

Each proposal shall have listed on the **DESIGNATION OF SUPPLIERS AND SUBCONTRACTORS** form provided in SECTION 00410 the name, address, and license number of each subcontractor to whom the bidder proposes to sublet portions of the work in excess of one-half percent of the total amount of his/her bid. For the purpose of this paragraph, a subcontractor is defined as one who contracts with the Contractor to furnish materials and labor, or labor only for the performance of work at the site of the work or who will specially fabricate a portion of the work off the site pursuant to detailed drawings in the contract documents.

Public Contract Code § 4104 requires all bidders to list subcontractors who will perform work in excess of ½% of the total bid, or in the case of streets and highways, ½% or \$10,000, whichever is greater.

If requested by the OWNER, each Bidder under consideration for an award shall submit an Experience and Qualification Statement in the form similar to the other required Experience and Qualification Statement forms in Section 00410 within three (3) business days after the OWNER's request which contains pertinent information regarding similar projects and other evidence of qualification for each listed Sub-contractor or Supplier requested by the OWNER. This information, if requested, would be in addition to the already required information of the Electrical Sub-contractor and Electrical System Supplier found in Section 00410, which must be furnished to the OWNER within three (3) business days after the bid opening.

Public Contract Code § 6109 prohibits a contractor from performing work with a subcontractor who is debarred pursuant to Labor Code §§ 1777.1 or 1777.7.

ARTICLE 18 - SERVICING AND MAINTENANCE

Each bidder must, if requested, furnish evidence that there is an efficient service organization which regularly carries a stock of repair parts for the proposed equipment to be furnished and installed in the work and that the organization is conveniently located for prompt service.

ARTICLE 19 - PREPARATION OF BID

Blank spaces in the bid shall be properly completed. The language and form of the bid must not be changed and no additions shall be made to the items mentioned therein. Unauthorized conditions, limitations or provisions attached to a bid will render the bid nonconforming and may cause its rejection. If erasures, interlineations or other changes appear on the form, each erasure, interlineation or change must be initialed by the person signing the bid. Alternative bids will not be considered unless specifically provided for in the bid. No bid received after the time fixed, or received at any place other than the place stated in the Notice Inviting Sealed Bids will be considered. All bids will be opened and read publicly. Bidders, their representatives and other interested parties are invited to be present at the opening.

ARTICLE 20 - BASIS OF BID

The Bid price shall include such amounts as the Bidder deems proper for overhead and profit on account of cash allowances.

ARTICLE 21 - SUBMITTAL OF BID

All bids must be submitted not later than the time prescribed, at the place and in the manner set forth in the Notice Inviting Sealed Bids. Bids must be made on the prescribed bid forms. A complete bid requires submission of fully completed bid, bid security, and any addenda. Each bid must be submitted in a sealed envelope, so marked as to indicate its contents without being opened and addressed in conformance with the instructions in the Notice Inviting Sealed Bids. The bidder is wholly responsible to see that its bid is submitted at the time and place named for the opening of bids.

Bids shall include all addenda or clarifications issued during the bidding period acknowledged by the bidder's signature thereon. Failure to so include or acknowledge an addendum or clarification may result in the bid being rejected as not responsive.

Bids shall be opened at the time and place specified in the Notice Inviting Sealed Bids, unless changed by addendum.

ARTICLE 22 - BID FORM AND SIGNATURE

Blank spaces in the bid shall be properly completed. The language and form of the bid must not be changed and no additions shall be made to the items mentioned therein. Unauthorized conditions, limitations or provisions attached to a bid will render the bid nonconforming and may cause its rejection. If erasures, interlineations or other changes appear on the form, each erasure, interlineation or change must be initialed by the person signing the bid. Alternative bids will not be considered unless specifically provided for in the bid. No bid received after the time fixed, or received at any place other than the place stated in the Notice Inviting Sealed Bids will be considered. All bids will be opened and read publicly. Bidders, their representatives and other interested parties are invited to be present at the opening.

ARTICLE 23 - PROPOSAL GUARANTEE

The proposal shall be accompanied by a proposal bid guarantee bond duly completed on the form provided herewith by a guarantee company authorized to carry on business in the State of California for payments to the OWNER in the sum of at least 10% of the total amount of the bid proposal, or alternatively by a certified or cashier's check payable to the OWNER, or cash, in the sum of at least 10% of the total amount of the bid proposal. The amount payable to the OWNER under the proposal guarantee shall be forfeited to the OWNER in case of failure or neglect of the bidder to furnish, execute and deliver to the OWNER the required bonds, evidence of insurance and to enter into, execute and deliver to the OWNER the agreement on the form provided herewith, within ten (10) days after being notified in writing by the OWNER that the award has been made and the agreement is ready for execution.

ARTICLE 24 - SUBSTITUTE AND "OR EQUAL" ITEMS

Bidders are advised that, in accordance with Public Contract Code Section 3400, the OWNER has made a finding that particular materials, products, things, and services are designated by specific brand or trade name in order to match other materials, products, things, or services in use or to obtain necessary items available from only one source. By listing a sole-source vendor, the OWNER has only identified a particular product the supply of which will conform to the Contract. The OWNER does not warrant in any respect the performance of any sole-source vendor. The OWNER shall not be responsible for, and the Contractor shall not be excused for, any failure of a sole-source vendor to supply a conforming product in a timely fashion. Bidders shall refer to individual specification sections for specific requirements.

Contractors, manufactures, or suppliers of materials and equipment may offer an alternative product and request the alternatives to specified products be considered equal unless the OWNER has sole-sourced a product in accordance with Public Contract Code 3400. Inclusion of such alternatives in the bid is the sole responsibility of the Contractor. Inclusion of the proposed alternative should only be considered if it is the Contractor's sole belief the offered alternative is equal in quality and performance to the specified product. After award of the Contract, such offers of alternative products will be reviewed and processed as described herein.

Equal (as in "or-equal") shall mean a system, process, product or material which is similar in all respects to that shown or specified but produced by a manufacturer not listed in the specification. Unless otherwise provided in the technical specifications, whenever in the Contract Documents any systems, processes, products, or materials are indicated or specified by the name brand of the manufacturer, or by patent or proprietary names, those specifications shall be deemed to be a measure of quality and utility or a standard, and shall be deemed to be followed by the words "or-equal". It is the intent of this Article to comply with Public Contract Code Section 3400.

Should the proposed “or-equal” item be determined not equal, then Bidder agrees to provide the listed manufacturer at no change in the Contract Price. No “or-equal” or substitute product will be considered or allowed for items so indicated. Any schedule delays caused by selection of an “or-equal” or any OWNER-named item will not constitute grounds for a contract adjustment. Any redesign costs associated with the implementation of “or-equal” equipment will be the responsibility of the contractor.

Detailed shop drawings shall be required for all items of equipment identified in the Contract Documents.

If the material, equipment, process, or article offered by the Contractor is not, in the OWNER’s sole opinion, substantially equal or better in respect to that specified, then the Contractor shall furnish that material, process, or article specified or one that in the OWNER’s opinion is substantially equal or better in every respect.

ARTICLE 25 - MODIFICATION OF PROPOSAL

A modification of a bid proposal already received will be considered only if the modification is received before the time announced for the opening of bids. All modifications shall be made in writing, executed and submitted in the same form and manner as the original bid proposal.

ARTICLE 26 - WITHDRAWAL OF PROPOSAL

A proposal may be withdrawn by a written request signed by the bidder. Such requests must be delivered to the OWNER’s designated official prior to the bid opening hour stipulated in **SECTION 00100 – NOTICE INVITING SEALED BIDS**. Proposals may not be withdrawn after that time without forfeiture of the proposal guarantee. The withdrawal of a proposal will not prejudice the right of the bidder to submit a new proposal, providing there is time to do so.

In accordance with Sections 5101 and 5103, California Public Contract Code, withdrawal of Bids may be permitted for mistakes made in filling out the Bid but will not be permitted for mistakes resulting from errors in judgment or carelessness in inspecting the site work or in reading the Contract Documents.

ARTICLE 27 - POSTPONEMENT OF BID OPENING

The OWNER reserves the right to postpone the date and time for opening of bids at any time prior to the date and time announced in **SECTION 00100–NOTICE INVITING SEALED BIDS**.

ARTICLE 28 - DISQUALIFICATION OF BIDDERS

More than one bid from an individual, firm, partnership or corporation under the same or different names will not be considered. Reasonable grounds for believing that any individual, firm, partnership or corporation is interested in more than one bid for the work contemplated may cause the rejection of all bids in which the individual, firm, partnership or corporation is interested. If there is reason for believing that collusion exists among the bidders, any or all bids may be rejected.

All bidders are put on notice that any collusive agreement fixing the prices to be bid so as to control or affect the awarding of this Contract is in violation of the competitive bidding requirements of the Public Contract Code and may render void any contract let under such

circumstances. All bidders as a part of the required bid forms to be submitted to the City, shall complete and submit the Non-collusion Affidavit as set forth in Section 00410.

ARTICLE 29 - OPENING OF BID

Bids will be opened at the time and place indicated in the Advertisement or Notice Inviting Sealed Bid and, unless obviously non-responsive, read aloud publicly. An abstract of the amounts of the Bids and major components, if any, will be made available to Bidders after the opening of the Bids.

ARTICLE 30 - REJECTION OF PROPOSALS

The OWNER reserves the right to reject any and all proposals, to waive any irregularity, and to reject any proposals which are incomplete, obscure or irregular; any proposals which omit a bid on any one or more items on which bids are required; which omit unit prices if unit prices are required; in which unit prices are unbalanced in the opinion of the OWNER; which are accompanied by insufficient or irregular bid security; or which are from bidders who have previously failed to perform properly or to timely complete contracts of any nature.

ARTICLE 31 - EVALUATION OF BIDS AND AWARD OF CONTRACT

The Contract will be awarded, if at all, to the lowest responsible and responsive bidder, whose bid proposal is not rejected for cause by the OWNER. However, until an award is made, the OWNER reserves right will be reserved to reject any or all bids, and to waive technical errors or discrepancies, if to do so is deemed to best serve the interests of the OWNER. In no event will an award be made until all necessary investigations are made as to the responsibility and qualifications of the bidder to whom it is proposed to make such an award.

Each bidder's attention is directed to the possibility that the award of the project may be delayed for various reasons. The OWNER reserves the right to delay the award of the project for 60 calendar days. After 60 calendar days, the low bidder may at any time request release from its bid without penalty.

The acceptance of a proposal will be evidenced by a Notice of Award of Contract in writing, delivered by mail to the bidder whose proposal is accepted. No other act of the OWNER shall constitute acceptance of a proposal. The award of contract shall obligate the bidder whose proposal is accepted to furnish a performance bond, payment bond and maintenance bond, as well as evidence of insurance and to execute the contract set forth herein.

ARTICLE 32 - CONTRACT BONDS

The successful bidder shall furnish a Performance Bond and a Payment Bond (hereinafter collectively "Bonds") each equal to one hundred percent (100%) of the bid amount. The successful bidder shall furnish a Maintenance bond equal to 50% of the bid amount.

These Bonds shall be furnished in the forms enclosed following the Contract and shall be secured from a surety company acceptable to the OWNER and that meets all of the State of California bonding requirements, as defined in Code of Civil Procedure section 995.120, and is authorized by the State of California, and all documents required by Code of Civil Procedure section 995.660, to the extent required by law. The premiums for the Bonds shall be paid by the successful bidder.

If any surety becomes unacceptable to the OWNER, the Contractor shall promptly furnish such additional security as the OWNER may require from time to time to protect the interests of the

OWNER and of persons supplying labor or materials in the prosecution of the work contemplated by this Contract.

Contractor shall be responsible for ensuring that the terms of the bonds comply with the terms of contract. In the event of any conflict between the terms of the Contract and the terms of the Bonds, the terms of the Contract shall control and the Bonds shall be deemed to be amended thereby. Without limiting the foregoing, the OWNER shall be entitled to exercise all rights granted to it by the Contract in the event of default, without control thereof by the surety, provided that the OWNER gives the surety notice of such default at the time or before the exercise of any such right by the OWNER, and, regardless of the terms of the Bonds, the exercise of any such right by the OWNER shall in no manner affect the liability of the surety under the Bonds.

ARTICLE 33 - RETURN OF PROPOSAL GUARANTEES

Within ten (10) calendar days after the bids are opened, the OWNER will release the proposal guarantees accompanying the proposals which are not to be considered in making the award. Proposal guarantees for the three lowest bidders will be held until the contract has been fully executed, after which they will be returned to the respective bidders.

ARTICLE 34 - EXECUTION OF CONTRACT

The contract agreement shall be executed in duplicate by the successful bidder and returned, together with the contract bonds and evidence of insurance, within ten (10) work days after the notification of the contract award by the OWNER in writing. In case of failure of the successful bidder to execute the contract agreement within ten (10) work days after such notice, or any subsequent extension approved by OWNER, the OWNER at its option may consider the bidder in default, in which case the bid bond or proposal guarantee accompanying the bid shall become the property of the OWNER. After execution by the OWNER, one original contract shall be returned to the Contractor.

ARTICLE 35 - SIGNING OF CONTRACT/AGREEMENT

The successful bidder will be notified in writing by the City of the award of the Contract within sixty (60) calendar days after opening of bids, unless the time period is extended as provided in the Notice Inviting Sealed Bids. The Contract, in triplicate, will accompany the City's Notice of Award. The successful bidder will be required to execute and return the Contract, together with the Performance and Payment Bonds, and the required policies of insurance together with the required endorsements thereto for the Contractor and the workers compensation certificate, to the City within ten (10) work days following receipt of such Notice of Award. Failure to do so shall be just cause for annulment of the award and for forfeiture of the Bid Security. The City will promptly determine whether such Contract, Bonds and insurance are as required by the Contract Documents, and upon such determination will forward a fully executed copy of the Contract and a Notice to Proceed with the work to the successful bidder. Signature by both parties constitutes execution of the Contract. In the event of failure of the lowest responsible bidder to sign and return the Contract with acceptable Bonds and insurance as prescribed herein, the City may award the Contract to the next lowest responsible bidder, and, in the event that bidder fails to sign and return the Contract with acceptable Bonds and insurance, the City may award the Contract to the then next lowest responsible bidder, etc.

ARTICLE 36 - RETAINAGE

Provisions concerning Contractor's rights to deposit securities in lieu of retainage are set forth in the Agreement.

ARTICLE 37 - OWNER SELECTED EQUIPMENT

The OWNER has not selected any equipment at this time. If the contract is amended to change this and equipment is pre selected. The Successful Bidder, upon award of the Contract by the OWNER, shall enter into purchase agreements with the Suppliers of the OWNER selected equipment, under the Terms and Conditions included in the Contract Documents.

ARTICLE 38 - SHEETING, SHORING, AND BRACING

Pursuant to the provisions of the California Labor Code Section 6707, each bid submitted shall contain, in the bid, the amount included for adequate sheeting, shoring, and bracing, or equivalent method, for the protection of life and limb in trenches and open excavation, which shall conform to applicable safety orders. By listing this sum, the Bidder warrants that its action does not convey tort liability to the OWNER, the Design Engineer, the Construction Manager, and other employees, agents, or sub-consultants.

ARTICLE 39 - LIQUIDATED DAMAGES

Provisions for liquidated damages, if any, are set forth in the agreement SECTION 800, F 1.9.

ARTICLE 40 - BID PROTEST PROCEDURE

Bidders may file a "protest" of the recommended award of a contract solicited by the Notice Inviting Bids with the OWNER. In order to be considered valid, a bidder's protest submittal must:

- Be filed within five (5) business days of identification and announcement of the apparent low bidder, in writing with the Public Works Administrative Director.
- Clearly identify the specific grounds for protesting the award to the apparent low bidder.
- Clearly identify the specific OWNER Staff/Council recommendation, issue and/or decision being protested.
- Specify, in detail, the facts supporting the protest.
- Include all relevant, supporting documentation with the protest at time of filing.

If the protest does not comply with each and every one all of these requirements, it will be rejected as invalid and incomplete.

Upon submittal of a complete protest submittal, if the protest is valid, the OWNER will review the basis of the protest and all relevant information. The OWNER will deny or fully or partially concur with the protest and provide a written decision to the protestor. The protestor may then appeal the decision of the Public Works Administrative Director to the City Council.

ARTICLE 41 - LABOR AND WAGE CODE GUIDELINES

Pursuant to section 1770 *et seq.* of the Labor Code of the State of California, the Director of Industrial Relations has ascertained the general prevailing rate of per diem wages and the rates for overtime and holiday work in the locality in which the work is to be performed for each craft, classification or type of worker needed to execute the contract which will be awarded to the successful bidder. Copies are on file with and available upon request from the Engineer and may

also be obtained the website of the Division of Labor Statistics and Research, California Department of Industrial Relations located at <http://www.dir.ca.gov/dlsr/PWD/index.htm>. The successful bidder shall post a copy thereof at each job site. The requirement to pay these wage rates is further detailed in Section 00700 General Conditions and Section 800 –Supplementary Conditions. It shall be mandatory upon the bidder to whom the Contract is awarded, and upon any subcontractor under him to comply with all Labor Code provisions, which include, but are not limited to the payment of not less than the said specified rates to all workers employed by them in the execution of the Contract, employment of apprentices, hours of labor and debarment of contractors and subcontractors.

ARTICLE 42 - ESCROW OF BID DOCUMENTS

The Contractor is required to present all documentation used by the Contractor in arriving at the bid upon which the Contract was awarded ("Bid Documentation") to the Engineer in accordance with the conditions in Section 0800 1.2 of the Supplemental Conditions.

ARTICLE 43 - POWER OF ATTORNEY

The Attorney-in-Fact (resident agent) who executes the Performance Bond and Payment Bond on behalf of the surety company must attach a copy of its Power of Attorney as evidence of its authority. A notary shall acknowledge the power as of the date of the execution of the surety bond which it covers.

ARTICLE 44 - OWNER EMPLOYEES AND DESIGN ENGINEERS MAY NOT BID ON CONSTRUCTION CONTRACT

No employee of the OWNER shall be eligible to submit a proposal for, nor to subcontract for any portion of, nor to supply any materials for any contract administered by the OWNER.

No engineering or architectural firm which has provided design services for a project shall be eligible to submit a proposal for the contract neither to construct the project nor to subcontract for any portion of the work. The ineligible firms include the prime contractor for design, subcontractors of portions of the design and affiliates of either. An affiliate is a firm which is subject to the control of the same persons, through joint ownership or otherwise.

ARTICLE 45 – STATE REVOLVING FUND (SRF)

SRF Signage Requirements include the following:

1. Contractor shall fabricate and post a physical sign to comply with the requirements of this section. The sign must be at least four feet tall by eight feet wide made of ¾ inch thick exterior grade plywood or other approved material in a prominent location on the Project site and must maintain the sign in good condition for the duration of Project implementation.
2. The sign shall include the following color logos:



3. The sign shall include the following statement:

“Funding for this project has been provided in full or in part under the Safe Drinking Water, Wildfire Prevention, Drought Preparedness, and Clean Air Bond Act of 2024 through an agreement with the State Water Resources Control Board.”

4. A "proof" mock-up of the sign shall be reviewed and approved by the Engineer prior to fabrication of Project sign.
5. Contractor shall be responsible for providing sign supports, installation and maintenance throughout the duration of the Project.
6. The Project sign shall be located at the construction manager's field offices and shall be visible from public streets.

ARTICLE 46 - FLEXIBILITY OF BID SCHEDULE

It is the intent of the OWNER to award a contract to the lowest responsible and responsive bidder and the flexibility shown in the bid schedule is necessary to ensure a project within the OWNER's budget limits and constraints.

SECTION 00410

FORM 1 - BID PROPOSAL

CITY OF COLUSA 2026 WILL S. GREEN AVENUE PUMP STATION PROJECT IN THE CITY OF COLUSA, CALIFORNIA

CITY PROJECT NO. 2026-020

The undersigned, as bidder, declares that he/she has examined all of the contract documents and specifications contained in this project manual for the above referenced project, and that he/she will contract with the OWNER on the form of contract provided herewith to do everything necessary for the fulfillment of this contract at the price, and on the terms and conditions therein contained.

The following are included and are part of this proposal:

- 1. BID PROPOSAL**
- 2. BID SCHEDULE**
- 3. BID ITEM DESCRIPTION**
- 4. CONSTRUCTION CONTRACTOR'S QUALIFICATION STATEMENT
FOR ENGINEERED CONSTRUCTION**
- 5. CERTIFICATION OF ELECTRICAL SUBCONTRACTOR EXPERIENCE
AND QUALIFICATIONS**
- 6. CERTIFICATE OF SYSTEM SUPPLIER EXPERIENCE AND
QUALIFICATIONS**
- 7. BID BOND**
- 8. BID GUARANTEE**
- 9. BIDDER INFORMATION**
- 10. DESIGNATION OF SUPPLIERS AND SUBCONTRACTORS-**
- 11. NON-COLLUSION AFFIDAVIT**
- 12. BIDDER'S STATEMENT REGARDING INSURANCE COVERAGE**
- 13. STATEMENT REGARDING CONTRACTOR'S LICENSING LAWS**
- 14. DBE FORMS**

Contractor acknowledges receipt and inclusion of addenda _____ to _____ into this bid proposal and the contract documents.

Attached is a Bid Bond duly completed by a guarantee company authorized to carry on business in the State of California in the amount of at least 10% of the total amount of this proposal, or alternatively, there is attached a certified or cashier's check payable to the OWNER or evidence of a cash payment to the OWNER, in the amount of at least 10% of the total amount of our proposal.

If this proposal is accepted, we agree to sign the contract form and to furnish the Performance Bond and the Payment Bond (each to be 100% of the bid amount), the Maintenance Bond (to be 50% of the bid amount), and the required evidences of insurance within ten (10) calendar days after receiving written Notice of Award of Contract.

We further agree if our proposal is accepted and a contract for the performance of the work is entered into with the OWNER, to so plan the work and to prosecute it with such diligence that all of the work shall be completed within the time stipulated in **SECTION 00700 AND SECTION 00800 - COMMENCEMENT AND PROGRESS OF THE WORK.**

NAME OF BIDDER: _____

MAILING ADDRESS: _____

STATE OF INCORPORATION: _____

AUTHORIZED SIGNATURE: _____

TITLE: _____

DATE: _____

(If Company is a Corporation, provide corporate resolution per SECTION 00200 – ARTICLE 10)

FORM 2 - BID SCHEDULE
CITY OF COLUSA 2026 WILL S. GREEN AVENUE PUMP STATION PROJECT
IN THE CITY OF COLUSA, CALIFORNIA

CITY PROJECT NO. 2026-020

The cost of all labor, services, material, equipment and installation necessary for the completion of the work itemized under this schedule, even though not shown or specified, shall be included in the unit price for the various items shown herein. For a description of the work associated with each bid item, see **BID ITEM DESCRIPTION**. The OWNER reserves the right to increase or decrease the quantity of any item or omit items as may be necessary, and the same shall in no way affect or void the contract, except that appropriate additions or deductions from the contract total price will be made at the stipulated unit price in accordance with these Contract Documents.

The OWNER reserves the right to reject any and all bids, to waive any informality in a bid, and to make awards in the interest of the OWNER.

The Contractor shall perform an independent take-off of the plans and bid accordingly. Quantities listed in this Bid Schedule are intended only as a guide for the Contractor as to the anticipated order of magnitude of work. The Contractor shall be responsible for verifying all estimated quantities. The Contractor will be reimbursed for the quantity of items actually installed as required by the Contract Documents, including addenda, and shown on the plans to neat line and grade.

The Contractor will not be reimbursed for work performed for his convenience, or as required to adapt to field conditions, or for unauthorized work performed outside of that required by the Contract Documents.

The Contractor shall be responsible for calculating and providing totals for the bid schedule. The proposal schedule shall include all costs for labor, services, material, equipment, and installation associated with completing the work in place per the plans, specifications and details.

NAME OF BIDDER: _____

CONTRACTOR'S LICENSE NO.: _____

AUTHORIZED SIGNATURE: _____

TITLE: _____

DATE: _____

BID SCHEDULE
CITY OF COLUSA 2026 WILL S. GREEN AVENUE PUMP STATION PROJECT
IN THE CITY OF COLUSA, CALIFORNIA
CITY PROJECT NO. 2026-020

N o .	Item Description	Estimated Quantity	Unit	Unit Price	Item Amount
1	Mobilization (Not to exceed 5% of total cost)	---	LS	\$	\$
2	Demobilization	---	LS	\$	\$
3	Shoring	---	LS	\$	\$
4	Stormwater Pollution Protection Plan (SWPPP)	---	LS	\$	\$
5	Sitework	---	LS	\$	\$
6	4" Cobble on Fabric	350	TN	\$	\$
7	Paving	20,000	SF	\$	\$
8	Sewer Pump Station Construction	---	LS	\$	\$
9	Recycled Water Booster Pump Station	---	LS	\$	\$
10	Electrical and Controls	---	LS	\$	\$
11	Miscellaneous	---	LS	\$	\$
TOTAL COST (BID Summation Items 1-11)				\$	

Note: LS = Lump Sum SF = Square Feet TN = Tons

BID SCHEDULE
CITY OF COLUSA 2026 WILL S. GREEN AVENUE PUMP STATION PROJECT
IN THE CITY OF COLUSA, CALIFORNIA
CITY PROJECT NO. 2026-020

The Contractor shall be responsible for calculating and providing unit prices for the bid schedule. The bid schedule shall include all costs for services, labor, materials, equipment, and installation associated with completing the work in place per the plans, specifications and details.

Bid Schedule (ITEM 1-11) Total: \$_____

Bid Schedule (ITEM 1-11) Total (in words):_____

(Company Name of Bidder)

(Date)

FORM 3 - BID ITEM DESCRIPTIONS
CITY OF COLUSA 2026 WILL S. GREEN AVENUE PUMP STATION PROJECT
IN THE CITY OF COLUSA, CALIFORNIA
CITY PROJECT NO. 2026-020

1. **Mobilization:** Supply and transport of construction equipment, materials, construction staking, supplies, appurtenances, etc., to perform the work, including bonds and insurance. **Not to exceed 5% of total cost**
2. **Demobilization:** Demobilization of construction plant and equipment, removal thereof and final cleanup and restoration of the site.
3. **Shoring:** Sheet piling, Shoring and Bracing, or equivalent method for the protection of life and limb in trenches and open excavations in conformance with all applicable safety orders.
4. **Stormwater Pollution Protection Plan (SWPPP):** Preparation and implementation of the Stormwater Pollution Protection Plan for the construction activities.
5. **Sitework:** Includes all necessary sitework to build the station, including excavation of new wet wells and manholes, site elevation, the import of suitable fill material, export offsite of unsuitable material, compaction, installation of storm drain drop inlet and piping, fencing, existing swale realignment, and final site grading.
6. **4" Cobble on Fabric:** Installation of 4" cobble and fabric as shown in the drawings.
7. **Paving:** Includes all areas within the fence line of the Sewer Pump Station, and as indicated on the plans. Provide 3-inches AC over 11-inches of Class 2 AB as shown on Drawings. Payment to CONTRACTOR will be adjusted based on actual square footage paved.
8. **Sewer Pump Station Construction:** Construction of a sewer pump station, including construction of precast manholes, precast wet wells, installation of pumps and piping, flow meter, valves, backup generator, precast concrete control building, and concrete slabs and footings.
9. **Recycled Water Booster Pump Station:** Installation of pre-fabricated packaged recycled water booster pumping system.
10. **Electrical and Controls:** Installation of electrical conduit and wiring, new control systems, panels and junction boxes, lighting, instrumentation and other work related to the installation, operation, and remote SCADA monitoring of the pump station facility.
11. **Miscellaneous:** Landscaping/Misc. Piping / Painting and Signage / Equipment Startup and Testing and all other construction required to complete project.

**FORM 4 - CONSTRUCTION CONTRACTOR'S QUALIFICATION STATEMENT FOR
ENGINEERED CONSTRUCTION
CITY OF COLUSA 2026 WILL S. GREEN AVENUE PUMP STATION PROJECT
IN THE CITY OF COLUSA, CALIFORNIA**

CITY PROJECT NO. 2026-020

THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA



This qualification statement was developed by AGC of America in cooperation with the Engineers Joint Contract Documents Committee (EJCDC) which recommend its use as a suggested generic prequalification statement or a contract-specific qualification statement. In the latter case, the owner or engineer may wish to make appropriate supplemental inquiries.

The Engineers Joint Contract Documents Committee consists of representatives of the following organizations:

National Society of Professional Engineers
American Consulting Engineers Council
American Society of Civil Engineers
Construction Specifications Institute

Submitted by:

Name of Organization

Name of Individual

Title

Address

Telephone

Submitted to:

Name

Address

Telephone

Project Name and Description (if applicable)

CONTRACTOR's General Business Information

Check If:

☐ Corporation ☐ Partnership ☐ Joint Venture ☐ Sole Proprietorship

If Corporation:

a. Date and State of Incorporation

b. List of Executive Officers

Name

Title

If Partnership:

a. Date and State of Organization

b. List of Current General Partners

c. Type of Partnership

☐ General ☐ Publicly Traded
☐ Limited ☐ other (describe): _____

If Joint Venture:

a. Date and State of Organization

b. Name, Address and Form of Organization of Joint Venture Partners: (Indicate managing partner by an asterisk *)

If Sole Proprietorship:

a. Date and State of Organization

b. Name and Address of Owner or Owners

- 1. On Schedule A, attached, list major engineered construction projects completed by this organization in the past five (5) years. (If joint venture, list each participant's projects separately.)**

2. On Schedule B, attached, list current projects under construction by this organization. (If joint venture, list each participant's projects separately.)

3. Name of Surety Company and name, address, and phone number of agent.

4. Is your organization a member of a controlled group of corporations as defined in I.R.C. Sec. 1563? ☐ Yes ☐ No

If yes, show names and addresses of affiliated companies.

5. Furnish on Schedule C, attached, details of the construction experience of the principal individuals of your organization directly involved in construction operations.

6. Has your organization ever failed to complete any construction contract awarded to it?

☐ Yes ☐ No

If yes, describe circumstances on attachment.

7. Has any Corporate officer, partner, joint venture participant or proprietor ever failed to complete a construction contract awarded to him or her in their own name or when acting as a principal of another organization? ☐ Yes ☐ No

If yes, describe circumstances on attachment.

8. In the last five years, has your organization ever failed to substantially complete a project in a timely manner? ☐ Yes ☐ No

If yes, describe circumstances on attachment.

9. Indicate general types of work performed with your own work force.

10. If required, can your organization provide a bid bond for this project? ☐ Yes ☐ No

11. What is your approximate total bonding capacity?

☐ \$500,000 to \$2,000,000 ☐ \$5,000,000 to \$10,000,000

☐ \$2,000,000 to \$5,000,000 ☐ \$10,000,000 or more

12. Describe the permanent safety program you maintain within your organization. Use attachment if necessary.

13. Furnish the following information with respect to an accredited banking institution familiar with your organization.

Name of Bank	
Address	
Account Manager	
Telephone	

I hereby certify that the information submitted herewith, including any attachment is true to the best of my knowledge and belief.

By:	
Title:	
Dated:	

SCHEDULE A
MAJOR ENGINEERED CONSTRUCTION PROJECTS COMPLETED IN PAST 5 YEARS

Name, Location and Description of Project	Owner	Design Engineer	Date Completed	Contract Price	Reference/Contact Include Address and Phone
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**SCHEDULE B
CURRENT PROJECTS UNDER CONSTRUCTION**

Name, Location and Description of Project	Owner	Design Engineer	Contract Price	Amount Completed	Date of Scheduled Completion	Reference/Contact Include Address and Phone
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SCHEDULE C - PERSONNEL

Name	Position	Date started with this organization	Date started in construction	Prior positions and experience in construction
------	----------	--	---------------------------------	--

**SUPPLEMENTARY INSTRUCTIONS FOR
CONSTRUCTION CONTRACTOR'S QUALIFICATION STATEMENT
FOR ENGINEERED CONSTRUCTION**

Projects with Value up to \$5,000,000

The Bidder must demonstrate a minimum of four (4) years' experience in projects similar in nature and scope to this project. At least four Key Personnel employed by the Bidder must have minimum of five (5) years' experience in similar construction projects. The Bidder must demonstrate Successful Completion during the last five (5) years of at least one project comparable in nature and scope to this project and one project with a dollar value of at least 60% of the value bid for this project. The Bidder must have an employee, to be dedicated to this project, who is experienced in scheduling, with demonstrated ability in employing scheduling techniques similar to those to be used for this project.

Projects with Value in Excess of \$5,000,000

The Bidder must have a minimum of five (5) years' experience in projects similar in nature and scope to this project. At least four of the Bidders Key Personnel must have minimum of five (5) years' experience in similar construction projects. The Bidder must demonstrate Successful Completion of at least two (2) projects similar in nature and scope to this project and one project with a dollar value of at least 75% of the value bid for this project, both within the past five years. The Bidder must demonstrate that it has an experienced employee who will serve as the scheduler; who is dedicated to this project; who has successfully employed scheduling techniques appropriate for this project. At least two (2) Key Personnel for this project must have completed at least two (2) projects, similar in scope and nature to the project being bid, as an employee of the Company bidding this project.

Definitions

- A. **Key Personnel**: Defined as individual who will be directly assigned to this project. Includes, but is not limited to, the OWNER, the Principals of the Bidder, the Project Manager the Project Superintendent, the Scheduler, the Bidder's Construction Engineer, and Supervisory personnel such as the Foremen who will be directly assigned to this project. Resumes of Key Personnel must be submitted and accepted by the OWNER in order for Bidder to receive the Award.
- B. **Successful Completion**: Defined as completion of a project on time, which generally means no more than thirty (30) days later than the original contract time allocated. It also means within budget, which generally means within 5% of the original contract price. If there is any project submitted by the Bidder as qualifying, but which does not meet these requirements, in order to be fully responsive the Bidder is required to submit detailed information on that project demonstrating what caused the increases to cost or time. The name and telephone numbers of the Design Engineer and the Client are to be provided for evaluation to determine whether the project may be considered a successful Project. For any project where liquidated damages were assessed, the Bidder will not be considered to have been on time.

References

- A** **References contained in this Qualification Statement are an intricate part of Bidders qualifications. References must be accurate. Bidder authorizes OWNERS representative to verify any and all information contained in the Qualification Statement from references contained herein and hereby releases all those concerned providing information as a reference from any liability in connection with any information they give.**

END OF SECTION

FORM 5 - CERTIFICATION OF ELECTRICAL SUBCONTRACTOR'S EXPERIENCE AND QUALIFICATIONS

**CITY OF COLUSA 2026 WILL S. GREEN AVENUE PUMP STATION PROJECT
IN THE CITY OF COLUSA, CALIFORNIA**

CITY PROJECT NO. 2026-020

To be eligible for an award of Contract, the Bidder must submit to Owner within three (3) business days after the receipt of bids this signed Certification from the Electrical Subcontractor listed on Bidder's – Designation of suppliers and Subcontractors.

The undersigned electrical subcontractor certifies that it is, at the time of bidding, and shall be, throughout the period of the contract, licensed under the provisions of Chapter 9, Division 3, of the Business and Professions Code of the State of California, to do the type of work contemplated in the Contract Documents. The electrical subcontractor shall further certify that it is skilled and regularly engaged in the general class and type of work called for in the Contract Documents.

The electrical subcontractor represents that it is competent, knowledgeable, and has special skills on the nature, extent, and inherent conditions of the work to be performed. The electrical subcontractor further acknowledges that there are certain peculiar and inherent conditions existent in the construction of the particular facilities which may create, during the construction program, unusual or peculiar unsafe conditions hazardous to persons and property. The electrical subcontractor expressly acknowledges that it is aware of such peculiar risks and that it has the skill and experience to foresee and to adopt protective measures to adequately and safely perform the construction work with respect to such hazards.

A. ESSENTIAL REQUIREMENTS FOR QUALIFICATION

If the answer to any of questions 1 through 3 is "no", or if the answer to any of questions 4 through 7 is "yes", the Bidder will be disqualified from being awarded the Contract.

1. Bidder possesses a valid and current California Contractor's license for the project for which it intends to submit a bid.

☐ Yes ☐ No

2. Bidder will comply with and provide all insurance as defined in Section 00800-Supplementary Conditions.

☐ Yes ☐ No

3. Bidder has current Workers' Compensation insurance policy as required by the Labor Code or is legally self-insured pursuant to Labor Code section 3700 et. seq.

☐ Yes ☐ No

4. Has your contractor's license been revoked at any time in the last five (5) years?

☐ Yes ☐ No

5. Has a surety firm completed a contract on your behalf, or paid for completion because your firm was default terminated by the project owner within the last five (5) years?

☐ Yes ☐ No

6. At the time of submitting this qualification form, is your firm ineligible to bid on or be awarded a public works contract, or perform as a subcontractor on a public works contract, pursuant to either Labor Code section 1777.1 or Labor Code section 1777.7?

☐ Yes ☐ No

7. At any time during the last five (5) years, has your firm, or any of its owners or officers been convicted of a crime involving the awarding of a contract of a government construction project, or the bidding or performance of a government contract?

☐ Yes ☐ No

B. Project Experience

The electrical subcontractor shall list below at least three (3) wastewater or water projects or other industrial projects with electrical systems of similar or greater complexity in the last seven (7) years of similar size that demonstrate the electrical subcontractor's experience and qualification to construct this project. **Failure to provide this information within three (3) days following receipt of bids or failure of the electrical subcontractor to have the required experience may render the Bid non-responsive and may be the basis for rejection of the Bid.**

Bidders are to complete this Bid Form and not attach their own form to the Form with similar information.

1. Project Name: _____

Owner: _____

Electrical Subcontract Cost: _____

Construction Time: _____ Calendar Days

Owner's Representative: _____

Owner's Telephone No.: _____

Date of Substantial Completion: _____

2. Project Name: _____

Owner: _____

Electrical Subcontract Cost: _____

Construction Time:_____Calendar Days

Owner's Representative:_____

Owner's Telephone No.:_____

Date of Substantial Completion:_____

3. Project Name: _____

Owner: _____

Electrical Subcontract Cost:_____

Construction Time:_____Calendar Days

Owner's Representative:_____

Owner's Telephone No.:_____

Date of Substantial Completion:_____

4. Project Name: _____

Owner: _____

Electrical Subcontract Cost:_____

Construction Time:_____Calendar Days

Owner's Representative:_____

Owner's Telephone No.:_____

Date of Substantial Completion:_____

5. Project Name: _____

Owner: _____

Electrical Subcontract Cost:_____

Construction Time:_____Calendar Days

Owner's Representative:_____

Owner's Telephone No.:_____

Date of Substantial Completion:_____

C. SAFETY QUALIFICATION CRITERIA

The following information will be used to determine if electrical subcontractor meets the minimum safety requirements for this project. To qualify to bid and be awarded the project, the electrical subcontractor's three year average Workers' Compensation Experience Modification (EMR) must not be greater than 1.15 (115%). The electrical subcontractor shall list its Experience Modification Rate for the last three complete years (available from your insurance carrier).

Year	EMR
Three Year Average	

To verify the above information, the Owner will contact the electrical subcontractor's Workers' Compensation Insurance carrier. The electrical subcontractor shall authorize its carrier to release this information. Failure to release this information will result in the bid being non-responsive and result in automatic disqualification of the bid.

Workers' Compensation Insurance Company: _____

Contact Person for Insurance Company: _____

Telephone Number: _____

The Owner will check project references listed to verify information provided along with skills and capacity represented by Subcontractor. It is very important that the Bidder verify that all contact information is current for each name listed above.

The undersigned hereby states that all above representations are correct and true.

Signed this _____ day of _____, 20____

Electrical Subcontractor's Name

Authorized Signature

Title of Signator

Valid CA Contractors License No.

License Classification

Expiration Date

**FORM 6 - CERTIFICATION OF SYSTEM SUPPLIER EXPERIENCE AND QUALIFICATIONS
CITY OF COLUSA 2026 WILL S. GREEN AVENUE PUMP STATION PROJECT
IN THE CITY OF COLUSA, CALIFORNIA**

CITY PROJECT NO. 2026-020

To be eligible for an award of Contract, the Bidder must submit to Owner within three (3) business days after the receipt of bids this signed Certification from the General Contractor's or Electrical Subcontractor's System Supplier of all switchboards, panels, ATSS, MCCs, panelboards, panelboard transformers, and PLC hardware.

The System Supplier represents that it is competent, knowledgeable, and has special skills on the nature, extent, and inherent conditions of the work to be performed. The System Supplier further acknowledges that he has regularly engaged in similar electrical and instrumentation systems for the municipal water and wastewater industry.

A. ESSENTIAL REQUIREMENTS FOR QUALIFICATION

If the answer to any of questions 1 through 3 is "no", or if the answer to questions 4 is "yes", the Bidder will be disqualified from being awarded the Contract.

1. The System Supplier employs personnel on this project who have successfully completed ISA or equal training courses on general-purpose instrumentation.

☐ Yes ☐ No

2. The System Supplier has a permanent, fully staffed, and equipped service facility in operation at least six (6) months prior to bid date within 250 miles of project site. Service facility shall be under same company name as System Supplier and same company shall be staffed with personnel and equipment required to maintain, repair and calibrate the instrumentation system. Subletting repair and warranty work to a third party is not acceptable.

☐ Yes ☐ No

3. Bidder has current Workers' Compensation insurance policy as required by the Labor Code or is legally self-insured pursuant to Labor Code section 3700 et. seq.

☐ Yes ☐ No

4. Has a surety firm completed a contract on your behalf, or paid for completion because your firm was default terminated by the project owner within the last five (5) years?

☐ Yes ☐ No

B. Project Experience

The System Supplier shall list below three municipal wastewater or water projects with electrical and instrumentation systems of similar or greater complexity in the last five (5)

years of similar size that demonstrate the System Supplier's experience and qualifications.
Failure to provide this information within three (3) days following receipt of bids or failure of the System Supplier to have the required experience may render the Bid non-responsive and may be the basis for rejection of the Bid.

Bidders are to complete this Bid Form and not attach their own form to the Form with similar information.

1. Project Name: _____

Owner: _____

System Supply Contract Bid Price: _____

Construction Time: _____ Calendar Days

Owner's Representative: _____

Owner's Telephone No.: _____

Electrical Subcontractor's Name: _____

Date of Substantial Completion _____

2. Project Name: _____

Owner: _____

System Supply Contract Bid Price: _____

Construction Time: _____ Calendar Days

Owner's Representative: _____

Owner's Telephone No.: _____

Electrical Subcontractor's Name: _____

Date of Substantial Completion _____

3. Project Name: _____
Owner: _____
System Supply Contract Bid Price: _____
Construction Time: _____ Calendar Days
Owner's Representative: _____
Owner's Telephone No.: _____
Electrical Subcontractor's Name: _____
Date of Substantial Completion: _____

The Owner will check project references listed to verify information provided along with skills and capacity represented by System Supplier. It is very important that the Bidder verify that all contact information is current for each name listed above.

The undersigned hereby states that all above representations are correct and true.

Signed this _____ day of _____, 20____

System Supplier's Name

Authorized Signature

Title of Signator

FORM 7 - BID BOND
CITY OF COLUSA 2026 WILL S. GREEN AVENUE PUMP STATION PROJECT
IN THE CITY OF COLUSA, CALIFORNIA

CITY PROJECT NO. 2026-020

KNOW ALL MEN BY THESE PRESENTS that Bidder _____, as PRINCIPAL, and _____, as SURETY, are held and firmly bound unto the City of COLUSA as OWNER, in the penal sum of _____ dollars (\$ _____), which is ten percent (10%) of the total amount bid by PRINCIPAL to OWNER for the above stated project, for the payment of which sum, PRINCIPAL and SURETY agree to be bound, jointly and severally, firmly by these presents.

The SURETY, for value received, hereby stipulates and agrees that the obligations of said SURETY and its BOND shall be in no way impaired or affected by any extension of the time within which the OWNER may accept such Bid; and said SURETY does hereby waive notice of any such extension.

THE CONDITIONS OF THIS OBLIGATION ARE SUCH that, whereas PRINCIPAL is about to submit a bid to OWNER for the above stated project, if said bid is rejected, or if said bid is accepted and a contract is awarded and entered into by PRINCIPAL in the manner and time specified, and PRINCIPAL provides the required payment and performance bonds and insurance coverages to OWNER, then this obligation shall be null and void, otherwise it shall remain in full force and effect in favor of OWNER.

IN WITNESS WHEREOF the parties hereto have set their names, titles, hands, and seals this ___ day of _____, 2026.

PRINCIPAL* _____

SURETY* _____

*Provide BIDDER and SURETY name, address and telephone number and the name, title, address and telephone number for their authorized representatives. Power of Attorney must be attached.

Subscribed and sworn to this day of....., 2026.

NOTARY PUBLIC _____ (SEAL)

FORM 8 - BID GUARANTEE
CITY OF COLUSA 2026 WILL S. GREEN AVENUE PUMP STATION PROJECT
IN THE CITY OF COLUSA, CALIFORNIA

CITY PROJECT NO. 2026-020

Note: The following statement shall be used if other than a bid surety bond accompanies bid.

“Accompanying this proposal is a money order*, certified check*, cashier’s check*, cash*, payable to the order of the City of COLUSA in the amount of _____ Dollars (\$_____) which is at least ten percent (10%) of the total amount of this bid. The proceeds of this bid guarantee shall become the property of the City of COLUSA provided this bid is accepted by said City, through action of its legally constituted contracting authorities, and the undersigned fails to execute a contract and furnish the required bonds and insurance within the stipulated time. Otherwise, the proceeds of this bid guarantee shall be returned to the undersigned.”

NAME OF BIDDER:

MAILING ADDRESS:

.....

.....

AUTHORIZED SIGNATURE:

TITLE:

DATE:

(*Delete the inapplicable words)

FORM 9 - BIDDER INFORMATION
CITY OF COLUSA 2026 WILL S. GREEN AVENUE PUMP STATION PROJECT
IN THE CITY OF COLUSA, CALIFORNIA

CITY PROJECT NO. 2026-020

BIDDER certifies that the following information is true and correct:

Name of Bidder:

Business Address:

Telephone:.....FAX:.....

E-mail:

Contractor's License No.:.....Date License Issued:

License Expiration Date:

The following are the names, titles, addresses, and phone numbers of all individuals, firm members, partners, joint ventures, and/or corporate officers having a principal interest in this proposal: (Name / Title / Address / Telephone)

.....
.....
.....
.....

Any voluntary or involuntary bankruptcy judgments against any principal having an interest in this proposal are as follows: (Type of Judgment / Date)

.....
.....
.....
.....

All current and prior DBA's, aliases, and/or fictitious business names for any principal having an interest in this proposal are as follows: (Principal / DBA's / Applicable Dates)

.....
.....
.....

Prior Disqualification

Has your firm ever been disqualified from performing work for any City, County, Public or Private Contracting entity? Yes / No _____. If yes, provide the following information. (If more than once, use separate sheets):

Date: Entity:

Location:

Reason:

Provide Status and any Supplemental Statement:

.....
.....
.....
.....

Has your firm been reinstated by this entity? Yes / No

Violations of Federal or State Law

A. Has your firm or its officers been assessed any penalties by any agency for noncompliance, violations of Federal or State labor laws and/or business or licensing regulations within the past five (5) years relating to your construction projects?

Yes / No: Federal / State:

If "yes", identify and describe, (including status):

.....
.....
.....
.....

Have the penalties been paid? Yes / No: _____

B. Does your firm or its officers have any ongoing investigations by any AGENCY regarding violations of the State Labor Code, California Business and Professions Code or State Licensing laws?

Yes / No: Codes / Laws: Section / Article:

If "yes", identify and describe (including status):

.....

.....

I declare under penalty of perjury under the laws of the State of California that all of the representations made in this **BIDDER INFORMATION** are true and correct. Executed this _____ day of _____, 2026, at

_____, California.

Authorized Representative Signature and

Title _____

FORM 10 - DESIGNATION OF SUPPLIERS AND SUBCONTRACTORS
CITY OF COLUSA 2026 WILL S. GREEN AVENUE PUMP STATION PROJECT
IN THE CITY OF COLUSA, CALIFORNIA

CITY PROJECT NO. 2026-020

The following is a list of subcontractors and suppliers, as defined in 2-3 SUBCONTRACTS of the Standard Specifications, who will perform work or provide materials of value in excess of one-half percent of the total bid price or \$10,000, whichever is greater.

No subcontractor shall perform work in excess of the amount specified in 2-3 SUBCONTRACTS of the Standard Specifications, without the written approval of the OWNER.

The Contractor is responsible to ensure that appropriate provisions are to be inserted in all subcontracts to bind subcontractors to the contract requirements as contained herein.

Each subcontractor must agree to comply with all applicable Federal, State, and local requirements.

Name, Address, and License # of Subcontractor	Employer Tax Id #	MBE/ WBE (Y/N)	Work Subcontracted	Portion of Work (% of Contract Price)

Name and Address of Subcontractor	Employer Tax Id #	MBE/ WBE (Y/N)	Work Subcontracted	Portion of Work (% of Contract Price)

These representations are made under the penalty of perjury under the laws of the State of California. The undersigned hereby certifies that each subcontractor has been notified in writing of its equal opportunity obligations.

NAME OF BIDDER: _____

AUTHORIZED SIGNATURE: _____

Date: _____

FORM 11 - NON-COLLUSION AFFIDAVIT
CITY OF COLUSA 2026 WILL S. GREEN AVENUE PUMP STATION PROJECT
IN THE CITY OF COLUSA, CALIFORNIA

CITY PROJECT NO. 2026-020

The undersigned declares:

I am the _____ of _____, the party making the foregoing bid.

The bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation. The bid is genuine and not collusive or sham. The bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid. The bidder has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or to refrain from bidding. The bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder. All statements contained in the bid are true. The bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof, to effectuate a collusive or sham bid, and has not paid, and will not pay, any person or entity for such purpose.

Any person executing this declaration on behalf of a bidder that is a corporation, partnership, joint venture, limited liability company, limited liability partnership, or any other entity, hereby represents that he or she has full power to execute, and does execute, this declaration on behalf of the bidder.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on _____ [date], at _____ [city], _____ [state].

Signature of Declarant

Printed Name of Declarant

FORM 12 - STATEMENT REGARDING INSURANCE COVERAGE
CITY OF COLUSA 2026 WILL S. GREEN AVENUE PUMP STATION PROJECT
IN THE CITY OF COLUSA, CALIFORNIA

CITY PROJECT NO. 2026-020

The undersigned representative of Bidder hereby certifies that he/she has reviewed the insurance coverage requirements specified in **6.04 OWNER'S LIABILITY INSURANCE** of Section 700, Standard Specifications. Should Bidder be awarded the contract for the work, the undersigned further certifies that Bidder can meet all of these specification requirements for insurance including insurance coverage of his/her subcontractors.

NAME OF BIDDER:

MAILING ADDRESS:

.....

.....

AUTHORIZED SIGNATURE:

TITLE:

DATE:

FORM 13 - STATEMENT REGARDING CONTRACTOR'S LICENSING LAWS
CITY OF COLUSA 2026 WILL S. GREEN AVENUE PUMP STATION PROJECT
IN THE CITY OF COLUSA, CALIFORNIA

CITY PROJECT NO. 2026-020

[Business & Professions Code § 7028.15]

[Public Contract Code § 20103.5]

I, the undersigned, certify that I am aware of the following provisions of California law and that I, or the entity on whose behalf this certification is given, hold a currently valid California contractor's license as set forth below:

Business & Professions Code § 7028.15:

- a) **It is a misdemeanor for any person to submit a bid to a public OWNER to engage in the business or act in the capacity of a contractor within this state without having a license therefor,** except in any of the following cases:

(1) The person is particularly exempted from this chapter.

(2) The bid is submitted on a state project governed by Section 10164 of the Public Contract Code or on any local OWNER project governed by Section 20104 [now § 20103.5] of the Public Contract Code.

- b) If a person has been previously convicted of the offense described in this section, the court shall impose a fine of 20 percent of the price of the contract under which the unlicensed person performed contracting work, or four thousand five hundred dollars (\$4,500), whichever is greater, or imprisonment in the county jail for not less than 10 days nor more than six months, or both.

In the event the person performing the contracting work has agreed to furnish materials and labor on an hourly basis, "the price of the contract" for the purposes of this subdivision means the aggregate sum of the cost of materials and labor furnished and the cost of completing the work to be performed.

- c) This section shall not apply to a joint venture license, as required by Section 7029.1. However, at the time of making a bid as a joint venture, each person submitting the bid shall be subject to this section with respect to his/her individual licenser.
- d) This section shall not affect the right or ability of a licensed architect, land surveyor, or registered professional engineer to form joint ventures with licensed contractors to render services within the scope of their respective practices.
- e) Unless one of the foregoing exceptions applies, a bid submitted to a public OWNER by a contractor who is not licensed in accordance with this chapter shall be considered nonresponsive and shall be rejected by the public OWNER. Unless one of the foregoing exceptions applies, a local public OWNER shall, before awarding a contract or issuing a purchase order, verify that the contractor was properly licensed when the contractor submitted the bid. Notwithstanding any other provision of law, unless one of the foregoing exceptions applies, the registrar may issue a citation to any public officer or employee of a public entity who knowingly awards a contract or issues a purchase order to a contractor who is not licensed pursuant to this chapter. The amount of civil penalties, appeal, and finality of such

citations shall be subject to Sections 7028.7 to 7028.13, inclusive. **Any contract awarded to, or any purchase order issued to, as contractor who is not licensed pursuant to this chapter is void.**

- f) Any compliance or noncompliance with subdivision (e) of this section, as added by Chapter 863 of the Statutes of 1989, shall not invalidate any contract or bid awarded by a public OWNER during which time that subdivision was in effect.
- g) A public employee or officer shall not be subject to a citation pursuant to this section if the public employee, officer, or employing OWNER made an inquiry to the board for the purposes of verifying the license status of any person or contractor and the board failed to respond to the inquiry within three business days. For purposes of this section, a telephone response by the board shall be deemed sufficient.

Public Contract Code § 20103.5:

In all contracts subject to this part where federal funds are involved, no bid submitted shall be invalidated by the failure of the bidder to be licensed in accordance with the laws of this state. However, at the time the contract is awarded, the contractor shall be properly licensed in accordance with the laws of this state. The first payment for work or material under any contract shall not be made unless and until the Registrar of Contractors verifies to the OWNER that the records of the Contractors' State License Board indicate that the contractor was properly licensed at the time the contract was awarded. Any bidder or contractor not so licensed shall be subject to all legal penalties imposed by law, including, but not limited to, any appropriate disciplinary action by the Contractors' State License Board. The OWNER shall include a statement to that effect in the standard form of pre-qualification questionnaire and financial statement. **Failure of the bidder to obtain proper and adequate licensing for an award of a contract shall constitute a failure to execute the contract and shall result in the forfeiture of the security of the bidder.**

Contractor's License Number:

License Expiration Date:

Authorized Signature:

Date:

SECTION 00520

CONTRACT AGREEMENT FORMS

**CITY OF COLUSA 2026 WILL S. GREEN AVENUE PUMP STATION PROJECT
IN THE CITY OF COLUSA, CALIFORNIA**

NOTICE OF AWARD

**CITY OF COLUSA 2026 WILL S. GREEN AVENUE PUMP STATION PROJECT
IN THE CITY OF COLUSA, CALIFORNIA**

CITY PROJECT NO. 2026-020

TO: _____

**Project Description: CITY OF COLUSA
CITY OF COLUSA 2026 WILL S. GREEN AVENUE PUMP
STATION PROJECT**

The OWNER has considered the Bid submitted by you for the above described work in response to its Advertisement for Bids dated _____, 2026.

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

\$ _____

You are required by the Instructions to Bidders to execute the Agreement and furnish the required Contractor's Performance Bond, Payment Bond, Maintenance Bond and certificates of insurance within ten (10) calendar days from the date of this Notice to you.

If you fail to execute said Agreement and to furnish said bonds within ten (10) days from the date of this Notice, said Owner will be entitled to consider all your rights arising out of the Owner's acceptance of your Bid as abandoned.

You are required to return an acknowledged copy of this Notice of Award to the Owner.

Dated this _____ of _____, 2026.

OWNER

By:

Title:

ACCEPTANCE OF NOTICE

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

Name of Bidder

Signature of Bidder

Title

Date

**ARTICLES OF AGREEMENT
CITY OF COLUSA 2026 WILL S. GREEN AVENUE PUMP STATION PROJECT
IN THE CITY OF COLUSA, CALIFORNIA**

CITY PROJECT NO. 2026-020

THIS **CITY OF COLUSA 2026 WILL S. GREEN AVENUE PUMP STATION PROJECT AGREEMENT** ("AGREEMENT") is made and entered into for the above-stated project this ____th day of _____, 201__ (*Council Action Date Here*), BY AND BETWEEN the City of COLUSA, a municipal corporation, hereafter designated as "OWNER", and CONTRACTOR'S BUSINESS NAME, a _____ (State) _____ (corporation, partnership, limited liability company, or other business form), hereafter designated as "CONTRACTOR."

WITNESSETH that OWNER and CONTRACTOR have mutually agreed as follows:

ARTICLE 1: CONTRACT DOCUMENTS

The contract documents for the **CITY OF COLUSA 2026 WILL S. GREEN AVENUE PUMP STATION PROJECT AGREEMENT**, shall consist of BUT NOT LIMITED TO:

1. The Notice Inviting Sealed Bids,
2. Instructions to Bidders
3. Bid Proposal shall include but not limited to:
 - i. Bid Proposal
 - ii. Bid Schedule
 - iii. Bid Item Description
 - iv. Construction Contractor's Qualification Statement For Engineered Construction
 - v. Certification Of Electrical Subcontractor Experience And Qualifications
 - vi. Certificate Of System Supplier Experience And Qualifications
 - vii. Bid Bond
 - viii. Bid Guarantee
 - ix. Bidder Information
 - x. Designation Of Suppliers And Subcontractors
 - xi. Non-Collusion Affidavit
 - xii. Bidder's Statement Regarding Insurance Coverage
 - xiii. Statement Regarding Contractor's Licensing Laws
 - xiv. DBE Forms
4. Two Signed copies of the Agreement
5. Two Signed copies of :
 - a. Payment Bond
 - b. Performance Bond
 - c. Maintenance Bond
6. Standard Specifications
7. Supplementary Conditions
8. Technical Specification,
9. Drawings
10. Addenda (numbers ____ to ____)
11. Escrow of bid documents
12. One Copy of the Insurance Certificates, Permits, Notices, and Affidavits;

and also including any and all addenda or supplemental agreements clarifying, amending, or extending the work contemplated as may be required to ensure its completion in an acceptable manner (collectively referred to herein as the "Contract Documents"). All of the provisions of the Contract Documents are made a part hereof as though fully set forth herein.

ARTICLE 2: SCOPE OF WORK

For and in consideration of the payments and agreements to be made and performed by OWNER, CONTRACTOR agrees to furnish all materials and equipment and perform all work required for the above-stated project, and to fulfill all other obligations as set forth in the aforesaid contract documents.

OWNER hereby employs CONTRACTOR to provide the materials, do the work, and fulfill the obligations according to the terms and conditions herein contained and referred to, for the prices provided herein, and hereby contracts to pay the same at the time, in the manner, and upon the conditions set forth in this AGREEMENT.

In entering into a public works contract or a subcontract to supply goods, services, or materials pursuant to this AGREEMENT, CONTRACTOR offers and agrees to assign to the OWNER all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (Section 16700, et seq.) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to the public works contract or the subcontract. This assignment shall be made and become effective at the time the awarding body tenders final payment to CONTRACTOR, without further acknowledgment by the parties.

The Contractor shall commence work within fifteen (15) days of the Notice to Proceed, and diligently prosecute the work to completion within **one hundred and fifty working days** of said Notice to Proceed.

The Contractor shall, at its expense, obtain all necessary permits and licenses, easements, etc., for the construction of the project, give all necessary notices, pay all fees required by law, and comply with all laws, ordinances, rules and regulations relating to the work and to the preservation of the public health and safety.

The City shall not, in any way or manner, be answerable or suffer loss, damage, expense or liability for any loss or damage that may happen to said building, work, or equipment or any part thereof, or in, on, or about the same during its construction and before acceptance. Contractor unqualifiedly warrants all work and materials to be free of defects whether performed or installed by it or by any subcontractor or supplier in the project which is the subject of this Contract, unless a lesser quality is expressly authorized in the Plans and Specifications, in which event Contractor unqualifiedly warrants such lesser quality. Contractor further warrants that the work as performed by Contractor, subcontractor, or supplier will conform with the Plans and Specifications or any written authorized deviations therefrom.

ARTICLE 3: COMPENSATION

A. CONTRACTOR agrees to receive and accept the prices set forth in the Bid Proposal and Bid Schedule as full compensation for furnishing all materials, performing all work, and fulfilling all obligations hereunder. In no event shall the total compensation and costs payable to

CONTRACTOR under this Agreement exceed the sum of [INSERT] Dollars (\$ _____,) unless specifically approved in advance and in writing by OWNER.

Liquidated damages are as provided in SECTION 00800- 1.9 of the General Conditions of the Contract.

Such compensation shall cover all expenses, losses, damages, and consequences arising out of the nature of the work during its progress or prior to its acceptance including those for well and faithfully completing the work and the whole thereof in the manner and time specified in the aforesaid Contract Documents; and also including those arising from actions of the elements, unforeseen difficulties or obstructions encountered in the prosecution of the work, suspension or discontinuance of the work, and all other unknowns or risks of any description connected with the work.

B. This AGREEMENT is subject to the provisions of Article 1.7 (commencing at Section 20104.50) of Division 2, Part 3 of the Public Contract Code regarding prompt payment of contractors by local governments. Article 1.7 mandates certain procedures for the payment of undisputed and properly submitted payment requests within 30 days after receipt, for the review of payment requests, for notice to Contractor of improper payment requests, and provides for the payment of interest on progress payment requests which are not timely made in accordance with that Article. This AGREEMENT hereby incorporates the provisions of Article 1.7 as though fully set forth herein.

C. At the request and expense of CONTRACTOR, securities equivalent to the amount withheld shall be deposited with OWNER, or with a state or federally chartered bank in this state as the escrow agent, who shall then pay those moneys to CONTRACTOR upon OWNER's confirmation of CONTRACTOR'S satisfactory completion of this AGREEMENT. At any time during the term of this AGREEMENT CONTRACTOR may, at its own expense, substitute securities for funds otherwise withheld as retention (or the retained percentage) in accordance with Public Contract Code § 22300.

ARTICLE 4: LABOR CODE

OWNER and CONTRACTOR acknowledge that this AGREEMENT is subject to the provisions of Division 2, Part 7, Chapter 1 (commencing with Section 1720) of the California Labor Code relating to public works and public agencies and agree to be bound by all the provisions thereof as though set forth fully herein. Full compensation for conforming to the requirements of the Labor Code and with other Federal, State and local laws related to labor, and rules, regulations and ordinances which apply to any work performed pursuant to this AGREEMENT is included in the price for all contract items of work involved.

4.2 Prevailing Wages

This AGREEMENT is further subject to prevailing wage law, including, but not limited to, the following:

A. The CONTRACTOR shall pay the prevailing wage rates for all work performed under the AGREEMENT. When any craft or classification is omitted from the general prevailing wage determinations, the CONTRACTOR shall pay the wage rate of the craft or classification most closely related to the omitted classification. The CONTRACTOR shall forfeit as a penalty to

OWNER \$200.00 or any greater penalty provided in the Labor Code for each Calendar Day, or portion thereof, for each worker paid less than the prevailing wage rates for any work done under the AGREEMENT in violation of the provisions of the Labor Code whether such worker is employed in the execution of the work by CONTRACTOR or by any Subcontractor under CONTRACTOR. In addition, CONTRACTOR shall pay each worker the difference between such prevailing wage rates and the amount paid to each worker for each Calendar Day, or portion thereof, for which each worker was paid less than the prevailing wage rate

B. CONTRACTOR shall comply with the provisions of Labor Code Section 1777.5 concerning the employment of apprentices on public works projects, and further agrees that CONTRACTOR is responsible for compliance with Section 1777.5 by all of its subcontractors.

- a) The Contractor's attention is directed to the provisions of Sections 1777.5, 1777.6, and 1777.7 of the California Labor Code concerning employment of apprentices by the Contractor or any subcontractor under him. In addition, Contractor shall obtain a certificate of apprenticeship before employing any apprentice pursuant to Sections 1777.5, 1777.6 and 1777.7 of the California Labor Code.
- b) Information relative to apprenticeship standards, wage schedules, and other requirements may be obtained from the Director of Industrial Relations, ex officio the Administrator of Apprenticeship, San Francisco, California, or from the Division of Apprenticeship Standards and its branch offices.
- c) Knowing violations of Section 1777.5 will result in forfeiture not to exceed one hundred dollars (\$100) for each calendar day of non-compliance pursuant to Section 1777.7.

C. Pursuant to Labor Code § 1725.5, CONTRACTOR and any subcontractor must be registered with the California Department of Industrial Relations for any bid proposal submitted on or after March 1, 2015, and for any contract for public work entered into on or after April 1, 2015. Further, this project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

4.3 Payroll Records

Pursuant to Labor Code § 1776, CONTRACTOR and any subcontractor shall keep accurate payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him or her in connection with this AGREEMENT. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following: (1) The information contained in the payroll record is true and correct; and (2) The employer has complied with the requirements of Labor Code §§ 1811, and 1815 for any work performed by his or her employees on the public works project. The payroll records enumerated under subdivision (a) shall be certified and shall be available for inspection at all reasonable hours as required by Labor Code § 1776.

4.4 Working Hours

This AGREEMENT is further subject to 8-hour work day and wage and hour penalty law, including, but not limited to, Labor Code Sections 1810 and 1813, as well as California nondiscrimination laws, as follows:

CONTRACTOR shall strictly adhere to the provisions of the Labor Code regarding the 8-hour day and the 40-hour week, overtime, Saturday, Sunday and holiday work and nondiscrimination on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex or sexual orientation, except as provided in Section 12940 of the Government Code. Pursuant to the provisions of the Labor Code, eight hours' labor shall constitute a legal day's work. Work performed by CONTRACTOR's employees in excess of eight hours per day, and 40 hours during any one week, must include compensation for all hours worked in excess of eight hours per day, or 40 hours during any one week, at not less than one and one-half times the basic rate of pay. CONTRACTOR shall forfeit as a penalty to OWNER \$25.00 or any greater penalty set forth in the Labor Code for each worker employed in the execution of the work by CONTRACTOR or by any Subcontractor of CONTRACTOR, for each Calendar Day during which such worker is required or permitted to the work more than eight hours in one Calendar Day or more than 40 hours in any one calendar week in violation of the Labor Code.

4.5 Employment of Debarred Subcontractors

This AGREEMENT is subject to Public Contract Code Section 6109: CONTRACTOR shall be prohibited from performing work on this project with a subcontractor who is ineligible to perform work on the project pursuant to Sections 1777.1 or 1777.7 of the Labor Code.

ARTICLE 5: WORK SITE CONDITIONS

A. In compliance with and pursuant to Government Code Section 4215, OWNER shall assume the responsibility, as between the parties to this AGREEMENT, for the timely removal, relocation, or protection of existing main- or trunk-line utility facilities located on the site of any construction project that is a subject of this AGREEMENT, if such utilities are not identified by OWNER in the plans and specifications made a part of the invitation for bids. The Contract Documents shall include provisions to compensate CONTRACTOR for the costs of locating, repairing damage not due to the failure of CONTRACTOR to exercise reasonable care, and removing or relocating such utility facilities not indicated in the plans and specifications with reasonable accuracy, and for equipment on the project necessarily idled during such work. CONTRACTOR shall not be assessed liquidated damages for delay in completion of the project, when such delay was caused by the failure of OWNER or the owner of a utility to provide for removal or relocation of such utility facilities.

The Contractor shall at all times maintain proper facilities and provide safe access for inspection by the City to all parts of the work, and to the shops wherein the work is in preparation. Where the Specifications require work to be specially tested or approved, it shall not be tested or covered up without timely, written approval by the City. Should any such work be covered up without such notice, approval, or consent, it must, if required by City, be uncovered for examination at the Contractor's expense.

B. To the extent that the work requires trenches in excess of five feet (5') and is estimated to cost more than \$25,000, prior to any excavation, CONTRACTOR must provide the OWNER, or a registered civil or structural engineer employed by the OWNER to whom authority has been delegated to accept such plans, a detailed plan showing the design of shoring, bracing, sloping, or other provisions to be made for worker protection from the hazard of caving ground during the excavation of such trench or trenches. If such plan varies from the shoring system standards, the plan shall be prepared by a registered civil or structural engineer. Nothing in this section shall be

deemed to allow the use of a shoring, sloping, or protective system less effective than that required by the Construction Safety Orders.

Precaution shall be exercised at all times for the protection of persons (including employees) and property. The safety provisions of applicable laws, building and construction codes shall be observed. Machinery, equipment, and other hazards shall be guarded or eliminated in accordance with the safety provisions of the Construction Safety Orders issued by the Occupational Safety and Health Standards Board of the State of California.

C. This AGREEMENT is further subject to Public Contract Code Section 7104 with regard to any trenches deeper than four feet (4') involved in the proposed work as follows:

CONTRACTOR shall promptly, and before the following conditions are disturbed, notify, in writing, of any:

(1) Material that CONTRACTOR believes may be hazardous waste, as defined in Section 25117 of the Health and Safety Code, which is required to be removed to a Class I, Class II, or Class III disposal site in accordance with existing law.

(2) Subsurface or latent physical conditions at the site differing from those indicated by all available information provided prior to the deadline for submission of bids.

(3) Unknown physical conditions at the site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the contract.

OWNER shall promptly investigate the conditions, and if it finds that the conditions do materially so differ, or involve hazardous waste, and cause a decrease or increase in CONTRACTOR's cost of, or the time required for, performance of any part of the work, OWNER shall issue a change order under the procedures described in this AGREEMENT.

In the event that a dispute arises between OWNER and CONTRACTOR whether the conditions materially differ, or involve hazardous waste, or cause a decrease or increase in CONTRACTOR's cost of, or time required for, performance of any part of the work, CONTRACTOR shall not be excused from any scheduled completion date provided in the AGREEMENT, but shall proceed with all work to be performed under the AGREEMENT. CONTRACTOR shall retain any and all rights provided either by contract or by law which pertain to the resolution of disputes and protests between the contracting parties.

ARTICLE 6: INSURANCE

A. With respect to performance of work under this AGREEMENT, CONTRACTOR shall maintain, and shall require all of its subcontractors to maintain, insurance as required by Section 0700 "Standard Specifications" of the Contract Documents.

B. This AGREEMENT is further subject to Workers' Compensation obligations, including, but not limited to, California Labor Code Sections 1860 and 1861 as follows:

CONTRACTOR shall take out and maintain, during the life of this contract, Worker's Compensation Insurance for all of CONTRACTOR's employees employed at the site of improvement; and, if any work is sublet, CONTRACTOR shall require the subcontractor similarly

to provide Worker's Compensation Insurance for all of the latter's employees, unless such employees are covered by the protection afforded by CONTRACTOR. CONTRACTOR and any of CONTRACTOR's subcontractors shall be required to provide OWNER with a written statement acknowledging its obligation to secure payment of Worker's Compensation Insurance as required by Labor Code § 1861; to wit: 'I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.' If any class of employees engaged in work under this AGREEMENT at the site of the Project is not protected under any Worker's Compensation law, CONTRACTOR shall provide and shall cause each subcontractor to provide adequate insurance for the protection of employees not otherwise protected. CONTRACTOR shall indemnify and hold harmless OWNER for any damage resulting from failure of either CONTRACTOR or any subcontractor to take out or maintain such insurance.

ARTICLE 7: INDEMNIFICATION

To the fullest extent permitted by law, CONTRACTOR shall, at its sole cost and expense, fully defend, indemnify and hold harmless OWNER, its authorized representatives and their respective subsidiaries, affiliates, members, directors, officers, employees and agents (collectively, the "Indemnitees") from and against any and all claims, actions, demands, costs, judgments, liens, penalties, liabilities, damages, losses, and expenses, including but not limited to any fees of accountants, attorneys or other professionals (collectively "Liabilities"), arising out of, in connection with, resulting from or related to, any alleged act, omission, fault or negligence of CONTRACTOR, CONTRACTOR's Representative, or any of its officers, agents, employees, Subcontractors or Suppliers, or any person or organization directly or indirectly employed by any of them (Collectively, the "Indemnitors"), in connection with or relating to or claimed to be in connection with or relating to the work performed under this AGREEMENT. CONTRACTOR shall not be entitled to any refund of attorneys' fees, defense costs and expenses in the event that it is adjudicated to have been non-negligent.

CONTRACTOR shall not be required to defend or indemnify OWNER for liabilities caused by the sole active negligence or willful misconduct of the OWNER.

If CONTRACTOR is a joint venture or partnership, each venturer or partner shall be jointly and severally liable for any and all of the duties and obligations of CONTRACTOR that are assumed under or arise out of this AGREEMENT. Each of such venturers or partners waives notice of the breach or non-performance of any undertaking or obligation of CONTRACTOR contained in, resulting from or assumed under this AGREEMENT, and the failure to give any such notice shall not affect or impair such venturer's or partner's joint and several liability hereunder.

ARTICLE 8: BINDING EFFECT

OWNER and CONTRACTOR each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto and to its partners, successors, assigns, and legal representatives in respect of all covenants, agreements, and obligations contained in the Contract Documents. This AGREEMENT is not assignable nor the performance of either party's duties delegable without the prior written consent of the other party. Any attempted or purported assignment or delegation of any of the rights or obligations of either party without the prior written consent of the other shall be void and of no force and effect.

ARTICLE 9: DISPUTE RESOLUTION

A. Any court action arising out of this AGREEMENT shall be filed in the Colusa County Superior Court. Any alternative dispute resolution proceeding arising out of this AGREEMENT shall be heard in the County of Colusa.

B. OWNER shall have full authority to compromise or otherwise settle any claim relating to this AGREEMENT or any part hereof at any time. OWNER shall provide timely notification to CONTRACTOR of the receipt of any third-party claim relating to this AGREEMENT. OWNER shall be entitled to recover its reasonable costs incurred in providing the notification required by this section.

C. This AGREEMENT is further subject to the provisions of Article 1.5 (commencing at Section 20104) of Division 2, Part 3 of the Public Contract Code regarding the resolution of public works claims of less than \$375,000. Article 1.5 mandates certain procedures for the filing of claims and supporting documentation by Contractor, for the response to such claims by the OWNER, for a mandatory meet and confer conference upon the request of Contractor, for mandatory nonbinding mediation in the event litigation is commenced, and for mandatory judicial arbitration upon the parties' failure to resolve the dispute through mediation. This AGREEMENT hereby incorporates the provisions of Article 1.5 as though fully set forth herein.

ARTICLE 10: INDEPENDENT CONTRACTOR

CONTRACTOR is and shall at all times remain as to OWNER, a wholly independent contractor. Neither OWNER nor any of its agents shall have control of the conduct of CONTRACTOR or any of CONTRACTOR's employees, except as herein set forth. CONTRACTOR shall not at any time or in any manner represent that it or any of its agents or employees are in any manner agents or employees of OWNER.

ARTICLE 11: TAXES

CONTRACTOR is responsible for paying all retail, sales and use, transportation, export, import, special or other taxes and duties applicable to, and assessable against any work, materials, equipment, services, processes and operations incidental to or involved in this AGREEMENT. The CONTRACTOR is responsible for ascertaining and arranging to pay such taxes and duties. The prices established in this AGREEMENT shall include compensation for any taxes the CONTRACTOR is required to pay by laws and regulations in effect as of the execution of this AGREEMENT.

ARTICLE 12: NOTICES

All notices and communications shall be sent in writing to the parties at the following addresses:

OWNER: [INSERT CONTACT]

CONTRACTOR: [INSERT CONTACT]

CITY OF COLUSA

CONTRACTOR'S BUSINESS NAME

425 Webster Street, Room ____

Mailing Address

Colusa, CA 95932

City, State Zip Code

ARTICLE 13: ENTIRE AGREEMENT

This AGREEMENT supersedes any and all other agreements, either oral or written, between the parties and contains all of the covenants and agreements between the parties pertaining to the work of improvements described herein. Each party to this AGREEMENT acknowledges that no representations, inducements, promises or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein, and that any other agreement, statement or promise not contained in this AGREEMENT shall not be valid or binding. Any modification of this AGREEMENT will be effective only if signed by the party to be charged.

The benefits and obligations of this AGREEMENT shall inure to and be binding upon the representatives, agents, partners, heirs, successors and assigns of the parties hereto. This AGREEMENT shall be construed pursuant to the laws of the State of California.

ARTICLE 14: AUTHORITY TO CONTRACT

The signatories hereto represent that they are authorized to sign on behalf of the respective parties they represent and are competent to do so, and each of the parties hereto hereby irrevocably waives any and all rights to challenge signatures on these bases.

ARTICLE 15: FEDERAL LOBBYING RESTRICTION

Provide the form SF-LLL found at the following website with the signed contract:

<http://www.whitehouse.gov/sites/default/files/omb/grants/sfillin.pdf>

ARTICLE 16: GENERAL PROVISIONS

A. All reports, documents or other written material ("written products" herein) developed by CONTRACTOR in the performance of this Agreement shall be and remain the property of OWNER without restriction or limitation upon its use or dissemination by OWNER. CONTRACTOR may take and retain copies of such written products as desired, but no such written products shall be the subject of a copyright application by CONTRACTOR.

B. In the performance of this Agreement, CONTRACTOR shall not discriminate against any employee, subcontractor, or applicant for employment because of race, color, creed, religion, sex, marital status, sexual orientation, national origin, ancestry, age, physical or mental disability, medical condition or any other unlawful basis.

C. The captions appearing at the commencement of the sections hereof, and in any paragraph thereof, are descriptive only and for convenience in reference to this Agreement. Should there be any conflict between such heading, and the section or paragraph at the head of which it appears, the section or paragraph hereof, as the case may be, and not such heading, shall control and govern in the construction of this Agreement. Masculine or feminine pronouns shall be substituted for the neuter form and vice versa, and the plural shall be substituted for the singular form and vice versa, in any place or places herein in which the context requires such substitution(s).

D. The waiver by OWNER or CONTRACTOR of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition or of any subsequent breach of the same or any other term, covenant or condition herein contained. No term, covenant or condition of this Agreement shall be deemed to have been waived by OWNER or CONTRACTOR unless in writing.

E. Each right, power and remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise shall be cumulative and shall be in addition to every other right, power, or remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise. The exercise, the commencement of the exercise, or the forbearance of the exercise by any party of any one or more of such rights, powers or remedies shall not preclude the simultaneous or later exercise by such party of any of all of such other rights, powers or remedies.

F. CONTRACTOR shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to CITY under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to CONTRACTOR under this Agreement. All such documents shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of CITY. In addition, pursuant to Government Code Section 8546.7, all such documents and this Agreement shall be subject to the examination and audit of the State Auditor, at the request of CITY or as part of any audit of CITY, for a period of three (3) years after final payment under the Agreement.

IN WITNESS WHEREOF the parties hereto for themselves, their heirs, executors, administrators, successors, and assigns do hereby agree to the full performance of the covenants herein contained and have caused this AGREEMENT to be executed in duplicate by setting hereunto their names, titles, hands, and seals this ____ th day of _____, 20____ (*Council Action Date Here*)

CONTRACTOR: Contractor's Business Name

Contractor's Sign Name, Title
Contractor's License No. XXXXXX

Subscribed and sworn to this _____ day of _____, 20____.

NOTARY PUBLIC _____ (SEAL)

OWNER: _____
Mayor of the _____ Date _____
City of Colusa

ATTESTED: _____
City Clerk of the _____ Date _____
City of Colusa

APPROVED AS
TO FORM: _____
City Attorney of the _____ Date _____
City of Colusa

(EXECUTE IN DUPLICATE)

PAYMENT BOND
CITY OF COLUSA 2026 WILL S. GREEN AVENUE PUMP STATION PROJECT
IN THE CITY OF COLUSA, CALIFORNIA

CITY PROJECT NO. 2026-020

WHEREAS, the City of COLUSA, as OWNER has awarded to _____,
as CONTRACTOR, a contract for the above-stated project;

AND WHEREAS, CONTRACTOR is required to furnish a bond in connection with the contract, to
secure the payment of claims of laborers, mechanics, material persons, and other persons as
provided by law;

NOW THEREFORE, we, the undersigned CONTRACTOR and SURETY, are held and firmly
bound unto OWNER in the sum of **[DESCRIBE VERBALLY; 100% OF TOTAL CONTRACT
AMOUNT—TO BE INSERTED BY CONTRACTOR]**Dollars (\$XXX,XXX.XX) which is one
hundred percent (100%) of the total contract amount for the above-stated project, for which
payment well and truly to be made we bind ourselves, our heirs, executors and administrators,
successors and assigns, jointly and severally, firmly by these presents.

THE CONDITIONS OF THIS OBLIGATION IS SUCH that if CONTRACTOR, its heirs, executors,
administrators, successors, assigns or subcontractors, shall fail to pay any of the persons named
in Civil Code Section 3181, or amounts due under the Unemployment Insurance Code with
respect to work or labor withheld, and to pay over to the Employment Development Department
from the wages of employees of the CONTRACTOR and its subcontractors pursuant to Section
13020 of the Unemployment Insurance Code, with respect to such work and labor, that the surety
or sureties herein will pay for the same in an amount not exceeding the sum specified in this bond,
otherwise the above obligation shall be void. In case suit is brought upon this bond, SURETY will
pay reasonable attorneys' fees to the plaintiffs and OWNER in an amount to be fixed by the court.
This bond shall inure to the benefit to any of the persons named in Civil Code Section 3181 as to
give a right of action to such persons or their assigns in any suit brought upon this bond.

The SURETY hereby stipulates and agrees that no change, extension of time, alteration or
addition to the terms of the contract or the specifications accompanying it shall in any manner
affect SURETY's obligations on this bond. The SURETY hereby waives notice of any such
change, extension, alteration or addition and hereby waives the requirements of Section 2845 of
the Civil Code as a condition precedent to any remedies OWNER may have.

IN WITNESS WHEREOF the parties hereto have set their names, titles, hands, and seals this
day of _____,

_____, 2026.

Contractor* Contractor's Signer's Name, Title _____
Contractor's Business Name _____
Mailing Street Address _____
City, State, Zip Code _____
Telephone # _____

Surety* _____

*Provide CONTRACTOR and SURETY name, address and telephone number and the name, title, address and telephone number for the respective authorized representatives. Power of Attorney must be attached.

Subscribed and sworn to this ____ day of _____, 2026.

NOTARY PUBLIC

(SEAL)

(EXECUTE IN DUPLICATE)

FAITHFUL PERFORMANCE BOND
CITY OF COLUSA 2026 WILL S. GREEN AVENUE PUMP STATION PROJECT
IN THE CITY OF COLUSA, CALIFORNIA

CITY PROJECT NO. 2026-020

KNOW ALL PERSONS BY THESE PRESENTS That _____, hereinafter referred to as "CONTRACTOR" as PRINCIPAL, and _____, a corporation duly organized and doing business under and by virtue of the laws of the State of California and duly licensed for the purpose of making, guaranteeing, or becoming sole surety upon bonds or undertakings as Surety, are held and firmly bound unto the CITY OF COLUSA, CALIFORNIA, hereinafter referred to as the "OWNER" in the sum of **[DESCRIBE VERBALLY; 100% OF TOTAL CONTRACT AMOUNT—TO BE INSERTED BY CONTRACTOR]**Dollars (\$XXX,XXX.XX); which is one hundred percent (100%) of the total contract amount for the above stated project; lawful money of the United States of America for the payment of which sum, well and truly to be made, we bind ourselves, our heirs, executors, administrators, assigns and successors, jointly and severally, firmly by these presents.

THE CONDITIONS OF THIS OBLIGATION ARE SUCH, that whereas CONTRACTOR has been awarded and is about to enter into a Contract with OWNER to perform all work required pursuant to the contract documents for the project entitled **CITY OF COLUSA 2026 WILL S. GREEN AVENUE PUMP STATION PROJECT** CONTRACT which Contract is by this reference incorporated herein, and is required by OWNER to give this Bond in connection with the execution of the Contract;

NOW, THEREFORE, if CONTRACTOR and his or her Subcontractors shall well and truly do and perform all the covenants and obligations of the Contract on his or her part to be done and performed at the times and in the manner specified herein including compliance with all Contract specifications and quality requirements, then this obligation shall be null and void, otherwise it shall be and remain in full force and effect;

PROVIDED, that any alterations in the work to be done, or in the material to be furnished, which may be made pursuant to the terms of the Contract, shall not in any way release CONTRACTOR or the Surety thereunder, nor shall any extensions of time granted under the provisions of the Contract release either CONTRACTOR or said Surety, and notice of such alterations of extensions of the Contract is hereby waived by said Surety.

In the event suit is brought upon this Bond by OWNER and judgment is recovered, said Surety shall pay all costs incurred by OWNER in such suit, including a reasonable attorney's fee to be fixed by the Court.

IN WITNESS WHEREOF the parties hereto have set their names, titles, hands, and seals this _____ day of, 2026.

Contractor* Contractor's Signer's Name, Title _____
Contractor's Business Name _____
Mailing Street Address _____
City, State, Zip Code _____
Telephone # _____

Surety*

*Provide CONTRACTOR and SURETY name, address and telephone number and the name, title, address and telephone number for their respective authorized representatives. Power of Attorney must be attached.

Subscribed and sworn to this ____ day of _____, 2026.

NOTARY PUBLIC

(SEAL)

(EXECUTE IN DUPLICATE)

MAINTENANCE BOND
CITY OF COLUSA 2026 WILL S. GREEN AVENUE PUMP STATION PROJECT
IN THE CITY OF COLUSA, CALIFORNIA

CITY PROJECT NO. 2026-020

KNOW ALL PERSONS BY THESE PRESENTS THAT WHEREAS, the City of COLUSA, as OWNER has awarded to *Contractor's Business Name*, as CONTRACTOR, a contract for the above-stated project.

AND WHEREAS, CONTRACTOR is required to furnish a bond in connection with the contract guaranteeing maintenance thereof;

NOW, THEREFORE, we, the undersigned CONTRACTOR and SURETY, are held firmly bound unto OWNER in the sum of **DESCRIBE VERBALLY; 50% OF TOTAL CONTRACT AMOUNT— TO BE INSERTED BY CONTRACTOR** Dollars (\$XXX,XXX.XX), which is fifty percent (50%) of the total contract amount for the above-stated project to be paid to OWNER, its successors and assigns, for which payment well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITIONS OF THIS OBLIGATION ARE SUCH that if CONTRACTOR shall remedy without cost to OWNER any defects which may develop during a period of one (1) year from the date of recordation of the Notice of Completion of the work performed under the contract, provided such defects are caused by defective or inferior materials or work, then this obligation shall be void; otherwise it shall be and remain in full force and effect. In case suit is brought upon this bond, SURETY will pay reasonable attorneys' fees to the OWNER in an amount to be fixed by the court.

IN WITNESS WHEREOF the parties hereto have set their names, titles, hands, and seals this ____ day of

_____, 2026.

Contractor* Contractor's Signer's Name, Title _____
Contractor's Business Name _____
Mailing Street Address _____
City, State, Zip Code _____
Telephone # _____

Surety* _____

*Provide CONTRACTOR and SURETY name, address and telephone number and the name, title, address and telephone number for their respective authorized representatives. Powers of Attorney must be attached.

Subscribed and sworn to this day of _____, 2026.

NOTARY PUBLIC

(SEAL)

(EXECUTE IN DUPLICATE)

**WORKERS' COMPENSATION INSURANCE CERTIFICATE
CITY OF COLUSA 2026 WILL S. GREEN AVENUE PUMP STATION PROJECT
IN THE CITY OF COLUSA, CALIFORNIA**

CITY PROJECT NO. 2026-020

The Contractor shall execute the following form as required by the California Labor Code, Sections 1860 and 1861:

I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.

DATE: Contractor's Business Name.
(Contractor)

By:
(Signature)

(Title)

Attest:

By:
(Signature)

(Title)

Note: See Article 7 Contractor's Responsibility -Section 700 and section 800 for insurance carrier rating requirements.

**ENDORSEMENTS TO INSURANCE POLICY
CITY OF COLUSA 2026 WILL S. GREEN AVENUE PUMP STATION PROJECT
IN THE CITY OF COLUSA, CALIFORNIA**

CITY PROJECT NO. 2026-020

Name of Insurance Company:

Policy Number:

Effective Date:

The following endorsements are hereby incorporated by reference into the attached Certificate of Insurance as though fully set forth thereon:

1. The naming of an additional insured as herein provided shall not affect any recovery to which such additional insured would be entitled under this policy if not named as such additional insured, and
2. The additional insured named herein shall not be held liable for any premium or expense of any nature on this policy or any extensions thereof, and
3. The additional insured named herein shall not by reason of being so named be considered a member of any mutual insurance company for any purpose whatsoever, and
4. The provisions of the policy will not be changed, suspended, canceled or otherwise terminated as to the interest of the additional insured named herein without first giving such additional insured twenty (20) days' written notice.
5. Any other insurance held by the additional insured shall not be required to contribute anything toward any loss or expense covered by the insurance, which is referred to by this certificate.
6. **The company provided insurance for this certificate is a company licensed to do business in the State of California with a Best's rating of A+ VII or greater.**

It is agreed that the City of Colusa, its officers and employees, are included as Additional Insureds under the contracts of insurance for which the Certificate of Insurance is given.

Authorized Insurance Agent

Date: _____

**STATEMENT REGARDING INSURANCE COVERAGE
CITY OF COLUSA 2026 WILL S. GREEN AVENUE PUMP STATION PROJECT
IN THE CITY OF COLUSA, CALIFORNIA**

CITY PROJECT NO. 2026-020

The undersigned representative of Bidder hereby certifies that he/she has reviewed the insurance coverage requirements specified in **6.04 OWNER's Liability insurance** of Section 700, Standard Specifications. Should Bidder be awarded the contract for the work, the undersigned further certifies that Bidder can meet all of these specification requirements for insurance including insurance coverage of his/her subcontractors.

NAME OF BIDDER:

MAILING ADDRESS:

.....

.....

AUTHORIZED SIGNATURE:

TITLE:

DATE:

**STATEMENT REGARDING CONTRACTOR'S LICENSING LAWS
CITY OF COLUSA 2026 WILL S. GREEN AVENUE PUMP STATION PROJECT
IN THE CITY OF COLUSA, CALIFORNIA**

CITY PROJECT NO. 2026-020

[Business & Professions Code § 7028.15]

[Public Contract Code § 20103.5]

I, the undersigned, certify that I am aware of the following provisions of California law and that I, or the entity on whose behalf this certification is given, hold a currently valid California contractor's license as set forth below:

Business & Professions Code § 7028.15:

- a) **It is a misdemeanor for any person to submit a bid to a public OWNER to engage in the business or act in the capacity of a contractor within this state without having a license therefor**, except in any of the following cases:

(1) The person is particularly exempted from this chapter.

(2) The bid is submitted on a state project governed by Section 10164 of the Public Contract Code or on any local OWNER project governed by Section 20104 [now § 20103.5] of the Public Contract Code.

- b) If a person has been previously convicted of the offense described in this section, the court shall impose a fine of 20 percent of the price of the contract under which the unlicensed person performed contracting work, or four thousand five hundred dollars (\$4,500), whichever is greater, or imprisonment in the county jail for not less than 10 days nor more than six months, or both.

In the event the person performing the contracting work has agreed to furnish materials and labor on an hourly basis, "the price of the contract" for the purposes of this subdivision means the aggregate sum of the cost of materials and labor furnished and the cost of completing the work to be performed.

- c) This section shall not apply to a joint venture license, as required by Section 7029.1. However, at the time of making a bid as a joint venture, each person submitting the bid shall be subject to this section with respect to his/her individual licenser.
- d) This section shall not affect the right or ability of a licensed architect, land surveyor, or registered professional engineer to form joint ventures with licensed contractors to render services within the scope of their respective practices.
- e) Unless one of the foregoing exceptions applies, a bid submitted to a public OWNER by a contractor who is not licensed in accordance with this chapter shall be considered nonresponsive and shall be rejected by the public OWNER. Unless one of the foregoing exceptions applies, a local public OWNER shall, before awarding a contract or issuing a purchase order, verify that the contractor was properly licensed when the contractor submitted the bid. Notwithstanding any other provision of law, unless one of the foregoing exceptions applies, the registrar may issue a citation to any public officer or employee of a public entity who knowingly awards a contract or issues a purchase order to a contractor who is not licensed pursuant to this chapter. The amount of civil penalties, appeal, and finality of such citations shall be subject to Sections 7028.7 to 7028.13, inclusive. **Any contract**

awarded to, or any purchase order issued to, as contractor who is not licensed pursuant to this chapter is void.

- f) Any compliance or noncompliance with subdivision (e) of this section, as added by Chapter 863 of the Statutes of 1989, shall not invalidate any contract or bid awarded by a public OWNER during which time that subdivision was in effect.
- g) A public employee or officer shall not be subject to a citation pursuant to this section if the public employee, officer, or employing OWNER made an inquiry to the board for the purposes of verifying the license status of any person or contractor and the board failed to respond to the inquiry within three business days. For purposes of this section, a telephone response by the board shall be deemed sufficient.

Public Contract Code § 20103.5:

In all contracts subject to this part where federal funds are involved, no bid submitted shall be invalidated by the failure of the bidder to be licensed in accordance with the laws of this state. However, at the time the contract is awarded, the contractor shall be properly licensed in accordance with the laws of this state. The first payment for work or material under any contract shall not be made unless and until the Registrar of Contractors verifies to the OWNER that the records of the Contractors' State License Board indicate that the contractor was properly licensed at the time the contract was awarded. Any bidder or contractor not so licensed shall be subject to all legal penalties imposed by law, including, but not limited to, any appropriate disciplinary action by the Contractors' State License Board. The OWNER shall include a statement to that effect in the standard form of pre-qualification questionnaire and financial statement. **Failure of the bidder to obtain proper and adequate licensing for an award of a contract shall constitute a failure to execute the contract and shall result in the forfeiture of the security of the bidder.**

Contractor's License Number:

License Expiration Date:

Authorized Signature:

Date:

NOTICE TO PROCEED
CITY OF COLUSA 2026 WILL S. GREEN AVENUE PUMP STATION PROJECT
IN THE CITY OF COLUSA, CALIFORNIA

CITY PROJECT NO. 2026-020

DATE: _____
TO: _____

Project Description:

**CITY OF COLUSA 2026 WILL S. GREEN AVENUE PUMP STATION
PROJECT**

You are hereby notified to commence work in accordance with the Agreement dated _____, 2026, on or before _____, 2026, and you are to complete the work within ____consecutive working days thereafter. The date of completion of all work is, therefore, _____, 20__.

CITY OF COLUSA

By: _____

Title: _____

ACCEPTANCE OF NOTICE

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

Dated this _____ day of _____, 2026.

By: _____

Title: _____

Employer Identification Number

(_____) _____
Telephone Number

This document has important legal consequences; consultation with an attorney is encouraged with respect to its use or modification. This document should be adapted to the particular circumstances of the contemplated Project and the controlling Laws and Regulations.

STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

Prepared By



Endorsed By



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GUIDELINES FOR USE OF EJCDC® C-700, STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

1.0 PURPOSE AND INTENDED USE OF THE DOCUMENT

EJCDC® C-700, Standard General Conditions of the Construction Contract (2018), is the foundation document for the EJCDC Construction Series. The General Conditions define the basic rights, responsibilities, risk allocations, and contractual relationship of the Owner and Contractor, and establish how the Contract is to be administered.

2.0 OTHER DOCUMENTS

EJCDC documents are intended to be used as a system and changes in one EJCDC document may require a corresponding change in other documents. Other EJCDC documents may also serve as a reference to provide insight or guidance for the preparation of this document.

These General Conditions have been prepared for use with either EJCDC® C-520, Agreement Between Owner and Contractor for Construction Contract (Stipulated Price), or EJCDC® C-525, Agreement Between Owner and Contractor for Construction Contract (Cost-Plus-Fee) (2018 Editions). The provisions of the General Conditions and the Agreement are interrelated, and a change in one may necessitate a change in the other.

To prepare supplementary conditions that are coordinated with the General Conditions, use EJCDC® C-800, Supplementary Conditions of the Construction Contract (2018).

The full EJCDC Construction series of documents is discussed in the EJCDC® C-001, Commentary on the 2018 EJCDC Construction Documents (2018).

3.0 ORGANIZATION OF INFORMATION

All parties involved in a construction project benefit significantly from a standardized approach in the location of subject matter throughout the documents. Experience confirms the danger of addressing the same subject matter in more than one location; doing so frequently leads to confusion and unanticipated legal consequences. Careful attention should be given to the guidance provided in EJCDC® N-122/AIA® A521, Uniform Location of Subject Matter (2012 Edition) when preparing documents. EJCDC® N-122/AIA® A521 is available at no charge from the EJCDC website, www.ejcdc.org, and from the websites of EJCDC's sponsoring organizations.

If CSI MasterFormat™ is used for organizing the Project Manual, consult CSI MasterFormat™ for the appropriate document number (e.g., under 00 11 00, Advertisements and Invitations), and accordingly number the document and its pages.

4.0 EDITING THIS DOCUMENT

Remove these Guidelines for Use. Some users may also prefer to remove the two cover pages.

Although it is permissible to revise the Standard EJCDC Text of C-700 (the content beginning at page 1 and continuing to the end), it is common practice to leave the Standard EJCDC Text of C-700 intact and unaltered, with modifications and supplementation of C-700's provisions set forth in EJCDC® C-800, Supplementary Conditions of the Construction Contract (2018). If the Standard Text itself is revised, the

user must comply with the terms of the License Agreement, Paragraph 4.0, Document-Specific Provisions, concerning the tracking or highlighting of revisions. The following is a summary of the relevant License Agreement provisions:

1. The term “Standard EJCDC Text” for C-700 refers to all text prepared by EJCDC in the main body of the document. Document covers, logos, footers, instructions, or copyright notices are not Standard EJCDC Text for this purpose.
2. During the drafting or negotiating process for C-700, it is important that the two contracting parties are both aware of any changes that have been made to the Standard EJCDC Text. Thus, if a draft or version of C-700 purports to be or appears to be an EJCDC document, the user must plainly show all changes to the Standard EJCDC Text, using “Track Changes” (redline/strikeout), highlighting, or other means of clearly indicating additions and deletions.
3. If C-700 has been revised or altered and is subsequently presented to third parties (such as potential bidders, grant agencies, lenders, or sureties) as an EJCDC document, then the changes to the Standard EJCDC Text must be shown, or the third parties must receive access to a version that shows the changes.
4. Once the document is ready to be finalized (and if applicable executed by the contracting parties), it is no longer necessary to continue to show changes to the Standard EJCDC Text. The user may produce a final version of the document in a format in which all changes are accepted, and the document at that point does not need to include any “Track Changes,” redline/strikeout, highlighting, or other indication of additions and deletions to the Standard EJCDC Text.

5.0 LICENSE AGREEMENT

This document is subject to the terms and conditions of the **License Agreement, 2018 EJCDC® Construction Series Documents**. A copy of the License Agreement was furnished at the time of purchase of this document, and is available for review at www.ejcdc.org and the websites of EJCDC’s sponsoring organizations.

STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

TABLE OF CONTENTS

	Page
Article 1—Definitions and Terminology	1
1.01 Defined Terms.....	1
1.02 Terminology	6
Article 2—Preliminary Matters	7
2.01 Delivery of Performance and Payment Bonds; Evidence of Insurance.....	7
2.02 Copies of Documents	7
2.03 Before Starting Construction	7
2.04 Preconstruction Conference; Designation of Authorized Representatives	8
2.05 Acceptance of Schedules	8
2.06 Electronic Transmittals	8
Article 3—Contract Documents: Intent, Requirements, Reuse.....	9
3.01 Intent.....	9
3.02 Reference Standards	9
3.03 Reporting and Resolving Discrepancies	10
3.04 Requirements of the Contract Documents.....	10
3.05 Reuse of Documents	11
Article 4—Commencement and Progress of the Work.....	11
4.01 Commencement of Contract Times; Notice to Proceed.....	11
4.02 Starting the Work.....	11
4.03 Reference Points	12
4.04 Progress Schedule	12
4.05 Delays in Contractor’s Progress	12
Article 5—Site; Subsurface and Physical Conditions; Hazardous Environmental Conditions	14
5.01 Availability of Lands	14
5.02 Use of Site and Other Areas.....	14
5.03 Subsurface and Physical Conditions.....	15
5.04 Differing Subsurface or Physical Conditions	16
5.05 Underground Facilities.....	17
5.06 Hazardous Environmental Conditions at Site	19
Article 6—Bonds and Insurance	21
6.01 Performance, Payment, and Other Bonds	21
6.02 Insurance—General Provisions	22
6.03 Contractor’s Insurance.....	24
6.04 Builder’s Risk and Other Property Insurance	25
6.05 Property Losses; Subrogation	26
6.06 Receipt and Application of Property Insurance Proceeds	27

Article 7—Contractor’s Responsibilities	27
7.01 Contractor’s Means and Methods of Construction	27
7.02 Supervision and Superintendence	27
7.03 Labor; Working Hours	28
7.04 Services, Materials, and Equipment	28
7.05 “Or Equals”	28
7.06 Substitutes	29
7.07 Concerning Subcontractors and Suppliers	31
7.08 Patent Fees and Royalties.....	32
7.09 Permits	33
7.10 Taxes	33
7.11 Laws and Regulations.....	33
7.12 Record Documents.....	34
7.13 Safety and Protection	34
7.14 Hazard Communication Programs	35
7.15 Emergencies.....	35
7.16 Submittals	35
7.17 Contractor’s General Warranty and Guarantee	38
7.18 Indemnification	39
7.19 Delegation of Professional Design Services	40
Article 8—Other Work at the Site	40
8.01 Other Work	40
8.02 Coordination	41
8.03 Legal Relationships.....	42
Article 9—Owner’s Responsibilities	43
9.01 Communications to Contractor	43
9.02 Replacement of Engineer.....	43
9.03 Furnish Data	43
9.04 Pay When Due.....	43
9.05 Lands and Easements; Reports, Tests, and Drawings.....	43
9.06 Insurance.....	43
9.07 Change Orders	43
9.08 Inspections, Tests, and Approvals.....	43
9.09 Limitations on Owner’s Responsibilities	43
9.10 Undisclosed Hazardous Environmental Condition.....	44
9.11 Evidence of Financial Arrangements.....	44
9.12 Safety Programs	44
Article 10—Engineer’s Status During Construction	44
10.01 Owner’s Representative.....	44
10.02 Visits to Site.....	44
10.03 Resident Project Representative.....	44
10.04 Engineer’s Authority	45
10.05 Determinations for Unit Price Work	45
10.06 Decisions on Requirements of Contract Documents and Acceptability of Work	45
10.07 Limitations on Engineer’s Authority and Responsibilities	45
10.08 Compliance with Safety Program.....	46

Article 11—Changes to the Contract	46
11.01 Amending and Supplementing the Contract	46
11.02 Change Orders	46
11.03 Work Change Directives.....	47
11.04 Field Orders.....	47
11.05 Owner-Authorized Changes in the Work.....	47
11.06 Unauthorized Changes in the Work.....	48
11.07 Change of Contract Price	48
11.08 Change of Contract Times.....	49
11.09 Change Proposals.....	49
11.10 Notification to Surety.....	50
Article 12—Claims	50
12.01 Claims	50
Article 13—Cost of the Work; Allowances; Unit Price Work.....	52
13.01 Cost of the Work	52
13.02 Allowances	55
13.03 Unit Price Work	56
Article 14—Tests and Inspections; Correction, Removal, or Acceptance of Defective Work.....	56
14.01 Access to Work.....	56
14.02 Tests, Inspections, and Approvals.....	57
14.03 Defective Work	57
14.04 Acceptance of Defective Work.....	58
14.05 Uncovering Work	58
14.06 Owner May Stop the Work	59
14.07 Owner May Correct Defective Work.....	59
Article 15—Payments to Contractor; Set-Offs; Completion; Correction Period.....	60
15.01 Progress Payments.....	60
15.02 Contractor’s Warranty of Title	63
15.03 Substantial Completion.....	63
15.04 Partial Use or Occupancy	64
15.05 Final Inspection	64
15.06 Final Payment.....	65
15.07 Waiver of Claims	66
15.08 Correction Period	66
Article 16—Suspension of Work and Termination.....	67
16.01 Owner May Suspend Work	67
16.02 Owner May Terminate for Cause.....	67
16.03 Owner May Terminate for Convenience.....	68
16.04 Contractor May Stop Work or Terminate	69
Article 17—Final Resolution of Disputes	69
17.01 Methods and Procedures.....	69
Article 18—Miscellaneous	70
18.01 Giving Notice	70
18.02 Computation of Times.....	70

18.03	Cumulative Remedies	70
18.04	Limitation of Damages	70
18.05	No Waiver	70
18.06	Survival of Obligations	70
18.07	Controlling Law	70
18.08	Assignment of Contract.....	71
18.09	Successors and Assigns	71
18.10	Headings.....	71

STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

ARTICLE 1—DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

- A. Wherever used in the Bidding Requirements or Contract Documents, a term printed with initial capital letters, including the term's singular and plural forms, will have the meaning indicated in the definitions below. In addition to terms specifically defined, terms with initial capital letters in the Contract Documents include references to identified articles and paragraphs, and the titles of other documents or forms.
1. *Addenda*—Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Requirements or the proposed Contract Documents.
 2. *Agreement*—The written instrument, executed by Owner and Contractor, that sets forth the Contract Price and Contract Times, identifies the parties and the Engineer, and designates the specific items that are Contract Documents.
 3. *Application for Payment*—The document prepared by Contractor, in a form acceptable to Engineer, to request progress or final payments, and which is to be accompanied by such supporting documentation as is required by the Contract Documents.
 4. *Bid*—The offer of a Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.
 5. *Bidder*—An individual or entity that submits a Bid to Owner.
 6. *Bidding Documents*—The Bidding Requirements, the proposed Contract Documents, and all Addenda.
 7. *Bidding Requirements*—The Advertisement or invitation to bid, Instructions to Bidders, Bid Bond or other Bid security, if any, the Bid Form, and the Bid with any attachments.
 8. *Change Order*—A document which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the Contract Times, or other revision to the Contract, issued on or after the Effective Date of the Contract.
 9. *Change Proposal*—A written request by Contractor, duly submitted in compliance with the procedural requirements set forth herein, seeking an adjustment in Contract Price or Contract Times; contesting an initial decision by Engineer concerning the requirements of the Contract Documents or the acceptability of Work under the Contract Documents; challenging a set-off against payments due; or seeking other relief with respect to the terms of the Contract.
 10. *Claim*
 - a. A demand or assertion by Owner directly to Contractor, duly submitted in compliance with the procedural requirements set forth herein, seeking an adjustment of Contract

Price or Contract Times; contesting an initial decision by Engineer concerning the requirements of the Contract Documents or the acceptability of Work under the Contract Documents; contesting Engineer's decision regarding a Change Proposal; seeking resolution of a contractual issue that Engineer has declined to address; or seeking other relief with respect to the terms of the Contract.

- b. A demand or assertion by Contractor directly to Owner, duly submitted in compliance with the procedural requirements set forth herein, contesting Engineer's decision regarding a Change Proposal, or seeking resolution of a contractual issue that Engineer has declined to address.
 - c. A demand or assertion by Owner or Contractor, duly submitted in compliance with the procedural requirements set forth herein, made pursuant to Paragraph 12.01.A.4, concerning disputes arising after Engineer has issued a recommendation of final payment.
 - d. A demand for money or services by a third party is not a Claim.
- 11. *Constituent of Concern*—Asbestos, petroleum, radioactive materials, polychlorinated biphenyls (PCBs), lead-based paint (as defined by the HUD/EPA standard), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to Laws and Regulations regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.
 - 12. *Contract*—The entire and integrated written contract between Owner and Contractor concerning the Work.
 - 13. *Contract Documents*—Those items so designated in the Agreement, and which together comprise the Contract.
 - 14. *Contract Price*—The money that Owner has agreed to pay Contractor for completion of the Work in accordance with the Contract Documents.
 - 15. *Contract Times*—The number of days or the dates by which Contractor shall: (a) achieve Milestones, if any; (b) achieve Substantial Completion; and (c) complete the Work.
 - 16. *Contractor*—The individual or entity with which Owner has contracted for performance of the Work.
 - 17. *Cost of the Work*—See Paragraph 13.01 for definition.
 - 18. *Drawings*—The part of the Contract that graphically shows the scope, extent, and character of the Work to be performed by Contractor.
 - 19. *Effective Date of the Contract*—The date, indicated in the Agreement, on which the Contract becomes effective.
 - 20. *Electronic Document*—Any Project-related correspondence, attachments to correspondence, data, documents, drawings, information, or graphics, including but not limited to Shop Drawings and other Submittals, that are in an electronic or digital format.
 - 21. *Electronic Means*—Electronic mail (email), upload/download from a secure Project website, or other communications methods that allow: (a) the transmission or communication of Electronic Documents; (b) the documentation of transmissions,

including sending and receipt; (c) printing of the transmitted Electronic Document by the recipient; (d) the storage and archiving of the Electronic Document by sender and recipient; and (e) the use by recipient of the Electronic Document for purposes permitted by this Contract. Electronic Means does not include the use of text messaging, or of Facebook, Twitter, Instagram, or similar social media services for transmission of Electronic Documents.

22. *Engineer*—The individual or entity named as such in the Agreement.
23. *Field Order*—A written order issued by Engineer which requires minor changes in the Work but does not change the Contract Price or the Contract Times.
24. *Hazardous Environmental Condition*—The presence at the Site of Constituents of Concern in such quantities or circumstances that may present a danger to persons or property exposed thereto.
 - a. The presence at the Site of materials that are necessary for the execution of the Work, or that are to be incorporated into the Work, and that are controlled and contained pursuant to industry practices, Laws and Regulations, and the requirements of the Contract, is not a Hazardous Environmental Condition.
 - b. The presence of Constituents of Concern that are to be removed or remediated as part of the Work is not a Hazardous Environmental Condition.
 - c. The presence of Constituents of Concern as part of the routine, anticipated, and obvious working conditions at the Site, is not a Hazardous Environmental Condition.
25. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and binding decrees, resolutions, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
26. *Liens*—Charges, security interests, or encumbrances upon Contract-related funds, real property, or personal property.
27. *Milestone*—A principal event in the performance of the Work that the Contract requires Contractor to achieve by an intermediate completion date, or by a time prior to Substantial Completion of all the Work.
28. *Notice of Award*—The written notice by Owner to a Bidder of Owner's acceptance of the Bid.
29. *Notice to Proceed*—A written notice by Owner to Contractor fixing the date on which the Contract Times will commence to run and on which Contractor shall start to perform the Work.
30. *Owner*—The individual or entity with which Contractor has contracted regarding the Work, and which has agreed to pay Contractor for the performance of the Work, pursuant to the terms of the Contract.
31. *Progress Schedule*—A schedule, prepared and maintained by Contractor, describing the sequence and duration of the activities comprising Contractor's plan to accomplish the Work within the Contract Times.

32. *Project*—The total undertaking to be accomplished for Owner by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the Work to be performed under the Contract Documents is a part.
33. *Resident Project Representative*—The authorized representative of Engineer assigned to assist Engineer at the Site. As used herein, the term Resident Project Representative (RPR) includes any assistants or field staff of Resident Project Representative.
34. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work will be judged.
35. *Schedule of Submittals*—A schedule, prepared and maintained by Contractor, of required submittals and the time requirements for Engineer's review of the submittals.
36. *Schedule of Values*—A schedule, prepared and maintained by Contractor, allocating portions of the Contract Price to various portions of the Work and used as the basis for reviewing Contractor's Applications for Payment.
37. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Contract Documents.
38. *Site*—Lands or areas indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements, and such other lands or areas furnished by Owner which are designated for the use of Contractor.
39. *Specifications*—The part of the Contract that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.
40. *Subcontractor*—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work.
41. *Submittal*—A written or graphic document, prepared by or for Contractor, which the Contract Documents require Contractor to submit to Engineer, or that is indicated as a Submittal in the Schedule of Submittals accepted by Engineer. Submittals may include Shop Drawings and Samples; schedules; product data; Owner-delegated designs; sustainable design information; information on special procedures; testing plans; results of tests and evaluations, source quality-control testing and inspections, and field or Site quality-control testing and inspections; warranties and certifications; Suppliers' instructions and reports; records of delivery of spare parts and tools; operations and maintenance data; Project photographic documentation; record documents; and other such documents required by the Contract Documents. Submittals, whether or not approved or accepted by Engineer, are not Contract Documents. Change Proposals, Change Orders, Claims, notices, Applications for Payment, and requests for interpretation or clarification are not Submittals.
42. *Substantial Completion*—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the

Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms “substantially complete” and “substantially completed” as applied to all or part of the Work refer to Substantial Completion of such Work.

- 43. *Successful Bidder*—The Bidder to which the Owner makes an award of contract.
- 44. *Supplementary Conditions*—The part of the Contract that amends or supplements these General Conditions.
- 45. *Supplier*—A manufacturer, fabricator, supplier, distributor, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or a Subcontractor.
- 46. *Technical Data*
 - a. Those items expressly identified as Technical Data in the Supplementary Conditions, with respect to either (1) existing subsurface conditions at or adjacent to the Site, or existing physical conditions at or adjacent to the Site including existing surface or subsurface structures (except Underground Facilities) or (2) Hazardous Environmental Conditions at the Site.
 - b. If no such express identifications of Technical Data have been made with respect to conditions at the Site, then Technical Data is defined, with respect to conditions at the Site under Paragraphs 5.03, 5.04, and 5.06, as the data contained in boring logs, recorded measurements of subsurface water levels, assessments of the condition of subsurface facilities, laboratory test results, and other factual, objective information regarding conditions at the Site that are set forth in any geotechnical, environmental, or other Site or facilities conditions report prepared for the Project and made available to Contractor.
 - c. Information and data regarding the presence or location of Underground Facilities are not intended to be categorized, identified, or defined as Technical Data, and instead Underground Facilities are shown or indicated on the Drawings.
- 47. *Underground Facilities*—All active or not-in-service underground lines, pipelines, conduits, ducts, encasements, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or systems at the Site, including but not limited to those facilities or systems that produce, transmit, distribute, or convey telephone or other communications, cable television, fiber optic transmissions, power, electricity, light, heat, gases, oil, crude oil products, liquid petroleum products, water, steam, waste, wastewater, storm water, other liquids or chemicals, or traffic or other control systems. An abandoned facility or system is not an Underground Facility.
- 48. *Unit Price Work*—Work to be paid for on the basis of unit prices.
- 49. *Work*—The entire construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction; furnishing, installing, and incorporating all materials and equipment into such construction; and may include related services such as testing, start-up, and commissioning, all as required by the Contract Documents.

50. *Work Change Directive*—A written directive to Contractor issued on or after the Effective Date of the Contract, signed by Owner and recommended by Engineer, ordering an addition, deletion, or revision in the Work.

1.02 Terminology

- A. The words and terms discussed in Paragraphs 1.02.B, C, D, and E are not defined terms that require initial capital letters, but, when used in the Bidding Requirements or Contract Documents, have the indicated meaning.
- B. *Intent of Certain Terms or Adjectives*: The Contract Documents include the terms “as allowed,” “as approved,” “as ordered,” “as directed” or terms of like effect or import to authorize an exercise of professional judgment by Engineer. In addition, the adjectives “reasonable,” “suitable,” “acceptable,” “proper,” “satisfactory,” or adjectives of like effect or import are used to describe an action or determination of Engineer as to the Work. It is intended that such exercise of professional judgment, action, or determination will be solely to evaluate, in general, the Work for compliance with the information in the Contract Documents and with the design concept of the Project as a functioning whole as shown or indicated in the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective is not intended to and shall not be effective to assign to Engineer any duty or authority to supervise or direct the performance of the Work, or any duty or authority to undertake responsibility contrary to the provisions of Article 10 or any other provision of the Contract Documents.
- C. *Day*: The word “day” means a calendar day of 24 hours measured from midnight to the next midnight.
- D. *Defective*: The word “defective,” when modifying the word “Work,” refers to Work that is unsatisfactory, faulty, or deficient in that it:
 - 1. does not conform to the Contract Documents;
 - 2. does not meet the requirements of any applicable inspection, reference standard, test, or approval referred to in the Contract Documents; or
 - 3. has been damaged prior to Engineer’s recommendation of final payment (unless responsibility for the protection thereof has been assumed by Owner at Substantial Completion in accordance with Paragraph 15.03 or Paragraph 15.04).
- E. *Furnish, Install, Perform, Provide*
 - 1. The word “furnish,” when used in connection with services, materials, or equipment, means to supply and deliver said services, materials, or equipment to the Site (or some other specified location) ready for use or installation and in usable or operable condition.
 - 2. The word “install,” when used in connection with services, materials, or equipment, means to put into use or place in final position said services, materials, or equipment complete and ready for intended use.
 - 3. The words “perform” or “provide,” when used in connection with services, materials, or equipment, means to furnish and install said services, materials, or equipment complete and ready for intended use.

4. If the Contract Documents establish an obligation of Contractor with respect to specific services, materials, or equipment, but do not expressly use any of the four words “furnish,” “install,” “perform,” or “provide,” then Contractor shall furnish and install said services, materials, or equipment complete and ready for intended use.
- F. *Contract Price or Contract Times*: References to a change in “Contract Price or Contract Times” or “Contract Times or Contract Price” or similar, indicate that such change applies to (1) Contract Price, (2) Contract Times, or (3) both Contract Price and Contract Times, as warranted, even if the term “or both” is not expressed.
- G. Unless stated otherwise in the Contract Documents, words or phrases that have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with such recognized meaning.

ARTICLE 2—PRELIMINARY MATTERS

2.01 *Delivery of Performance and Payment Bonds; Evidence of Insurance*

- A. *Performance and Payment Bonds*: When Contractor delivers the signed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner the performance bond and payment bond (if the Contract requires Contractor to furnish such bonds).
- B. *Evidence of Contractor’s Insurance*: When Contractor delivers the signed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner, with copies to each additional insured (as identified in the Contract), the certificates, endorsements, and other evidence of insurance required to be provided by Contractor in accordance with Article 6, except to the extent the Supplementary Conditions expressly establish other dates for delivery of specific insurance policies.
- C. *Evidence of Owner’s Insurance*: After receipt of the signed counterparts of the Agreement and all required bonds and insurance documentation, Owner shall promptly deliver to Contractor, with copies to each additional insured (as identified in the Contract), the certificates and other evidence of insurance required to be provided by Owner under Article 6.

2.02 *Copies of Documents*

- A. Owner shall furnish to Contractor four printed copies of the Contract (including one fully signed counterpart of the Agreement), and one copy in electronic portable document format (PDF). Additional printed copies will be furnished upon request at the cost of reproduction.
- B. Owner shall maintain and safeguard at least one original printed record version of the Contract, including Drawings and Specifications signed and sealed by Engineer and other design professionals. Owner shall make such original printed record version of the Contract available to Contractor for review. Owner may delegate the responsibilities under this provision to Engineer.

2.03 *Before Starting Construction*

- A. *Preliminary Schedules*: Within 10 days after the Effective Date of the Contract (or as otherwise required by the Contract Documents), Contractor shall submit to Engineer for timely review:
 1. a preliminary Progress Schedule indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract;

2. a preliminary Schedule of Submittals; and
3. a preliminary Schedule of Values for all of the Work which includes quantities and prices of items which when added together equal the Contract Price and subdivides the Work into component parts in sufficient detail to serve as the basis for progress payments during performance of the Work. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work.

2.04 *Preconstruction Conference; Designation of Authorized Representatives*

- A. Before any Work at the Site is started, a conference attended by Owner, Contractor, Engineer, and others as appropriate will be held to establish a working understanding among the parties as to the Work, and to discuss the schedules referred to in Paragraph 2.03.A, procedures for handling Shop Drawings, Samples, and other Submittals, processing Applications for Payment, electronic or digital transmittals, and maintaining required records.
- B. At this conference Owner and Contractor each shall designate, in writing, a specific individual to act as its authorized representative with respect to the services and responsibilities under the Contract. Such individuals shall have the authority to transmit and receive information, render decisions relative to the Contract, and otherwise act on behalf of each respective party.

2.05 *Acceptance of Schedules*

- A. At least 10 days before submission of the first Application for Payment a conference, attended by Contractor, Engineer, and others as appropriate, will be held to review the schedules submitted in accordance with Paragraph 2.03.A. No progress payment will be made to Contractor until acceptable schedules are submitted to Engineer.
 1. The Progress Schedule will be acceptable to Engineer if it provides an orderly progression of the Work to completion within the Contract Times. Such acceptance will not impose on Engineer responsibility for the Progress Schedule, for sequencing, scheduling, or progress of the Work, nor interfere with or relieve Contractor from Contractor's full responsibility therefor.
 2. Contractor's Schedule of Submittals will be acceptable to Engineer if it provides a workable arrangement for reviewing and processing the required submittals.
 3. Contractor's Schedule of Values will be acceptable to Engineer as to form and substance if it provides a reasonable allocation of the Contract Price to the component parts of the Work.
 4. If a schedule is not acceptable, Contractor will have an additional 10 days to revise and resubmit the schedule.

2.06 *Electronic Transmittals*

- A. Except as otherwise stated elsewhere in the Contract, the Owner, Engineer, and Contractor may send, and shall accept, Electronic Documents transmitted by Electronic Means.
- B. If the Contract does not establish protocols for Electronic Means, then Owner, Engineer, and Contractor shall jointly develop such protocols.
- C. Subject to any governing protocols for Electronic Means, when transmitting Electronic Documents by Electronic Means, the transmitting party makes no representations as to long-

term compatibility, usability, or readability of the Electronic Documents resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the Electronic Documents.

ARTICLE 3—CONTRACT DOCUMENTS: INTENT, REQUIREMENTS, REUSE

3.01 *Intent*

- A. The Contract Documents are complementary; what is required by one Contract Document is as binding as if required by all.
- B. It is the intent of the Contract Documents to describe a functionally complete Project (or part thereof) to be constructed in accordance with the Contract Documents.
- C. Unless otherwise stated in the Contract Documents, if there is a discrepancy between the electronic versions of the Contract Documents (including any printed copies derived from such electronic versions) and the printed record version, the printed record version will govern.
- D. The Contract supersedes prior negotiations, representations, and agreements, whether written or oral.
- E. Engineer will issue clarifications and interpretations of the Contract Documents as provided herein.
- F. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation will be deemed stricken, and all remaining provisions will continue to be valid and binding upon Owner and Contractor, which agree that the Contract Documents will be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.
- G. Nothing in the Contract Documents creates:
 - 1. any contractual relationship between Owner or Engineer and any Subcontractor, Supplier, or other individual or entity performing or furnishing any of the Work, for the benefit of such Subcontractor, Supplier, or other individual or entity; or
 - 2. any obligation on the part of Owner or Engineer to pay or to see to the payment of any money due any such Subcontractor, Supplier, or other individual or entity, except as may otherwise be required by Laws and Regulations.

3.02 *Reference Standards*

A. *Standards Specifications, Codes, Laws and Regulations*

- 1. Reference in the Contract Documents to standard specifications, manuals, reference standards, or codes of any technical society, organization, or association, or to Laws or Regulations, whether such reference be specific or by implication, means the standard specification, manual, reference standard, code, or Laws or Regulations in effect at the time of opening of Bids (or on the Effective Date of the Contract if there were no Bids), except as may be otherwise specifically stated in the Contract Documents.
- 2. No provision of any such standard specification, manual, reference standard, or code, and no instruction of a Supplier, will be effective to change the duties or responsibilities of Owner, Contractor, or Engineer from those set forth in the part of the Contract

Documents prepared by or for Engineer. No such provision or instruction shall be effective to assign to Owner or Engineer any duty or authority to supervise or direct the performance of the Work, or any duty or authority to undertake responsibility inconsistent with the provisions of the part of the Contract Documents prepared by or for Engineer.

3.03 *Reporting and Resolving Discrepancies*

A. *Reporting Discrepancies*

1. *Contractor's Verification of Figures and Field Measurements:* Before undertaking each part of the Work, Contractor shall carefully study the Contract Documents, and check and verify pertinent figures and dimensions therein, particularly with respect to applicable field measurements. Contractor shall promptly report in writing to Engineer any conflict, error, ambiguity, or discrepancy that Contractor discovers, or has actual knowledge of, and shall not proceed with any Work affected thereby until the conflict, error, ambiguity, or discrepancy is resolved by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract issued pursuant to Paragraph 11.01.
2. *Contractor's Review of Contract Documents:* If, before or during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents, or between the Contract Documents and (a) any applicable Law or Regulation, (b) actual field conditions, (c) any standard specification, manual, reference standard, or code, or (d) any instruction of any Supplier, then Contractor shall promptly report it to Engineer in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Paragraph 7.15) until the conflict, error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract issued pursuant to Paragraph 11.01.
3. Contractor shall not be liable to Owner or Engineer for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless Contractor had actual knowledge thereof.

B. *Resolving Discrepancies*

1. Except as may be otherwise specifically stated in the Contract Documents, the provisions of the part of the Contract Documents prepared by or for Engineer take precedence in resolving any conflict, error, ambiguity, or discrepancy between such provisions of the Contract Documents and:
 - a. the provisions of any standard specification, manual, reference standard, or code, or the instruction of any Supplier (whether or not specifically incorporated by reference as a Contract Document); or
 - b. the provisions of any Laws or Regulations applicable to the performance of the Work (unless such an interpretation of the provisions of the Contract Documents would result in violation of such Law or Regulation).

3.04 *Requirements of the Contract Documents*

- A. During the performance of the Work and until final payment, Contractor and Owner shall submit to the Engineer in writing all matters in question concerning the requirements of the Contract Documents (sometimes referred to as requests for information or interpretation—

RFIs), or relating to the acceptability of the Work under the Contract Documents, as soon as possible after such matters arise. Engineer will be the initial interpreter of the requirements of the Contract Documents, and judge of the acceptability of the Work.

- B. Engineer will, with reasonable promptness, render a written clarification, interpretation, or decision on the issue submitted, or initiate an amendment or supplement to the Contract Documents. Engineer's written clarification, interpretation, or decision will be final and binding on Contractor, unless it appeals by submitting a Change Proposal, and on Owner, unless it appeals by filing a Claim.
- C. If a submitted matter in question concerns terms and conditions of the Contract Documents that do not involve (1) the performance or acceptability of the Work under the Contract Documents, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, then Engineer will promptly notify Owner and Contractor in writing that Engineer is unable to provide a decision or interpretation. If Owner and Contractor are unable to agree on resolution of such a matter in question, either party may pursue resolution as provided in Article 12.

3.05 *Reuse of Documents*

- A. Contractor and its Subcontractors and Suppliers shall not:
 - 1. have or acquire any title to or ownership rights in any of the Drawings, Specifications, or other documents (or copies of any thereof) prepared by or bearing the seal of Engineer or its consultants, including electronic media versions, or reuse any such Drawings, Specifications, other documents, or copies thereof on extensions of the Project or any other project without written consent of Owner and Engineer and specific written verification or adaptation by Engineer; or
 - 2. have or acquire any title or ownership rights in any other Contract Documents, reuse any such Contract Documents for any purpose without Owner's express written consent, or violate any copyrights pertaining to such Contract Documents.
- B. The prohibitions of this Paragraph 3.05 will survive final payment, or termination of the Contract. Nothing herein precludes Contractor from retaining copies of the Contract Documents for record purposes.

ARTICLE 4—COMMENCEMENT AND PROGRESS OF THE WORK

4.01 *Commencement of Contract Times; Notice to Proceed*

- A. The Contract Times will commence to run on the 30th day after the Effective Date of the Contract or, if a Notice to Proceed is given, on the day indicated in the Notice to Proceed. A Notice to Proceed may be given at any time within 30 days after the Effective Date of the Contract. In no event will the Contract Times commence to run later than the 60th day after the day of Bid opening or the 30th day after the Effective Date of the Contract, whichever date is earlier.

4.02 *Starting the Work*

- A. Contractor shall start to perform the Work on the date when the Contract Times commence to run. No Work may be done at the Site prior to such date.

4.03 *Reference Points*

- A. Owner shall provide engineering surveys to establish reference points for construction which in Engineer's judgment are necessary to enable Contractor to proceed with the Work. Contractor shall be responsible for laying out the Work, shall protect and preserve the established reference points and property monuments, and shall make no changes or relocations without the prior written approval of Owner. Contractor shall report to Engineer whenever any reference point or property monument is lost or destroyed or requires relocation because of necessary changes in grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points or property monuments by professionally qualified personnel.

4.04 *Progress Schedule*

- A. Contractor shall adhere to the Progress Schedule established in accordance with Paragraph 2.05 as it may be adjusted from time to time as provided below.
 - 1. Contractor shall submit to Engineer for acceptance (to the extent indicated in Paragraph 2.05) proposed adjustments in the Progress Schedule that will not result in changing the Contract Times.
 - 2. Proposed adjustments in the Progress Schedule that will change the Contract Times must be submitted in accordance with the requirements of Article 11.
- B. Contractor shall carry on the Work and adhere to the Progress Schedule during all disputes or disagreements with Owner. No Work will be delayed or postponed pending resolution of any disputes or disagreements, or during any appeal process, except as permitted by Paragraph 16.04, or as Owner and Contractor may otherwise agree in writing.

4.05 *Delays in Contractor's Progress*

- A. If Owner, Engineer, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress of the Work, then Contractor shall be entitled to an equitable adjustment in Contract Price or Contract Times.
- B. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delay, disruption, or interference caused by or within the control of Contractor. Delay, disruption, and interference attributable to and within the control of a Subcontractor or Supplier shall be deemed to be within the control of Contractor.
- C. If Contractor's performance or progress is delayed, disrupted, or interfered with by unanticipated causes not the fault of and beyond the control of Owner, Contractor, and those for which they are responsible, then Contractor shall be entitled to an equitable adjustment in Contract Times. Such an adjustment will be Contractor's sole and exclusive remedy for the delays, disruption, and interference described in this paragraph. Causes of delay, disruption, or interference that may give rise to an adjustment in Contract Times under this paragraph include but are not limited to the following:
 - 1. Severe and unavoidable natural catastrophes such as fires, floods, epidemics, and earthquakes;
 - 2. Abnormal weather conditions;

3. Acts or failures to act of third-party utility owners or other third-party entities (other than those third-party utility owners or other third-party entities performing other work at or adjacent to the Site as arranged by or under contract with Owner, as contemplated in Article 8); and
 4. Acts of war or terrorism.
- D. Contractor's entitlement to an adjustment of Contract Times or Contract Price is limited as follows:
1. Contractor's entitlement to an adjustment of the Contract Times is conditioned on the delay, disruption, or interference adversely affecting an activity on the critical path to completion of the Work, as of the time of the delay, disruption, or interference.
 2. Contractor shall not be entitled to an adjustment in Contract Price for any delay, disruption, or interference if such delay is concurrent with a delay, disruption, or interference caused by or within the control of Contractor. Such a concurrent delay by Contractor shall not preclude an adjustment of Contract Times to which Contractor is otherwise entitled.
 3. Adjustments of Contract Times or Contract Price are subject to the provisions of Article 11.
- E. Each Contractor request or Change Proposal seeking an increase in Contract Times or Contract Price must be supplemented by supporting data that sets forth in detail the following:
1. The circumstances that form the basis for the requested adjustment;
 2. The date upon which each cause of delay, disruption, or interference began to affect the progress of the Work;
 3. The date upon which each cause of delay, disruption, or interference ceased to affect the progress of the Work;
 4. The number of days' increase in Contract Times claimed as a consequence of each such cause of delay, disruption, or interference; and
 5. The impact on Contract Price, in accordance with the provisions of Paragraph 11.07.
- Contractor shall also furnish such additional supporting documentation as Owner or Engineer may require including, where appropriate, a revised progress schedule indicating all the activities affected by the delay, disruption, or interference, and an explanation of the effect of the delay, disruption, or interference on the critical path to completion of the Work.
- F. Delays, disruption, and interference to the performance or progress of the Work resulting from the existence of a differing subsurface or physical condition, an Underground Facility that was not shown or indicated by the Contract Documents, or not shown or indicated with reasonable accuracy, and those resulting from Hazardous Environmental Conditions, are governed by Article 5, together with the provisions of Paragraphs 4.05.D and 4.05.E.
- G. Paragraph 8.03 addresses delays, disruption, and interference to the performance or progress of the Work resulting from the performance of certain other work at or adjacent to the Site.

ARTICLE 5—SITE; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS

5.01 *Availability of Lands*

- A. Owner shall furnish the Site. Owner shall notify Contractor in writing of any encumbrances or restrictions not of general application but specifically related to use of the Site with which Contractor must comply in performing the Work.
- B. Upon reasonable written request, Owner shall furnish Contractor with a current statement of record legal title and legal description of the lands upon which permanent improvements are to be made and Owner's interest therein as necessary for giving notice of or filing a mechanic's or construction lien against such lands in accordance with applicable Laws and Regulations.
- C. Contractor shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

5.02 *Use of Site and Other Areas*

A. *Limitation on Use of Site and Other Areas*

- 1. Contractor shall confine construction equipment, temporary construction facilities, the storage of materials and equipment, and the operations of workers to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and such other adjacent areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility for (a) damage to the Site; (b) damage to any such other adjacent areas used for Contractor's operations; (c) damage to any other adjacent land or areas, or to improvements, structures, utilities, or similar facilities located at such adjacent lands or areas; and (d) for injuries and losses sustained by the owners or occupants of any such land or areas; provided that such damage or injuries result from the performance of the Work or from other actions or conduct of the Contractor or those for which Contractor is responsible.
- 2. If a damage or injury claim is made by the owner or occupant of any such land or area because of the performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible, Contractor shall (a) take immediate corrective or remedial action as required by Paragraph 7.13, or otherwise; (b) promptly attempt to settle the claim as to all parties through negotiations with such owner or occupant, or otherwise resolve the claim by arbitration or other dispute resolution proceeding, or in a court of competent jurisdiction; and (c) to the fullest extent permitted by Laws and Regulations, indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, from and against any such claim, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable, brought by any such owner or occupant against Owner, Engineer, or any other party indemnified hereunder to the extent caused directly or indirectly, in whole or in part by, or based upon, Contractor's performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible.

- B. *Removal of Debris During Performance of the Work:* During the progress of the Work the Contractor shall keep the Site and other adjacent areas free from accumulations of waste materials, rubbish, and other debris. Removal and disposal of such waste materials, rubbish, and other debris will conform to applicable Laws and Regulations.
- C. *Cleaning:* Prior to Substantial Completion of the Work Contractor shall clean the Site and the Work and make it ready for utilization by Owner. At the completion of the Work Contractor shall remove from the Site and adjacent areas all tools, appliances, construction equipment and machinery, and surplus materials and shall restore to original condition all property not designated for alteration by the Contract Documents.
- D. *Loading of Structures:* Contractor shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall Contractor subject any part of the Work or adjacent structures or land to stresses or pressures that will endanger them.

5.03 *Subsurface and Physical Conditions*

- A. *Reports and Drawings:* The Supplementary Conditions identify:
 - 1. Those reports of explorations and tests of subsurface conditions at or adjacent to the Site that contain Technical Data;
 - 2. Those drawings of existing physical conditions at or adjacent to the Site, including those drawings depicting existing surface or subsurface structures at or adjacent to the Site (except Underground Facilities), that contain Technical Data; and
 - 3. Technical Data contained in such reports and drawings.
- B. *Underground Facilities:* Underground Facilities are shown or indicated on the Drawings, pursuant to Paragraph 5.05, and not in the drawings referred to in Paragraph 5.03.A. Information and data regarding the presence or location of Underground Facilities are not intended to be categorized, identified, or defined as Technical Data.
- C. *Reliance by Contractor on Technical Data:* Contractor may rely upon the accuracy of the Technical Data expressly identified in the Supplementary Conditions with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely upon the accuracy of the Technical Data as defined in Paragraph 1.01.A.46.b.
- D. *Limitations of Other Data and Documents:* Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, with respect to:
 - 1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto;
 - 2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings;

3. the contents of other Site-related documents made available to Contractor, such as record drawings from other projects at or adjacent to the Site, or Owner's archival documents concerning the Site; or
4. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions, or information.

5.04 Differing Subsurface or Physical Conditions

A. *Notice by Contractor:* If Contractor believes that any subsurface or physical condition that is uncovered or revealed at the Site:

1. is of such a nature as to establish that any Technical Data on which Contractor is entitled to rely as provided in Paragraph 5.03 is materially inaccurate;
2. is of such a nature as to require a change in the Drawings or Specifications;
3. differs materially from that shown or indicated in the Contract Documents; or
4. is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents;

then Contractor shall, promptly after becoming aware thereof and before further disturbing the subsurface or physical conditions or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), notify Owner and Engineer in writing about such condition. Contractor shall not further disturb such condition or perform any Work in connection therewith (except with respect to an emergency) until receipt of a written statement permitting Contractor to do so.

B. *Engineer's Review:* After receipt of written notice as required by the preceding paragraph, Engineer will promptly review the subsurface or physical condition in question; determine whether it is necessary for Owner to obtain additional exploration or tests with respect to the condition; conclude whether the condition falls within any one or more of the differing site condition categories in Paragraph 5.04.A; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the Contractor's resumption of Work in connection with the subsurface or physical condition in question and the need for any change in the Drawings or Specifications; and advise Owner in writing of Engineer's findings, conclusions, and recommendations.

C. *Owner's Statement to Contractor Regarding Site Condition:* After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the subsurface or physical condition in question, addressing the resumption of Work in connection with such condition, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations, in whole or in part.

D. *Early Resumption of Work:* If at any time Engineer determines that Work in connection with the subsurface or physical condition in question may resume prior to completion of Engineer's review or Owner's issuance of its statement to Contractor, because the condition in question has been adequately documented, and analyzed on a preliminary basis, then the Engineer may at its discretion instruct Contractor to resume such Work.

E. *Possible Price and Times Adjustments*

1. Contractor shall be entitled to an equitable adjustment in Contract Price or Contract Times, to the extent that the existence of a differing subsurface or physical condition, or any related delay, disruption, or interference, causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:
 - a. Such condition must fall within any one or more of the categories described in Paragraph 5.04.A;
 - b. With respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03; and,
 - c. Contractor's entitlement to an adjustment of the Contract Times is subject to the provisions of Paragraphs 4.05.D and 4.05.E.
2. Contractor shall not be entitled to any adjustment in the Contract Price or Contract Times with respect to a subsurface or physical condition if:
 - a. Contractor knew of the existence of such condition at the time Contractor made a commitment to Owner with respect to Contract Price and Contract Times by the submission of a Bid or becoming bound under a negotiated contract, or otherwise;
 - b. The existence of such condition reasonably could have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site and contiguous areas expressly required by the Bidding Requirements or Contract Documents to be conducted by or for Contractor prior to Contractor's making such commitment; or
 - c. Contractor failed to give the written notice required by Paragraph 5.04.A.
3. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Price or Contract Times, then any such adjustment will be set forth in a Change Order.
4. Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Price or Contract Times, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the subsurface or physical condition in question.

- F. *Underground Facilities; Hazardous Environmental Conditions:* Paragraph 5.05 governs rights and responsibilities regarding the presence or location of Underground Facilities. Paragraph 5.06 governs rights and responsibilities regarding Hazardous Environmental Conditions. The provisions of Paragraphs 5.03 and 5.04 are not applicable to the presence or location of Underground Facilities, or to Hazardous Environmental Conditions.

5.05 *Underground Facilities*

- A. *Contractor's Responsibilities:* Unless it is otherwise expressly provided in the Supplementary Conditions, the cost of all of the following are included in the Contract Price, and Contractor shall have full responsibility for:
1. reviewing and checking all information and data regarding existing Underground Facilities at the Site;

2. complying with applicable state and local utility damage prevention Laws and Regulations;
 3. verifying the actual location of those Underground Facilities shown or indicated in the Contract Documents as being within the area affected by the Work, by exposing such Underground Facilities during the course of construction;
 4. coordination of the Work with the owners (including Owner) of such Underground Facilities, during construction; and
 5. the safety and protection of all existing Underground Facilities at the Site, and repairing any damage thereto resulting from the Work.
- B. *Notice by Contractor:* If Contractor believes that an Underground Facility that is uncovered or revealed at the Site was not shown or indicated on the Drawings, or was not shown or indicated on the Drawings with reasonable accuracy, then Contractor shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), notify Owner and Engineer in writing regarding such Underground Facility.
- C. *Engineer's Review:* Engineer will:
1. promptly review the Underground Facility and conclude whether such Underground Facility was not shown or indicated on the Drawings, or was not shown or indicated with reasonable accuracy;
 2. identify and communicate with the owner of the Underground Facility; prepare recommendations to Owner (and if necessary issue any preliminary instructions to Contractor) regarding the Contractor's resumption of Work in connection with the Underground Facility in question;
 3. obtain any pertinent cost or schedule information from Contractor; determine the extent, if any, to which a change is required in the Drawings or Specifications to reflect and document the consequences of the existence or location of the Underground Facility; and
 4. advise Owner in writing of Engineer's findings, conclusions, and recommendations.
- During such time, Contractor shall be responsible for the safety and protection of such Underground Facility.
- D. *Owner's Statement to Contractor Regarding Underground Facility:* After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the Underground Facility in question addressing the resumption of Work in connection with such Underground Facility, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations in whole or in part.
- E. *Early Resumption of Work:* If at any time Engineer determines that Work in connection with the Underground Facility may resume prior to completion of Engineer's review or Owner's issuance of its statement to Contractor, because the Underground Facility in question and conditions affected by its presence have been adequately documented, and analyzed on a preliminary basis, then the Engineer may at its discretion instruct Contractor to resume such Work.

F. *Possible Price and Times Adjustments*

1. Contractor shall be entitled to an equitable adjustment in the Contract Price or Contract Times, to the extent that any existing Underground Facility at the Site that was not shown or indicated on the Drawings, or was not shown or indicated with reasonable accuracy, or any related delay, disruption, or interference, causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:
 - a. With respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03;
 - b. Contractor's entitlement to an adjustment of the Contract Times is subject to the provisions of Paragraphs 4.05.D and 4.05.E; and
 - c. Contractor gave the notice required in Paragraph 5.05.B.
2. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Price or Contract Times, then any such adjustment will be set forth in a Change Order.
3. Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Price or Contract Times, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the Underground Facility in question.
4. The information and data shown or indicated on the Drawings with respect to existing Underground Facilities at the Site is based on information and data (a) furnished by the owners of such Underground Facilities, or by others, (b) obtained from available records, or (c) gathered in an investigation conducted in accordance with the current edition of ASCE 38, Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data, by the American Society of Civil Engineers. If such information or data is incorrect or incomplete, Contractor's remedies are limited to those set forth in this Paragraph 5.05.F.

5.06 *Hazardous Environmental Conditions at Site*

A. *Reports and Drawings*: The Supplementary Conditions identify:

1. those reports known to Owner relating to Hazardous Environmental Conditions that have been identified at or adjacent to the Site;
2. drawings known to Owner relating to Hazardous Environmental Conditions that have been identified at or adjacent to the Site; and
3. Technical Data contained in such reports and drawings.

B. *Reliance by Contractor on Technical Data Authorized*: Contractor may rely upon the accuracy of the Technical Data expressly identified in the Supplementary Conditions with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely on the accuracy of the Technical Data as defined in Paragraph 1.01.A.46.b. Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of

their officers, directors, members, partners, employees, agents, consultants, or subcontractors, with respect to:

1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto;
 2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or
 3. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions or information.
- C. Contractor shall not be responsible for removing or remediating any Hazardous Environmental Condition encountered, uncovered, or revealed at the Site unless such removal or remediation is expressly identified in the Contract Documents to be within the scope of the Work.
- D. Contractor shall be responsible for controlling, containing, and duly removing all Constituents of Concern brought to the Site by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible, and for any associated costs; and for the costs of removing and remediating any Hazardous Environmental Condition created by the presence of any such Constituents of Concern.
- E. If Contractor encounters, uncovers, or reveals a Hazardous Environmental Condition whose removal or remediation is not expressly identified in the Contract Documents as being within the scope of the Work, or if Contractor or anyone for whom Contractor is responsible creates a Hazardous Environmental Condition, then Contractor shall immediately: (1) secure or otherwise isolate such condition; (2) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by Paragraph 7.15); and (3) notify Owner and Engineer (and promptly thereafter confirm such notice in writing). Owner shall promptly consult with Engineer concerning the necessity for Owner to retain a qualified expert to evaluate such condition or take corrective action, if any. Promptly after consulting with Engineer, Owner shall take such actions as are necessary to permit Owner to timely obtain required permits and provide Contractor the written notice required by Paragraph 5.06.F. If Contractor or anyone for whom Contractor is responsible created the Hazardous Environmental Condition in question, then Owner may remove and remediate the Hazardous Environmental Condition, and impose a set-off against payments to account for the associated costs.
- F. Contractor shall not resume Work in connection with such Hazardous Environmental Condition or in any affected area until after Owner has obtained any required permits related thereto, and delivered written notice to Contractor either (1) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work, or (2) specifying any special conditions under which such Work may be resumed safely.
- G. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, as a result of such Work stoppage, such special conditions under which Work is agreed to be resumed by Contractor, or any costs or expenses incurred in response to the Hazardous Environmental Condition, then within 30 days of Owner's written notice regarding the resumption of Work, Contractor may submit a

Change Proposal, or Owner may impose a set-off. Entitlement to any such adjustment is subject to the provisions of Paragraphs 4.05.D, 4.05.E, 11.07, and 11.08.

- H. If, after receipt of such written notice, Contractor does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special conditions, then Owner may order the portion of the Work that is in the area affected by such condition to be deleted from the Work, following the contractual change procedures in Article 11. Owner may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Article 8.
- I. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court, arbitration, or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition, provided that such Hazardous Environmental Condition (1) was not shown or indicated in the Drawings, Specifications, or other Contract Documents, identified as Technical Data entitled to limited reliance pursuant to Paragraph 5.06.B, or identified in the Contract Documents to be included within the scope of the Work, and (2) was not created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.I obligates Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.
- J. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the failure to control, contain, or remove a Constituent of Concern brought to the Site by Contractor or by anyone for whom Contractor is responsible, or to a Hazardous Environmental Condition created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.J obligates Contractor to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.
- K. The provisions of Paragraphs 5.03, 5.04, and 5.05 do not apply to the presence of Constituents of Concern or to a Hazardous Environmental Condition uncovered or revealed at the Site.

ARTICLE 6—BONDS AND INSURANCE

6.01 *Performance, Payment, and Other Bonds*

- A. Contractor shall furnish a performance bond and a payment bond, each in an amount at least equal to the Contract Price, as security for the faithful performance and payment of Contractor's obligations under the Contract. These bonds must remain in effect until one year after the date when final payment becomes due or until completion of the correction period specified in Paragraph 15.08, whichever is later, except as provided otherwise by Laws or Regulations, the terms of a prescribed bond form, the Supplementary Conditions, or other provisions of the Contract.

- B. Contractor shall also furnish such other bonds (if any) as are required by the Supplementary Conditions or other provisions of the Contract.
- C. All bonds must be in the form included in the Bidding Documents or otherwise specified by Owner prior to execution of the Contract, except as provided otherwise by Laws or Regulations, and must be issued and signed by a surety named in “Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies” as published in Department Circular 570 (as amended and supplemented) by the Bureau of the Fiscal Service, U.S. Department of the Treasury. A bond signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual’s authority to bind the surety. The evidence of authority must show that it is effective on the date the agent or attorney-in-fact signed the accompanying bond.
- D. Contractor shall obtain the required bonds from surety companies that are duly licensed or authorized, in the state or jurisdiction in which the Project is located, to issue bonds in the required amounts.
- E. If the surety on a bond furnished by Contractor is declared bankrupt or becomes insolvent, or the surety ceases to meet the requirements above, then Contractor shall promptly notify Owner and Engineer in writing and shall, within 20 days after the event giving rise to such notification, provide another bond and surety, both of which must comply with the bond and surety requirements above.
- F. If Contractor has failed to obtain a required bond, Owner may exclude the Contractor from the Site and exercise Owner’s termination rights under Article 16.
- G. Upon request to Owner from any Subcontractor, Supplier, or other person or entity claiming to have furnished labor, services, materials, or equipment used in the performance of the Work, Owner shall provide a copy of the payment bond to such person or entity.
- H. Upon request to Contractor from any Subcontractor, Supplier, or other person or entity claiming to have furnished labor, services, materials, or equipment used in the performance of the Work, Contractor shall provide a copy of the payment bond to such person or entity.

6.02 *Insurance—General Provisions*

- A. Owner and Contractor shall obtain and maintain insurance as required in this article and in the Supplementary Conditions.
- B. All insurance required by the Contract to be purchased and maintained by Owner or Contractor shall be obtained from insurance companies that are duly licensed or authorized in the state or jurisdiction in which the Project is located to issue insurance policies for the required limits and coverages. Unless a different standard is indicated in the Supplementary Conditions, all companies that provide insurance policies required under this Contract shall have an A.M. Best rating of A-VII or better.
- C. Alternative forms of insurance coverage, including but not limited to self-insurance and “Occupational Accident and Excess Employer’s Indemnity Policies,” are not sufficient to meet the insurance requirements of this Contract, unless expressly allowed in the Supplementary Conditions.
- D. Contractor shall deliver to Owner, with copies to each additional insured identified in the Contract, certificates of insurance and endorsements establishing that Contractor has

obtained and is maintaining the policies and coverages required by the Contract. Upon request by Owner or any other insured, Contractor shall also furnish other evidence of such required insurance, including but not limited to copies of policies, documentation of applicable self-insured retentions (if allowed) and deductibles, full disclosure of all relevant exclusions, and evidence of insurance required to be purchased and maintained by Subcontractors or Suppliers. In any documentation furnished under this provision, Contractor, Subcontractors, and Suppliers may block out (redact) (1) any confidential premium or pricing information and (2) any wording specific to a project or jurisdiction other than those applicable to this Contract.

- E. Owner shall deliver to Contractor, with copies to each additional insured identified in the Contract, certificates of insurance and endorsements establishing that Owner has obtained and is maintaining the policies and coverages required of Owner by the Contract (if any). Upon request by Contractor or any other insured, Owner shall also provide other evidence of such required insurance (if any), including but not limited to copies of policies, documentation of applicable self-insured retentions (if allowed) and deductibles, and full disclosure of all relevant exclusions. In any documentation furnished under this provision, Owner may block out (redact) (1) any confidential premium or pricing information and (2) any wording specific to a project or jurisdiction other than those relevant to this Contract.
- F. Failure of Owner or Contractor to demand such certificates or other evidence of the other party's full compliance with these insurance requirements, or failure of Owner or Contractor to identify a deficiency in compliance from the evidence provided, will not be construed as a waiver of the other party's obligation to obtain and maintain such insurance.
- G. In addition to the liability insurance required to be provided by Contractor, the Owner, at Owner's option, may purchase and maintain Owner's own liability insurance. Owner's liability policies, if any, operate separately and independently from policies required to be provided by Contractor, and Contractor cannot rely upon Owner's liability policies for any of Contractor's obligations to the Owner, Engineer, or third parties.
- H. Contractor shall require:
 - 1. Subcontractors to purchase and maintain worker's compensation, commercial general liability, and other insurance that is appropriate for their participation in the Project, and to name as additional insureds Owner and Engineer (and any other individuals or entities identified in the Supplementary Conditions as additional insureds on Contractor's liability policies) on each Subcontractor's commercial general liability insurance policy; and
 - 2. Suppliers to purchase and maintain insurance that is appropriate for their participation in the Project.
- I. If either party does not purchase or maintain the insurance required of such party by the Contract, such party shall notify the other party in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage.
- J. If Contractor has failed to obtain and maintain required insurance, Contractor's entitlement to enter or remain at the Site will end immediately, and Owner may impose an appropriate set-off against payment for any associated costs (including but not limited to the cost of purchasing necessary insurance coverage), and exercise Owner's termination rights under Article 16.

- K. Without prejudice to any other right or remedy, if a party has failed to obtain required insurance, the other party may elect (but is in no way obligated) to obtain equivalent insurance to protect such other party's interests at the expense of the party who was required to provide such coverage, and the Contract Price will be adjusted accordingly.
- L. Owner does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect Contractor or Contractor's interests. Contractor is responsible for determining whether such coverage and limits are adequate to protect its interests, and for obtaining and maintaining any additional insurance that Contractor deems necessary.
- M. The insurance and insurance limits required herein will not be deemed as a limitation on Contractor's liability, or that of its Subcontractors or Suppliers, under the indemnities granted to Owner and other individuals and entities in the Contract or otherwise.
- N. All the policies of insurance required to be purchased and maintained under this Contract will contain a provision or endorsement that the coverage afforded will not be canceled, or renewal refused, until at least 10 days prior written notice has been given to the purchasing policyholder. Within three days of receipt of any such written notice, the purchasing policyholder shall provide a copy of the notice to each other insured and Engineer.

6.03 *Contractor's Insurance*

- A. *Required Insurance:* Contractor shall purchase and maintain Worker's Compensation, Commercial General Liability, and other insurance pursuant to the specific requirements of the Supplementary Conditions.
- B. *General Provisions:* The policies of insurance required by this Paragraph 6.03 as supplemented must:
 - 1. include at least the specific coverages required;
 - 2. be written for not less than the limits provided, or those required by Laws or Regulations, whichever is greater;
 - 3. remain in effect at least until the Work is complete (as set forth in Paragraph 15.06.D), and longer if expressly required elsewhere in this Contract, and at all times thereafter when Contractor may be correcting, removing, or replacing defective Work as a warranty or correction obligation, or otherwise, or returning to the Site to conduct other tasks arising from the Contract;
 - 4. apply with respect to the performance of the Work, whether such performance is by Contractor, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable; and
 - 5. include all necessary endorsements to support the stated requirements.
- C. *Additional Insureds:* The Contractor's commercial general liability, automobile liability, employer's liability, umbrella or excess, pollution liability, and unmanned aerial vehicle liability policies, if required by this Contract, must:
 - 1. include and list as additional insureds Owner and Engineer, and any individuals or entities identified as additional insureds in the Supplementary Conditions;

2. include coverage for the respective officers, directors, members, partners, employees, and consultants of all such additional insureds;
3. afford primary coverage to these additional insureds for all claims covered thereby (including as applicable those arising from both ongoing and completed operations);
4. not seek contribution from insurance maintained by the additional insured; and
5. as to commercial general liability insurance, apply to additional insureds with respect to liability caused in whole or in part by Contractor's acts or omissions, or the acts and omissions of those working on Contractor's behalf, in the performance of Contractor's operations.

6.04 *Builder's Risk and Other Property Insurance*

- A. *Builder's Risk*: Unless otherwise provided in the Supplementary Conditions, Contractor shall purchase and maintain builder's risk insurance upon the Work on a completed value basis, in the amount of the Work's full insurable replacement cost (subject to such deductible amounts as may be provided in the Supplementary Conditions or required by Laws and Regulations). The specific requirements applicable to the builder's risk insurance are set forth in the Supplementary Conditions.
- B. *Property Insurance for Facilities of Owner Where Work Will Occur*: Owner is responsible for obtaining and maintaining property insurance covering each existing structure, building, or facility in which any part of the Work will occur, or to which any part of the Work will attach or be adjoined. Such property insurance will be written on a special perils (all-risk) form, on a replacement cost basis, providing coverage consistent with that required for the builder's risk insurance, and will be maintained until the Work is complete, as set forth in Paragraph 15.06.D.
- C. *Property Insurance for Substantially Complete Facilities*: Promptly after Substantial Completion, and before actual occupancy or use of the substantially completed Work, Owner will obtain property insurance for such substantially completed Work, and maintain such property insurance at least until the Work is complete, as set forth in Paragraph 15.06.D. Such property insurance will be written on a special perils (all-risk) form, on a replacement cost basis, and provide coverage consistent with that required for the builder's risk insurance. The builder's risk insurance may terminate upon written confirmation of Owner's procurement of such property insurance.
- D. *Partial Occupancy or Use by Owner*: If Owner will occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work, as provided in Paragraph 15.04, then Owner (directly, if it is the purchaser of the builder's risk policy, or through Contractor) will provide advance notice of such occupancy or use to the builder's risk insurer, and obtain an endorsement consenting to the continuation of coverage prior to commencing such partial occupancy or use.
- E. *Insurance of Other Property; Additional Insurance*: If the express insurance provisions of the Contract do not require or address the insurance of a property item or interest, then the entity or individual owning such property item will be responsible for insuring it. If Contractor elects to obtain other special insurance to be included in or supplement the builder's risk or property insurance policies provided under this Paragraph 6.04, it may do so at Contractor's expense.

6.05 *Property Losses; Subrogation*

- A. The builder's risk insurance policy purchased and maintained in accordance with Paragraph 6.04 (or an installation floater policy if authorized by the Supplementary Conditions), will contain provisions to the effect that in the event of payment of any loss or damage the insurer will have no rights of recovery against any insureds thereunder, or against Engineer or its consultants, or their officers, directors, members, partners, employees, agents, consultants, or subcontractors.
 - 1. Owner and Contractor waive all rights against each other and the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from any of the perils, risks, or causes of loss covered by such policies and any other property insurance applicable to the Work; and, in addition, waive all such rights against Engineer, its consultants, all individuals or entities identified in the Supplementary Conditions as builder's risk or installation floater insureds, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, under such policies for losses and damages so caused.
 - 2. None of the above waivers extends to the rights that any party making such waiver may have to the proceeds of insurance held by Owner or Contractor as trustee or fiduciary, or otherwise payable under any policy so issued.
- B. Any property insurance policy maintained by Owner covering any loss, damage, or consequential loss to Owner's existing structures, buildings, or facilities in which any part of the Work will occur, or to which any part of the Work will attach or adjoin; to adjacent structures, buildings, or facilities of Owner; or to part or all of the completed or substantially completed Work, during partial occupancy or use pursuant to Paragraph 15.04, after Substantial Completion pursuant to Paragraph 15.03, or after final payment pursuant to Paragraph 15.06, will contain provisions to the effect that in the event of payment of any loss or damage the insurer will have no rights of recovery against any insureds thereunder, or against Contractor, Subcontractors, or Engineer, or the officers, directors, members, partners, employees, agents, consultants, or subcontractors of each and any of them, and that the insured is allowed to waive the insurer's rights of subrogation in a written contract executed prior to the loss, damage, or consequential loss.
 - 1. Owner waives all rights against Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from fire or any of the perils, risks, or causes of loss covered by such policies.
- C. The waivers in this Paragraph 6.05 include the waiver of rights due to business interruption, loss of use, or other consequential loss extending beyond direct physical loss or damage to Owner's property or the Work caused by, arising out of, or resulting from fire or other insured peril, risk, or cause of loss.
- D. Contractor shall be responsible for assuring that each Subcontract contains provisions whereby the Subcontractor waives all rights against Owner, Contractor, all individuals or entities identified in the Supplementary Conditions as insureds, the Engineer and its consultants, and the officers, directors, members, partners, employees, agents, consultants,

and subcontractors of each and any of them, for all losses and damages caused by, arising out of, relating to, or resulting from fire or other peril, risk, or cause of loss covered by builder's risk insurance, installation floater, and any other property insurance applicable to the Work.

6.06 *Receipt and Application of Property Insurance Proceeds*

- A. Any insured loss under the builder's risk and other policies of property insurance required by Paragraph 6.04 will be adjusted and settled with the named insured that purchased the policy. Such named insured shall act as fiduciary for the other insureds, and give notice to such other insureds that adjustment and settlement of a claim is in progress. Any other insured may state its position regarding a claim for insured loss in writing within 15 days after notice of such claim.
- B. Proceeds for such insured losses may be made payable by the insurer either jointly to multiple insureds, or to the named insured that purchased the policy in its own right and as fiduciary for other insureds, subject to the requirements of any applicable mortgage clause. A named insured receiving insurance proceeds under the builder's risk and other policies of insurance required by Paragraph 6.04 shall maintain such proceeds in a segregated account, and distribute such proceeds in accordance with such agreement as the parties in interest may reach, or as otherwise required under the dispute resolution provisions of this Contract or applicable Laws and Regulations.
- C. If no other special agreement is reached, Contractor shall repair or replace the damaged Work, using allocated insurance proceeds.

ARTICLE 7—CONTRACTOR'S RESPONSIBILITIES

7.01 *Contractor's Means and Methods of Construction*

- A. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction.
- B. If the Contract Documents note, or Contractor determines, that professional engineering or other design services are needed to carry out Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures, or for Site safety, then Contractor shall cause such services to be provided by a properly licensed design professional, at Contractor's expense. Such services are not Owner-delegated professional design services under this Contract, and neither Owner nor Engineer has any responsibility with respect to (1) Contractor's determination of the need for such services, (2) the qualifications or licensing of the design professionals retained or employed by Contractor, (3) the performance of such services, or (4) any errors, omissions, or defects in such services.

7.02 *Supervision and Superintendence*

- A. Contractor shall supervise, inspect, and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents.
- B. At all times during the progress of the Work, Contractor shall assign a competent resident superintendent who will not be replaced without written notice to Owner and Engineer except under extraordinary circumstances.

7.03 *Labor; Working Hours*

- A. Contractor shall provide competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. Contractor shall maintain good discipline and order at the Site.
- B. Contractor shall be fully responsible to Owner and Engineer for all acts and omissions of Contractor's employees; of Suppliers and Subcontractors, and their employees; and of any other individuals or entities performing or furnishing any of the Work, just as Contractor is responsible for Contractor's own acts and omissions.
- C. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site will be performed during regular working hours, Monday through Friday. Contractor will not perform Work on a Saturday, Sunday, or any legal holiday. Contractor may perform Work outside regular working hours or on Saturdays, Sundays, or legal holidays only with Owner's written consent, which will not be unreasonably withheld.

7.04 *Services, Materials, and Equipment*

- A. Unless otherwise specified in the Contract Documents, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start up, and completion of the Work, whether or not such items are specifically called for in the Contract Documents.
- B. All materials and equipment incorporated into the Work must be new and of good quality, except as otherwise provided in the Contract Documents. All special warranties and guarantees required by the Specifications will expressly run to the benefit of Owner. If required by Engineer, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment.
- C. All materials and equipment must be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise may be provided in the Contract Documents.

7.05 *"Or Equals"*

- A. *Contractor's Request; Governing Criteria:* Whenever an item of equipment or material is specified or described in the Contract Documents by using the names of one or more proprietary items or specific Suppliers, the Contract Price has been based upon Contractor furnishing such item as specified. The specification or description of such an item is intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or is followed by words reading that no like, equivalent, or "or equal" item is permitted, Contractor may request that Engineer authorize the use of other items of equipment or material, or items from other proposed Suppliers, under the circumstances described below.
 - 1. If Engineer in its sole discretion determines that an item of equipment or material proposed by Contractor is functionally equal to that named and sufficiently similar so that no change in related Work will be required, Engineer will deem it an "or equal" item. For

the purposes of this paragraph, a proposed item of equipment or material will be considered functionally equal to an item so named if:

- a. in the exercise of reasonable judgment Engineer determines that the proposed item:
 - 1) is at least equal in materials of construction, quality, durability, appearance, strength, and design characteristics;
 - 2) will reliably perform at least equally well the function and achieve the results imposed by the design concept of the completed Project as a functioning whole;
 - 3) has a proven record of performance and availability of responsive service; and
 - 4) is not objectionable to Owner.
 - b. Contractor certifies that, if the proposed item is approved and incorporated into the Work:
 - 1) there will be no increase in cost to the Owner or increase in Contract Times; and
 - 2) the item will conform substantially to the detailed requirements of the item named in the Contract Documents.
- B. *Contractor's Expense*: Contractor shall provide all data in support of any proposed "or equal" item at Contractor's expense.
- C. *Engineer's Evaluation and Determination*: Engineer will be allowed a reasonable time to evaluate each "or-equal" request. Engineer may require Contractor to furnish additional data about the proposed "or-equal" item. Engineer will be the sole judge of acceptability. No "or-equal" item will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an "or-equal," which will be evidenced by an approved Shop Drawing or other written communication. Engineer will advise Contractor in writing of any negative determination.
- D. *Effect of Engineer's Determination*: Neither approval nor denial of an "or-equal" request will result in any change in Contract Price. The Engineer's denial of an "or-equal" request will be final and binding, and may not be reversed through an appeal under any provision of the Contract.
- E. *Treatment as a Substitution Request*: If Engineer determines that an item of equipment or material proposed by Contractor does not qualify as an "or-equal" item, Contractor may request that Engineer consider the item a proposed substitute pursuant to Paragraph 7.06.

7.06 Substitutes

- A. *Contractor's Request; Governing Criteria*: Unless the specification or description of an item of equipment or material required to be furnished under the Contract Documents contains or is followed by words reading that no substitution is permitted, Contractor may request that Engineer authorize the use of other items of equipment or material under the circumstances described below. To the extent possible such requests must be made before commencement of related construction at the Site.
1. Contractor shall submit sufficient information as provided below to allow Engineer to determine if the item of material or equipment proposed is functionally equivalent to that named and an acceptable substitute therefor. Engineer will not accept requests for

review of proposed substitute items of equipment or material from anyone other than Contractor.

2. The requirements for review by Engineer will be as set forth in Paragraph 7.06.B, as supplemented by the Specifications, and as Engineer may decide is appropriate under the circumstances.
3. Contractor shall make written application to Engineer for review of a proposed substitute item of equipment or material that Contractor seeks to furnish or use. The application:
 - a. will certify that the proposed substitute item will:
 - 1) perform adequately the functions and achieve the results called for by the general design;
 - 2) be similar in substance to the item specified; and
 - 3) be suited to the same use as the item specified.
 - b. will state:
 - 1) the extent, if any, to which the use of the proposed substitute item will necessitate a change in Contract Times;
 - 2) whether use of the proposed substitute item in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with Owner for other work on the Project) to adapt the design to the proposed substitute item; and
 - 3) whether incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty.
 - c. will identify:
 - 1) all variations of the proposed substitute item from the item specified; and
 - 2) available engineering, sales, maintenance, repair, and replacement services.
 - d. will contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including but not limited to changes in Contract Price, shared savings, costs of redesign, and claims of other contractors affected by any resulting change.
- B. *Engineer's Evaluation and Determination:* Engineer will be allowed a reasonable time to evaluate each substitute request, and to obtain comments and direction from Owner. Engineer may require Contractor to furnish additional data about the proposed substitute item. Engineer will be the sole judge of acceptability. No substitute will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an acceptable substitute. Engineer's determination will be evidenced by a Field Order or a proposed Change Order accounting for the substitution itself and all related impacts, including changes in Contract Price or Contract Times. Engineer will advise Contractor in writing of any negative determination.
- C. *Special Guarantee:* Owner may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute.

- D. *Reimbursement of Engineer's Cost:* Engineer will record Engineer's costs in evaluating a substitute proposed or submitted by Contractor. Whether or not Engineer approves a substitute so proposed or submitted by Contractor, Contractor shall reimburse Owner for the reasonable charges of Engineer for evaluating each such proposed substitute. Contractor shall also reimburse Owner for the reasonable charges of Engineer for making changes in the Contract Documents (or in the provisions of any other direct contract with Owner) resulting from the acceptance of each proposed substitute.
- E. *Contractor's Expense:* Contractor shall provide all data in support of any proposed substitute at Contractor's expense.
- F. *Effect of Engineer's Determination:* If Engineer approves the substitution request, Contractor shall execute the proposed Change Order and proceed with the substitution. The Engineer's denial of a substitution request will be final and binding, and may not be reversed through an appeal under any provision of the Contract. Contractor may challenge the scope of reimbursement costs imposed under Paragraph 7.06.D, by timely submittal of a Change Proposal.

7.07 *Concerning Subcontractors and Suppliers*

- A. Contractor may retain Subcontractors and Suppliers for the performance of parts of the Work. Such Subcontractors and Suppliers must be acceptable to Owner. The Contractor's retention of a Subcontractor or Supplier for the performance of parts of the Work will not relieve Contractor's obligation to Owner to perform and complete the Work in accordance with the Contract Documents.
- B. Contractor shall retain specific Subcontractors and Suppliers for the performance of designated parts of the Work if required by the Contract to do so.
- C. Subsequent to the submittal of Contractor's Bid or final negotiation of the terms of the Contract, Owner may not require Contractor to retain any Subcontractor or Supplier to furnish or perform any of the Work against which Contractor has reasonable objection.
- D. Prior to entry into any binding subcontract or purchase order, Contractor shall submit to Owner the identity of the proposed Subcontractor or Supplier (unless Owner has already deemed such proposed Subcontractor or Supplier acceptable during the bidding process or otherwise). Such proposed Subcontractor or Supplier shall be deemed acceptable to Owner unless Owner raises a substantive, reasonable objection within 5 days.
- E. Owner may require the replacement of any Subcontractor or Supplier. Owner also may require Contractor to retain specific replacements; provided, however, that Owner may not require a replacement to which Contractor has a reasonable objection. If Contractor has submitted the identity of certain Subcontractors or Suppliers for acceptance by Owner, and Owner has accepted it (either in writing or by failing to make written objection thereto), then Owner may subsequently revoke the acceptance of any such Subcontractor or Supplier so identified solely on the basis of substantive, reasonable objection after due investigation. Contractor shall submit an acceptable replacement for the rejected Subcontractor or Supplier.
- F. If Owner requires the replacement of any Subcontractor or Supplier retained by Contractor to perform any part of the Work, then Contractor shall be entitled to an adjustment in Contract Price or Contract Times, with respect to the replacement; and Contractor shall

initiate a Change Proposal for such adjustment within 30 days of Owner's requirement of replacement.

- G. No acceptance by Owner of any such Subcontractor or Supplier, whether initially or as a replacement, will constitute a waiver of the right of Owner to the completion of the Work in accordance with the Contract Documents.
- H. On a monthly basis, Contractor shall submit to Engineer a complete list of all Subcontractors and Suppliers having a direct contract with Contractor, and of all other Subcontractors and Suppliers known to Contractor at the time of submittal.
- I. Contractor shall be solely responsible for scheduling and coordinating the work of Subcontractors and Suppliers.
- J. The divisions and sections of the Specifications and the identifications of any Drawings do not control Contractor in dividing the Work among Subcontractors or Suppliers, or in delineating the Work to be performed by any specific trade.
- K. All Work performed for Contractor by a Subcontractor or Supplier must be pursuant to an appropriate contractual agreement that specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract for the benefit of Owner and Engineer.
- L. Owner may furnish to any Subcontractor or Supplier, to the extent practicable, information about amounts paid to Contractor for Work performed for Contractor by the Subcontractor or Supplier.
- M. Contractor shall restrict all Subcontractors and Suppliers from communicating with Engineer or Owner, except through Contractor or in case of an emergency, or as otherwise expressly allowed in this Contract.

7.08 *Patent Fees and Royalties*

- A. Contractor shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product, or device which is the subject of patent rights or copyrights held by others. If an invention, design, process, product, or device is specified in the Contract Documents for use in the performance of the Work and if, to the actual knowledge of Owner or Engineer, its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights will be disclosed in the Contract Documents.
- B. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, and its officers, directors, members, partners, employees, agents, consultants, and subcontractors, from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device specified in the Contract Documents, but not identified as being subject to payment of any license fee or royalty to others required by patent rights or copyrights.
- C. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees,

agents, consultants and subcontractors of each and any of them, from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device not specified in the Contract Documents.

7.09 *Permits*

- A. Unless otherwise provided in the Contract Documents, Contractor shall obtain and pay for all construction permits, licenses, and certificates of occupancy. Owner shall assist Contractor, when necessary, in obtaining such permits and licenses. Contractor shall pay all governmental charges and inspection fees necessary for the prosecution of the Work which are applicable at the time of the submission of Contractor's Bid (or when Contractor became bound under a negotiated contract). Owner shall pay all charges of utility owners for connections for providing permanent service to the Work.

7.10 *Taxes*

- A. Contractor shall pay all sales, consumer, use, and other similar taxes required to be paid by Contractor in accordance with the Laws and Regulations of the place of the Project which are applicable during the performance of the Work.

7.11 *Laws and Regulations*

- A. Contractor shall give all notices required by and shall comply with all Laws and Regulations applicable to the performance of the Work. Neither Owner nor Engineer shall be responsible for monitoring Contractor's compliance with any Laws or Regulations.
- B. If Contractor performs any Work or takes any other action knowing or having reason to know that it is contrary to Laws or Regulations, Contractor shall bear all resulting costs and losses, and shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work or other action. It is not Contractor's responsibility to make certain that the Work described in the Contract Documents is in accordance with Laws and Regulations, but this does not relieve Contractor of its obligations under Paragraph 3.03.
- C. Owner or Contractor may give written notice to the other party of any changes after the submission of Contractor's Bid (or after the date when Contractor became bound under a negotiated contract) in Laws or Regulations having an effect on the cost or time of performance of the Work, including but not limited to changes in Laws or Regulations having an effect on procuring permits and on sales, use, value-added, consumption, and other similar taxes. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times resulting from such changes, then within 30 days of such written notice Contractor may submit a Change Proposal, or Owner may initiate a Claim.

7.12 *Record Documents*

- A. Contractor shall maintain in a safe place at the Site one printed record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, written interpretations and clarifications, and approved Shop Drawings. Contractor shall keep such record documents in good order and annotate them to show changes made during construction. These record documents, together with all approved Samples, will be available to Engineer for reference. Upon completion of the Work, Contractor shall deliver these record documents to Engineer.

7.13 *Safety and Protection*

- A. Contractor shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. Such responsibility does not relieve Subcontractors of their responsibility for the safety of persons or property in the performance of their work, nor for compliance with applicable safety Laws and Regulations.
- B. Contractor shall designate a qualified and experienced safety representative whose duties and responsibilities are the prevention of Work-related accidents and the maintenance and supervision of safety precautions and programs.
- C. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to:
 - 1. all persons on the Site or who may be affected by the Work;
 - 2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and
 - 3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, other work in progress, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.
- D. All damage, injury, or loss to any property referred to in Paragraph 7.13.C.2 or 7.13.C.3 caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by Contractor at its expense (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of Owner or Engineer or anyone employed by any of them, or anyone for whose acts any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them).
- E. Contractor shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection.
- F. Contractor shall notify Owner; the owners of adjacent property; the owners of Underground Facilities and other utilities (if the identity of such owners is known to Contractor); and other contractors and utility owners performing work at or adjacent to the Site, in writing, when Contractor knows that prosecution of the Work may affect them, and shall cooperate with

them in the protection, removal, relocation, and replacement of their property or work in progress.

- G. Contractor shall comply with the applicable requirements of Owner's safety programs, if any. Any Owner's safety programs that are applicable to the Work are identified or included in the Supplementary Conditions or Specifications.
- H. Contractor shall inform Owner and Engineer of the specific requirements of Contractor's safety program with which Owner's and Engineer's employees and representatives must comply while at the Site.
- I. Contractor's duties and responsibilities for safety and protection will continue until all the Work is completed, Engineer has issued a written notice to Owner and Contractor in accordance with Paragraph 15.06.C that the Work is acceptable, and Contractor has left the Site (except as otherwise expressly provided in connection with Substantial Completion).
- J. Contractor's duties and responsibilities for safety and protection will resume whenever Contractor or any Subcontractor or Supplier returns to the Site to fulfill warranty or correction obligations, or to conduct other tasks arising from the Contract Documents.

7.14 *Hazard Communication Programs*

- A. Contractor shall be responsible for coordinating any exchange of safety data sheets (formerly known as material safety data sheets) or other hazard communication information required to be made available to or exchanged between or among employers at the Site in accordance with Laws or Regulations.

7.15 *Emergencies*

- A. In emergencies affecting the safety or protection of persons or the Work or property at the Site or adjacent thereto, Contractor is obligated to act to prevent damage, injury, or loss. Contractor shall give Engineer prompt written notice if Contractor believes that any significant changes in the Work or variations from the Contract Documents have been caused by an emergency, or are required as a result of Contractor's response to an emergency. If Engineer determines that a change in the Contract Documents is required because of an emergency or Contractor's response, a Work Change Directive or Change Order will be issued.

7.16 *Submittals*

A. *Shop Drawing and Sample Requirements*

1. Before submitting a Shop Drawing or Sample, Contractor shall:
 - a. review and coordinate the Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents;
 - b. determine and verify:
 - 1) all field measurements, quantities, dimensions, specified performance and design criteria, installation requirements, materials, catalog numbers, and similar information with respect to the Submittal;
 - 2) the suitability of all materials and equipment offered with respect to the indicated application, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work; and

- 3) all information relative to Contractor's responsibilities for means, methods, techniques, sequences, and procedures of construction, and safety precautions and programs incident thereto;
 - c. confirm that the Submittal is complete with respect to all related data included in the Submittal.
 2. Each Shop Drawing or Sample must bear a stamp or specific written certification that Contractor has satisfied Contractor's obligations under the Contract Documents with respect to Contractor's review of that Submittal, and that Contractor approves the Submittal.
 3. With each Shop Drawing or Sample, Contractor shall give Engineer specific written notice of any variations that the Submittal may have from the requirements of the Contract Documents. This notice must be set forth in a written communication separate from the Submittal; and, in addition, in the case of a Shop Drawing by a specific notation made on the Shop Drawing itself.
- B. *Submittal Procedures for Shop Drawings and Samples:* Contractor shall label and submit Shop Drawings and Samples to Engineer for review and approval in accordance with the accepted Schedule of Submittals.
1. *Shop Drawings*
 - a. Contractor shall submit the number of copies required in the Specifications.
 - b. Data shown on the Shop Drawings must be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show Engineer the services, materials, and equipment Contractor proposes to provide, and to enable Engineer to review the information for the limited purposes required by Paragraph 7.16.C.
 2. *Samples*
 - a. Contractor shall submit the number of Samples required in the Specifications.
 - b. Contractor shall clearly identify each Sample as to material, Supplier, pertinent data such as catalog numbers, the use for which intended and other data as Engineer may require to enable Engineer to review the Submittal for the limited purposes required by Paragraph 7.16.C.
 3. Where a Shop Drawing or Sample is required by the Contract Documents or the Schedule of Submittals, any related Work performed prior to Engineer's review and approval of the pertinent submittal will be at the sole expense and responsibility of Contractor.
- C. *Engineer's Review of Shop Drawings and Samples*
1. Engineer will provide timely review of Shop Drawings and Samples in accordance with the accepted Schedule of Submittals. Engineer's review and approval will be only to determine if the items covered by the Submittals will, after installation or incorporation in the Work, comply with the requirements of the Contract Documents, and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.

2. Engineer's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction, or to safety precautions or programs incident thereto.
3. Engineer's review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.
4. Engineer's review and approval of a Shop Drawing or Sample will not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirements of Paragraph 7.16.A.3 and Engineer has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample. Engineer will document any such approved variation from the requirements of the Contract Documents in a Field Order or other appropriate Contract modification.
5. Engineer's review and approval of a Shop Drawing or Sample will not relieve Contractor from responsibility for complying with the requirements of Paragraphs 7.16.A and B.
6. Engineer's review and approval of a Shop Drawing or Sample, or of a variation from the requirements of the Contract Documents, will not, under any circumstances, change the Contract Times or Contract Price, unless such changes are included in a Change Order.
7. Neither Engineer's receipt, review, acceptance, or approval of a Shop Drawing or Sample will result in such item becoming a Contract Document.
8. Contractor shall perform the Work in compliance with the requirements and commitments set forth in approved Shop Drawings and Samples, subject to the provisions of Paragraph 7.16.C.4.

D. *Resubmittal Procedures for Shop Drawings and Samples*

1. Contractor shall make corrections required by Engineer and shall return the required number of corrected copies of Shop Drawings and submit, as required, new Samples for review and approval. Contractor shall direct specific attention in writing to revisions other than the corrections called for by Engineer on previous Submittals.
2. Contractor shall furnish required Shop Drawing and Sample submittals with sufficient information and accuracy to obtain required approval of an item with no more than two resubmittals. Engineer will record Engineer's time for reviewing a third or subsequent resubmittal of a Shop Drawing or Sample, and Contractor shall be responsible for Engineer's charges to Owner for such time. Owner may impose a set-off against payments due Contractor to secure reimbursement for such charges.
3. If Contractor requests a change of a previously approved Shop Drawing or Sample, Contractor shall be responsible for Engineer's charges to Owner for its review time, and Owner may impose a set-off against payments due Contractor to secure reimbursement for such charges, unless the need for such change is beyond the control of Contractor.

E. *Submittals Other than Shop Drawings, Samples, and Owner-Delegated Designs*

1. The following provisions apply to all Submittals other than Shop Drawings, Samples, and Owner-delegated designs:
 - a. Contractor shall submit all such Submittals to the Engineer in accordance with the Schedule of Submittals and pursuant to the applicable terms of the Contract Documents.
 - b. Engineer will provide timely review of all such Submittals in accordance with the Schedule of Submittals and return such Submittals with a notation of either Accepted or Not Accepted. Any such Submittal that is not returned within the time established in the Schedule of Submittals will be deemed accepted.
 - c. Engineer's review will be only to determine if the Submittal is acceptable under the requirements of the Contract Documents as to general form and content of the Submittal.
 - d. If any such Submittal is not accepted, Contractor shall confer with Engineer regarding the reason for the non-acceptance, and resubmit an acceptable document.
 2. Procedures for the submittal and acceptance of the Progress Schedule, the Schedule of Submittals, and the Schedule of Values are set forth in Paragraphs 2.03, 2.04, and 2.05.
- F. Owner-delegated Designs: Submittals pursuant to Owner-delegated designs are governed by the provisions of Paragraph 7.19.

7.17 *Contractor's General Warranty and Guarantee*

- A. Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective. Engineer is entitled to rely on Contractor's warranty and guarantee.
- B. Owner's rights under this warranty and guarantee are in addition to, and are not limited by, Owner's rights under the correction period provisions of Paragraph 15.08. The time in which Owner may enforce its warranty and guarantee rights under this Paragraph 7.17 is limited only by applicable Laws and Regulations restricting actions to enforce such rights; provided, however, that after the end of the correction period under Paragraph 15.08:
 1. Owner shall give Contractor written notice of any defective Work within 60 days of the discovery that such Work is defective; and
 2. Such notice will be deemed the start of an event giving rise to a Claim under Paragraph 12.01.B, such that any related Claim must be brought within 30 days of the notice.
- C. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:
 1. abuse, or improper modification, maintenance, or operation, by persons other than Contractor, Subcontractors, Suppliers, or any other individual or entity for whom Contractor is responsible; or
 2. normal wear and tear under normal usage.
- D. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents is absolute. None of the following will constitute an acceptance of Work that is

not in accordance with the Contract Documents, a release of Contractor's obligation to perform the Work in accordance with the Contract Documents, or a release of Owner's warranty and guarantee rights under this Paragraph 7.17:

1. Observations by Engineer;
 2. Recommendation by Engineer or payment by Owner of any progress or final payment;
 3. The issuance of a certificate of Substantial Completion by Engineer or any payment related thereto by Owner;
 4. Use or occupancy of the Work or any part thereof by Owner;
 5. Any review and approval of a Shop Drawing or Sample submittal;
 6. The issuance of a notice of acceptability by Engineer;
 7. The end of the correction period established in Paragraph 15.08;
 8. Any inspection, test, or approval by others; or
 9. Any correction of defective Work by Owner.
- E. If the Contract requires the Contractor to accept the assignment of a contract entered into by Owner, then the specific warranties, guarantees, and correction obligations contained in the assigned contract will govern with respect to Contractor's performance obligations to Owner for the Work described in the assigned contract.

7.18 Indemnification

- A. To the fullest extent permitted by Laws and Regulations, and in addition to any other obligations of Contractor under the Contract or otherwise, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, from losses, damages, costs, and judgments (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) arising from third-party claims or actions relating to or resulting from the performance or furnishing of the Work, provided that any such claim, action, loss, cost, judgment or damage is attributable to bodily injury, sickness, disease, or death, or to damage to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, but only to the extent caused by any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable.
- B. In any and all claims against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, by any employee (or the survivor or personal representative of such employee) of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 7.18.A will not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.

7.19 *Delegation of Professional Design Services*

- A. Owner may require Contractor to provide professional design services for a portion of the Work by express delegation in the Contract Documents. Such delegation will specify the performance and design criteria that such services must satisfy, and the Submittals that Contractor must furnish to Engineer with respect to the Owner-delegated design.
- B. Contractor shall cause such Owner-delegated professional design services to be provided pursuant to the professional standard of care by a properly licensed design professional, whose signature and seal must appear on all drawings, calculations, specifications, certifications, and Submittals prepared by such design professional. Such design professional must issue all certifications of design required by Laws and Regulations.
- C. If a Shop Drawing or other Submittal related to the Owner-delegated design is prepared by Contractor, a Subcontractor, or others for submittal to Engineer, then such Shop Drawing or other Submittal must bear the written approval of Contractor's design professional when submitted by Contractor to Engineer.
- D. Owner and Engineer shall be entitled to rely upon the adequacy, accuracy, and completeness of the services, certifications, and approvals performed or provided by the design professionals retained or employed by Contractor under an Owner-delegated design, subject to the professional standard of care and the performance and design criteria stated in the Contract Documents.
- E. Pursuant to this Paragraph 7.19, Engineer's review, approval, and other determinations regarding design drawings, calculations, specifications, certifications, and other Submittals furnished by Contractor pursuant to an Owner-delegated design will be only for the following limited purposes:
 - 1. Checking for conformance with the requirements of this Paragraph 7.19;
 - 2. Confirming that Contractor (through its design professionals) has used the performance and design criteria specified in the Contract Documents; and
 - 3. Establishing that the design furnished by Contractor is consistent with the design concept expressed in the Contract Documents.
- F. Contractor shall not be responsible for the adequacy of performance or design criteria specified by Owner or Engineer.
- G. Contractor is not required to provide professional services in violation of applicable Laws and Regulations.

ARTICLE 8—OTHER WORK AT THE SITE

8.01 *Other Work*

- A. In addition to and apart from the Work under the Contract Documents, the Owner may perform other work at or adjacent to the Site. Such other work may be performed by Owner's employees, or through contracts between the Owner and third parties. Owner may also arrange to have third-party utility owners perform work on their utilities and facilities at or adjacent to the Site.

- B. If Owner performs other work at or adjacent to the Site with Owner's employees, or through contracts for such other work, then Owner shall give Contractor written notice thereof prior to starting any such other work. If Owner has advance information regarding the start of any third-party utility work that Owner has arranged to take place at or adjacent to the Site, Owner shall provide such information to Contractor.
- C. Contractor shall afford proper and safe access to the Site to each contractor that performs such other work, each utility owner performing other work, and Owner, if Owner is performing other work with Owner's employees, and provide a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work.
- D. Contractor shall do all cutting, fitting, and patching of the Work that may be required to properly connect or otherwise make its several parts come together and properly integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating, or otherwise altering such work; provided, however, that Contractor may cut or alter others' work with the written consent of Engineer and the others whose work will be affected.
- E. If the proper execution or results of any part of Contractor's Work depends upon work performed by others, Contractor shall inspect such other work and promptly report to Engineer in writing any delays, defects, or deficiencies in such other work that render it unavailable or unsuitable for the proper execution and results of Contractor's Work. Contractor's failure to so report will constitute an acceptance of such other work as fit and proper for integration with Contractor's Work except for latent defects and deficiencies in such other work.
- F. The provisions of this article are not applicable to work that is performed by third-party utilities or other third-party entities without a contract with Owner, or that is performed without having been arranged by Owner. If such work occurs, then any related delay, disruption, or interference incurred by Contractor is governed by the provisions of Paragraph 4.05.C.3.

8.02 *Coordination*

- A. If Owner intends to contract with others for the performance of other work at or adjacent to the Site, to perform other work at or adjacent to the Site with Owner's employees, or to arrange to have utility owners perform work at or adjacent to the Site, the following will be set forth in the Supplementary Conditions or provided to Contractor prior to the start of any such other work:
 - 1. The identity of the individual or entity that will have authority and responsibility for coordination of the activities among the various contractors;
 - 2. An itemization of the specific matters to be covered by such authority and responsibility; and
 - 3. The extent of such authority and responsibilities.
- B. Unless otherwise provided in the Supplementary Conditions, Owner shall have sole authority and responsibility for such coordination.

8.03 *Legal Relationships*

- A. If, in the course of performing other work for Owner at or adjacent to the Site, the Owner's employees, any other contractor working for Owner, or any utility owner that Owner has arranged to perform work, causes damage to the Work or to the property of Contractor or its Subcontractors, or delays, disrupts, interferes with, or increases the scope or cost of the performance of the Work, through actions or inaction, then Contractor shall be entitled to an equitable adjustment in the Contract Price or the Contract Times. Contractor must submit any Change Proposal seeking an equitable adjustment in the Contract Price or the Contract Times under this paragraph within 30 days of the damaging, delaying, disrupting, or interfering event. The entitlement to, and extent of, any such equitable adjustment will take into account information (if any) regarding such other work that was provided to Contractor in the Contract Documents prior to the submittal of the Bid or the final negotiation of the terms of the Contract, and any remedies available to Contractor under Laws or Regulations concerning utility action or inaction. When applicable, any such equitable adjustment in Contract Price will be conditioned on Contractor assigning to Owner all Contractor's rights against such other contractor or utility owner with respect to the damage, delay, disruption, or interference that is the subject of the adjustment. Contractor's entitlement to an adjustment of the Contract Times or Contract Price is subject to the provisions of Paragraphs 4.05.D and 4.05.E.
- B. Contractor shall take reasonable and customary measures to avoid damaging, delaying, disrupting, or interfering with the work of Owner, any other contractor, or any utility owner performing other work at or adjacent to the Site.
 - 1. If Contractor fails to take such measures and as a result damages, delays, disrupts, or interferes with the work of any such other contractor or utility owner, then Owner may impose a set-off against payments due Contractor, and assign to such other contractor or utility owner the Owner's contractual rights against Contractor with respect to the breach of the obligations set forth in this Paragraph 8.03.B.
 - 2. When Owner is performing other work at or adjacent to the Site with Owner's employees, Contractor shall be liable to Owner for damage to such other work, and for the reasonable direct delay, disruption, and interference costs incurred by Owner as a result of Contractor's failure to take reasonable and customary measures with respect to Owner's other work. In response to such damage, delay, disruption, or interference, Owner may impose a set-off against payments due Contractor.
- C. If Contractor damages, delays, disrupts, or interferes with the work of any other contractor, or any utility owner performing other work at or adjacent to the Site, through Contractor's failure to take reasonable and customary measures to avoid such impacts, or if any claim arising out of Contractor's actions, inactions, or negligence in performance of the Work at or adjacent to the Site is made by any such other contractor or utility owner against Contractor, Owner, or Engineer, then Contractor shall (1) promptly attempt to settle the claim as to all parties through negotiations with such other contractor or utility owner, or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law, and (2) indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against any such claims, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or

arbitration or other dispute resolution costs) arising out of or relating to such damage, delay, disruption, or interference.

ARTICLE 9—OWNER’S RESPONSIBILITIES

9.01 *Communications to Contractor*

- A. Except as otherwise provided in these General Conditions, Owner shall issue all communications to Contractor through Engineer.

9.02 *Replacement of Engineer*

- A. Owner may at its discretion appoint an engineer to replace Engineer, provided Contractor makes no reasonable objection to the replacement engineer. The replacement engineer’s status under the Contract Documents will be that of the former Engineer.

9.03 *Furnish Data*

- A. Owner shall promptly furnish the data required of Owner under the Contract Documents.

9.04 *Pay When Due*

- A. Owner shall make payments to Contractor when they are due as provided in the Agreement.

9.05 *Lands and Easements; Reports, Tests, and Drawings*

- A. Owner’s duties with respect to providing lands and easements are set forth in Paragraph 5.01.
- B. Owner’s duties with respect to providing engineering surveys to establish reference points are set forth in Paragraph 4.03.
- C. Article 5 refers to Owner’s identifying and making available to Contractor copies of reports of explorations and tests of conditions at the Site, and drawings of physical conditions relating to existing surface or subsurface structures at the Site.

9.06 *Insurance*

- A. Owner’s responsibilities, if any, with respect to purchasing and maintaining liability and property insurance are set forth in Article 6.

9.07 *Change Orders*

- A. Owner’s responsibilities with respect to Change Orders are set forth in Article 11.

9.08 *Inspections, Tests, and Approvals*

- A. Owner’s responsibility with respect to certain inspections, tests, and approvals is set forth in Paragraph 14.02.B.

9.09 *Limitations on Owner’s Responsibilities*

- A. The Owner shall not supervise, direct, or have control or authority over, nor be responsible for, Contractor’s means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Owner will not be responsible for Contractor’s failure to perform the Work in accordance with the Contract Documents.

9.10 *Undisclosed Hazardous Environmental Condition*

- A. Owner's responsibility in respect to an undisclosed Hazardous Environmental Condition is set forth in Paragraph 5.06.

9.11 *Evidence of Financial Arrangements*

- A. Upon request of Contractor, Owner shall furnish Contractor reasonable evidence that financial arrangements have been made to satisfy Owner's obligations under the Contract (including obligations under proposed changes in the Work).

9.12 *Safety Programs*

- A. While at the Site, Owner's employees and representatives shall comply with the specific applicable requirements of Contractor's safety programs of which Owner has been informed.
- B. Owner shall furnish copies of any applicable Owner safety programs to Contractor.

ARTICLE 10—ENGINEER'S STATUS DURING CONSTRUCTION

10.01 *Owner's Representative*

- A. Engineer will be Owner's representative during the construction period. The duties and responsibilities and the limitations of authority of Engineer as Owner's representative during construction are set forth in the Contract.

10.02 *Visits to Site*

- A. Engineer will make visits to the Site at intervals appropriate to the various stages of construction as Engineer deems necessary in order to observe, as an experienced and qualified design professional, the progress that has been made and the quality of the various aspects of Contractor's executed Work. Based on information obtained during such visits and observations, Engineer, for the benefit of Owner, will determine, in general, if the Work is proceeding in accordance with the Contract Documents. Engineer will not be required to make exhaustive or continuous inspections on the Site to check the quality or quantity of the Work. Engineer's efforts will be directed toward providing for Owner a greater degree of confidence that the completed Work will conform generally to the Contract Documents. On the basis of such visits and observations, Engineer will keep Owner informed of the progress of the Work and will endeavor to guard Owner against defective Work.
- B. Engineer's visits and observations are subject to all the limitations on Engineer's authority and responsibility set forth in Paragraph 10.07. Particularly, but without limitation, during or as a result of Engineer's visits or observations of Contractor's Work, Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work.

10.03 *Resident Project Representative*

- A. If Owner and Engineer have agreed that Engineer will furnish a Resident Project Representative to represent Engineer at the Site and assist Engineer in observing the progress and quality of the Work, then the authority and responsibilities of any such Resident Project Representative will be as provided in the Supplementary Conditions, and limitations on the

responsibilities thereof will be as provided in the Supplementary Conditions and in Paragraph 10.07.

- B. If Owner designates an individual or entity who is not Engineer's consultant, agent, or employee to represent Owner at the Site, then the responsibilities and authority of such individual or entity will be as provided in the Supplementary Conditions.

10.04 *Engineer's Authority*

- A. Engineer has the authority to reject Work in accordance with Article 14.
- B. Engineer's authority as to Submittals is set forth in Paragraph 7.16.
- C. Engineer's authority as to design drawings, calculations, specifications, certifications and other Submittals from Contractor in response to Owner's delegation (if any) to Contractor of professional design services, is set forth in Paragraph 7.19.
- D. Engineer's authority as to changes in the Work is set forth in Article 11.
- E. Engineer's authority as to Applications for Payment is set forth in Article 15.

10.05 *Determinations for Unit Price Work*

- A. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor as set forth in Paragraph 13.03.

10.06 *Decisions on Requirements of Contract Documents and Acceptability of Work*

- A. Engineer will render decisions regarding the requirements of the Contract Documents, and judge the acceptability of the Work, pursuant to the specific procedures set forth herein for initial interpretations, Change Proposals, and acceptance of the Work. In rendering such decisions and judgments, Engineer will not show partiality to Owner or Contractor, and will not be liable to Owner, Contractor, or others in connection with any proceedings, interpretations, decisions, or judgments conducted or rendered in good faith.

10.07 *Limitations on Engineer's Authority and Responsibilities*

- A. Neither Engineer's authority or responsibility under this Article 10 or under any other provision of the Contract, nor any decision made by Engineer in good faith either to exercise or not exercise such authority or responsibility or the undertaking, exercise, or performance of any authority or responsibility by Engineer, will create, impose, or give rise to any duty in contract, tort, or otherwise owed by Engineer to Contractor, any Subcontractor, any Supplier, any other individual or entity, or to any surety for or employee or agent of any of them.
- B. Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Engineer will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.
- C. Engineer will not be responsible for the acts or omissions of Contractor or of any Subcontractor, any Supplier, or of any other individual or entity performing any of the Work.
- D. Engineer's review of the final Application for Payment and accompanying documentation, and all maintenance and operating instructions, schedules, guarantees, bonds, certificates of

inspection, tests and approvals, and other documentation required to be delivered by Contractor under Paragraph 15.06.A, will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals, that the results certified indicate compliance with the Contract Documents.

- E. The limitations upon authority and responsibility set forth in this Paragraph 10.07 also apply to the Resident Project Representative, if any.

10.08 *Compliance with Safety Program*

- A. While at the Site, Engineer's employees and representatives will comply with the specific applicable requirements of Owner's and Contractor's safety programs of which Engineer has been informed.

ARTICLE 11—CHANGES TO THE CONTRACT

11.01 *Amending and Supplementing the Contract*

- A. The Contract may be amended or supplemented by a Change Order, a Work Change Directive, or a Field Order.
- B. If an amendment or supplement to the Contract includes a change in the Contract Price or the Contract Times, such amendment or supplement must be set forth in a Change Order.
- C. All changes to the Contract that involve (1) the performance or acceptability of the Work, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, must be supported by Engineer's recommendation. Owner and Contractor may amend other terms and conditions of the Contract without the recommendation of the Engineer.

11.02 *Change Orders*

- A. Owner and Contractor shall execute appropriate Change Orders covering:
 - 1. Changes in Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive;
 - 2. Changes in Contract Price resulting from an Owner set-off, unless Contractor has duly contested such set-off;
 - 3. Changes in the Work which are: (a) ordered by Owner pursuant to Paragraph 11.05, (b) required because of Owner's acceptance of defective Work under Paragraph 14.04 or Owner's correction of defective Work under Paragraph 14.07, or (c) agreed to by the parties, subject to the need for Engineer's recommendation if the change in the Work involves the design (as set forth in the Drawings, Specifications, or otherwise) or other engineering or technical matters; and
 - 4. Changes that embody the substance of any final and binding results under: Paragraph 11.03.B, resolving the impact of a Work Change Directive; Paragraph 11.09, concerning Change Proposals; Article 12, Claims; Paragraph 13.02.D, final adjustments resulting from allowances; Paragraph 13.03.D, final adjustments relating to determination of quantities for Unit Price Work; and similar provisions.

- B. If Owner or Contractor refuses to execute a Change Order that is required to be executed under the terms of Paragraph 11.02.A, it will be deemed to be of full force and effect, as if fully executed.

11.03 *Work Change Directives*

- A. A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the modification ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order, following negotiations by the parties as to the Work Change Directive's effect, if any, on the Contract Price and Contract Times; or, if negotiations are unsuccessful, by a determination under the terms of the Contract Documents governing adjustments, expressly including Paragraph 11.07 regarding change of Contract Price.
- B. If Owner has issued a Work Change Directive and:
 - 1. Contractor believes that an adjustment in Contract Times or Contract Price is necessary, then Contractor shall submit any Change Proposal seeking such an adjustment no later than 30 days after the completion of the Work set out in the Work Change Directive.
 - 2. Owner believes that an adjustment in Contract Times or Contract Price is necessary, then Owner shall submit any Claim seeking such an adjustment no later than 60 days after issuance of the Work Change Directive.

11.04 *Field Orders*

- A. Engineer may authorize minor changes in the Work if the changes do not involve an adjustment in the Contract Price or the Contract Times and are compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Such changes will be accomplished by a Field Order and will be binding on Owner and also on Contractor, which shall perform the Work involved promptly.
- B. If Contractor believes that a Field Order justifies an adjustment in the Contract Price or Contract Times, then before proceeding with the Work at issue, Contractor shall submit a Change Proposal as provided herein.

11.05 *Owner-Authorized Changes in the Work*

- A. Without invalidating the Contract and without notice to any surety, Owner may, at any time or from time to time, order additions, deletions, or revisions in the Work. Changes involving the design (as set forth in the Drawings, Specifications, or otherwise) or other engineering or technical matters will be supported by Engineer's recommendation.
- B. Such changes in the Work may be accomplished by a Change Order, if Owner and Contractor have agreed as to the effect, if any, of the changes on Contract Times or Contract Price; or by a Work Change Directive. Upon receipt of any such document, Contractor shall promptly proceed with the Work involved; or, in the case of a deletion in the Work, promptly cease construction activities with respect to such deleted Work. Added or revised Work must be performed under the applicable conditions of the Contract Documents.
- C. Nothing in this Paragraph 11.05 obligates Contractor to undertake work that Contractor reasonably concludes cannot be performed in a manner consistent with Contractor's safety obligations under the Contract Documents or Laws and Regulations.

11.06 *Unauthorized Changes in the Work*

- A. Contractor shall not be entitled to an increase in the Contract Price or an extension of the Contract Times with respect to any work performed that is not required by the Contract Documents, as amended, modified, or supplemented, except in the case of an emergency as provided in Paragraph 7.15 or in the case of uncovering Work as provided in Paragraph 14.05.C.2.

11.07 *Change of Contract Price*

- A. The Contract Price may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Price must comply with the provisions of Paragraph 11.09. Any Claim for an adjustment of Contract Price must comply with the provisions of Article 12.
- B. An adjustment in the Contract Price will be determined as follows:
 - 1. Where the Work involved is covered by unit prices contained in the Contract Documents, then by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 13.03);
 - 2. Where the Work involved is not covered by unit prices contained in the Contract Documents, then by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 11.07.C.2); or
 - 3. Where the Work involved is not covered by unit prices contained in the Contract Documents and the parties do not reach mutual agreement to a lump sum, then on the basis of the Cost of the Work (determined as provided in Paragraph 13.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 11.07.C).
- C. *Contractor's Fee:* When applicable, the Contractor's fee for overhead and profit will be determined as follows:
 - 1. A mutually acceptable fixed fee; or
 - 2. If a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:
 - a. For costs incurred under Paragraphs 13.01.B.1 and 13.01.B.2, the Contractor's fee will be 15 percent;
 - b. For costs incurred under Paragraph 13.01.B.3, the Contractor's fee will be 5 percent;
 - c. Where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of Paragraphs 11.07.C.2.a and 11.07.C.2.b is that the Contractor's fee will be based on: (1) a fee of 15 percent of the costs incurred under Paragraphs 13.01.B.1 and 13.01.B.2 by the Subcontractor that actually performs the Work, at whatever tier, and (2) with respect to Contractor itself and to any Subcontractors of a tier higher than that of the Subcontractor that actually performs the Work, a fee of 5 percent of the amount (fee plus underlying costs incurred) attributable to the next lower tier Subcontractor; provided, however, that for any such subcontracted Work the maximum total fee to be paid by Owner will be no greater than 27 percent of the costs incurred by the Subcontractor that actually performs the Work;

- d. No fee will be payable on the basis of costs itemized under Paragraphs 13.01.B.4, 13.01.B.5, and 13.01.C;
- e. The amount of credit to be allowed by Contractor to Owner for any change which results in a net decrease in Cost of the Work will be the amount of the actual net decrease in Cost of the Work and a deduction of an additional amount equal to 5 percent of such actual net decrease in Cost of the Work; and
- f. When both additions and credits are involved in any one change or Change Proposal, the adjustment in Contractor's fee will be computed by determining the sum of the costs in each of the cost categories in Paragraph 13.01.B (specifically, payroll costs, Paragraph 13.01.B.1; incorporated materials and equipment costs, Paragraph 13.01.B.2; Subcontract costs, Paragraph 13.01.B.3; special consultants costs, Paragraph 13.01.B.4; and other costs, Paragraph 13.01.B.5) and applying to each such cost category sum the appropriate fee from Paragraphs 11.07.C.2.a through 11.07.C.2.e, inclusive.

11.08 *Change of Contract Times*

- A. The Contract Times may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Times must comply with the provisions of Paragraph 11.09. Any Claim for an adjustment in the Contract Times must comply with the provisions of Article 12.
- B. Delay, disruption, and interference in the Work, and any related changes in Contract Times, are addressed in and governed by Paragraph 4.05.

11.09 *Change Proposals*

- A. *Purpose and Content:* Contractor shall submit a Change Proposal to Engineer to request an adjustment in the Contract Times or Contract Price; contest an initial decision by Engineer concerning the requirements of the Contract Documents or relating to the acceptability of the Work under the Contract Documents; challenge a set-off against payment due; or seek other relief under the Contract. The Change Proposal will specify any proposed change in Contract Times or Contract Price, or other proposed relief, and explain the reason for the proposed change, with citations to any governing or applicable provisions of the Contract Documents. Each Change Proposal will address only one issue, or a set of closely related issues.
- B. *Change Proposal Procedures*
 - 1. *Submittal:* Contractor shall submit each Change Proposal to Engineer within 30 days after the start of the event giving rise thereto, or after such initial decision.
 - 2. *Supporting Data:* The Contractor shall submit supporting data, including the proposed change in Contract Price or Contract Time (if any), to the Engineer and Owner within 15 days after the submittal of the Change Proposal.
 - a. Change Proposals based on or related to delay, interruption, or interference must comply with the provisions of Paragraphs 4.05.D and 4.05.E.
 - b. Change proposals related to a change of Contract Price must include full and detailed accounts of materials incorporated into the Work and labor and equipment used for the subject Work.

The supporting data must be accompanied by a written statement that the supporting data are accurate and complete, and that any requested time or price adjustment is the entire adjustment to which Contractor believes it is entitled as a result of said event.

3. *Engineer's Initial Review:* Engineer will advise Owner regarding the Change Proposal, and consider any comments or response from Owner regarding the Change Proposal. If in its discretion Engineer concludes that additional supporting data is needed before conducting a full review and making a decision regarding the Change Proposal, then Engineer may request that Contractor submit such additional supporting data by a date specified by Engineer, prior to Engineer beginning its full review of the Change Proposal.
4. *Engineer's Full Review and Action on the Change Proposal:* Upon receipt of Contractor's supporting data (including any additional data requested by Engineer), Engineer will conduct a full review of each Change Proposal and, within 30 days after such receipt of the Contractor's supporting data, either approve the Change Proposal in whole, deny it in whole, or approve it in part and deny it in part. Such actions must be in writing, with a copy provided to Owner and Contractor. If Engineer does not take action on the Change Proposal within 30 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of Engineer's inaction the Change Proposal is deemed denied, thereby commencing the time for appeal of the denial under Article 12.
5. *Binding Decision:* Engineer's decision is final and binding upon Owner and Contractor, unless Owner or Contractor appeals the decision by filing a Claim under Article 12.
- C. *Resolution of Certain Change Proposals:* If the Change Proposal does not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters, then Engineer will notify the parties in writing that the Engineer is unable to resolve the Change Proposal. For purposes of further resolution of such a Change Proposal, such notice will be deemed a denial, and Contractor may choose to seek resolution under the terms of Article 12.
- D. *Post-Completion:* Contractor shall not submit any Change Proposals after Engineer issues a written recommendation of final payment pursuant to Paragraph 15.06.B.

11.10 *Notification to Surety*

- A. If the provisions of any bond require notice to be given to a surety of any change affecting the general scope of the Work or the provisions of the Contract Documents (including, but not limited to, Contract Price or Contract Times), the giving of any such notice will be Contractor's responsibility. The amount of each applicable bond will be adjusted to reflect the effect of any such change.

ARTICLE 12—CLAIMS

12.01 *Claims*

- A. *Claims Process:* The following disputes between Owner and Contractor are subject to the Claims process set forth in this article:
 1. Appeals by Owner or Contractor of Engineer's decisions regarding Change Proposals;

2. Owner demands for adjustments in the Contract Price or Contract Times, or other relief under the Contract Documents;
 3. Disputes that Engineer has been unable to address because they do not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters; and
 4. Subject to the waiver provisions of Paragraph 15.07, any dispute arising after Engineer has issued a written recommendation of final payment pursuant to Paragraph 15.06.B.
- B. *Submittal of Claim:* The party submitting a Claim shall deliver it directly to the other party to the Contract promptly (but in no event later than 30 days) after the start of the event giving rise thereto; in the case of appeals regarding Change Proposals within 30 days of the decision under appeal. The party submitting the Claim shall also furnish a copy to the Engineer, for its information only. The responsibility to substantiate a Claim rests with the party making the Claim. In the case of a Claim by Contractor seeking an increase in the Contract Times or Contract Price, Contractor shall certify that the Claim is made in good faith, that the supporting data are accurate and complete, and that to the best of Contractor's knowledge and belief the amount of time or money requested accurately reflects the full amount to which Contractor is entitled.
- C. *Review and Resolution:* The party receiving a Claim shall review it thoroughly, giving full consideration to its merits. The two parties shall seek to resolve the Claim through the exchange of information and direct negotiations. The parties may extend the time for resolving the Claim by mutual agreement. All actions taken on a Claim will be stated in writing and submitted to the other party, with a copy to Engineer.
- D. *Mediation*
1. At any time after initiation of a Claim, Owner and Contractor may mutually agree to mediation of the underlying dispute. The agreement to mediate will stay the Claim submittal and response process.
 2. If Owner and Contractor agree to mediation, then after 60 days from such agreement, either Owner or Contractor may unilaterally terminate the mediation process, and the Claim submittal and decision process will resume as of the date of the termination. If the mediation proceeds but is unsuccessful in resolving the dispute, the Claim submittal and decision process will resume as of the date of the conclusion of the mediation, as determined by the mediator.
 3. Owner and Contractor shall each pay one-half of the mediator's fees and costs.
- E. *Partial Approval:* If the party receiving a Claim approves the Claim in part and denies it in part, such action will be final and binding unless within 30 days of such action the other party invokes the procedure set forth in Article 17 for final resolution of disputes.
- F. *Denial of Claim:* If efforts to resolve a Claim are not successful, the party receiving the Claim may deny it by giving written notice of denial to the other party. If the receiving party does not take action on the Claim within 90 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of the inaction, the Claim is deemed denied, thereby commencing the time for appeal of the denial. A denial of the Claim will be final and binding unless within 30 days of the denial the other party invokes the procedure set forth in Article 17 for the final resolution of disputes.

- G. *Final and Binding Results*: If the parties reach a mutual agreement regarding a Claim, whether through approval of the Claim, direct negotiations, mediation, or otherwise; or if a Claim is approved in part and denied in part, or denied in full, and such actions become final and binding; then the results of the agreement or action on the Claim will be incorporated in a Change Order or other written document to the extent they affect the Contract, including the Work, the Contract Times, or the Contract Price.

ARTICLE 13—COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK

13.01 *Cost of the Work*

- A. *Purposes for Determination of Cost of the Work*: The term Cost of the Work means the sum of all costs necessary for the proper performance of the Work at issue, as further defined below. The provisions of this Paragraph 13.01 are used for two distinct purposes:
1. To determine Cost of the Work when Cost of the Work is a component of the Contract Price, under cost-plus-fee, time-and-materials, or other cost-based terms; or
 2. When needed to determine the value of a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price. When the value of any such adjustment is determined on the basis of Cost of the Work, Contractor is entitled only to those additional or incremental costs required because of the change in the Work or because of the event giving rise to the adjustment.
- B. *Costs Included*: Except as otherwise may be agreed to in writing by Owner, costs included in the Cost of the Work will be in amounts no higher than those commonly incurred in the locality of the Project, will not include any of the costs itemized in Paragraph 13.01.C, and will include only the following items:
1. Payroll costs for employees in the direct employ of Contractor in the performance of the Work under schedules of job classifications agreed upon by Owner and Contractor in advance of the subject Work. Such employees include, without limitation, superintendents, foremen, safety managers, safety representatives, and other personnel employed full time on the Work. Payroll costs for employees not employed full time on the Work will be apportioned on the basis of their time spent on the Work. Payroll costs include, but are not limited to, salaries and wages plus the cost of fringe benefits, which include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, sick leave, and vacation and holiday pay applicable thereto. The expenses of performing Work outside of regular working hours, on Saturday, Sunday, or legal holidays, will be included in the above to the extent authorized by Owner.
 2. Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts accrue to Contractor unless Owner deposits funds with Contractor with which to make payments, in which case the cash discounts will accrue to Owner. All trade discounts, rebates, and refunds and returns from sale of surplus materials and equipment will accrue to Owner, and Contractor shall make provisions so that they may be obtained.

3. Payments made by Contractor to Subcontractors for Work performed by Subcontractors. If required by Owner, Contractor shall obtain competitive bids from subcontractors acceptable to Owner and Contractor and shall deliver such bids to Owner, which will then determine, with the advice of Engineer, which bids, if any, will be acceptable. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work plus a fee, the Subcontractor's Cost of the Work and fee will be determined in the same manner as Contractor's Cost of the Work and fee as provided in this Paragraph 13.01.
4. Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed or retained for services specifically related to the Work.
5. Other costs consisting of the following:
 - a. The proportion of necessary transportation, travel, and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.
 - b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office, and temporary facilities at the Site, which are consumed in the performance of the Work, and cost, less market value, of such items used but not consumed which remain the property of Contractor.
 - 1) In establishing included costs for materials such as scaffolding, plating, or sheeting, consideration will be given to the actual or the estimated life of the material for use on other projects; or rental rates may be established on the basis of purchase or salvage value of such items, whichever is less. Contractor will not be eligible for compensation for such items in an amount that exceeds the purchase cost of such item.
 - c. *Construction Equipment Rental*
 - 1) Rentals of all construction equipment and machinery, and the parts thereof, in accordance with rental agreements approved by Owner as to price (including any surcharge or special rates applicable to overtime use of the construction equipment or machinery), and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs will be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts must cease when the use thereof is no longer necessary for the Work.
 - 2) Costs for equipment and machinery owned by Contractor or a Contractor-related entity will be paid at a rate shown for such equipment in the equipment rental rate book specified in the Supplementary Conditions. An hourly rate will be computed by dividing the monthly rates by 176. These computed rates will include all operating costs.
 - 3) With respect to Work that is the result of a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price ("changed Work"), included costs will be based on the time the equipment or machinery is in use on the changed Work and the costs of transportation, loading, unloading, assembly, dismantling, and removal when directly attributable to the changed Work. The

cost of any such equipment or machinery, or parts thereof, must cease to accrue when the use thereof is no longer necessary for the changed Work.

- d. Sales, consumer, use, and other similar taxes related to the Work, and for which Contractor is liable, as imposed by Laws and Regulations.
 - e. Deposits lost for causes other than negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.
 - f. Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by Contractor in connection with the performance of the Work (except losses and damages within the deductible amounts of builder's risk or other property insurance established in accordance with Paragraph 6.04), provided such losses and damages have resulted from causes other than the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses include settlements made with the written consent and approval of Owner. No such losses, damages, and expenses will be included in the Cost of the Work for the purpose of determining Contractor's fee.
 - g. The cost of utilities, fuel, and sanitary facilities at the Site.
 - h. Minor expenses such as communication service at the Site, express and courier services, and similar petty cash items in connection with the Work.
 - i. The costs of premiums for all bonds and insurance that Contractor is required by the Contract Documents to purchase and maintain.
- C. *Costs Excluded:* The term Cost of the Work does not include any of the following items:
- 1. Payroll costs and other compensation of Contractor's officers, executives, principals, general managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks, and other personnel employed by Contractor, whether at the Site or in Contractor's principal or branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 13.01.B.1 or specifically covered by Paragraph 13.01.B.4. The payroll costs and other compensation excluded here are to be considered administrative costs covered by the Contractor's fee.
 - 2. The cost of purchasing, renting, or furnishing small tools and hand tools.
 - 3. Expenses of Contractor's principal and branch offices other than Contractor's office at the Site.
 - 4. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.
 - 5. Costs due to the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property.
 - 6. Expenses incurred in preparing and advancing Claims.

7. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraph 13.01.B.

D. *Contractor's Fee*

1. When the Work as a whole is performed on the basis of cost-plus-a-fee, then:
 - a. Contractor's fee for the Work set forth in the Contract Documents as of the Effective Date of the Contract will be determined as set forth in the Agreement.
 - b. for any Work covered by a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price on the basis of Cost of the Work, Contractor's fee will be determined as follows:
 - 1) When the fee for the Work as a whole is a percentage of the Cost of the Work, the fee will automatically adjust as the Cost of the Work changes.
 - 2) When the fee for the Work as a whole is a fixed fee, the fee for any additions or deletions will be determined in accordance with Paragraph 11.07.C.2.
2. When the Work as a whole is performed on the basis of a stipulated sum, or any other basis other than cost-plus-a-fee, then Contractor's fee for any Work covered by a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price on the basis of Cost of the Work will be determined in accordance with Paragraph 11.07.C.2.

- E. *Documentation and Audit*: Whenever the Cost of the Work for any purpose is to be determined pursuant to this Article 13, Contractor and pertinent Subcontractors will establish and maintain records of the costs in accordance with generally accepted accounting practices. Subject to prior written notice, Owner will be afforded reasonable access, during normal business hours, to all Contractor's accounts, records, books, correspondence, instructions, drawings, receipts, vouchers, memoranda, and similar data relating to the Cost of the Work and Contractor's fee. Contractor shall preserve all such documents for a period of three years after the final payment by Owner. Pertinent Subcontractors will afford such access to Owner, and preserve such documents, to the same extent required of Contractor.

13.02 *Allowances*

- A. It is understood that Contractor has included in the Contract Price all allowances so named in the Contract Documents and shall cause the Work so covered to be performed for such sums and by such persons or entities as may be acceptable to Owner and Engineer.
- B. *Cash Allowances*: Contractor agrees that:
1. the cash allowances include the cost to Contractor (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the Site, and all applicable taxes; and
 2. Contractor's costs for unloading and handling on the Site, labor, installation, overhead, profit, and other expenses contemplated for the cash allowances have been included in the Contract Price and not in the allowances, and no demand for additional payment for any of the foregoing will be valid.
- C. *Owner's Contingency Allowance*: Contractor agrees that an Owner's contingency allowance, if any, is for the sole use of Owner to cover unanticipated costs.

- D. Prior to final payment, an appropriate Change Order will be issued as recommended by Engineer to reflect actual amounts due Contractor for Work covered by allowances, and the Contract Price will be correspondingly adjusted.

13.03 *Unit Price Work*

- A. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement.
- B. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Payments to Contractor for Unit Price Work will be based on actual quantities.
- C. Each unit price will be deemed to include an amount considered by Contractor to be adequate to cover Contractor's overhead and profit for each separately identified item.
- D. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor. Engineer will review with Contractor the Engineer's preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise). Engineer's written decision thereon will be final and binding (except as modified by Engineer to reflect changed factual conditions or more accurate data) upon Owner and Contractor, and the final adjustment of Contract Price will be set forth in a Change Order, subject to the provisions of the following paragraph.
- E. *Adjustments in Unit Price*
 - 1. Contractor or Owner shall be entitled to an adjustment in the unit price with respect to an item of Unit Price Work if:
 - a. the quantity of the item of Unit Price Work performed by Contractor differs materially and significantly from the estimated quantity of such item indicated in the Agreement; and
 - b. Contractor's unit costs to perform the item of Unit Price Work have changed materially and significantly as a result of the quantity change.
 - 2. The adjustment in unit price will account for and be coordinated with any related changes in quantities of other items of Work, and in Contractor's costs to perform such other Work, such that the resulting overall change in Contract Price is equitable to Owner and Contractor.
 - 3. Adjusted unit prices will apply to all units of that item.

ARTICLE 14—TESTS AND INSPECTIONS; CORRECTION, REMOVAL, OR ACCEPTANCE OF DEFECTIVE WORK

14.01 *Access to Work*

- A. Owner, Engineer, their consultants and other representatives and personnel of Owner, independent testing laboratories, and authorities having jurisdiction have access to the Site and the Work at reasonable times for their observation, inspection, and testing. Contractor shall provide them proper and safe conditions for such access and advise them of Contractor's

safety procedures and programs so that they may comply with such procedures and programs as applicable.

14.02 *Tests, Inspections, and Approvals*

- A. Contractor shall give Engineer timely notice of readiness of the Work (or specific parts thereof) for all required inspections and tests, and shall cooperate with inspection and testing personnel to facilitate required inspections and tests.
- B. Owner shall retain and pay for the services of an independent inspector, testing laboratory, or other qualified individual or entity to perform all inspections and tests expressly required by the Contract Documents to be furnished and paid for by Owner, except that costs incurred in connection with tests or inspections of covered Work will be governed by the provisions of Paragraph 14.05.
- C. If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) specifically to be inspected, tested, or approved by an employee or other representative of such public body, Contractor shall assume full responsibility for arranging and obtaining such inspections, tests, or approvals, pay all costs in connection therewith, and furnish Engineer the required certificates of inspection or approval.
- D. Contractor shall be responsible for arranging, obtaining, and paying for all inspections and tests required:
 - 1. by the Contract Documents, unless the Contract Documents expressly allocate responsibility for a specific inspection or test to Owner;
 - 2. to attain Owner's and Engineer's acceptance of materials or equipment to be incorporated in the Work;
 - 3. by manufacturers of equipment furnished under the Contract Documents;
 - 4. for testing, adjusting, and balancing of mechanical, electrical, and other equipment to be incorporated into the Work; and
 - 5. for acceptance of materials, mix designs, or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work.Such inspections and tests will be performed by independent inspectors, testing laboratories, or other qualified individuals or entities acceptable to Owner and Engineer.
- E. If the Contract Documents require the Work (or part thereof) to be approved by Owner, Engineer, or another designated individual or entity, then Contractor shall assume full responsibility for arranging and obtaining such approvals.
- F. If any Work (or the work of others) that is to be inspected, tested, or approved is covered by Contractor without written concurrence of Engineer, Contractor shall, if requested by Engineer, uncover such Work for observation. Such uncovering will be at Contractor's expense unless Contractor had given Engineer timely notice of Contractor's intention to cover the same and Engineer had not acted with reasonable promptness in response to such notice.

14.03 *Defective Work*

- A. *Contractor's Obligation:* It is Contractor's obligation to assure that the Work is not defective.

- B. *Engineer's Authority*: Engineer has the authority to determine whether Work is defective, and to reject defective Work.
- C. *Notice of Defects*: Prompt written notice of all defective Work of which Owner or Engineer has actual knowledge will be given to Contractor.
- D. *Correction, or Removal and Replacement*: Promptly after receipt of written notice of defective Work, Contractor shall correct all such defective Work, whether or not fabricated, installed, or completed, or, if Engineer has rejected the defective Work, remove it from the Project and replace it with Work that is not defective.
- E. *Preservation of Warranties*: When correcting defective Work, Contractor shall take no action that would void or otherwise impair Owner's special warranty and guarantee, if any, on said Work.
- F. *Costs and Damages*: In addition to its correction, removal, and replacement obligations with respect to defective Work, Contractor shall pay all claims, costs, losses, and damages arising out of or relating to defective Work, including but not limited to the cost of the inspection, testing, correction, removal, replacement, or reconstruction of such defective Work, fines levied against Owner by governmental authorities because the Work is defective, and the costs of repair or replacement of work of others resulting from defective Work. Prior to final payment, if Owner and Contractor are unable to agree as to the measure of such claims, costs, losses, and damages resulting from defective Work, then Owner may impose a reasonable set-off against payments due under Article 15.

14.04 *Acceptance of Defective Work*

- A. If, instead of requiring correction or removal and replacement of defective Work, Owner prefers to accept it, Owner may do so (subject, if such acceptance occurs prior to final payment, to Engineer's confirmation that such acceptance is in general accord with the design intent and applicable engineering principles, and will not endanger public safety). Contractor shall pay all claims, costs, losses, and damages attributable to Owner's evaluation of and determination to accept such defective Work (such costs to be approved by Engineer as to reasonableness), and for the diminished value of the Work to the extent not otherwise paid by Contractor. If any such acceptance occurs prior to final payment, the necessary revisions in the Contract Documents with respect to the Work will be incorporated in a Change Order. If the parties are unable to agree as to the decrease in the Contract Price, reflecting the diminished value of Work so accepted, then Owner may impose a reasonable set-off against payments due under Article 15. If the acceptance of defective Work occurs after final payment, Contractor shall pay an appropriate amount to Owner.

14.05 *Uncovering Work*

- A. Engineer has the authority to require additional inspection or testing of the Work, whether or not the Work is fabricated, installed, or completed.
- B. If any Work is covered contrary to the written request of Engineer, then Contractor shall, if requested by Engineer, uncover such Work for Engineer's observation, and then replace the covering, all at Contractor's expense.
- C. If Engineer considers it necessary or advisable that covered Work be observed by Engineer or inspected or tested by others, then Contractor, at Engineer's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as Engineer may require,

that portion of the Work in question, and provide all necessary labor, material, and equipment.

1. If it is found that the uncovered Work is defective, Contractor shall be responsible for all claims, costs, losses, and damages arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); and pending Contractor's full discharge of this responsibility the Owner shall be entitled to impose a reasonable set-off against payments due under Article 15.
2. If the uncovered Work is not found to be defective, Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Times, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction. If the parties are unable to agree as to the amount or extent thereof, then Contractor may submit a Change Proposal within 30 days of the determination that the Work is not defective.

14.06 *Owner May Stop the Work*

- A. If the Work is defective, or Contractor fails to supply sufficient skilled workers or suitable materials or equipment, or fails to perform the Work in such a way that the completed Work will conform to the Contract Documents, then Owner may order Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of Owner to stop the Work will not give rise to any duty on the part of Owner to exercise this right for the benefit of Contractor, any Subcontractor, any Supplier, any other individual or entity, or any surety for, or employee or agent of any of them.

14.07 *Owner May Correct Defective Work*

- A. If Contractor fails within a reasonable time after written notice from Engineer to correct defective Work, or to remove and replace defective Work as required by Engineer, then Owner may, after 7 days' written notice to Contractor, correct or remedy any such deficiency.
- B. In exercising the rights and remedies under this Paragraph 14.07, Owner shall proceed expeditiously. In connection with such corrective or remedial action, Owner may exclude Contractor from all or part of the Site, take possession of all or part of the Work and suspend Contractor's services related thereto, and incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere. Contractor shall allow Owner, Owner's representatives, agents and employees, Owner's other contractors, and Engineer and Engineer's consultants access to the Site to enable Owner to exercise the rights and remedies under this paragraph.
- C. All claims, costs, losses, and damages incurred or sustained by Owner in exercising the rights and remedies under this Paragraph 14.07 will be charged against Contractor as set-offs against payments due under Article 15. Such claims, costs, losses and damages will include but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of Contractor's defective Work.
- D. Contractor shall not be allowed an extension of the Contract Times because of any delay in the performance of the Work attributable to the exercise by Owner of Owner's rights and remedies under this Paragraph 14.07.

ARTICLE 15—PAYMENTS TO CONTRACTOR; SET-OFFS; COMPLETION; CORRECTION PERIOD

15.01 *Progress Payments*

- A. *Basis for Progress Payments:* The Schedule of Values established as provided in Article 2 will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to Engineer. Progress payments for Unit Price Work will be based on the number of units completed during the pay period, as determined under the provisions of Paragraph 13.03. Progress payments for cost-based Work will be based on Cost of the Work completed by Contractor during the pay period.
- B. *Applications for Payments*
 - 1. At least 20 days before the date established in the Agreement for each progress payment (but not more often than once a month), Contractor shall submit to Engineer for review an Application for Payment filled out and signed by Contractor covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents.
 - 2. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment must also be accompanied by: (a) a bill of sale, invoice, copies of subcontract or purchase order payments, or other documentation establishing full payment by Contractor for the materials and equipment; (b) at Owner's request, documentation warranting that Owner has received the materials and equipment free and clear of all Liens; and (c) evidence that the materials and equipment are covered by appropriate property insurance, a warehouse bond, or other arrangements to protect Owner's interest therein, all of which must be satisfactory to Owner.
 - 3. Beginning with the second Application for Payment, each Application must include an affidavit of Contractor stating that all previous progress payments received by Contractor have been applied to discharge Contractor's legitimate obligations associated with prior Applications for Payment.
 - 4. The amount of retainage with respect to progress payments will be as stipulated in the Agreement.
- C. *Review of Applications*
 - 1. Engineer will, within 10 days after receipt of each Application for Payment, including each resubmittal, either indicate in writing a recommendation of payment and present the Application to Owner, or return the Application to Contractor indicating in writing Engineer's reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.
 - 2. Engineer's recommendation of any payment requested in an Application for Payment will constitute a representation by Engineer to Owner, based on Engineer's observations of the executed Work as an experienced and qualified design professional, and on Engineer's review of the Application for Payment and the accompanying data and schedules, that to the best of Engineer's knowledge, information and belief:
 - a. the Work has progressed to the point indicated;

- b. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, the results of any subsequent tests called for in the Contract Documents, a final determination of quantities and classifications for Unit Price Work under Paragraph 13.03, and any other qualifications stated in the recommendation); and
 - c. the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work.
- 3. By recommending any such payment Engineer will not thereby be deemed to have represented that:
 - a. inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in the Contract; or
 - b. there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by Owner or entitle Owner to withhold payment to Contractor.
- 4. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment, including final payment, will impose responsibility on Engineer:
 - a. to supervise, direct, or control the Work;
 - b. for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto;
 - c. for Contractor's failure to comply with Laws and Regulations applicable to Contractor's performance of the Work;
 - d. to make any examination to ascertain how or for what purposes Contractor has used the money paid by Owner; or
 - e. to determine that title to any of the Work, materials, or equipment has passed to Owner free and clear of any Liens.
- 5. Engineer may refuse to recommend the whole or any part of any payment if, in Engineer's opinion, it would be incorrect to make the representations to Owner stated in Paragraph 15.01.C.2.
- 6. Engineer will recommend reductions in payment (set-offs) necessary in Engineer's opinion to protect Owner from loss because:
 - a. the Work is defective, requiring correction or replacement;
 - b. the Contract Price has been reduced by Change Orders;
 - c. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;
 - d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible; or

- e. Engineer has actual knowledge of the occurrence of any of the events that would constitute a default by Contractor and therefore justify termination for cause under the Contract Documents.

D. *Payment Becomes Due*

- 1. Ten days after presentation of the Application for Payment to Owner with Engineer's recommendation, the amount recommended (subject to any Owner set-offs) will become due, and when due will be paid by Owner to Contractor.

E. *Reductions in Payment by Owner*

- 1. In addition to any reductions in payment (set-offs) recommended by Engineer, Owner is entitled to impose a set-off against payment based on any of the following:
 - a. Claims have been made against Owner based on Contractor's conduct in the performance or furnishing of the Work, or Owner has incurred costs, losses, or damages resulting from Contractor's conduct in the performance or furnishing of the Work, including but not limited to claims, costs, losses, or damages from workplace injuries, adjacent property damage, non-compliance with Laws and Regulations, and patent infringement;
 - b. Contractor has failed to take reasonable and customary measures to avoid damage, delay, disruption, and interference with other work at or adjacent to the Site;
 - c. Contractor has failed to provide and maintain required bonds or insurance;
 - d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible;
 - e. Owner has incurred extra charges or engineering costs related to submittal reviews, evaluations of proposed substitutes, tests and inspections, or return visits to manufacturing or assembly facilities;
 - f. The Work is defective, requiring correction or replacement;
 - g. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;
 - h. The Contract Price has been reduced by Change Orders;
 - i. An event has occurred that would constitute a default by Contractor and therefore justify a termination for cause;
 - j. Liquidated or other damages have accrued as a result of Contractor's failure to achieve Milestones, Substantial Completion, or final completion of the Work;
 - k. Liens have been filed in connection with the Work, except where Contractor has delivered a specific bond satisfactory to Owner to secure the satisfaction and discharge of such Liens; or
 - l. Other items entitle Owner to a set-off against the amount recommended.
- 2. If Owner imposes any set-off against payment, whether based on its own knowledge or on the written recommendations of Engineer, Owner will give Contractor immediate written notice (with a copy to Engineer) stating the reasons for such action and the specific amount of the reduction, and promptly pay Contractor any amount remaining

after deduction of the amount so withheld. Owner shall promptly pay Contractor the amount so withheld, or any adjustment thereto agreed to by Owner and Contractor, if Contractor remedies the reasons for such action. The reduction imposed will be binding on Contractor unless it duly submits a Change Proposal contesting the reduction.

3. Upon a subsequent determination that Owner's refusal of payment was not justified, the amount wrongfully withheld will be treated as an amount due as determined by Paragraph 15.01.D.1 and subject to interest as provided in the Agreement.

15.02 *Contractor's Warranty of Title*

- A. Contractor warrants and guarantees that title to all Work, materials, and equipment furnished under the Contract will pass to Owner free and clear of (1) all Liens and other title defects, and (2) all patent, licensing, copyright, or royalty obligations, no later than 7 days after the time of payment by Owner.

15.03 *Substantial Completion*

- A. When Contractor considers the entire Work ready for its intended use Contractor shall notify Owner and Engineer in writing that the entire Work is substantially complete and request that Engineer issue a certificate of Substantial Completion. Contractor shall at the same time submit to Owner and Engineer an initial draft of punch list items to be completed or corrected before final payment.
- B. Promptly after Contractor's notification, Owner, Contractor, and Engineer shall make an inspection of the Work to determine the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify Contractor in writing giving the reasons therefor.
- C. If Engineer considers the Work substantially complete, Engineer will deliver to Owner a preliminary certificate of Substantial Completion which will fix the date of Substantial Completion. Engineer shall attach to the certificate a punch list of items to be completed or corrected before final payment. Owner shall have 7 days after receipt of the preliminary certificate during which to make written objection to Engineer as to any provisions of the certificate or attached punch list. If, after considering the objections to the provisions of the preliminary certificate, Engineer concludes that the Work is not substantially complete, Engineer will, within 14 days after submission of the preliminary certificate to Owner, notify Contractor in writing that the Work is not substantially complete, stating the reasons therefor. If Owner does not object to the provisions of the certificate, or if despite consideration of Owner's objections Engineer concludes that the Work is substantially complete, then Engineer will, within said 14 days, execute and deliver to Owner and Contractor a final certificate of Substantial Completion (with a revised punch list of items to be completed or corrected) reflecting such changes from the preliminary certificate as Engineer believes justified after consideration of any objections from Owner.
- D. At the time of receipt of the preliminary certificate of Substantial Completion, Owner and Contractor will confer regarding Owner's use or occupancy of the Work following Substantial Completion, review the builder's risk insurance policy with respect to the end of the builder's risk coverage, and confirm the transition to coverage of the Work under a permanent property insurance policy held by Owner. Unless Owner and Contractor agree otherwise in writing, Owner shall bear responsibility for security, operation, protection of the Work,

property insurance, maintenance, heat, and utilities upon Owner's use or occupancy of the Work.

- E. After Substantial Completion the Contractor shall promptly begin work on the punch list of items to be completed or corrected prior to final payment. In appropriate cases Contractor may submit monthly Applications for Payment for completed punch list items, following the progress payment procedures set forth above.
- F. Owner shall have the right to exclude Contractor from the Site after the date of Substantial Completion subject to allowing Contractor reasonable access to remove its property and complete or correct items on the punch list.

15.04 *Partial Use or Occupancy*

- A. Prior to Substantial Completion of all the Work, Owner may use or occupy any substantially completed part of the Work which has specifically been identified in the Contract Documents, or which Owner, Engineer, and Contractor agree constitutes a separately functioning and usable part of the Work that can be used by Owner for its intended purpose without significant interference with Contractor's performance of the remainder of the Work, subject to the following conditions:
 - 1. At any time, Owner may request in writing that Contractor permit Owner to use or occupy any such part of the Work that Owner believes to be substantially complete. If and when Contractor agrees that such part of the Work is substantially complete, Contractor, Owner, and Engineer will follow the procedures of Paragraph 15.03.A through 15.03.E for that part of the Work.
 - 2. At any time, Contractor may notify Owner and Engineer in writing that Contractor considers any such part of the Work substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work.
 - 3. Within a reasonable time after either such request, Owner, Contractor, and Engineer shall make an inspection of that part of the Work to determine its status of completion. If Engineer does not consider that part of the Work to be substantially complete, Engineer will notify Owner and Contractor in writing giving the reasons therefor. If Engineer considers that part of the Work to be substantially complete, the provisions of Paragraph 15.03 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.
 - 4. No use or occupancy or separate operation of part of the Work may occur prior to compliance with the requirements of Paragraph 6.04 regarding builder's risk or other property insurance.

15.05 *Final Inspection*

- A. Upon written notice from Contractor that the entire Work or an agreed portion thereof is complete, Engineer will promptly make a final inspection with Owner and Contractor and will notify Contractor in writing of all particulars in which this inspection reveals that the Work, or agreed portion thereof, is incomplete or defective. Contractor shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.

15.06 *Final Payment*

A. *Application for Payment*

1. After Contractor has, in the opinion of Engineer, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of inspection, annotated record documents (as provided in Paragraph 7.12), and other documents, Contractor may make application for final payment.
 2. The final Application for Payment must be accompanied (except as previously delivered) by:
 - a. all documentation called for in the Contract Documents;
 - b. consent of the surety, if any, to final payment;
 - c. satisfactory evidence that all title issues have been resolved such that title to all Work, materials, and equipment has passed to Owner free and clear of any Liens or other title defects, or will so pass upon final payment.
 - d. a list of all duly pending Change Proposals and Claims; and
 - e. complete and legally effective releases or waivers (satisfactory to Owner) of all Lien rights arising out of the Work, and of Liens filed in connection with the Work.
 3. In lieu of the releases or waivers of Liens specified in Paragraph 15.06.A.2 and as approved by Owner, Contractor may furnish receipts or releases in full and an affidavit of Contractor that: (a) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (b) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which Owner might in any way be responsible, or which might in any way result in liens or other burdens on Owner's property, have been paid or otherwise satisfied. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, Contractor may furnish a bond or other collateral satisfactory to Owner to indemnify Owner against any Lien, or Owner at its option may issue joint checks payable to Contractor and specified Subcontractors and Suppliers.
- B. *Engineer's Review of Final Application and Recommendation of Payment:* If, on the basis of Engineer's observation of the Work during construction and final inspection, and Engineer's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, Engineer is satisfied that the Work has been completed and Contractor's other obligations under the Contract have been fulfilled, Engineer will, within 10 days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of final payment and present the final Application for Payment to Owner for payment. Such recommendation will account for any set-offs against payment that are necessary in Engineer's opinion to protect Owner from loss for the reasons stated above with respect to progress payments. Otherwise, Engineer will return the Application for Payment to Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case Contractor shall make the necessary corrections and resubmit the Application for Payment.

- C. *Notice of Acceptability*: In support of its recommendation of payment of the final Application for Payment, Engineer will also give written notice to Owner and Contractor that the Work is acceptable, subject to stated limitations in the notice and to the provisions of Paragraph 15.07.
- D. *Completion of Work*: The Work is complete (subject to surviving obligations) when it is ready for final payment as established by the Engineer's written recommendation of final payment and issuance of notice of the acceptability of the Work.
- E. *Final Payment Becomes Due*: Upon receipt from Engineer of the final Application for Payment and accompanying documentation, Owner shall set off against the amount recommended by Engineer for final payment any further sum to which Owner is entitled, including but not limited to set-offs for liquidated damages and set-offs allowed under the provisions of this Contract with respect to progress payments. Owner shall pay the resulting balance due to Contractor within 30 days of Owner's receipt of the final Application for Payment from Engineer.

15.07 *Waiver of Claims*

- A. By making final payment, Owner waives its claim or right to liquidated damages or other damages for late completion by Contractor, except as set forth in an outstanding Claim, appeal under the provisions of Article 17, set-off, or express reservation of rights by Owner. Owner reserves all other claims or rights after final payment.
- B. The acceptance of final payment by Contractor will constitute a waiver by Contractor of all claims and rights against Owner other than those pending matters that have been duly submitted as a Claim, or appealed under the provisions of Article 17.

15.08 *Correction Period*

- A. If within one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the Supplementary Conditions or the terms of any applicable special guarantee required by the Contract Documents), Owner gives Contractor written notice that any Work has been found to be defective, or that Contractor's repair of any damages to the Site or adjacent areas has been found to be defective, then after receipt of such notice of defect Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:
 - 1. correct the defective repairs to the Site or such adjacent areas;
 - 2. correct such defective Work;
 - 3. remove the defective Work from the Project and replace it with Work that is not defective, if the defective Work has been rejected by Owner, and
 - 4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others, or to other land or areas resulting from the corrective measures.
- B. Owner shall give any such notice of defect within 60 days of the discovery that such Work or repairs is defective. If such notice is given within such 60 days but after the end of the correction period, the notice will be deemed a notice of defective Work under Paragraph 7.17.B.

- C. If, after receipt of a notice of defect within 60 days and within the correction period, Contractor does not promptly comply with the terms of Owner's written instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. Contractor shall pay all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others). Contractor's failure to pay such costs, losses, and damages within 10 days of invoice from Owner will be deemed the start of an event giving rise to a Claim under Paragraph 12.01.B, such that any related Claim must be brought within 30 days of the failure to pay.
- D. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications.
- E. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this paragraph, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.
- F. Contractor's obligations under this paragraph are in addition to all other obligations and warranties. The provisions of this paragraph are not to be construed as a substitute for, or a waiver of, the provisions of any applicable statute of limitation or repose.

ARTICLE 16—SUSPENSION OF WORK AND TERMINATION

16.01 *Owner May Suspend Work*

- A. At any time and without cause, Owner may suspend the Work or any portion thereof for a period of not more than 90 consecutive days by written notice to Contractor and Engineer. Such notice will fix the date on which Work will be resumed. Contractor shall resume the Work on the date so fixed. Contractor shall be entitled to an adjustment in the Contract Price or an extension of the Contract Times directly attributable to any such suspension. Any Change Proposal seeking such adjustments must be submitted no later than 30 days after the date fixed for resumption of Work.

16.02 *Owner May Terminate for Cause*

- A. The occurrence of any one or more of the following events will constitute a default by Contractor and justify termination for cause:
 - 1. Contractor's persistent failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment, or failure to adhere to the Progress Schedule);
 - 2. Failure of Contractor to perform or otherwise to comply with a material term of the Contract Documents;
 - 3. Contractor's disregard of Laws or Regulations of any public body having jurisdiction; or
 - 4. Contractor's repeated disregard of the authority of Owner or Engineer.

- B. If one or more of the events identified in Paragraph 16.02.A occurs, then after giving Contractor (and any surety) 10 days' written notice that Owner is considering a declaration that Contractor is in default and termination of the Contract, Owner may proceed to:
 - 1. declare Contractor to be in default, and give Contractor (and any surety) written notice that the Contract is terminated; and
 - 2. enforce the rights available to Owner under any applicable performance bond.
- C. Subject to the terms and operation of any applicable performance bond, if Owner has terminated the Contract for cause, Owner may exclude Contractor from the Site, take possession of the Work, incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere, and complete the Work as Owner may deem expedient.
- D. Owner may not proceed with termination of the Contract under Paragraph 16.02.B if Contractor within 7 days of receipt of notice of intent to terminate begins to correct its failure to perform and proceeds diligently to cure such failure.
- E. If Owner proceeds as provided in Paragraph 16.02.B, Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price exceeds the cost to complete the Work, including all related claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals) sustained by Owner, such excess will be paid to Contractor. If the cost to complete the Work including such related claims, costs, losses, and damages exceeds such unpaid balance, Contractor shall pay the difference to Owner. Such claims, costs, losses, and damages incurred by Owner will be reviewed by Engineer as to their reasonableness and, when so approved by Engineer, incorporated in a Change Order. When exercising any rights or remedies under this paragraph, Owner shall not be required to obtain the lowest price for the Work performed.
- F. Where Contractor's services have been so terminated by Owner, the termination will not affect any rights or remedies of Owner against Contractor then existing or which may thereafter accrue, or any rights or remedies of Owner against Contractor or any surety under any payment bond or performance bond. Any retention or payment of money due Contractor by Owner will not release Contractor from liability.
- G. If and to the extent that Contractor has provided a performance bond under the provisions of Paragraph 6.01.A, the provisions of that bond will govern over any inconsistent provisions of Paragraphs 16.02.B and 16.02.D.

16.03 *Owner May Terminate for Convenience*

- A. Upon 7 days' written notice to Contractor and Engineer, Owner may, without cause and without prejudice to any other right or remedy of Owner, terminate the Contract. In such case, Contractor shall be paid for (without duplication of any items):
 - 1. completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Work;
 - 2. expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in

connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses; and

3. other reasonable expenses directly attributable to termination, including costs incurred to prepare a termination for convenience cost proposal.
- B. Contractor shall not be paid for any loss of anticipated profits or revenue, post-termination overhead costs, or other economic loss arising out of or resulting from such termination.

16.04 Contractor May Stop Work or Terminate

- A. If, through no act or fault of Contractor, (1) the Work is suspended for more than 90 consecutive days by Owner or under an order of court or other public authority, or (2) Engineer fails to act on any Application for Payment within 30 days after it is submitted, or (3) Owner fails for 30 days to pay Contractor any sum finally determined to be due, then Contractor may, upon 7 days' written notice to Owner and Engineer, and provided Owner or Engineer do not remedy such suspension or failure within that time, terminate the contract and recover from Owner payment on the same terms as provided in Paragraph 16.03.
- B. In lieu of terminating the Contract and without prejudice to any other right or remedy, if Engineer has failed to act on an Application for Payment within 30 days after it is submitted, or Owner has failed for 30 days to pay Contractor any sum finally determined to be due, Contractor may, 7 days after written notice to Owner and Engineer, stop the Work until payment is made of all such amounts due Contractor, including interest thereon. The provisions of this paragraph are not intended to preclude Contractor from submitting a Change Proposal for an adjustment in Contract Price or Contract Times or otherwise for expenses or damage directly attributable to Contractor's stopping the Work as permitted by this paragraph.

ARTICLE 17—FINAL RESOLUTION OF DISPUTES

17.01 Methods and Procedures

- A. *Disputes Subject to Final Resolution:* The following disputed matters are subject to final resolution under the provisions of this article:
1. A timely appeal of an approval in part and denial in part of a Claim, or of a denial in full, pursuant to Article 12; and
 2. Disputes between Owner and Contractor concerning the Work, or obligations under the Contract Documents, that arise after final payment has been made.
- B. *Final Resolution of Disputes:* For any dispute subject to resolution under this article, Owner or Contractor may:
1. elect in writing to invoke the dispute resolution process provided for in the Supplementary Conditions;
 2. agree with the other party to submit the dispute to another dispute resolution process; or
 3. if no dispute resolution process is provided for in the Supplementary Conditions or mutually agreed to, give written notice to the other party of the intent to submit the dispute to a court of competent jurisdiction.

ARTICLE 18—MISCELLANEOUS

18.01 *Giving Notice*

- A. Whenever any provision of the Contract requires the giving of written notice to Owner, Engineer, or Contractor, it will be deemed to have been validly given only if delivered:
 - 1. in person, by a commercial courier service or otherwise, to the recipient's place of business;
 - 2. by registered or certified mail, postage prepaid, to the recipient's place of business; or
 - 3. by e-mail to the recipient, with the words "Formal Notice" or similar in the e-mail's subject line.

18.02 *Computation of Times*

- A. When any period of time is referred to in the Contract by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day will be omitted from the computation.

18.03 *Cumulative Remedies*

- A. The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee, or by other provisions of the Contract. The provisions of this paragraph will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right, and remedy to which they apply.

18.04 *Limitation of Damages*

- A. With respect to any and all Change Proposals, Claims, disputes subject to final resolution, and other matters at issue, neither Owner nor Engineer, nor any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, shall be liable to Contractor for any claims, costs, losses, or damages sustained by Contractor on or in connection with any other project or anticipated project.

18.05 *No Waiver*

- A. A party's non-enforcement of any provision will not constitute a waiver of that provision, nor will it affect the enforceability of that provision or of the remainder of this Contract.

18.06 *Survival of Obligations*

- A. All representations, indemnifications, warranties, and guarantees made in, required by, or given in accordance with the Contract, as well as all continuing obligations indicated in the Contract, will survive final payment, completion, and acceptance of the Work or termination of the Contract or of the services of Contractor.

18.07 *Controlling Law*

- A. This Contract is to be governed by the law of the state in which the Project is located.

18.08 *Assignment of Contract*

- A. Unless expressly agreed to elsewhere in the Contract, no assignment by a party to this Contract of any rights under or interests in the Contract will be binding on the other party without the written consent of the party sought to be bound; and, specifically but without limitation, money that may become due and money that is due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract.

18.09 *Successors and Assigns*

- A. Owner and Contractor each binds itself, its successors, assigns, and legal representatives to the other party hereto, its successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

18.10 *Headings*

- A. Article and paragraph headings are inserted for convenience only and do not constitute parts of these General Conditions.

Section 00800

SUPPLEMENTARY CONDITIONS CITY OF COLUSA 2026 WILL S. GREEN AVENUE PUMP STATION PROJECT IN THE CITY OF COLUSA, CALIFORNIA

CITY PROJECT NO. 2026-020

These Supplementary Conditions amend or supplement the General Conditions, Section 00700. All provisions which are not so amended or supplemented remain in full force and effect.

The terms used in these Supplementary Conditions will have the meanings indicated in the General Conditions. Additional terms used in these Supplementary Conditions have the meanings indicated below, which are applicable to both the singular and plural thereof.

ARTICLE 1 – DEFINITIONS AND TERMINOLOGY

SC-1.01.A.4 Delete paragraph 1.01.A.4 and insert the following in lieu thereof:

4. *Bidder*-- Any individual, partnership, corporation, joint venture, or other combination thereof who submits a Bid to Owner for the Work contemplated, acting directly or through an authorized representative. As used in the Contract Documents, masculine pronouns refer to both masculine and feminine genders.

SC-1.01.A.16 Delete paragraph 1.01.A.16 and insert the following in lieu thereof:

16. *Contractor*--Person or entity identified as such in the Agreement and the Contractor's authorized representatives who are referred to throughout the Contract Documents as if singular in number.

SC-1.01.A.22 Delete paragraph 1.01.A.22 and insert the following in lieu thereof:

22. *Engineer*--Person or entity identified as such in the Agreement and the Engineer's authorized representatives who are referred to throughout the Contract Documents as if singular in number. Resident Engineer is included in the definition of Engineer.

SC-1.01.A.30 Delete paragraph 1.01.A.30 and insert the following in lieu thereof:

30. *Owner*--The individual, entity, public body or authority identified as such in the Agreement and the Owner's authorized representatives who are referred to throughout the Contract Documents as if singular in number.

SC-1.01.A.51 Add the following paragraph immediately after paragraph 1.01.A.50:

51. *Award*--The formal acceptance of the Bid by Owner.

SC-1.01.A.52 Add the following paragraph immediately after paragraph 1.01.A.51:

52. *Bid Guarantee (Bid Bond)*--The security furnished with a Bid to guarantee that the Bidder will enter into the Contract if Bidder's Bid is accepted by Owner.

SC-1.01.A.53 Add the following paragraph immediately after paragraph 1.01.A.52

53. *Construction Manager*--Person or entity designated by the Owner to provide construction management services for the Project with the administrative duties and responsibilities of the Engineer, excluding duties and responsibilities involving the exercise of professional engineering judgment, unless stipulated otherwise.

SC-1.01.A.54 Add the following paragraph immediately after paragraph 1.01.A.53:

54. *Design Engineer* – NEXGEN UTILITY MANAGEMENT.

SC-1.01.A.55 Add the following paragraph immediately after paragraph 1.01.A.54:

55. *Equipment--(Construction)*--All machinery and equipment, together with the necessary supplies for upkeep and maintenance, including tools and apparatus necessary for the proper construction and acceptable completion of the Work contemplated. (Installation)--All material or articles used in equipping a facility or apparatus required to fulfill a functional design.

SC-1.01.A.56 Add the following paragraph immediately after paragraph 1.01.A.55:

56. *Execution*--Field or site performance, workmanship, installation, erection, application, field fabrication, quality control, and protection of installed products on the site.

SC-1.01.A.57 Add the following paragraph immediately after paragraph 1.01.A.56:

57. *Materials*--All materials incorporated into the Project, including equipment and all other materials consumed or to be consumed in the performance of the Work contemplated.

SC-1.01.A.58 Add the following paragraph immediately after paragraph 1.01.A.57:

58. *Product Data*--Type of Shop Drawing comprised of standard illustrations, schedules, performance charts, instructions, brochures, diagrams, catalog cuts, and other information assembled by or for the Contractor and submitted by the Contractor to illustrate materials or equipment for some portion of the Work.

SC-1.01.A.59 Add the following paragraph immediately after paragraph 1.01.A.58:

59. *Products*--Materials, equipment, systems, shop fabrications, mixtures, and source controls.

SC-1.01.A.60 Add the following paragraph immediately after paragraph 1.01.A.59:

60. *Utility*--Any public or private fixed works for the transportation of fluids, gases, electricity, signals, or communications.

SC-1.01.A.61 Add the following paragraph immediately after paragraph 1.01.A.60:

61. *Weather Day*—A day in which weather conditions prevent work on critical activities for more than seventy-five percent (75%) of the Contractor's scheduled workday.

ARTICLE 2 - PRELIMINARY MATTERS

SC-2.02.A Delete paragraph 2.02.A. and insert the following in lieu thereof:

A. Copies of the contract documents can be obtained on – <http://www.ciplist.com/>

SC-2.03A *Before Starting Construction*: Add the following to paragraph 2.03.A:

4. A preliminary schedule of payments showing projected cash flow.

SC-2.04.A *Preconstruction Conference*: Delete paragraph 2.04A and insert the following in lieu thereof:

A. Within 20 days after the Contract Time starts to run, but before any Work at the site is started, a conference attended by Contractor, Engineer, Subcontractors, and others as appropriate will be held to establish a working understanding among the parties as to the Work and to discuss the schedules referred to in paragraph 2.03.A, procedures for handling Shop Drawings, Samples and other submittals, processing Applications for Payment, electronic or digital transmittals, and maintaining required records.

SC-2.05.A *Initial Acceptance of Schedules*: Delete paragraph 2.05.A.3 and insert the following paragraphs in lieu thereof:

3. Contractor's schedule of payments will be acceptable if it provides a reasonable projection of payments in relationship to the progress schedule and schedule of values.

ARTICLE 3 – DOCUMENTS: INTENT, REQUIREMENTS, REUSE

No modifications.

ARTICLE 4 – COMMENCEMENT AND PROGRESS OF THE WORK

SC-4.01.A *Commencement of Contract Times; Notice to Proceed:* Delete the following paragraph 4.01.A and insert the following in lieu thereof:

After notification of award and prior to start of any work, the CONTRACTOR shall submit its proposed construction schedule to the Engineer for approval. The construction schedule shall be in the form of a tabulation, chart, or graph and shall be in sufficient detail to show chronological relationship of all activities of the project. These include, but are not limited to: estimated starting and completion dates of various activities, submittal of shop drawings to the Engineer for approval, procurement of materials and scheduling of equipment. The construction schedule shall recognize the requirements of 4.05 and reflect completion of all work under the Contract within the specified time and in accordance with the Specifications.

Unless otherwise provided, the Contract time shall commence upon the date of issuance of a notice to proceed. The Work shall start within 15 days thereafter, and be diligently prosecuted to completion within the time provided in the Specifications.

If the CONTRACTOR desires to make a major change in the method of operations after commencing construction, or if the schedule fails to reflect the actual progress, the CONTRACTOR shall submit to the Engineer a revised construction schedule in advance of beginning revised operations.

ARTICLE 5- AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS

SC-5.01.D *Availability of Lands:* Add the following paragraph 5.01.D:

D. Any Work performed in public rights-of-way, in addition to conforming to the Contract Documents, shall be done in accordance with the requirements of the permit issued by the public agency in whose right-of-way the Work is located.

SC-5.05 *Underground Facilities,* Delete paragraph B and insert the following paragraphs in lieu thereof:

B. *General:* The location of known existing Underground Facilities are shown on the drawings in their approximate locations. However, nothing herein shall be deemed to require the Owner to indicate the presence of existing Underground Facilities including service connections or appurtenances whenever the presence of such utilities on the site of the Project can be inferred from the presence of other visible facilities, such as buildings, meter and junction boxes, on or adjacent to the site of the construction.

1. As between the Owner and the Contractor, the Owner will assume the responsibility for the timely removal, relocation, or protection of Underground Facilities located on the construction site if such facilities are not identified in the Contract Documents.

2. *Utility Location:* It shall be the Contractor's responsibility to determine the exact location and depth of all Underground Facilities, including service connections, which have been marked by the respective utility agency

and that the Contractor believes may affect or be affected by the Contractor's operations. If in the course of performing the Work the Contractor discovers utility facilities not identified in the Contract Documents, Contractor shall immediately notify the Owner and the utility in writing.

3. The Contractor shall not be entitled to additional compensation or time extensions for work necessary to avoid interferences or for repair to damaged utilities if the Contractor does not expose all such existing utilities as required by this Contract. If a utility is exposed and is damaged by the Contractor, the Contractor is still liable for the repair.

5. Pursuant to Government Code Section 4216 the Contractor shall contact the appropriate regional notification center at least two (2) working days before performing any excavation. The Contractor shall request that the utility owner conduct a utility survey and mark or otherwise indicate the location of their service.

a. After the utility survey is completed, the Contractor shall commence "potholing" or hand digging to determine the actual location of the pipe, duct, or conduit. The Engineer shall be given notice prior to commencing potholing operations. The Contractor shall uncover all piping and conduits, to a point one (1) foot below the pipe, where crossings, interferences, or connections are shown on the Drawings, prior to trenching or excavating for any pipe or structures, to determine actual elevations. New pipelines shall be laid to such grade as to clear all existing facilities that are to remain in service for any period subsequent to the construction of the run of pipe involved.

6. *Utility Relocation and Repair.* If interferences occur at locations other than those indicated in the Contract Documents with reasonable accuracy, the Contractor shall notify the Engineer in writing. The Engineer will supply a method for correcting said interferences in accordance with the responsibilities of this section and Government Code Section 4215.

7. The Owner shall compensate the Contractor for the costs of locating and repairing damage not due to the failure of the Contractor to exercise reasonable care, and for removing or relocating such Underground Facilities not indicated in the Contract Documents with reasonable accuracy, and for the cost of equipment on the Project necessarily idled during such work. The payment for such costs will be made as provided in Article 11 and 12 of the General Conditions. The Contractor shall not be assessed liquidated damages for delay in completion of the Project, when such delay is caused by the failure of the Owner or utility company to provide for removal or relocation of such utility facilities. Requests for extensions of time arising out of utility relocation or repair delays shall be filed in accordance with Article 8, 11 and 12 of the General Conditions.

8. The public utility, where it is the owner of the affected utility, shall have the sole discretion to perform repairs or relocation work or permit the Contractor to do such repairs or relocation work at a reasonable price. The right is reserved to the Owner and the owners of utilities or their authorized agents to enter upon the Work area for the purpose of making such changes as are

necessary for the rearrangement of their facilities or for making necessary connections or repairs to their properties. The Contractor shall cooperate with forces engaged in such work and shall conduct its operations in such a manner as to avoid any unnecessary delay or hindrance to the work being performed by such forces and shall allow the respective utilities time to relocate their facility.

9. When the Contract Documents indicate that a utility is to be relocated, altered or constructed by others, the Owner will conduct all negotiations with the utility company and the work will be done at no cost to the Contractor, unless otherwise stipulated in the Contract.

10. Temporary or permanent relocation or alteration of utilities desired by the Contractor for its own convenience shall be the Contractor's responsibility and it shall make arrangements and bear all costs for such work.

11. All information relative to Underground Facilities, including but not limited to depth, size, material, location, etc., shall be recorded and incorporated into the record documents required by paragraph 6.12.

SC-5.06.A *Hazardous Environmental Conditions at Site*: Delete paragraph 5.06.A and insert the following in lieu thereof:

A. *Reports and Drawings*:

1. No reports of exploration and tests of hazardous environmental conditions at or contiguous to the site have been used by Design Engineer in preparing the Contract Documents.

2. No drawings of hazardous environmental conditions at or contiguous to the site have been used by Design Engineer in preparing the Contract Documents.

ARTICLE 6 - BONDS AND INSURANCE

SC-6.01 *Performance, Payment, and Other Bonds*: Delete paragraph C and insert the following paragraphs in lieu thereof:

C. All bonds shall be in the form prescribed by the Contract except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (as amended and supplemented) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. Bonds shall be issued by corporate sureties listed in the current U.S. Department of Treasury's Circular 570 and be authorized to transact surety business in California. A bond signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual's authority to bind the surety. The evidence of authority shall show that it is effective on the date the agent or attorney-in-fact signed the accompanying bond.

SC-6.02 *Insurance—General Provisions*: Delete paragraph B and insert the following paragraphs in lieu thereof:

- A. All insurance required by the Contract to be purchased and maintained by Owner or Contractor shall be obtained from insurance companies that are duly licensed or authorized, in the state or jurisdiction in which the Project is located, to issue insurance policies for the required limits and coverages. All companies that provide insurance policies required under this Contract shall be licensed to do business in California with a Best's rating of A-VII or better.

Add the following paragraph immediately after paragraph 6.02.C:

- D. Deliver all certificates of insurance required by the Contract Documents to Owner with executed Agreement.

SC-6.03 *Contractor's Insurance*: Add the following paragraph immediately after paragraph 6.03.C:

- D. Contractor shall procure and maintain for the duration of the Contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Work hereunder by the Contractor, his agents, representatives, employees or subcontractors.

- E. *Minimum Scope of Insurance*. Coverage shall be at least as broad as:

- 1. Insurance Services Office Commercial General Liability coverage (occurrence Form CG 001).
- 2. Insurance Services Office Form (G0009 11 88 Owners and Contractors Protective Liability Coverage Form – Coverage for Operations of Designated Contractor).
- 3. Insurance Services Office Form Number CA 0001 covering Automobile Liability, Code 1 (any auto).
- 4. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.
- 5. Course of Construction insurance covering all risks of loss less policy exclusions.

- F. *Minimum Limits of Insurance*. Contractor shall maintain limits no less than:

- 1. General Liability: \$2,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

2. Automobile Liability: \$2,000,000 per accident for bodily injury and property damage.
3. Employer's Liability: \$2,000,000 per accident for bodily injury or disease.
4. Course of Construction: Completed value of the project with no coinsurance penalty provisions.

G. *Deductibles and Self-Insured Retentions.* Any deductibles or self-insured retentions must be declared to and approved by the Owner. At the option of the Owner, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the Owner, its officers, officials, employees and volunteers; or the Contractor shall provide a financial guarantee satisfactory to the Owner guaranteeing payment of losses and related investigations, claim administration and defense expenses.

H. *Other Insurance Provisions.* The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. The Owner, its officers, officials, employees, and volunteers are to be covered as additional insureds with respect to liability arising out of automobiles owned, leased, hired, or borrowed by or on behalf of the Contractor; and with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance, or as a separate owner's policy.

2. For any claims related to this project, the Contractor's insurance coverage shall be primary insurance as respects the Owner, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the Owner, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

3. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either party, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the Owner.

4. Coverage shall not be extended to any indemnity coverage for active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code.

5. Contractor's workers compensation policy shall be endorsed with a waiver by the insurer of all rights of subrogation against the Owner, Engineer, Engineer's consultants, and their respective officers, directors, partners, employees and agents.

I. Contractor's Liability Insurance policies including Course of Construction insurance shall contain the following provisions:

1. The Owner shall be named as loss payee for the Course of construction.

2. The insurer shall waive all rights of subrogation against the Owner, Engineer, Engineer's Consultants, and their respective officers, directors, partners, employees, and agents.

J. *Verification of Coverage.* Contractor shall furnish the Owner with original certificates and amendatory endorsements effecting coverage required by this clause. The endorsements should be on forms provided by the Owner or on other than the Owner's forms, provided those endorsements or policies conform to the requirements. All certificates and endorsements are to be received and approved by the Owner before Work commences. The Owner reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications at any time.

K. *Subcontractors.* Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor to the Owner for review and approval. All coverages for subcontractors shall be subject to all of the requirements stated herein or otherwise acceptable to the Owner. Any subcontractor listed in the Bid by the Contractor shall have a minimum of \$1,000,000 General Liability Insurance.

SC-6.05 *Property Losses; Subrogation:* Delete paragraph 6.05 in its entirety.

ARTICLE 7 – CONTRACTOR'S RESPONSIBILITIES

SC-7.02.C *Labor; Working Hours:* Add the following subparagraphs immediately after paragraph 7.02.C:

1. No Work shall be done between 5:00 p.m. and 7:00 a.m. without prior written permission of Owner.

SC-7.04 *Services, Materials, and Equipment:* Add the following paragraphs immediately after paragraph 7.04.C

D. Until Substantial Completion of the Work is acknowledged by Owner, Contractor shall have the responsible charge and care of the Work and of materials to be used herein, including materials for which Contractor has received partial payment or materials which have been furnished by Owner, and shall bear the risk of injury, loss, or damage to any part thereof by the action of the elements or from any other cause, whether arising from the execution or from the nonexecution of the Work.

E. Contractor shall rebuild, repair, restore, and make good all injuries, losses, or damages to any portion of the Work or the materials occasioned by any cause before the Work's completion and acceptance and shall bear the

expense thereof. Where necessary to protect the Work or materials from damage, Contractor shall, at Contractor's own expense, provide suitable drainage and erect such temporary structures or rent such structures as are necessary to protect the Work or materials from damage. The suspension of the Work or the granting of an extension of time from any cause whatever shall not relieve Contractor of Contractor's responsibility for the Work and materials as specified herein.

F. When the quality of a material, process, or article is not specifically set forth in the Contract Documents, the best available quality of the material, process, or article shall be provided.

SC-7.08B. Patent Fees and Royalties: Delete Paragraph B in its Entirety.

SC-7.09A *Permits*: Add the following paragraph immediately after paragraph 7.09A.

B. The following are a list of permits that are on file with the Owner. Although the Owner is the applicant, the terms and conditions within these permits are the responsibility of the Contractor. The permits listed below should be reviewed by the Contractor to ensure all conditions and binding responsibilities are met:

1. National Pollution Discharge Elimination System (NPDES) No. CA0078999.

SC-7.11 *Laws and Regulations*: Delete the first sentence of paragraph 7.11.A and insert the following in lieu thereof:

A. Contractor shall give all notices and comply with all Laws and Regulations applicable to furnishing and performance of the Work and shall cause all Contractor's agents, employees, Subcontractors, and Suppliers to observe and comply with all such laws, ordinances, and regulations.

SC-7.13 *Safety and Protection*: Add the following paragraphs immediately after paragraph 7.13.E:

F. Contractor shall prepare, implement, and maintain a written safety and health program or plan in accordance with Specification Section 01330 – SAFETY PLAN.

G. Contractor shall make reasonable efforts to detect and abate any violations of safety standards of which Contractor is aware and to which Contractor's employees are exposed, despite the fact that Contractor did not commit the violation.

SC-7.18.A *Indemnification*: Delete and replace with the following:

A. To the fullest extent allowed by law, the Contractor shall defend, indemnify, and hold harmless the Owner, its elected and appointed officials, agents, and employees, Engineer and its subconsultants, officers, directors, and employees (collectively, the Indemnified Parties), from all liability, penalties, costs, losses, damages, expenses,

caused of action, claims, and judgments, including attorney’s fees and other defense costs, resulting from injury to or death sustained by any person (including Contractor’s employees), or damage to property of any kind, or any other damage whatsoever, which injury, death, or damage arises out of or related to the performance of the Work, without regard to Contractor’s negligence or fault, including any of the same resulting from the alleged or actual negligent act or omission of the Indemnified Parties, except the obligation to indemnify shall not be applicable to injury, death, or damage to property arising from the sole or active negligence or willful misconduct of the Indemnified Parties. This indemnification shall extend to all claims asserted after termination of this Contract for whatever reason.

B. Contractor’s duty to indemnify and save harmless shall include the duty to defend as set forth in California Civil Code Section 2778; provided, that nothing herein contained shall be construed to require Contractor to indemnify Indemnities against any responsibility or liability in contravention of California Civil Code Section 2782.

ARTICLE 8 - OTHER WORK AT THE SITE

No modifications.

ARTICLE 9 - OWNER’S RESPONSIBILITIES

SC-9.07 *Change Orders:* Delete paragraph in its entirety.

ARTICLE 10 - ENGINEER’S STATUS DURING CONSTRUCTION

No modifications.

ARTICLE 11 – AMENDING THE CONTRACT DOCUMENTS; CHANGES IN THE WORK

SC-11.02.A.3 *Change Orders:* Delete paragraph in its entirety.

ARTICLE 12 - CLAIMS

No modifications

ARTICLE 13 - COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK

SC-13.01.B.4 *Cost of Work:* Delete “attorneys, and accountants” from paragraph.

SC-13.01.B.5.a *Cost of Work*: Delete subparagraph in its entirety.

SC-13.01.B.5.f *Cost of Work*: Delete subparagraph in its entirety.

SC-13.03.E.1.a *Unit Price Work*: Delete paragraph 13.03.E.1.a and insert the following in lieu thereof:

a. the quantity of any item of Unit Price Work performed by Contractor differs materially by more than 25% from the estimated quantity of such item indicated in the Agreement; and

ARTICLE 14 - TESTS AND INSPECTIONS; CORRECTION, REMOVAL, OR ACCEPTANCE OF DEFECTIVE WORK

SC 14.02.D *Tests, Inspections and Approvals*: Add the following new paragraph immediately after paragraph 14.02.D.5:

6. by Owner due to retesting, reinspection, or standby time due to unacceptable materials, or workmanship provided by the Contractor, or due to poor scheduling by the Contractor of tests of inspections, will be deducted from the payments to the Contractor. Contractor shall stop work at no additional cost to Owner as necessary to allow for inspections and tests by Owner and Engineer.

SC-14.02.F *Tests, Inspections and Approvals*: Add the following new paragraph immediately after paragraph 14.02.F:

G. The Owner intends to provide inspection for the project.

ARTICLE 15 - PAYMENTS TO CONTRACTOR; SET-OFFS; COMPLETION; CORRECTION PERIOD

SC-15.01.B *Application for Payments*: Add the following subparagraphs at the end of 15.01.B.1:

a. payments for stored materials and equipment on-site shall be based only upon the actual cost of the materials and equipment to Contractor and shall not include any overhead or profit to Contractor. Partial payments will not be made for undelivered materials or equipment.

b. schedules and data: During the progress of the Work, each Application for Payment shall be accompanied by Contractor's updated schedule of operations, or progress report, with such shop drawings schedules, procurement schedules, value of material on hand included in application, and other data specified or reasonably required by Engineer.

c. payment for material delivered to the work site will be based on the vendors' paid invoices or the bill of lading showing date of delivery and the work site where the delivery took place, a copy of which shall be furnished by Contractor to Engineer with each request for progress payment. Only those materials that have been incorporated into the Project or are stored on site may be included in the progress payment as material stored.

ARTICLE 16 - SUSPENSION OF WORK AND TERMINATION

SC-16.02 *Owner May Terminate for Cause*: Delete paragraphs 16.02.A,B and E and insert the following in lieu thereof:

A. If Contractor refuses or fails to prosecute the Work or any separable part thereof with such diligence as will ensure the completion of the Work within the Contract Times, or any extension thereof, or fails or refuses to complete such Work within such extension, or if Contractor should be adjudged bankrupt, or if Contractor should make assignment for the benefit of Contractor's creditors, or if Contractor files a petition to take advantage of any debtor's act, or if a receiver should be appointed on account of Contractor's insolvency, or if Contractor or any Subcontractor should violate any provision of the Contract, or if Contractor should refuse or should fail to supply enough properly skilled workmen or proper materials to complete the Work in the time specified, or if Contractor should fail to make prompt payment to Subcontractors or for materials or labor, or if Contractor should disregard laws, ordinances, or instructions given by Owner or Engineer, or disregard in any substantial way any provisions of the Contract Documents; Owner may without prejudice to any other right or remedy, serve written notice upon Contractor and Contractor's surety of Owner's intention to terminate the Contract. Such notice will contain the reasons for Owner's intention to terminate the Contract and unless such violations shall cease and satisfactory arrangements for the corrections thereof have been accepted by Owner in writing within 10 days after the service of such notice, the Contract shall upon the expiration of said 10 days cease and terminate. In the event of such termination, the Owner shall immediately serve written notice upon the Surety and Contractor, and Contractor and its Surety shall be liable for all costs necessary to complete the Work.

B. The Surety shall, after receipt of notification from Owner of termination of the Contract, take over and perform the Work utilizing a contractor that is acceptable to Owner. The Surety shall, within 10 days after receipt of the notice of termination, provide Owner with written notice of Surety's intent to take over and complete the Work in accordance with the Contract Documents, and shall commence the Work within 10 days thereafter.

C. If the Surety does not promptly give the notice that it will complete the Work, or fails to perform the Work in compliance with the Contract Documents, or provides the Owner with written notice that Surety does not intend to take over and perform the work to completion, Owner may without

prejudice on the part of the Surety, take over the Work and prosecute the same to completion by any method Owner may deem advisable for the account at the expense of Contractor, and the Surety shall be liable to Owner for any excess cost or other damage occasioned Owner thereby. In such event Owner may, without liability for so doing, take possession of and utilize in completing the Work such materials, appliances, plant, and other property belonging to Contractor that may be on the work sites and be necessary therefor. Contractor shall turn over to Owner's Operating Agent all materials and equipment in Contractor's possession that is to be incorporated into the Project, and shall make arrangements with Owner to turn over any materials or equipment in which Owner has made payment or partial payment but is not in Owner's possession.

D. Upon completion of the Work, if the unpaid balance of the Contract Price exceeds the direct and indirect cost of completing the Work, including, but not limited to, all costs incurred by Owner from professional services and attorneys' fees and all costs generated to insure or bond the Work of substituted contractors or subcontractors used to complete the Work, such excess shall be paid to Contractor. If such costs exceed the unpaid balance, Contractor shall pay the difference to Owner within 30 days upon demand; on failure of Contractor to pay, the Surety shall promptly pay the difference to Owner upon written notice of Contractor's failure of payment. Such difference or any portion thereof not paid by the Contractor or the Surety within the 30 days following the date of mailing of the demand for payment, shall earn interest at the rate of 10 percent per annum or the maximum rate authorized by state law, whichever is lower.

SC-16.04 *Contractor May Stop Work or Terminate:* Delete paragraph 16.04 in its entirety.

ARTICLE 17 - FINAL RESOLUTION OF DISPUTES

SC-17.01 *Methods and Procedures:* Delete section and insert the following in lieu thereof:

A. Claims (demands for monetary compensation, damages or time extensions) arising from or relating to this Agreement shall be decided by the parties in accordance with this section. Initially, and promptly after identification of a claim, Contractor and Engineer shall meet face-to-face to review and consider the claim. This meeting shall occur at the earliest practicable date and shall be for the express purposes of: (1) exchanging and reviewing all pertinent documents and information relating to the matters and issues in dispute; (2) freely and candidly discussing each party's position; and (3) reaching agreement upon a reasonable, compromise resolution of the claim.

B. If the project representatives are unable to resolve the claim, a senior representative from Contractor and a senior representative from Owner shall review the claim in detail and then meet face-to-face to discuss and resolve the matter. This meeting of senior management representatives shall occur no later than fifteen (15) days after the meeting of the project representatives, unless the parties both agree upon a longer period of time. Each party shall

promptly designate a senior representative for purposes of this section. Any party may, if necessary, designate a different senior representative at any time during the course of the Project.

C. If any claim remains unresolved after the meeting of the senior management representatives, Contractor and Owner agree promptly to submit the matter to mediation by an experienced, mutually acceptable mediator. Unless the parties both agree upon a longer period of time, the mediation shall be held no later than thirty (30) days after the meeting of the senior management representatives. No later than ten (10) days prior to mediation, the parties shall exchange in a cooperative and forthright manner all documents, data and information relating to the claim, excepting only those items protected by the attorney/client or other applicable privilege. The parties shall share equally the mediator's fee for the mediation.

D. If any claim remains unresolved after the parties have attempted to resolve the matter in conformity with the terms and procedures of this section, or if either party refuses to participate in such procedures promptly and in good faith, the claim shall be submitted to binding Public Works Arbitration pursuant to Public Contract Code Section 22200.

ARTICLE 18 - MISCELLANEOUS

SC-18.11 Add the following section immediately after paragraph 18.10:

18.11 *Redesign Costs:*

A. In the event that the Contractor selects a B or C alternative equipment or system in lieu of the specified A equipment or system as defined in the technical specifications, and should the B or C alternate require redesign of any type to the facility, the Contractor, at his costs, shall employ the engineer of record to design the changes. Changes issued by the engineer to accommodate B or C alternatives will be implemented as no costs change orders by the Contractor.

ARTICLE 19 – FEDERAL FUNDING REQUIREMENTS

SC-19.02 Davis-Bacon and Davis-Bason Wage Rates

Contractor is notified that the project is subject to Davis-Beacon provisions provided in Section 900. The Contractor shall comply with these provisions throughout the course of the project, including, but may not be limited to, the following:

- a. Wage determinations
- b. Apprenticeship programs
- c. Wage rate interviews
- d. Weekly payroll and compliance statements

e. Wage determination and Davis-Beacon postings at construction site

The most recent wage determination is provided in Section 900. The terms and conditions for Davis-Bacon are available at the following State website. It is the Contractor's responsibility to understand and comply with these regulatory requirements and include the cost of compliance within the proposal.

https://www.waterboards.ca.gov/water_issues/programs/grants_loans/srf/davisbacon.html