

TOWN OF MONTVILLE
WATER POLLUTION CONTROL AUTHORITY

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Request for Proposal (RFP)-
RFP NO. 2024-6
REHABILITATION OF TWO CONCRETE DISTRIBUTION BOXES
LOCATED AT THE MONTVILLE WATER POLLUTION CONTROL
FACILITY

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SECTION 00100
ADVERTISEMENT FOR BIDS

General Notice

The Town of Montville, CT is requesting Bids for the rehabilitation of two concrete distribution boxes located at the Montville Water Pollution Control Facility (WPCF).

Sealed Bids for construction of this project will be submitted to Barbara Griffin, Finance Director, Town of Montville, 310 Norwich New London Turnpike, Uncasville, Connecticut 06382, until Thursday August 8, 2024, at 10:00 am local time. At that time the Bids received will be publicly opened and read. Each bidder must submit a sealed envelope, the outside of which must be clearly marked " RFP No.2024-6 Rehabilitation of Two Concrete Distribution Boxes at the Montville Water Pollution Control Facility " and include the bidder's company name and address. A Company official must sign all bids.

Obtaining the Bidding Documents

Bidding documents can be picked up at the Town of Montville Water Pollution Control Facility located at 83 Pink Row, Uncasville, CT 06382. Questions during bidding should be directed to Derek Albertson, Superintendent at phone 860-848-3830 or email dalbertson@montville-ct.org. Only hard copies of the bids will be distributed.

To be considered a responsive Bidder, the Contractor shall have obtained at least one set of Bidding Documents from the Issuing Office. The Bid will not be awarded to a Bidder unless a record for obtaining at least one set of Bidding Documents exists in the Issuing Office. To meet this requirement and to establish the record of receipt, a prospective Bidder must obtain Bidding Documents using the name that is to appear on the Bid Form.

The successful bidder is required to comply with the provisions of the Civil Rights Act of 1964, the Equal Employment Opportunity Act of 1972, Executive Orders 3, 17, 11246, 11375, 11478 and, if applicable, the Connecticut Fair Employment Practice Law.

Any contract or contracts awarded under this Invitation to Bid will be funded in part by a loan / grant from the State of Connecticut Department of Energy and Environmental Protection (CT DEEP). Neither the State of Connecticut nor any of its departments, agencies, or employees is or will be a party to this invitation or any resulting contract. This procurement is subject to the requirements contained in Section 22a-482-4, (h), (j) and (o) of the Regulations of Connecticut State Agencies. This contract is subject to the Connecticut Commission on Human Rights and Opportunities (CHRO) set aside requirements for Small and Minority Business Enterprises in accordance with CGS Section 4a-60g. In addition to compliance with Connecticut Wage Rates, the Davis-Bacon Act applies to this contract.

Each submitted bid shall include a completed Bid Form, Qualification Statement, Certification of Bidder Regarding Equal Employment Opportunity, Certificate of Contractors Insurance Company, Completed Department of Administrative Services (DAS) Update Statement and Contractor Prequalification Certificate, and Non-Collusion Affidavit and shall be accompanied by a Bid Guarantee in the form of a bid

bond, certified check, bank check, or money order made payable to the Town of Montville in an amount equal to 5% of the bid.

Instructions to Bidders

For all contract requirements, bid submittal, qualifications, procedures, and contract award, refer to the Instructions to Bidders that are included in the Bidding Documents.

The Town of Montville reserves the right to reject any or all Bids, to waive any technical or legal deficiencies, and to accept any Bid that it may deem to be in the best interests of the Town.

By Order of the Water Pollution Control Authority
Town of Montville, Connecticut

END OF SECTION

SECTION 00200INSTRUCTIONS TO BIDDERS FOR CONSTRUCTION CONTRACT

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ARTICLE 1—DEFINED TERMS

- 1.01 Terms used in these Instructions to Bidders have the meanings indicated in the General Conditions and Supplementary Conditions.
- 1.02 Additional terms used in these Instructions to Bidders have the meanings indicated below:
- A. *Issuing Office* – The office from which the Bidding Documents are to be issued:
- Town of Montville Water Pollution Control Facility*
83 Pink Row
Uncasville, CT 06382
Telephone: (860) 625-7582
E-mail: dalbertson@montville-ct.org
Contact Name: Derek Albertson

ARTICLE 2—BIDDING DOCUMENTS

- 2.01 Bidder shall obtain a complete set of Bidding Requirements and proposed Contract Documents (together, the Bidding Documents). See the Agreement for a list of the Contract Documents. It is Bidder's responsibility to determine that it is using a complete set of documents in the preparation of a Bid. Bidder assumes sole responsibility for errors or misinterpretations resulting from the use of incomplete documents, by Bidder itself or by its prospective Subcontractors and Suppliers.
- 2.02 Bidding Documents are made available for the sole purpose of obtaining Bids for completion of the Project and permission to download or distribution of the Bidding Documents does not confer a license or grant permission or authorization for any other use. Authorization to download documents, or other distribution, includes the right for plan holders to print documents solely for their use, and the use of their prospective Subcontractors and Suppliers, provided the plan holder pays all costs associated with printing or reproduction. Printed documents may not be re-sold under any circumstances.

ARTICLE 3—QUALIFICATIONS OF BIDDERS

- 3.01 *Bidder is to submit the following information with its Bid to demonstrate Bidder's qualifications to perform the Work:*
- A. Bid Form;
- B. Required Bid Security;
- C. Qualification Statement (Section 00450) with supporting data.
- D. Signed compliance Statement (Section 00460)
- E. Non-Collusion Affidavit of Prime Bidder (Section 00408)
- F. CT Dept. of Administrative Services Prequalification Statement (Section 00800, SC-22).
- G. List of Project References;

H. Signed Certificate of Contractor's Insurance Company Form (Section 00413)

- 3.02 A Bidder's failure to submit required qualification information within the times indicated may disqualify Bidder from receiving an award of the Contract.
- 3.03 No requirement in this Article 3 to submit information will prejudice the right of Owner to seek additional pertinent information regarding Bidder's qualifications.
- 3.04 To be considered a responsive Bidder, the Contractor shall have obtained at least one set of Bidding Documents from the Issuing Office. The Bid will not be awarded to a Bidder unless a record for obtaining at least one set of Bidding Documents exists in the Issuing Office. To meet this requirement and to establish the record of receipt, a prospective Bidder must obtain Bidding Documents using the name that is to appear on the Bid Form.

ARTICLE 4—PRE-BID CONFERENCE

- 4.01 A pre-bid conference will not be conducted for this Project.

ARTICLE 5—SITE AND OTHER AREAS; EXISTING SITE CONDITIONS; EXAMINATION OF SITE; OWNER'S SAFETY PROGRAM; OTHER WORK AT THE SITE

5.01 *Site and Other Areas*

- A. The Site is identified in the Bidding Documents. By definition, the Site includes rights-of-way, easements, and other lands furnished by Owner for the use of the Contractor. Any additional lands required for temporary construction facilities, construction equipment, or storage of materials and equipment, and any access needed for such additional lands, are to be obtained and paid for by Contractor.

5.02 *Existing Site Conditions*A. *Subsurface and Physical Conditions; Hazardous Environmental Conditions*

1. The Supplementary Conditions identify the following regarding existing conditions at or adjacent to the Site:
 - a. Those reports of explorations and tests of subsurface conditions at or adjacent to the Site that contain Technical Data.
 - b. Those drawings known to Owner 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.
 - c. Reports and drawings known to Owner relating to Hazardous Environmental Conditions that have been identified at or adjacent to the Site.
 - d. Technical Data contained in such reports and drawings.
2. Owner will make copies of reports and drawings referenced above available to any Bidder on request. These reports and drawings are not part of the Contract Documents, but the Technical Data contained therein upon whose accuracy Bidder is entitled to rely, as provided in the General Conditions, has been identified and established in the

Supplementary Conditions. Bidder is responsible for any interpretation or conclusion Bidder draws from any Technical Data or any other data, interpretations, opinions, or information contained in such reports or shown or indicated in such drawings.

3. If the Supplementary Conditions do not identify Technical Data, the default definition of Technical Data set forth in Article 1 of the General Conditions will apply.
- B. *Underground Facilities:* Underground Facilities are shown or indicated on the Drawings, pursuant to Paragraph 5.05 of the General Conditions, and not in the drawings referred to in Paragraph 5.02.A of these Instructions to Bidders. Information and data regarding the presence or location of Underground Facilities are not intended to be categorized, identified, or defined as Technical Data.

5.03 *Site Visit and Testing by Bidders*

- A. Bidder is required to visit the Site and conduct a thorough visual examination of the Site and adjacent areas. During the visit the Bidder must not disturb any ongoing operations at the Site.
- B. Bidders visiting the Site are required to arrange their own transportation to the Site.
- C. Bidder is not required to conduct any subsurface testing, or exhaustive investigations of Site conditions.
- D. On request, and to the extent Owner has control over the Site, and schedule permitting, the Owner will provide Bidder general access to the Site to conduct such additional examinations, investigations, explorations, tests, and studies as Bidder deems necessary for preparing and submitting a successful Bid. Owner will not have any obligation to grant such access if doing so is not practical because of existing operations, security or safety concerns, or restraints on Owner's authority regarding the Site. Bidder is responsible for establishing access needed to reach specific selected test sites.
- E. Bidder must comply with all applicable Laws and Regulations regarding excavation and location of utilities, obtain all permits, and comply with all terms and conditions established by Owner or by property owners or other entities controlling the Site with respect to schedule, access, existing operations, security, liability insurance, and applicable safety programs.
- F. Bidder must fill all holes and clean up and restore the Site to its former condition upon completion of such explorations, investigations, tests, and studies.

5.04 *Owner's Safety Program*

- A. Site visits and work at the Site may be governed by an Owner safety program. If an Owner safety program exists, it will be noted in the Supplementary Conditions.

5.05 *Other Work at the Site*

- A. Reference is made to Article 8 of the Supplementary Conditions for the identification of the general nature of other work of which Owner is aware (if any) that is to be performed at the Site by Owner or others (such as utilities and other prime contractors) and relates to the Work contemplated by these Bidding Documents. If Owner is party to a written contract for such other work, then on request, Owner will provide to each Bidder access to examine such contracts (other than portions thereof related to price and other confidential matters), if any.

ARTICLE 6—BIDDER'S REPRESENTATIONS AND CERTIFICATIONS

6.01 *Express Representations and Certifications in Bid Form, Agreement*

- A. The Bid Form that each Bidder will submit contains express representations regarding the Bidder's examination of Project documentation, Site visit, and preparation of the Bid, and certifications regarding lack of collusion or fraud in connection with the Bid. Bidder should review these representations and certifications, and assure that Bidder can make the representations and certifications in good faith, before executing and submitting its Bid.
- B. If Bidder is awarded the Contract, Bidder (as Contractor) will make similar express representations and certifications when it executes the Agreement.

ARTICLE 7—INTERPRETATIONS AND ADDENDA

- 7.01 Owner on its own initiative may issue Addenda to clarify, correct, supplement, or change the Bidding Documents.
- 7.02 All questions about the meaning or intent of the Bidding Documents are to be submitted to the Issuing Office in writing via email and directed to:

Mr. Derek Albertson, Superintendent
Email: dalbertson@montville-ct.org
- 7.03 *Interpretations or clarifications considered necessary by the Issuing Office in response to such questions will be issued by Addenda and emailed to all registered plan holders. Questions received less than seven working days prior to the date for opening of Bids may not be answered. Addenda will be issued not later than three working days before the bid opening. Bidders are responsible for determining that they have received all Addenda issued.*
- 7.04 Only responses set forth in an Addendum will be binding. Oral and other interpretations or clarifications will be without legal effect. Responses to questions are not part of the Contract Documents unless set forth in an Addendum that expressly modifies or supplements the Contract Documents.

ARTICLE 8—BID SECURITY

- 8.01 A Bid must be accompanied by Bid security made payable to Owner in an amount of 5 percent of Bidder's maximum Bid price (determined by adding the base bid and all alternates) and in the form of a Bid bond issued by a surety meeting the requirements of Paragraph 6.01 of the General Conditions. Such Bid bond will be issued in the form included in the Bidding Documents. Bid security must be at least 5% of the Bidder's maximum Bid price.
- 8.02 The Bid security of the apparent Successful Bidder will be retained until Owner awards the contract to such Bidder, and such Bidder has executed the Contract, furnished the required Contract security, and met the other conditions of the Notice of Award, whereupon the Bid security will be released. If the Successful Bidder fails to execute and deliver the Contract and furnish the required Contract security within 15 days after the Notice of Award, Owner may consider Bidder to be in default, annul the Notice of Award, and the Bid security of that Bidder will be forfeited, in whole in the case of a penal sum bid bond, and to the extent of Owner's

damages in the case of a damages-form bond. Such forfeiture will be Owner's exclusive remedy if Bidder defaults.

- 8.03 The Bid security of other Bidders that Owner believes to have a reasonable chance of receiving the award may be retained by Owner until the earlier of 7 days after the Effective Date of the Contract or 61 days after the Bid opening, whereupon Bid security furnished by such Bidders will be released.
- 8.04 Bid security of other Bidders that Owner believes do not have a reasonable chance of receiving the award will be released within 7 days after the Bid opening.

ARTICLE 9—CONTRACT TIMES

- 9.01 The number of days within which, or the dates by which, the Work is to be (a) substantially completed and (b) ready for final payment, and (c) Milestones (if any) are to be achieved, are set forth in the Agreement.
- 9.02 Deleted.
- 9.03 Provisions for liquidated damages, if any, for failure to timely attain a Milestone, Substantial Completion, or completion of the Work in readiness for final payment, are set forth in the Agreement.

ARTICLE 10—SUBSTITUTE AND "OR EQUAL" ITEMS

- 10.01 The Contract for the Work, as awarded, will be on the basis of materials and equipment specified or described in the Bidding Documents without consideration during the bidding and Contract award process of possible substitute or "or-equal" items. In cases in which the Contract allows the Contractor to request that Owner authorize the use of a substitute or "or-equal" item of material or equipment, application for such acceptance may not be made to and will not be considered by Owner until after the Effective Date of the Contract.
- 10.02 All prices that Bidder sets forth in its Bid will be based on the presumption that the Contractor will furnish the materials and equipment specified or described in the Bidding Documents, as supplemented by Addenda. Any assumptions regarding the possibility of post-Bid approvals of "or-equal" or substitution requests are made at Bidder's sole risk.

ARTICLE 11—SUBCONTRACTORS, SUPPLIERS, AND OTHERS

- 11.01 A Bidder must be prepared to retain specific Subcontractors and Suppliers for the performance of the Work if required to do so by the Bidding Documents or in the Specifications. If a prospective Bidder objects to retaining any such Subcontractor or Supplier and the concern is not relieved by an Addendum, then the prospective Bidder should refrain from submitting a Bid.
- 11.02 If required by the Bid Documents, the apparent Successful Bidder, and any other Bidder so requested, shall within five days after Bid opening, submit to Owner a list of the Subcontractors or Suppliers proposed for the Work.

If requested by Owner, such list must be accompanied by an experience statement with pertinent information regarding similar projects and other evidence of qualification for each such Subcontractor or Supplier. If Owner, after due investigation, has reasonable objection to

any proposed Subcontractor or Supplier, Owner may, before the Notice of Award is given, request apparent Successful Bidder to submit an acceptable substitute, in which case apparent Successful Bidder will submit a substitute, Bidder's Bid price will be increased (or decreased) by the difference in cost occasioned by such substitution, and Owner may consider such price adjustment in evaluating Bids and making the Contract award.

- 11.03 If apparent Successful Bidder declines to make any such substitution, Owner may award the Contract to the next lowest Bidder that proposes to use acceptable Subcontractors and Suppliers. Declining to make requested substitutions will constitute grounds for forfeiture of the Bid security of any Bidder. Any Subcontractor or Supplier, so listed and against which Owner makes no written objection prior to the giving of the Notice of Award will be deemed acceptable to Owner subject to subsequent revocation of such acceptance as provided in Paragraph 7.07 of the General Conditions.
- 11.04 The Contractor shall not award work to Subcontractor(s) in excess of the limits stated in SC 7.07A.

ARTICLE 12—PREPARATION OF BID

- 12.01 The Bid Form is included with the Bidding Documents.
- A. All blanks on the Bid Form must be completed in ink and the Bid Form signed in ink. Erasures or alterations must be initialed in ink by the person signing the Bid Form. A Bid price must be indicated for each section, Bid item, alternate, adjustment unit price item, and unit price item listed therein.
 - B. If the Bid Form expressly indicates that submitting pricing on a specific alternate item is optional, and Bidder elects to not furnish pricing for such optional alternate item, then Bidder may enter the words "No Bid" or "Not Applicable."
- 12.02 If Bidder has obtained the Bidding Documents as Electronic Documents, then Bidder shall prepare its Bid on a paper copy of the Bid Form printed from the Electronic Documents version of the Bidding Documents. The printed copy of the Bid Form must be clearly legible, printed on 8½ inch by 11-inch paper and as closely identical in appearance to the Electronic Document version of the Bid Form as may be practical. The Owner reserves the right to accept Bid Forms which nominally vary in appearance from the original paper version of the Bid Form, providing that all required information and submittals are included with the Bid.
- 12.03 A Bid by a corporation must be executed in the corporate name by a corporate officer (whose title must appear under the signature), accompanied by evidence of authority to sign. The corporate address and state of incorporation must be shown.
- 12.04 A Bid by a partnership must be executed in the partnership name and signed by a partner (whose title must appear under the signature), accompanied by evidence of authority to sign. The official address of the partnership must be shown.
- 12.05 A Bid by a limited liability company must be executed in the name of the firm by a member or other authorized person and accompanied by evidence of authority to sign. The state of formation of the firm and the official address of the firm must be shown.
- 12.06 A Bid by an individual must show the Bidder's name and official address.

- 12.07 A Bid by a joint venture must be executed by an authorized representative of each joint venturer in the manner indicated on the Bid Form. The joint venture must have been formally established prior to submittal of a Bid, and the official address of the joint venture must be shown.
- 12.08 All names must be printed in ink below the signatures.
- 12.09 The Bid must contain an acknowledgment of receipt of all Addenda, the numbers of which must be filled in on the Bid Form.
- 12.10 Postal and e-mail addresses and telephone number for communications regarding the Bid must be shown.
- 12.11 The Bid must contain evidence of Bidder's authority to do business in the state where the Project is located, or Bidder must certify in writing that it will obtain such authority within the time for acceptance of Bids and attach such certification to the Bid.
- 12.12 If Bidder is required to be licensed to submit a Bid or perform the Work in the state where the Project is located, the Bid must contain evidence of Bidder's licensure, or Bidder must certify in writing that it will obtain such licensure within the time for acceptance of Bids and attach such certification to the Bid. Bidder's state contractor license number, if any, must also be shown on the Bid Form.

ARTICLE 13—BASIS OF BID

13.01 *Lump Sum with Unit Prices and Alternates*

- A. Bidders must submit a Bid on a lump sum basis for each lump sum item, and on a unit price basis for each unit price item of Work listed in the Bid Form for the base Bid and include a separate price for each alternate described in the Bidding Documents and as provided for in the Bid Form. The price for each alternate will be the amount added to or deleted from the base Bid if Owner selects the alternate.
- B. The "Bid Price" (sometimes referred to as the extended price) for each unit price Bid item will be the product of the "Estimated Quantity", which Owner or its representative has set forth in the Bid Form, for the item and the corresponding "Bid Unit Price" offered by the Bidder. The final quantities and Contract Price will be determined in accordance with Paragraph 13.03 of the General Conditions.
- C. Discrepancies between the multiplication of units of Work and unit prices will be resolved in favor of the unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum.
- D. The total of all unit price "Bid Prices" and all lump sum items will be used by Owner for Bid comparison purposes.

13.02 *Allowances*

- A. For cash allowances the Bid price must include such amounts as the Bidder deems proper for Contractor's overhead, costs, profit, and other expenses on account of cash allowances, if any, named in the Contract Documents, in accordance with Paragraph 13.02.B of the General Conditions.

ARTICLE 14—SUBMITTAL OF BID

- 14.01 Deleted.
- 14.02 A Bid must be received no later than the date and time prescribed and at the place indicated in the Advertisement or invitation to bid and must be enclosed in a plainly marked package with the Project title, and, if applicable, the designated portion of the Project for which the Bid is submitted, the name and address of Bidder, and must be accompanied by the Bid security and other required documents. If a Bid is sent by mail or other delivery system, the sealed envelope containing the Bid must be enclosed in a separate package plainly marked on the outside with the notation "BID ENCLOSED." A mailed Bid must be addressed to the location designated in the Advertisement.
- 14.03 Bids received after the date and time prescribed for the opening of bids, or not submitted at the correct location or in the designated manner, will not be accepted and will be returned to the Bidder unopened.

ARTICLE 15—MODIFICATION AND WITHDRAWAL OF BID

- 15.01 An unopened Bid may be withdrawn by an appropriate document duly executed in the same manner that a Bid must be executed and delivered to the place where Bids are to be submitted prior to the date and time for the opening of Bids. Upon receipt of such notice, the unopened Bid will be returned to the Bidder.
- 15.02 If a Bidder wishes to modify its Bid prior to Bid opening, Bidder must withdraw its initial Bid in the manner specified in Paragraph 15.01 and submit a new Bid prior to the date and time for the opening of Bids.
- 15.03 If within 24 hours after Bids are opened any Bidder files a duly signed written notice with Owner and promptly thereafter demonstrates to the reasonable satisfaction of Owner that there was a material and substantial mistake in the preparation of its Bid, the Bidder may

withdraw its Bid, and the Bid security will be returned. Thereafter, if the Work is rebid, the Bidder will be disqualified from further bidding on the Work.

ARTICLE 16—OPENING OF BIDS

- 16.01 Bids will be opened at the time and place indicated in the advertisement or invitation to bid and, unless obviously non-responsive, read aloud publicly. An abstract of the amounts of the base Bids and major alternates, if any, will be made available to Bidders after the opening of

ARTICLE 17—BIDS TO REMAIN SUBJECT TO ACCEPTANCE

- 17.01 All Bids will remain subject to acceptance for the period of time stated in the Bid Form, but Owner may, in its sole discretion, release any Bid and return the Bid security prior to the end of this period.

ARTICLE 18—EVALUATION OF BIDS AND AWARD OF CONTRACT

- 18.01 Owner reserves the right to reject any or all Bids, including without limitation, nonconforming, nonresponsive, unbalanced, or conditional Bids. Owner also reserves the right to waive all minor Bid informalities not involving price, time, or changes in the Work.
- 18.02 Owner will reject the Bid of any Bidder that Owner finds, after reasonable inquiry and evaluation, to not be responsible.
- 18.03 If Bidder purports to add terms or conditions to its Bid, takes exception to any provision of the Bidding Documents, or attempts to alter the contents of the Contract Documents for purposes of the Bid, whether in the Bid itself or in a separate communication to Owner, then Owner will reject the Bid as nonresponsive.
- 18.04 If Owner awards the contract for the Work, such award will be to the responsible Bidder submitting the lowest responsive Bid.
- 18.05 *Evaluation of Bids*
- A. In evaluating Bids, Owner will consider whether the Bids comply with the prescribed requirements, and such alternates, unit prices, and other data, as may be requested in the Bid Form or prior to the Notice of Award.
 - B. For the determination of the apparent low Bidder, Bids will be compared on the basis of the Total Bid.
 - C. Deleted.
 - D. For the determination of the apparent low Bidder when unit price bids are submitted, Bids will be compared on the basis of the total of the products of the estimated quantity of each item and unit price Bid for that item, together with any lump sum items.
 - E. Deleted.
 - F. Deleted.
- 18.06 In evaluating whether a Bidder is responsible, Owner will consider the qualifications of the Bidder and may consider the qualifications and experience of Subcontractors and Suppliers

proposed for those portions of the Work for which the identity of Subcontractors and Suppliers must be submitted as provided in the Bidding Documents.

- 18.07 Owner may conduct such investigations as Owner deems necessary to establish the responsibility, qualifications, and financial ability of Bidders and any proposed Subcontractors or Suppliers.
- 18.08 All protests arising from the Owner's procurement practices must be submitted to the Owner as soon as practical. Owner will investigate the basis for the protest, seek advice of legal counsel, document all meeting and actions, and attempt to resolve the protest promptly and equitably. Protests are subject to Section 22a-482-4(o) of the Regulations of Connecticut State Agencies.

ARTICLE 19—BONDS AND INSURANCE

- 19.01 Article 6 of the General Conditions, as may be modified by the Supplementary Conditions, sets forth Owner's requirements as to performance and payment bonds, other required bonds (if any), and insurance. When the Successful Bidder delivers the executed Agreement to Owner, it must be accompanied by required bonds and insurance documentation.

ARTICLE 20—SIGNING OF AGREEMENT

- 20.01 When Owner issues a Notice of Award to the Successful Bidder, it will be accompanied by the unexecuted counterparts of the Agreement along with the other Contract Documents as identified in the Agreement. Within 15 days thereafter, Successful Bidder must execute and deliver the required number of counterparts of the Agreement and any bonds and insurance documentation required to be delivered by the Contract Documents to Owner. Within 10 days thereafter, Owner will deliver one fully executed counterpart of the Agreement to Successful Bidder, together with printed and electronic copies of the Contract Documents as stated in Paragraph 2.02 of the General Conditions.

ARTICLE 21—SALES AND USE TAXES

- 21.01 Owner is exempt from CT state sales and use taxes on materials and equipment to be incorporated in the Work. Said taxes must not be included in the Bid. Refer to Paragraph SC-7.10 of the Supplementary Conditions for additional information.
- 21.02 The Contractor's attention is called to Regulation 18 as amended, promulgated by the Sales and Use Tax Division of the State Department of Revenue Services, which provided for the exemption of the sales and use tax on the purchase of such materials and supplies as are to be physically incorporated in and become a permanent part of the project being performed under this contract. The contractor may avail himself/herself of the savings of this tax and shall take this exemption into account in calculating his/her bid for this work. The Contractor or Subcontractor shall furnish his/her suppliers with a completed certificate, the form of which is provided in the Supplementary Conditions.

ARTICLE 22—CONTRACTS TO BE ASSIGNED

Not Used

ARTICLE 23—DELETION OF ITEMS

- 23.01 Owner reserves the right to reduce project scope by the elimination of Bid items, reduction of quantities on unit price Bid items, or deleting elements of lump sum Bid items. No adjustment to other Bid items prices will be permitted. In the case of reduction of quantities on unit price items, the unit price will not be adjusted. Such adjustments to project scope will be determined prior to award of the Contract and will be negotiated with the apparent Successful Bidder only. If such negotiations are not satisfactory to Owner, Owner will reject all Bids

ARTICLE 24—FEDERAL REQUIREMENTS

- 24.01 If the contract price is in excess of \$100,000, provisions of the Contract Work Hours and Safety Standards Act at 29 CFR 5.5(b) apply.
- 24.02 Federal requirements at Article 19 of the Supplementary Conditions apply to this Contract.

ARTICLE 25—SPECIAL LEGAL REQUIREMENTS

- 25.01 26.01 Any contract or contracts awarded under the Advertisement or Invitation to Bid will be funded in part by the State of Connecticut. Neither the State of Connecticut nor any of its departments, agencies, or employees is or will be a party to this invitation or any resulting contract. This procurement is subject to the requirements contained in Section 22a-482-4, (h), (j) and (o) of the Regulations of Connecticut State Agencies.
- 25.02 26.02 Nondiscrimination in Employment: This Contract, if awarded, is subject to the provisions of Executive Order No. Three of Governor Thomas J. Meskill promulgated June 16, 1971 and, as such, this contract may be cancelled, terminated or suspended by the State Labor Commissioner for violation of or non-compliance with said Executive Order No. Three or any state or federal law concerning nondiscrimination, notwithstanding that the Labor Commissioner is not a party to this contract. Successful Bidder shall agree that Executive Order No. Three is incorporated into the Contract by reference and made a part thereof. The Successful bidder shall agree to abide by said Executive Order and agree that the State Labor Commissioner shall have continuing jurisdiction in respect to Contract performance in regard to nondiscrimination, until the Contract is completed or terminated prior to completion.
- 25.03 The Governor's Executive Order No. Three and the Guidelines and Rules implementing the Governor's Executive Order No. Three are included in the Supplementary Conditions.
- 25.04 Small and Minority Business Enterprises Requirements:
This contract, if awarded, is subject to set aside requirements in accordance to CGS Section 4a-60g. As such, the contract shall:
(A) set aside at least twenty-five per cent of the total value of the state's financial assistance for such contract for award to subcontractors who are small contractors, and (B) of that portion to be set aside in accordance with subparagraph (A) of this subdivision, reserve a portion equivalent to twenty-five per cent of the total value of the contract or portion thereof to be set aside for awards to subcontractors who are minority business enterprises. The provisions of this section shall not apply to any municipality that has established a set-aside program

pursuant to section 7-148u where the percentage of contracts set aside for minority business enterprises is equivalent to or exceeds the percentage set forth in this subsection.

Failure to meet or exceed the required percentages shall render a bid non-responsive and cause the rejection of the bid. Within fourteen (14) calendar days after bid opening, the Successful Bidder shall complete and submit to the Owner the Subcontractor Verification Forms provided in the contract documents, along with corresponding SBE / MBE certification for each subcontractor. Failure to submit these documents by the close of business of the fourteenth calendar day after bid opening will result in the bid being deemed non-responsive and cause the rejection of the bid.

Within fourteen (14) calendar days after the execution of the Prime Contract, two executed copies of the SBE/MBE subcontracts must be submitted to the Owner, who must then submit one copy to DEEP as demonstration of compliance with this directive. No payment requests will be processed by DEEP until the executed copies of the subcontracts are on file in our office.

The Contractor agrees and warrants to make good faith efforts to employ Minority and Women's Business Enterprises as subcontractors and suppliers of materials on this project.. "Good faith efforts" shall include, but not be limited to, those reasonable initial efforts necessary to comply with statutory or regulatory requirements and additional or substituted efforts when it is determined that such initial efforts will not be sufficient to comply with such requirements.

Determination of the contractor's good faith efforts shall include but shall not be limited to the following factors: The contractor's employment and subcontracting policies, patterns and practices; affirmative advertising, recruitment and training; technical assistance activities and such other reasonable activities or efforts as the Commission on Human Rights and Opportunities may prescribe that are designed to ensure the participation of minority business enterprises in public works projects.

The contractor shall develop and maintain adequate documentation, in a manner prescribed by the Commission on Human Rights and Opportunities, of its good faith efforts.

- 25.05 Department of Labor Regulations: The Contractor must comply with all the Safety and Health Regulations (CFR29 Part 1926 and all subsequent amendments) as promulgated by the US Department of Labor on June 24, 1974; the Department of Labor Regulations relating to Copeland "Anti-Kickback Act (18 U.S.C. 874) as supplemented by 29 CFR Part 3; Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by 29 CFR Part 5, and Occupational Safety and Health Standards (OSHA) (29 CFR Part 1910). Contractors are urged to become familiar with the requirements of these regulations.
- 25.06 Environmental Regulations: The Contractor must comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857(h)), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738 and Environmental Protection Agency regulations (40 CFR Part 15). Contractors are urged to become familiar with the requirements of these regulations.
- 25.07 Wage Rates: The Work under this contract is subject to minimum Wage Rates. Refer to the Supplementary Conditions for additional information.

END OF SECTION

SECTION 00408

NON-COLLUSION AFFIDAVIT OF PRIME BIDDER

State of: _____

County of: _____

_____, being first duly sworn, deposes and says that:

1. Bidder is _____ of _____, the Bidder that has submitted the attached Bid;
2. Bidder is fully informed respecting the preparation and contents of the attached Bid and of all pertinent circumstances respecting such Bid;
3. Such Bid is genuine and is not a collusive or sham Bid;
4. Neither the said Bidder nor any of its officers, partners, owners, agents, representatives, employees of parties of interest, including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly with any other Bidder, firm or person to submit a collusive or sham Bid in Connection with the Contract for which the attached Bid has been submitted or to refrain from bidding in connection with such Contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other Bidder, firm or person to fix the price or prices in the attached Bid or of any other Bidder, or to fix any overhead, profit or cost element of the Bid price or the Bid price of any Bidder, or to secure through any collusion, conspiracy, connivance or unlawful agreement of any advantage against the Town of Montville (Owner) or any person interested in the proposed Contract; and
5. The price or prices quoted in the attached Bid are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Bidder or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

(Signed) _____
 (Title) _____

Subscribed and sworn to before me this _____ day of _____,

 (Title)

My Commission Expires on _____

(This page to be completed by the Bidder and submitted with his / her Bid Form.)

END OF SECTION

SECTION 00410BID FORM FOR CONSTRUCTION CONTRACT

The terms used in this Bid with initial capital letters have the meanings stated in the Instructions to Bidders, the General Conditions, and the Supplementary Conditions.

ARTICLE 1—OWNER AND BIDDER

1.01 This Bid is submitted to:

Town of Montville

310 Norwich New London Turnpike

Uncasville, CT 06382

Project Name:

Rehabilitation of Two Concrete Distribution Boxes at the Montville Water Pollution Control Facility

1.02 The Work is generally described as follows: Rehabilitation of two concrete distribution boxes at the Montville Water Pollution Control Facility in Uncasville, CT. Work shall include, but not limited to, bypass pumping, cleaning/debris removal, concrete surface preparation, concrete repair and applying a protective coating for each distribution box.

1.03 The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an Agreement with Owner in the form included in the Bidding Documents to perform all Work as specified or indicated in the Bidding Documents for the prices and within the times indicated in this Bid and in accordance with the other terms and conditions of the Bidding Documents.

ARTICLE 2—ATTACHMENTS TO THIS BID

2.01 The following documents are submitted with and made a condition of this Bid:

- A. Bid Form;
- B. Required Bid Security;
- C. Qualification Statement (Section 00450) with supporting data.
- D. Signed compliance Statement (Section 00460)
- E. Non-Collusion Affidavit of Prime Bidder (Section 00408)
- F. CT Dept. of Administrative Services Prequalification Statement (Section 00800, SC-22).
- G. List of Project References;
- H. Signed Certificate of Contractor's Insurance Company Form (Section 00413)

ARTICLE 3—BASIS OF BID—LUMP SUM BID AND UNIT PRICES

3.01 *Base Bid Items*

- A. Bidder will complete the Work in accordance with the Contract Documents for the following lump sum, unit price and allowance items.

| Item No. | Description | Unit | Quantity | Bid Unit Price | Bid Amount |
|-----------|--|----------|----------|----------------|------------|
| 1 | Rehabilitation of Two Concrete Distribution Boxes, Complete with all appurtenances | Lump Sum | 1 | - | \$ |
| Total Bid | | | | | \$ |

ARTICLE 4—DELETED

ARTICLE 5—DELETED

ARTICLE 6—TIME OF COMPLETION

- 6.01 Bidder agrees that the Work will be substantially complete and will be completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions on or before the dates or within the number of calendar days indicated in the Agreement.
- 6.02 Deleted.
- 6.03 Deleted.
- 6.04 Bidder accepts the provisions of the Agreement as to liquidated damages.

ARTICLE 7—BIDDER’S ACKNOWLEDGEMENTS: ACCEPTANCE PERIOD, INSTRUCTIONS, AND RECEIPT OF ADDENDA

7.01 *Bid Acceptance Period*

- A. This Bid will remain subject to acceptance for 60 days after the Bid opening, or for such longer period of time that Bidder may agree to in writing upon request of Owner.

7.02 *Instructions to Bidders*

- A. Bidder accepts all of the terms and conditions of the Instructions to Bidders, including without limitation those dealing with the disposition of Bid security.

7.03 *Receipt of Addenda*

A. Bidder hereby acknowledges receipt of the following Addenda:

| Addendum Number | Addendum Date |
|-----------------|---------------|
| | |
| | |
| | |

ARTICLE 8—BIDDER’S REPRESENTATIONS AND CERTIFICATIONS

8.01 *Bidder’s Representations*

A. In submitting this Bid, Bidder represents the following:

1. Bidder has examined and carefully studied the Bidding Documents, including Addenda.
2. Bidder has visited the Site, conducted a thorough visual examination of the Site and adjacent areas, and become familiar with the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
3. Bidder is familiar with all Laws and Regulations that may affect cost, progress, and performance of the Work, including all American Iron and Steel requirements.
4. Bidder has carefully studied the reports of explorations and tests of subsurface conditions at or adjacent to the Site and the drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, with respect to the Technical Data in such reports and drawings.
5. Bidder has carefully studied the reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, with respect to Technical Data in such reports and drawings.
6. Bidder has considered the information known to Bidder itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Bidding Documents; and the Technical Data identified in the Supplementary Conditions or by definition, with respect to the effect of such information, observations, and Technical Data on (a) the cost, progress, and performance of the Work; (b) the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder, if selected as Contractor; and (c) Bidder’s (Contractor’s) safety precautions and programs.
7. Based on the information and observations referred to in the preceding paragraph, Bidder agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.
8. Bidder is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Bidding Documents.
9. Bidder has given Owner written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bidding Documents, and of discrepancies between Site

conditions and the Contract Documents, and the written resolution thereof by Owner is acceptable to Contractor.

10. The Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
11. The submission of this Bid constitutes an incontrovertible representation by Bidder that without exception the Bid and all prices in the Bid are premised upon performing and furnishing the Work required by the Bidding Documents.

8.02 *Bidder's Certifications*

A. The Bidder certifies the following:

1. This Bid is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any collusive agreement or rules of any group, association, organization, or corporation.
2. Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid.
3. Bidder has not solicited or induced any individual or entity to refrain from bidding.
4. Bidder has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the Contract. For the purposes of this Paragraph 8.02.A:
 - a. Corrupt practice means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process.
 - b. Fraudulent practice means an intentional misrepresentation of facts made (a) to influence the bidding process to the detriment of Owner, (b) to establish bid prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition.
 - c. Collusive practice means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish bid prices at artificial, non-competitive levels.
 - d. Coercive practice means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

BIDDER hereby submits this Bid as set forth above:

Bidder:

(typed or printed name of organization)

By: _____
(individual's signature)

Name: _____
(typed or printed)

Title: _____
(typed or printed)

Date: _____
(typed or printed)

If Bidder is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.

Attest: _____
(individual's signature)

Name: _____
(typed or printed)

Title: _____
(typed or printed)

Date: _____
(typed or printed)

Address for giving notices:

Bidder's Contact:

Name: _____
(typed or printed)

Title: _____
(typed or printed)

Phone: _____

Email: _____

Address: _____

Bidder's Contractor License No.: (if applicable) _____

END OF SECTION

SECTION 00413

CERTIFICATE OF CONTRACTOR'S INSURANCE COMPANY

TO: Mr. Derek Albertson
Montville WPCF
83 Pink Row
Uncasville, CT 06382

FROM: _____

CLIENT: _____

Dear Mr. Albertson:

In accordance with the Contract Bidding Documents, please be advised that my client currently has or will have by the date of the execution of the Contract for this project, a Certificate of Insurance in the amounts and types as specified therein.

Signature
Authorized Broker or Agent

Date

(This page to be completed by the Bidder and submitted with his / her Bid Form.)

SECTION 00430BID BOND (PENAL SUM FORM)

| | |
|---|--|
| Bidder Name: Address (<i>principal place of business</i>): | Surety Name: Address (<i>principal place of business</i>): |
| Owner Name: Address (<i>principal place of business</i>): | Bid Project (<i>name and location</i>): Bid Due Date: |
| Bond Penal Sum: Date of Bond: | |
| Surety and Bidder, intending to be legally bound hereby, subject to the terms set forth in this Bid Bond, do each cause this Bid Bond to be duly executed by an authorized officer, agent, or representative. | |
| Bidder | Surety |
| _____ (<i>Full formal name of Bidder</i>) | _____ (<i>Full formal name of Surety</i>) (<i>corporate seal</i>) |
| By: _____ (<i>Signature</i>) | By: _____ (<i>Signature</i>) (<i>Attach Power of Attorney</i>) |
| Name: _____ (<i>Printed or typed</i>) | Name: _____ (<i>Printed or typed</i>) |
| Title: _____ | Title: _____ |
| Attest: _____ (<i>Signature</i>) | Attest: _____ (<i>Signature</i>) |
| Name: _____ (<i>Printed or typed</i>) | Name: _____ (<i>Printed or typed</i>) |
| Title: _____ | Title: _____ |
| Notes: (1) Note: Addresses are to be used for giving any required notice. (2) Provide execution by any additional parties, such as joint venturers, if necessary. | |

1. Bidder and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to pay to Owner upon default of Bidder the penal sum set forth on the face of this Bond. Payment of the penal sum is the extent of Bidder's and Surety's liability. Recovery of such penal sum under the terms of this Bond will be Owner's sole and exclusive remedy upon default of Bidder.

EJCDC® C-430, Bid Bond (Penal Sum Form).

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2. Default of Bidder occurs upon the failure of Bidder to deliver within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents.
3. This obligation will be null and void if:
 - 3.1. Owner accepts Bidder's Bid and Bidder delivers within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents, or
 - 3.2. All Bids are rejected by Owner, or
 - 3.3. Owner fails to issue a Notice of Award to Bidder within the time specified in the Bidding Documents (or any extension thereof agreed to in writing by Bidder and, if applicable, consented to by Surety when required by Paragraph 5 hereof).
4. Payment under this Bond will be due and payable upon default of Bidder and within 30 calendar days after receipt by Bidder and Surety of written notice of default from Owner, which notice will be given with reasonable promptness, identifying this Bond and the Project and including a statement of the amount due.
5. Surety waives notice of any and all defenses based on or arising out of any time extension to issue Notice of Award agreed to in writing by Owner and Bidder, provided that the total time for issuing Notice of Award including extensions does not in the aggregate exceed 120 days from the Bid due date without Surety's written consent.
6. No suit or action will be commenced under this Bond prior to 30 calendar days after the notice of default required in Paragraph 4 above is received by Bidder and Surety, and in no case later than one year after the Bid due date.
7. Any suit or action under this Bond will be commenced only in a court of competent jurisdiction located in the state in which the Project is located.
8. Notices required hereunder must be in writing and sent to Bidder and Surety at their respective addresses shown on the face of this Bond. Such notices may be sent by personal delivery, commercial courier, or by United States Postal Service registered or certified mail, return receipt requested, postage pre-paid, and will be deemed to be effective upon receipt by the party concerned.
9. Surety shall cause to be attached to this Bond a current and effective Power of Attorney evidencing the authority of the officer, agent, or representative who executed this Bond on behalf of Surety to execute, seal, and deliver such Bond and bind the Surety thereby.
10. This Bond is intended to conform to all applicable statutory requirements. Any applicable requirement of any applicable statute that has been omitted from this Bond will be deemed to be included herein as if set forth at length. If any provision of this Bond conflicts with any applicable statute, then the provision of said statute governs and the remainder of this Bond that is not in conflict therewith continues in full force and effect.
11. The term "Bid" as used herein includes a Bid, offer, or proposal as applicable.

END OF SECTION

SECTION 00450

QUALIFICATIONS STATEMENT

ARTICLE 1—GENERAL INFORMATION

1.01 Provide contact information for the Business:

| | | | |
|---------------------------------------|--|----------------|--|
| Legal Name of Business: | | | |
| Corporate Office | | | |
| Name: | | Phone number: | |
| Title: | | Email address: | |
| Business address of corporate office: | | | |
| | | | |
| | | | |
| Local Office | | | |
| Name: | | Phone number: | |
| Title: | | Email address: | |
| Business address of local office: | | | |
| | | | |
| | | | |

1.02 Provide information on the Business’s organizational structure:

| | | | |
|---|---|---|--|
| Form of Business: | <input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> Partnership <input type="checkbox"/> Corporation | | |
| | <input type="checkbox"/> Limited Liability Company <input type="checkbox"/> Joint Venture comprised of the following companies: | | |
| | 1. | | |
| | 2. | | |
| | 3. | | |
| Provide a separate Qualification Statement for each Joint Venturer. | | | |
| Date Business was formed: | | State in which Business was formed: | |
| Is this Business authorized to operate in the Project location? | | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Pending | |
| Identify all | | Affiliation: | |
| Address: | | | |
| Name of business: | | Affiliation: | |
| Address: | | | |
| Name of business: | | Affiliation: | |
| Address: | | | |

1.03 Provide information regarding the Business’s officers, partners, and limits of authority.

| | | | |
|-------------------------------|--|---------------------|----|
| Name: | | Title: | |
| Authorized to sign contracts: | <input type="checkbox"/> Yes <input type="checkbox"/> No | Limit of Authority: | \$ |
| Name: | | Title: | |
| Authorized to sign contracts: | <input type="checkbox"/> Yes <input type="checkbox"/> No | Limit of Authority: | \$ |
| Name: | | Title: | |
| Authorized to sign contracts: | <input type="checkbox"/> Yes <input type="checkbox"/> No | Limit of Authority: | \$ |
| Name: | | Title: | |

ARTICLE 2—LICENSING

2.01 Provide information regarding licensure for Business:

| | | | |
|-------------------|--|------------------|--|
| Name of License: | | | |
| Licensing Agency: | | | |
| License No: | | Expiration Date: | |
| Name of License: | | | |
| Licensing Agency: | | | |
| License No: | | Expiration Date: | |

ARTICLE 3—DIVERSE BUSINESS CERTIFICATIONS

3.01 Provide information regarding Business’s Diverse Business Certification, if any. Provide evidence of current certification.

| Certification | Certifying Agency | Certification Date |
|---|-------------------|--------------------|
| <input type="checkbox"/> Disadvantaged Business Enterprise | | |
| <input type="checkbox"/> Minority Business Enterprise | | |
| <input type="checkbox"/> Woman-Owned Business Enterprise | | |
| <input type="checkbox"/> Small Business Enterprise | | |
| <input type="checkbox"/> Disabled Business Enterprise | | |
| <input type="checkbox"/> Veteran-Owned Business Enterprise | | |
| <input type="checkbox"/> Service-Disabled Veteran-Owned Business | | |
| <input type="checkbox"/> HUBZone Business (Historically Underutilized) Business | | |
| <input type="checkbox"/> Other | | |
| <input type="checkbox"/> None | | |

ARTICLE 4—SAFETY

4.01 Provide information regarding Business’s safety organization and safety performance.

| | | | |
|------------------------------------|----------------|------------|--|
| Name of Business’s Safety Officer: | | | |
| Safety Certifications | | | |
| Certification Name | Issuing Agency | Expiration | |
| | | | |
| | | | |

4.02 Provide Worker’s Compensation Insurance Experience Modification Rate (EMR), Total Recordable Frequency Rate (TRFR) for incidents, and Total Number of Recorded Manhours (MH) for the last 3 years and the EMR, TRFR, and MH history for the last 3 years of any proposed Subcontractor(s) that will provide Work valued at 10% or more of the Contract Price. Provide documentation of the EMR history for Business and Subcontractor(s).

| | | | | | | | | | |
|---------|-----|------|----|-----|------|----|-----|------|----|
| Year | | | | | | | | | |
| Company | EMR | TRFR | MH | EMR | TRFR | MH | EMR | TRFR | MH |
| | | | | | | | | | |
| | | | | | | | | | |

ARTICLE 5—FINANCIAL

5.01 Provide information regarding the Business’s financial stability. If required in the “Submit” check box below, provide a copy of the most recent audited financial statement, and if such audited financial statement is not current, also provide the most current financial statement.

| | | | |
|---|--|---------------------------------|--|
| Financial Institution: | | | |
| Business address: | | | |
| Date of Business’s most recent financial statement: | | <input type="checkbox"/> Submit | |
| Date of Business’s most recent audited financial statement: | | <input type="checkbox"/> Submit | |
| Financial indicators from the most recent financial statement | | | |
| Contractor’s Current Ratio (Current Assets ÷ Current Liabilities) | | | |
| Contractor’s Quick Ratio ((Cash and Cash Equivalents + Accounts Receivable + Short Term Investments) ÷ Current Liabilities) | | | |

ARTICLE 6—SURETY INFORMATION

6.01 Provide information regarding the surety company that will issue required bonds on behalf of the Business, including but not limited to performance and payment bonds.

| | | | |
|--|--|-----------------|--|
| Surety Name: | | | |
| Surety is a corporation organized and existing under the laws of the state of: | | | |
| Is surety authorized to provide surety bonds in the Project location? | <input type="checkbox"/> Yes <input type="checkbox"/> No | | |
| Is surety listed in "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" published in Department Circular 570 (as amended) by the Bureau of the Fiscal Service, U.S. Department of the Treasury? <input type="checkbox"/> Yes <input type="checkbox"/> No | | | |
| Mailing Address (principal place of business): | | | |
| | | | |
| | | | |
| Physical Address (principal place of business): | | | |
| | | | |
| | | | |
| Phone (main): | | Phone (claims): | |

ARTICLE 7—INSURANCE

7.01 Provide information regarding Business's insurance company(s), including but not limited to its Commercial General Liability carrier. Provide information for each provider.

| | | | |
|---|------------------------------------|-----------------|--|
| Name of insurance provider, and type of policy (CLE, auto, etc.): | | | |
| Insurance Provider | Type of Policy (Coverage Provided) | | |
| | | | |
| | | | |
| | | | |
| Are providers licensed or authorized to issue policies in the Project location? | | | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Does provider have an A.M. Best Rating of A-VII or better? | | | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Mailing Address (principal place of business): | | | |
| | | | |
| | | | |
| Physical Address (principal place of business): | | | |
| | | | |
| | | | |
| Phone (main): | | Phone (claims): | |

ARTICLE 8—CONSTRUCTION EXPERIENCE

8.01 Provide information that will identify the overall size and capacity of the Business.

| | |
|--|--|
| Average number of current full-time employees: | |
| Estimate of revenue for the current year: | |
| Estimate of revenue for the previous year: | |

8.02 Provide information regarding the Business’s previous contracting experience.

| | | |
|---|--|----------------------|
| Years of experience with projects like the proposed project: | | |
| As a general contractor: | | As a joint venturer: |
| Has Business, or a predecessor in interest, or an affiliate identified in Paragraph 1.03: | | |
| Been disqualified as a bidder by any local, state, or federal agency within the last 5 years? <input type="checkbox"/> Yes <input type="checkbox"/> No | | |
| Been barred from contracting by any local, state, or federal agency within the last 5 years? <input type="checkbox"/> Yes <input type="checkbox"/> No | | |
| Been released from a bid in the past 5 years? <input type="checkbox"/> Yes <input type="checkbox"/> No | | |
| Defaulted on a project or failed to complete any contract awarded to it? <input type="checkbox"/> Yes <input type="checkbox"/> No | | |
| Refused to construct or refused to provide materials defined in the contract documents or in a change order? <input type="checkbox"/> Yes <input type="checkbox"/> No | | |
| Been a party to any currently pending litigation or arbitration? <input type="checkbox"/> Yes <input type="checkbox"/> No | | |
| Provide full details in a separate attachment if the response to any of these questions is Yes. | | |

- 8.03 List all projects currently under contract in Schedule A and provide indicated information.
- 8.04 List a minimum of three and a maximum of six projects completed in the last 5 years in Schedule B and provide indicated information to demonstrate the Business’s experience with projects similar in type and cost of construction.
- 8.05 In Schedule C, provide information on key individuals whom Business intends to assign to the Project. Provide resumes for those individuals included in Schedule C. Key individuals include the Project Manager, Project Superintendent, Quality Manager, and Safety Manager. Resumes may be provided for Business’s key leaders as well.

ARTICLE 9—REQUIRED ATTACHMENTS

- 9.01 Provide the following information with the Statement of Qualifications:
 - A. If Business is a Joint Venture, separate Qualifications Statements for each Joint Venturer, as required in Paragraph 1.02.
 - B. Diverse Business Certifications if required by Paragraph 3.01.
 - C. Certification of Business’s safety performance if required by Paragraph 4.02.
 - D. Financial statements as required by Paragraph 5.01.

- E. Attachments providing additional information as required by Paragraph 8.02.
- F. Schedule A (Current Projects) as required by Paragraph 8.03.
- G. Schedule B (Previous Experience with Similar Projects) as required by Paragraph 8.04.
- H. Schedule C (Key Individuals) and resumes for the key individuals listed, as required by Paragraph 8.05.
- I. Additional items as pertinent.

This Statement of Qualifications is offered by:

Business: _____
(typed or printed name of organization)

By: _____
(individual's signature)

Name: _____
(typed or printed)

Title: _____
(typed or printed)

Date: _____
(date signed)

(If Business is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.)

Attest: _____
(individual's signature)

Name: _____
(typed or printed)

Title: _____
(typed or printed)

Address for giving notices:

Designated Representative:

Name: _____
(typed or printed)

Title: _____
(typed or printed)

Address:

Phone: _____

Email: _____

Schedule A—Current Projects

| | | | | | |
|---|-----------------|------------------------|----------------|-------------------------|-------|
| Name of Organization | | | | | |
| Project Owner | | | Project Name | | |
| General Description of Project | | | | | |
| Project Cost | | | Date Project | | |
| Key Project Personnel | Project Manager | Project Superintendent | Safety Manager | Quality Control Manager | |
| Name | | | | | |
| Reference Contact Information (listing names indicates approval to contacting the names individuals as a reference) | | | | | |
| | Name | Title/Position | Organization | Telephone | Email |
| Owner | | | | | |
| Designer | | | | | |
| Construction Manager | | | | | |
| | | | | | |
| Project Owner | | | Project Name | | |
| General Description of Project | | | | | |
| Project Cost | | | Date Project | | |
| Key Project Personnel | Project Manager | Project Superintendent | Safety Manager | Quality Control Manager | |
| Name | | | | | |
| Reference Contact Information (listing names indicates approval to contacting the names individuals as a reference) | | | | | |
| | Name | Title/Position | Organization | Telephone | Email |
| Owner | | | | | |
| Designer | | | | | |
| Construction Manager | | | | | |
| | | | | | |
| Project Owner | | | Project Name | | |
| General Description of Project | | | | | |
| Project Cost | | | Date Project | | |
| Key Project Personnel | Project Manager | Project Superintendent | Safety Manager | Quality Control Manager | |
| Name | | | | | |
| Reference Contact Information (listing names indicates approval to contacting the names individuals as a reference) | | | | | |
| | Name | Title/Position | Organization | Telephone | Email |
| Owner | | | | | |
| Designer | | | | | |
| Construction Manager | | | | | |

Schedule B—Previous Experience with Similar Projects

| | | | | | |
|---|------|-----------------|--------------|-------------------------|-------|
| Name of Organization | | | | | |
| Project Owner | | Project Name | | | |
| General Description of Project | | | | | |
| Project Cost | | Date Project | | | |
| Key Project Personnel | | Project Manager | | Project Superintendent | |
| Name | | | | Safety Manager | |
| | | | | Quality Control Manager | |
| | | | | | |
| Reference Contact Information (listing names indicates approval to contacting the names individuals as a reference) | | | | | |
| | Name | Title/Position | Organization | Telephone | Email |
| Owner | | | | | |
| Designer | | | | | |
| Construction Manager | | | | | |

| | | | | | |
|---|------|-----------------|--------------|-------------------------|-------|
| Project Owner | | Project Name | | | |
| General Description of Project | | | | | |
| Project Cost | | Date Project | | | |
| Key Project Personnel | | Project Manager | | Project Superintendent | |
| Name | | | | Safety Manager | |
| | | | | Quality Control Manager | |
| | | | | | |
| Reference Contact Information (listing names indicates approval to contacting the names individuals as a reference) | | | | | |
| | Name | Title/Position | Organization | Telephone | Email |
| Owner | | | | | |
| Designer | | | | | |
| Construction Manager | | | | | |

| | | | | | |
|---|------|-----------------|--------------|-------------------------|-------|
| Project Owner | | Project Name | | | |
| General Description of Project | | | | | |
| Project Cost | | Date Project | | | |
| Key Project Personnel | | Project Manager | | Project Superintendent | |
| Name | | | | Safety Manager | |
| | | | | Quality Control Manager | |
| | | | | | |
| Reference Contact Information (listing names indicates approval to contacting the names individuals as a reference) | | | | | |
| | Name | Title/Position | Organization | Telephone | Email |
| Owner | | | | | |
| Designer | | | | | |
| Construction Manager | | | | | |

Schedule B—Previous Experience with Similar Projects

| | | | | | |
|---|-----------------|------------------------|----------------|-------------------------|-------|
| Name of Organization | | | | | |
| Project Owner | | | Project Name | | |
| General Description of Project | | | | | |
| Project Cost | | | Date Project | | |
| Key Project Personnel | Project Manager | Project Superintendent | Safety Manager | Quality Control Manager | |
| Name | | | | | |
| Reference Contact Information (listing names indicates approval to contacting the names individuals as a reference) | | | | | |
| | Name | Title/Position | Organization | Telephone | Email |
| Owner | | | | | |
| Designer | | | | | |
| Construction Manager | | | | | |

| | | | | | |
|---|-----------------|------------------------|----------------|-------------------------|-------|
| Project Owner | | | Project Name | | |
| General Description of Project | | | | | |
| Project Cost | | | Date Project | | |
| Key Project Personnel | Project Manager | Project Superintendent | Safety Manager | Quality Control Manager | |
| Name | | | | | |
| Reference Contact Information (listing names indicates approval to contacting the names individuals as a reference) | | | | | |
| | Name | Title/Position | Organization | Telephone | Email |
| Owner | | | | | |
| Designer | | | | | |
| Construction Manager | | | | | |

| | | | | | |
|---|-----------------|------------------------|----------------|-------------------------|-------|
| Project Owner | | | Project Name | | |
| General Description of Project | | | | | |
| Project Cost | | | Date Project | | |
| Key Project Personnel | Project Manager | Project Superintendent | Safety Manager | Quality Control Manager | |
| Name | | | | | |
| Reference Contact Information (listing names indicates approval to contacting the names individuals as a reference) | | | | | |
| | Name | Title/Position | Organization | Telephone | Email |
| Owner | | | | | |
| Designer | | | | | |
| Construction Manager | | | | | |

Schedule C—Key Individuals

| | | | |
|--|--|---------------------------------------|-----------------------------------|
| Project Manager | | | |
| Name of individual | | | |
| Years of experience as project manager | | | |
| Years of experience with this organization | | | |
| Number of similar projects as project manager | | | |
| Number of similar projects in other positions | | | |
| Current Project Assignments | | | |
| Name of assignment | | Percent of time used for this project | Estimated project completion date |
| | | | |
| | | | |
| Reference Contact Information (listing names indicates approval to contact named individuals as a reference) | | | |
| Name | | Name | |
| Title/Position | | Title/Position | |
| Organization | | Organization | |
| Telephone | | Telephone | |
| Email | | Email | |
| Project | | Project | |
| Candidate's role on project | | Candidate's role on project | |
| Project Superintendent | | | |
| Name of individual | | | |
| Years of experience as project superintendent | | | |
| Years of experience with this organization | | | |
| Number of similar projects as project superintendent | | | |
| Number of similar projects in other positions | | | |
| Current Project Assignments | | | |
| Name of assignment | | Percent of time used for this project | Estimated project completion date |
| | | | |
| | | | |
| Reference Contact Information (listing names indicates approval to contact named individuals as a reference) | | | |
| Name | | Name | |
| Title/Position | | Title/Position | |
| Organization | | Organization | |
| Telephone | | Telephone | |
| Email | | Email | |
| Project | | Project | |
| Candidate's role on project | | Candidate's role on project | |

| | | | |
|--|--|---------------------------------------|-----------------------------------|
| Safety Manager | | | |
| Name of individual | | | |
| Years of experience as project manager | | | |
| Years of experience with this organization | | | |
| Number of similar projects as project manager | | | |
| Number of similar projects in other positions | | | |
| Current Project Assignments | | | |
| Name of assignment | | Percent of time used for this project | Estimated project completion date |
| | | | |
| | | | |
| Reference Contact Information (listing names indicates approval to contact named individuals as a reference) | | | |
| Name | | Name | |
| Title/Position | | Title/Position | |
| Organization | | Organization | |
| Telephone | | Telephone | |
| Email | | Email | |
| Project | | Project | |
| Candidate's role on project | | Candidate's role on project | |
| Quality Control Manager | | | |
| Name of individual | | | |
| Years of experience as project superintendent | | | |
| Years of experience with this organization | | | |
| Number of similar projects as project superintendent | | | |
| Number of similar projects in other positions | | | |
| Current Project Assignments | | | |
| Name of assignment | | Percent of time used for this project | Estimated project completion date |
| | | | |
| | | | |
| Reference Contact Information (listing names indicates approval to contact named individuals as a reference) | | | |
| Name | | Name | |
| Title/Position | | Title/Position | |
| Organization | | Organization | |
| Telephone | | Telephone | |
| Email | | Email | |
| Project | | Project | |
| Candidate's role on project | | Candidate's role on project | |

END OF SECTION

SECTION 00460COMPLIANCE STATEMENT

EXECUTIVE ORDER 11246

Date: _____

This statement relates to a proposed contract with the _____, who expects to finance the contract with assistance from an agency of agencies of the United States Government. I am the undersigned bidder or prospective contractor. I represent that -----

1. I have, have not, participated in a previous contract or subcontract subject to Executive Order 11246 (regarding equal employment opportunity) or a preceding similar Executive Order.
2. If I have participated in such a contract or subcontract, I have, have not, filed all compliance reports that I have been required to file in connection with the contract or subcontract.

I understand that if I have failed to file any compliance reports that have been required of me, I am not eligible and will not be eligible to have my bid considered or to enter into the proposed contract unless and until I make an arrangement regarding such reports that is satisfactory to the office where the reports are required to be filed.

 Signature of Bidder or Prospective Contractor

Address: _____

Street, P.O. Box, etc.

 City, State and Zip Code

(This page to be completed by the Bidder and submitted with the Bid Form)

END OF SECTION

SECTION 00510NOTICE OF AWARD

Date of Issuance:

Owner:

Owner's Project No.:

Engineer:

Engineer's Project No.:

Project:

Contract Name:

Bidder:

Bidder's Address:

You are notified that Owner has accepted your Bid dated [date] for the above Contract, and that you are the Successful Bidder and are awarded a Contract for:

[Describe Work, alternates, or sections of Work awarded]

The Contract Price of the awarded Contract is \$[Contract Price]. Contract Price is subject to adjustment based on the provisions of the Contract, including but not limited to those governing changes, Unit Price Work, and Work performed on a cost-plus-fee basis, as applicable.

[Number of copies sent] unexecuted counterparts of the Agreement accompany this Notice of Award, and one copy of the Contract Documents accompanies this Notice of Award, or has been transmitted or made available to Bidder electronically.

Drawings will be delivered separately from the other Contract Documents.

You must comply with the following conditions precedent within 15 days of the date of receipt of this Notice of Award:

1. Deliver to Owner [number of copies sent] counterparts of the Agreement, signed by Bidder (as Contractor).
2. Deliver with the signed Agreement(s) the Contract security (such as required performance and payment bonds) and insurance documentation, as specified in the Instructions to Bidders and in the General Conditions, Articles 2 and 6.
3. Other conditions precedent (if any): [Describe other conditions that require Successful Bidder's compliance]

Failure to comply with these conditions within the time specified will entitle Owner to consider you in default, annul this Notice of Award, and declare your Bid security forfeited.

Within 10 days after you comply with the above conditions, Owner will return to you one fully signed counterpart of the Agreement, together with any additional copies of the Contract Documents as indicated in Paragraph 2.02 of the General Conditions.

Owner: [Full formal name of Owner]

By (*signature*): _____

Name (*printed*): _____

Title: _____

Copy: Engineer

END OF SECTION

SECTION 00520AGREEMENT BETWEEN OWNER AND CONTRACTOR
FOR CONSTRUCTION CONTRACT (STIPULATED PRICE)

This Agreement is by and between Town of Montville ("Owner") and
_____ ("Contractor").

Terms used in this Agreement have the meanings stated in the General Conditions and the Supplementary Conditions.

Owner and Contractor hereby agree as follows:

ARTICLE 1—WORK

1.01 Contractor shall complete all Work as specified and indicated in the Contract Documents. The Work is generally described as follows: Rehabilitation of two concrete distribution boxes at the Montville Water Pollution Control Facility in Uncasville, CT. Work will include bypass pumping each distribution box and include cleaning/debris removal, concrete surface preparation, concrete repair and protective top coat.

ARTICLE 2—THE PROJECT

2.01 The Project, of which the Work under the Contract Documents is a part, is generally described as follows: Rehabilitation of Two Concrete Distribution Boxes at the Montville Water Pollution Control Facility

ARTICLE 3— DELETED

ARTICLE 4—CONTRACT TIMES

4.01 *Time is of the Essence*

A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

4.03 *Contract Times: Days*

A. Work shall be substantially complete within 120 days after contract award and final completion shall be within 140 days after contract award. Work will be substantially complete as defined in Paragraph 4.01 of the General Conditions, and completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions .

4.05 *Liquidated Damages*

A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial and other losses if the Work is not completed and Milestones not achieved within the Contract Times, as duly modified. The parties also recognize the delays, expense, and difficulties involved in proving, in a legal or arbitration proceeding, the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty):

1. *Substantial Completion*: Contractor shall pay Owner \$500 for each day that expires after the time (as duly adjusted pursuant to the Contract) specified above for Substantial Completion, until the Work is substantially complete.
 2. *Completion of Remaining Work*: After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Contractor shall pay Owner \$500 for each day that expires after such time until the Work is completed and ready for final payment.
 3. Liquidated damages for failing to timely attain Substantial Completion, and final completion are not additive, and will not be imposed concurrently.
- B. If Owner recovers liquidated damages for a delay in completion by Contractor, then such liquidated damages are Owner's sole and exclusive remedy for such delay, and Owner is precluded from recovering any other damages, whether actual, direct, excess, or consequential, for such delay, except for special damages (if any) specified in this Agreement.

4.06 *Special Damages*

- A. Contractor shall reimburse Owner (1) for any fines or penalties imposed on Owner as a direct result of the Contractor's failure to attain Substantial Completion according to the Contract Times, and (2) for the actual costs reasonably incurred by Owner for engineering, construction observation, inspection, and administrative services needed after the time specified in Paragraph 4.02 for Substantial Completion (as duly adjusted pursuant to the Contract), until the Work is substantially complete.
- B. After Contractor achieves Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times, Contractor shall reimburse Owner for the actual costs reasonably incurred by Owner for engineering, construction observation, inspection, and administrative services needed after the time specified in Paragraph 4.02 for Work to be completed and ready for final payment (as duly adjusted pursuant to the Contract), until the Work is completed and ready for final payment.
- C. The special damages imposed in this paragraph are supplemental to any liquidated damages for delayed completion established in this Agreement.

ARTICLE 5—CONTRACT PRICE

- 5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents, the amounts that follow, subject to adjustment under the Contract:
- A. For all Work, at the prices stated in Contractor's Bid, attached hereto as an exhibit.

ARTICLE 6—PAYMENT PROCEDURES

6.01 *Submittal and Processing of Payments*

- A. Contractor shall submit Applications for Payment in accordance with Article 15 of the General Conditions. Applications for Payment will be processed by Engineer and Owner as provided in the General Conditions.

6.02 *Progress Payments; Retainage*

- A. Owner shall make progress payments on the basis of Contractor's Applications for Payment on or about the last day of each month during performance of the Work as provided in Paragraph 6.02.A.1 below, provided that such Applications for Payment have been submitted in a timely manner and otherwise meet the requirements of the Contract. All such payments will be measured by the Schedule of Values established as provided in the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no Schedule of Values, as provided elsewhere in the Contract.
 - 1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Owner may withhold, including but not limited to liquidated damages, in accordance with the Contract.
 - a. 95 percent of the value of the Work completed (with the balance being retainage).
 - b. 95 percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).
- B. Upon Substantial Completion of the entire construction to be provided under the Contract Documents, Owner shall pay an amount sufficient to increase total payments to Contractor to 98 percent of the Work completed, less such amounts set off by Owner pursuant to Paragraph 15.01.E of the General Conditions, and less 200 percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the punch list of items to be completed or corrected prior to final payment.

6.03 *Final Payment*

- A. Upon final completion and acceptance of the Work, Owner shall pay the remainder of the Contract Price in accordance with Paragraph 15.06 of the General Conditions.

6.04 *Consent of Surety*

- A. Owner will not make final payment, or return or release retainage at Substantial Completion or any other time, unless Contractor submits written consent of the surety to such payment, return, or release.

6.05 *Interest*

- A. All amounts not paid when due will bear interest at the rate of prime plus 2" percent per annum.

ARTICLE 7—CONTRACT DOCUMENTS

7.01 *Contents*

- A. The Contract Documents consist of all of the following:
 - 1. This Agreement.
 - 2. Bonds:
 - a. Performance bond (together with power of attorney).
 - b. Payment bond (together with power of attorney).

3. General Conditions.
4. Supplementary Conditions.
5. Specifications as listed in the table of contents of the project manual (copy of list attached).
6. Drawings (not attached but incorporated by reference) consisting of _____ sheets with each sheet bearing the following general title: _____.
7. Addenda (numbers _____ to _____, inclusive).
8. Exhibits to this Agreement (enumerated as follows):
 - a. Contractor's Bid
 - b. [list exhibits]_____
9. The following which may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:
 - a. Notice to Proceed.
 - b. Work Change Directives.
 - c. Change Orders.
 - d. Field Orders.
 - e. Warranty Bond, if any.
- B. The Contract Documents listed in Paragraph 7.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 7.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in the Contract.

ARTICLE 8—REPRESENTATIONS, CERTIFICATIONS, AND STIPULATIONS

8.01 *Contractor's Representations*

- A. In order to induce Owner to enter into this Contract, Contractor makes the following representations:
 1. Contractor has examined and carefully studied the Contract Documents, including Addenda.
 2. Contractor has visited the Site, conducted a thorough visual examination of the Site and adjacent areas, and become familiar with the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
 3. Contractor is familiar with all Laws and Regulations that may affect cost, progress, and performance of the Work.
 4. Contractor has carefully studied the reports of explorations and tests of subsurface conditions at or adjacent to the Site and the drawings of physical conditions relating to

existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, with respect to the Technical Data in such reports and drawings.

5. Contractor has carefully studied the reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, with respect to Technical Data in such reports and drawings.
6. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Technical Data identified in the Supplementary Conditions or by definition, with respect to the effect of such information, observations, and Technical Data on (a) the cost, progress, and performance of the Work; (b) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (c) Contractor's safety precautions and programs.
7. Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.
8. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
9. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and of discrepancies between Site conditions and the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
10. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
11. Contractor's entry into this Contract constitutes an incontrovertible representation by Contractor that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.

8.02 *Contractor's Certifications*

- A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 8.02:
 1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process or in the Contract execution;
 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;

3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

8.03 *Standard General Conditions*

- A. Owner stipulates that if the General Conditions that are made a part of this Contract are EJCDC® C700, Standard General Conditions for the Construction Contract (2018), published by the Engineers Joint Contract Documents Committee, and if Owner is the party that has furnished said General Conditions, then Owner has plainly shown all modifications to the standard wording of such published document to the Contractor, through a process such as highlighting or "track changes" (redline/strikeout), or in the Supplementary Conditions.-

AGREEMENT BETWEEN OWNER AND CONTRACTOR
FOR CONSTRUCTION CONTRACT (STIPULATED PRICE)

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement.

This Agreement will be effective on _____ (which is
the Effective Date of the Contract).

Owner:

Contractor:

(typed or printed name of organization)

(typed or printed name of organization)

By: _____
(individual's signature)

By: _____
(individual's signature)

Date: _____
(date signed)

Date: _____
(date signed)

Name: _____
(typed or printed)

Name: _____
(typed or printed)

Title: _____
(typed or printed)

Title: _____
(typed or printed)

*(If [Type of Entity] is a corporation, a partnership, or a
joint venture, attach evidence of authority to sign.)*

Attest: _____
(individual's signature)

Attest: _____
(individual's signature)

Title: _____
(typed or printed)

Title: _____
(typed or printed)

Address for giving notices:

Address for giving notices:

Designated Representative:

Designated Representative:

Name: _____
(typed or printed)

Name: _____
(typed or printed)

Title: _____
(typed or printed)

Title: _____
(typed or printed)

Address:

Address:

Phone: _____

Phone: _____

Email: _____

Email: _____

*(If [Type of Entity] is a corporation, attach evidence of
authority to sign. If [Type of Entity] is a public body,
attach evidence of authority to sign and resolution or
other documents authorizing execution of this
Agreement.)*

License No.: _____
(where applicable)

State: _____

END OF SECTION

SECTION 00550NOTICE TO PROCEED

Owner: _____ Owner's Project No.: _____
 Engineer: _____ Engineer's Project No.: _____
 Contractor: _____ Contractor's Project No.: _____
 Project: _____
 Contract Name: _____
 Effective Date of Contract: _____

Owner hereby notifies Contractor that the Contract Times under the above Contract will commence to run on [date Contract Times are to start] pursuant to Paragraph 4.01 of the General Conditions.

On that date, Contractor shall start performing its obligations under the Contract Documents. No Work will be done at the Site prior to such date.

In accordance with the Agreement: [Select one of the following two alternatives, insert dates or number of days, and delete the other alternative.]

The date by which Substantial Completion must be achieved is [date for Substantial Completion, from Agreement], and the date by which readiness for final payment must be achieved is [date for readiness, from Agreement].

[or]

The number of days to achieve Substantial Completion is [number of days, from Agreement] from the date stated above for the commencement of the Contract Times, resulting in a date for Substantial Completion of [date, calculated from commencement date above]; and the number of days to achieve readiness for final payment is [number of days, from Agreement] from the commencement date of the Contract Times, resulting in a date for readiness for final payment of [date, calculated from commencement date above].

Before starting any Work at the Site, Contractor must comply with the following:

[Note any access limitations, security procedures, or other restrictions]

Owner: _____ [Full formal name of Owner]

By (signature): _____

Name (printed): _____

Title: _____

Date Issued: _____

Copy: Engineer

END OF SECTION

SECTION 00610

PERFORMANCE BOND

| | |
|--|---|
| <p>Contractor</p> <p>Name: [Full formal name of Contractor]</p> <p>Address (<i>principal place of business</i>): [Address of Contractor's principal place of business]</p> | <p>Surety</p> <p>Name: [Full formal name of Surety]</p> <p>Address (<i>principal place of business</i>): [Address of Surety's principal place of business]</p> |
| <p>Owner</p> <p>Name: [Full formal name of Owner]</p> <p>Mailing address (<i>principal place of business</i>): [Address of Owner's principal place of business]</p> | <p>Contract</p> <p>Description (<i>name and location</i>): [Owner's project/contract name, and location of the project]</p> <p>Contract Price: [Amount from Contract]</p> <p>Effective Date of Contract: [Date from Contract]</p> |
| <p>Bond</p> <p>Bond Amount: [Amount]</p> <p>Date of Bond: [Date] <i>(Date of Bond cannot be earlier than Effective Date of Contract)</i></p> <p>Modifications to this Bond form: <input type="checkbox"/> None <input type="checkbox"/> See Paragraph 16</p> | |
| <p>Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth in this Performance Bond, do each cause this Performance Bond to be duly executed by an authorized officer, agent, or representative.</p> | |
| Contractor as Principal | Surety |
| _____ | _____ |
| <i>(Full formal name of Contractor)</i> | <i>(Full formal name of Surety) (corporate seal)</i> |
| By: _____ | By: _____ |
| <i>(Signature)</i> | <i>(Signature)(Attach Power of Attorney)</i> |
| Name: _____ | Name: _____ |
| <i>(Printed or typed)</i> | <i>(Printed or typed)</i> |
| Title: _____ | Title: _____ |
| Attest: _____ | Attest: _____ |
| <i>(Signature)</i> | <i>(Signature)</i> |
| Name: _____ | Name: _____ |
| <i>(Printed or typed)</i> | <i>(Printed or typed)</i> |
| Title: _____ | Title: _____ |
| <p>Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner, or other party is considered plural where applicable.</p> | |

1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.
2. If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except when applicable to participate in a conference as provided in Paragraph 3.
3. If there is no Owner Default under the Construction Contract, the Surety's obligation under this Bond will arise after:
 - 3.1. The Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice may indicate whether the Owner is requesting a conference among the Owner, Contractor, and Surety to discuss the Contractor's performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Paragraph 3.1 will be held within ten (10) business days of the Surety's receipt of the Owner's notice. If the Owner, the Contractor, and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement does not waive the Owner's right, if any, subsequently to declare a Contractor Default;
 - 3.2. The Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and
 - 3.3. The Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.
4. Failure on the part of the Owner to comply with the notice requirement in Paragraph 3.1 does not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.
5. When the Owner has satisfied the conditions of Paragraph 3, the Surety shall promptly and at the Surety's expense take one of the following actions:
 - 5.1. Arrange for the Contractor, with the consent of the Owner, to perform and complete the Construction Contract;
 - 5.2. Undertake to perform and complete the Construction Contract itself, through its agents or independent contractors;
 - 5.3. Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and a contractor selected with the Owners concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Paragraph 7 in excess of the Balance of the Contract Price incurred by the Owner as a result of the Contractor Default; or
 - 5.4. Waive its right to perform and complete, arrange for completion, or obtain a new contractor, and with reasonable promptness under the circumstances:

- 5.4.1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, make payment to the Owner; or
 - 5.4.2 Deny liability in whole or in part and notify the Owner, citing the reasons for denial.
6. If the Surety does not proceed as provided in Paragraph 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Paragraph 5.4, and the Owner refuses the payment, or the Surety has denied liability, in whole or in part, without further notice, the Owner shall be entitled to enforce any remedy available to the Owner.
7. If the Surety elects to act under Paragraph 5.1, 5.2, or 5.3, then the responsibilities of the Surety to the Owner will not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety will not be greater than those of the Owner under the Construction Contract. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication for:
 - 7.1. the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;
 - 7.2. additional legal, design professional, and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Paragraph 5; and
 - 7.3. liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.
8. If the Surety elects to act under Paragraph 5.1, 5.3, or 5.4, the Surety's liability is limited to the amount of this Bond.
9. The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price will not be reduced or set off on account of any such unrelated obligations. No right of action will accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, successors, and assigns.
10. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders, and other obligations.
11. Any proceeding, legal or equitable, under this Bond must be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and must be instituted within two years after a declaration of Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this paragraph are void or prohibited by law, the minimum periods of limitations available to sureties as a defense in the jurisdiction of the suit will be applicable.
12. Notice to the Surety, the Owner, or the Contractor must be mailed or delivered to the address shown on the page on which their signature appears.
13. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement will be deemed deleted therefrom and provisions conforming to such statutory or other legal requirement will be deemed incorporated herein. When so furnished, the intent is that this Bond will be construed as a statutory bond and not as a common law bond.

14. Definitions

- 14.1. *Balance of the Contract Price*—The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made including allowance for the Contractor for any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.
- 14.2. *Construction Contract*—The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and changes made to the agreement and the Contract Documents.
- 14.3. *Contractor Default*—Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with a material term of the Construction Contract.
- 14.4. *Owner Default*—Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.
- 14.5. *Contract Documents*—All the documents that comprise the agreement between the Owner and Contractor.
15. If this Bond is issued for an agreement between a contractor and subcontractor, the term Contractor in this Bond will be deemed to be Subcontractor and the term Owner will be deemed to be Contractor.
16. Modifications to this Bond are as follows: [Describe modification or enter "None"]

END OF SECTION

SECTION 00615

PAYMENT BOND

| | |
|--|--|
| Contractor Name: [Full formal name of Contractor] Address (<i>principal place of business</i>): [Address of Contractor's principal place of business] | Surety Name: [Full formal name of Surety] Address (<i>principal place of business</i>): [Address of Surety's principal place of business] |
| Owner Name: [Full formal name of Owner] Mailing address (<i>principal place of business</i>): [Address of Owner's principal place of business] | Contract Description (<i>name and location</i>): [Owner's project/contract name, and location of the project] Contract Price: [Amount, from Contract] Effective Date of Contract: [Date, from Contract] |
| Bond Bond Amount: [Amount] Date of Bond: [Date] (<i>Date of Bond cannot be earlier than Effective Date of Contract</i>) Modifications to this Bond form: <input type="checkbox"/> None <input type="checkbox"/> See Paragraph 18 | |
| Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth in this Payment Bond, do each cause this Payment Bond to be duly executed by an authorized officer, agent, or representative. | |
| Contractor as Principal | Surety |
| _____ (<i>Full formal name of Contractor</i>) | _____ (<i>Full formal name of Surety</i>) (<i>corporate seal</i>) |
| By: _____ (<i>Signature</i>) | By: _____ (<i>Signature</i>)(<i>Attach Power of Attorney</i>) |
| Name: _____ (<i>Printed or typed</i>) | Name: _____ (<i>Printed or typed</i>) |
| Title: _____ | Title: _____ |
| Attest: _____ (<i>Signature</i>) | Attest: _____ (<i>Signature</i>) |
| Name: _____ (<i>Printed or typed</i>) | Name: _____ (<i>Printed or typed</i>) |
| Title: _____ | Title: _____ |
| <i>Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner, or other party is considered plural where applicable.</i> | |

1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner to pay for labor, materials, and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference, subject to the following terms.
2. If the Contractor promptly makes payment of all sums due to Claimants, and defends, indemnifies, and holds harmless the Owner from claims, demands, liens, or suits by any person or entity seeking payment for labor, materials, or equipment furnished for use in the performance of the Construction Contract, then the Surety and the Contractor shall have no obligation under this Bond.
3. If there is no Owner Default under the Construction Contract, the Surety's obligation to the Owner under this Bond will arise after the Owner has promptly notified the Contractor and the Surety (at the address described in Paragraph 13) of claims, demands, liens, or suits against the Owner or the Owner's property by any person or entity seeking payment for labor, materials, or equipment furnished for use in the performance of the Construction Contract, and tendered defense of such claims, demands, liens, or suits to the Contractor and the Surety.
4. When the Owner has satisfied the conditions in Paragraph 3, the Surety shall promptly and at the Surety's expense defend, indemnify, and hold harmless the Owner against a duly tendered claim, demand, lien, or suit.
5. The Surety's obligations to a Claimant under this Bond will arise after the following:
 - 5.1. Claimants who do not have a direct contract with the Contractor
 - 5.1.1. have furnished a written notice of non-payment to the Contractor, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were, or equipment was, furnished or supplied or for whom the labor was done or performed, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the Claim; and
 - 5.1.2. have sent a Claim to the Surety (at the address described in Paragraph 13).
 - 5.2. Claimants who are employed by or have a direct contract with the Contractor have sent a Claim to the Surety (at the address described in Paragraph 13).
6. If a notice of non-payment required by Paragraph 5.1.1 is given by the Owner to the Contractor, that is sufficient to satisfy a Claimant's obligation to furnish a written notice of non-payment under Paragraph 5.1.1.
7. When a Claimant has satisfied the conditions of Paragraph 5.1 or 5.2, whichever is applicable, the Surety shall promptly and at the Surety's expense take the following actions:
 - 7.1. Send an answer to the Claimant, with a copy to the Owner, within sixty (60) days after receipt of the Claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed; and
 - 7.2. Pay or arrange for payment of any undisputed amounts.
 - 7.3. The Surety's failure to discharge its obligations under Paragraph 7.1 or 7.2 will not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a Claim, except as to undisputed amounts for which the Surety and Claimant have reached agreement. If, however, the Surety fails to discharge its obligations under Paragraph 7.1 or 7.2, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs thereafter to recover any sums found to be due and owing to the Claimant.

8. The Surety's total obligation will not exceed the amount of this Bond, plus the amount of reasonable attorney's fees provided under Paragraph 7.3, and the amount of this Bond will be credited for any payments made in good faith by the Surety.
9. Amounts owed by the Owner to the Contractor under the Construction Contract will be used for the performance of the Construction Contract and to satisfy claims, if any, under any construction performance bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfying obligations of the Contractor and Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.
10. The Surety shall not be liable to the Owner, Claimants, or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for the payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligation to make payments to or give notice on behalf of Claimants, or otherwise have any obligations to Claimants under this Bond.
11. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders, and other obligations.
12. No suit or action will be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the state in which the project that is the subject of the Construction Contract is located or after the expiration of one year from the date (1) on which the Claimant sent a Claim to the Surety pursuant to Paragraph 5.1.2 or 5.2, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit will be applicable.
13. Notice and Claims to the Surety, the Owner, or the Contractor must be mailed or delivered to the address shown on the page on which their signature appears. Actual receipt of notice or Claims, however accomplished, will be sufficient compliance as of the date received.
14. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement will be deemed deleted here from and provisions conforming to such statutory or other legal requirement will be deemed incorporated herein. When so furnished, the intent is that this Bond will be construed as a statutory bond and not as a common law bond.
15. Upon requests by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor and Owner shall promptly furnish a copy of this Bond or shall permit a copy to be made.
16. Definitions
 - 16.1. *Claim*—A written statement by the Claimant including at a minimum:
 - 16.1.1. The name of the Claimant;
 - 16.1.2. The name of the person for whom the labor was done, or materials or equipment furnished;
 - 16.1.3. A copy of the agreement or purchase order pursuant to which labor, materials, or equipment was furnished for use in the performance of the Construction Contract;
 - 16.1.4. A brief description of the labor, materials, or equipment furnished;

- 16.1.5. The date on which the Claimant last performed labor or last furnished materials or equipment for use in the performance of the Construction Contract;
 - 16.1.6. The total amount earned by the Claimant for labor, materials, or equipment furnished as of the date of the Claim;
 - 16.1.7. The total amount of previous payments received by the Claimant; and
 - 16.1.8. The total amount due and unpaid to the Claimant for labor, materials, or equipment furnished as of the date of the Claim.
- 16.2. *Claimant*—An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials, or equipment for use in the performance of the Construction Contract. The term Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic's lien or similar statute against the real property upon which the Project is located. The intent of this Bond is to include without limitation in the terms of "labor, materials, or equipment" that part of the water, gas, power, light, heat, oil, gasoline, telephone service, or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials, or equipment were furnished.
- 16.3. *Construction Contract*—The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and all changes made to the agreement and the Contract Documents.
- 16.4. *Owner Default*—Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.
- 16.5. *Contract Documents*—All the documents that comprise the agreement between the Owner and Contractor.
17. If this Bond is issued for an agreement between a contractor and subcontractor, the term Contractor in this Bond will be deemed to be Subcontractor and the term Owner will be deemed to be Contractor.
18. Modifications to this Bond are as follows: [Describe modification or enter "None"]

END OF SECTION

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.

APPLICATION FOR PAYMENT

Prepared By



Endorsed By



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Contractor's Application for Payment

| | |
|---|---------------------------------|
| Owner: _____ | Owner's Project No.: _____ |
| Engineer: _____ | Engineer's Project No.: _____ |
| Contractor: _____ | Contractor's Project No.: _____ |
| Project: _____ | |
| Contract: _____ | |
| Application No.: _____ | Application Date: _____ |
| Application Period: From _____ to _____ | |

| | | |
|--|----|---|
| 1. Original Contract Price | \$ | - |
| 2. Net change by Change Orders | \$ | - |
| 3. Current Contract Price (Line 1 + Line 2) | \$ | - |
| 4. Total Work completed and materials stored to date (Sum of Column G Lump Sum Total and Column J Unit Price Total) | \$ | - |
| 5. Retainage | | |
| a. _____ X \$ - Work Completed | \$ | - |
| b. _____ X \$ - Stored Materials | \$ | - |
| c. Total Retainage (Line 5.a + Line 5.b) | \$ | - |
| 6. Amount eligible to date (Line 4 - Line 5.c) | \$ | - |
| 7. Less previous payments (Line 6 from prior application) | | |
| 8. Amount due this application | \$ | - |
| 9. Balance to finish, including retainage (Line 3 - Line 4) | \$ | - |

Contractor's Certification

The undersigned Contractor certifies, to the best of its knowledge, the following:

(1) All previous progress payments received from Owner on account of Work done under the Contract have been applied on account to discharge Contractor's legitimate obligations incurred in connection with the Work covered by prior Applications for Payment;

(2) Title to all Work, materials and equipment incorporated in said Work, or otherwise listed in or covered by this Application for Payment, will pass to Owner at time of payment free and clear of all liens, security interests, and encumbrances (except such as are covered by a bond acceptable to Owner indemnifying Owner against any such liens, security interest, or encumbrances); and

(3) All the Work covered by this Application for Payment is in accordance with the Contract Documents and is not defective.

Contractor: _____

Signature: _____ Date: _____

| | |
|---|--|
| <p>Recommended by Engineer</p> <p>By: _____</p> <p>Title: _____</p> <p>Date: _____</p> | <p>Approved by Owner</p> <p>By: _____</p> <p>Title: _____</p> <p>Date: _____</p> |
| <p>Approved by Funding Agency</p> <p>By: _____</p> <p>Title: _____</p> <p>Date: _____</p> | <p>By: _____</p> <p>Title: _____</p> <p>Date: _____</p> |

Progress Estimate - Lump Sum Work

Contractor's Application for Payment

| | |
|-------------------|---------------------------------|
| Owner: _____ | Owner's Project No.: _____ |
| Engineer: _____ | Engineer's Project No.: _____ |
| Contractor: _____ | Contractor's Project No.: _____ |
| Project: _____ | |
| Contract: _____ | |

Application No.: _____ Application Period: From _____ to _____ Application Date: _____

| A | B | C | D | E | F | G | H | I |
|--------------------------|--------------------------|----------------------|--|------------------|---|--|----------------------------------|--------------------------------|
| Item No. | Description | Scheduled Value (\$) | Work Completed | | Materials Currently Stored (not in D or E) (\$) | Work Completed and Materials Stored to Date (D + E + F) (\$) | % of Scheduled Value (G / C) (%) | Balance to Finish (C - G) (\$) |
| | | | (D + E) From Previous Application (\$) | This Period (\$) | | | | |
| Original Contract | | | | | | | | |
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| | Original Contract Totals | \$ - | \$ - | \$ - | \$ - | \$ - | | \$ - |

Progress Estimate - Unit Price Work

Contractor's Application for Payment

| | |
|-------------------|---------------------------------|
| Owner: _____ | Owner's Project No.: _____ |
| Engineer: _____ | Engineer's Project No.: _____ |
| Contractor: _____ | Contractor's Project No.: _____ |
| Project: _____ | |
| Contract: _____ | |

Application No.: _____ Application Period: From _____ to _____ Application Date: _____

| A | B | C | D | E | F | G | H | I | J | K | L | |
|--------------------------|-------------|----------------------|-------|-----------------|--------------------------------|---|--|--|--|--------------------------------|--------------------------------|---|
| Bid Item No. | Description | Contract Information | | | | Work Completed | | Materials Currently Stored (not in G) (\$) | Work Completed and Materials Stored to Date (H + I) (\$) | % of Value of Item (J / F) (%) | Balance to Finish (F - J) (\$) | |
| | | Item Quantity | Units | Unit Price (\$) | Value of Bid Item (C X E) (\$) | Estimated Quantity Incorporated in the Work | Value of Work Completed to Date (E X G) (\$) | | | | | |
| Original Contract | | | | | | | | | | | | |
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| Original Contract Totals | | | | | \$ | - | \$ | - | \$ | - | \$ | - |

Progress Estimate - Unit Price Work

Contractor's Application for Payment

| | | | |
|-------------|--|---------------------------|--|
| Owner: | | Owner's Project No.: | |
| Engineer: | | Engineer's Project No.: | |
| Contractor: | | Contractor's Project No.: | |
| Project: | | | |
| Contract: | | | |

Application No.: _____ Application Period: From _____ to _____ Application Date: _____

| A | B | C | D | E | F | G | H | I | J | K | L |
|-------------------------------------|-------------|----------------------|-------|-----------------|--------------------------------|---|--|--|--|--------------------------------|--------------------------------|
| Bid Item No. | Description | Contract Information | | | | Work Completed | | Materials Currently Stored (not in G) (\$) | Work Completed and Materials Stored to Date (H + I) (\$) | % of Value of Item (J / F) (%) | Balance to Finish (F - J) (\$) |
| | | Item Quantity | Units | Unit Price (\$) | Value of Bid Item (C X E) (\$) | Estimated Quantity Incorporated in the Work | Value of Work Completed to Date (E X G) (\$) | | | | |
| Change Orders | | | | | | | | | | | |
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| Original Contract and Change Orders | | | | | | | | | | | |
| Project Totals | | | | | \$ - | | \$ - | \$ - | \$ - | | \$ - |

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STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

Prepared By



Endorsed By



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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

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- 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.

Contractor's Exempt Purchase Certificate

General Purpose: Contractors for the repair, alteration, improvement, remodeling, or construction of real property use this certificate to purchase materials and supplies to be installed or placed in a project being performed under contract with an exempt entity. The materials and supplies, including tangible personal property that remains tangible personal property after its installation or placement, must remain in the project after its completion. If the tangible personal property is not used in the manner described above, a contractor who claimed an exemption owes use tax on the total price of the tangible personal property.

Wherever the term contractor is used in this certificate, it includes subcontractors of the contractor performing a contract with an exempt entity.

Exempt entity means any person entitled to make purchases of tangible personal property exempt from sales and use taxes under the statutory authority listed in the instructions.

| | | | |
|--|---------|---|----------------------------|
| Name of exempt entity | Address | CT Tax Registration Number (If none, explain.) | Federal Employer ID Number |
| Address of project | | | |
| Type of exempt entity (See instructions.) | | | |
| <input type="checkbox"/> Connecticut state government: Enter the exemption number. _____ | | <input type="checkbox"/> Connecticut municipality | |
| <input type="checkbox"/> Charitable or religious organization: Enter the exemption number if any. _____ | | <input type="checkbox"/> Federal government | |
| <input type="checkbox"/> Other (Explain.) _____ | | | |
| Name of purchaser | Address | CT Tax Registration Number (If none, explain.) | Federal Employer ID Number |
| Name of seller | Address | CT Tax Registration Number (If none, explain.) | Federal Employer ID Number |
| Provide a written description of each item purchased. Attach additional sheets if necessary. | | | |
| Check one box: <input type="checkbox"/> Blanket certificate <input type="checkbox"/> Certificate for one purchase only | | | |

Declaration by Purchaser: The item(s) described above are tangible personal property to be installed or placed in a project being performed under contract with the exempt entity identified above and will remain in the project after its completion. I declare that the purchaser named above is a contractor under contract with the exempt entity or a subcontractor of the contractor. I acknowledge that the purchaser will be liable for Connecticut use tax, plus applicable penalty and interest as of the date of purchase, on the total purchase price of the property if any of the requirements for the exemption are not present or are not met.

I declare under penalty of law that I have examined this document (including any accompanying schedules and statements) and, to the best of my knowledge and belief, it is true, complete, and correct. I understand the penalty for willfully delivering a false return or document to the Department of Revenue Services (DRS) is a fine of not more than \$5,000 or imprisonment for not more than five years, or both.

Name of purchaser

By: _____

Authorized signature

Title

Date

Statutory and Regulatory Authority

- Conn. Agencies Regs. §12-426-18;
- Conn. Gen. Stat. §12-412(1) and (2), the United States, the State of Connecticut, or any political subdivisions or agencies of the State of Connecticut; for example state or municipal schools, universities, police, municipal fire departments, and state or municipal libraries. Only Connecticut state agencies have been issued an exemption number that can be entered on this form;
- Conn. Gen. Stat. §12-412(5), nonprofit charitable hospitals, nonprofit nursing homes, nonprofit rest homes and nonprofit residential care homes; and an acute care, for-profit hospital, in operation as of May 12, 2004;
- Conn. Gen. Stat. §12-412(8), Internal Revenue Code §501(c)(3) or (13) organizations exempt from federal income tax. Only charitable or religious organizations that applied to the Department of Revenue Services (DRS) prior to 7/1/95 were issued a Connecticut exemption permit number that can be entered on this form. Other charitable or religious organizations have not been issued a permit number and will leave that space blank;
- Conn. Gen. Stat. § 12-412(84), for purchases with regard to the Connecticut Technology Park;
- Conn. Gen. Stat. § 12-412(90), water companies;
- Conn. Gen. Stat. § 12-412(92), the Connecticut Resources Recovery Authority;
- Conn. Gen. Stat. § 12-412(93), tourism districts;
- Conn. Gen. Stat. § 12-412(95), solid waste-to-energy facilities;
- Conn. Gen. Stat. §7-273mm, municipal or regional resource recovery authorities; and
- Conn. Gen. Stat. § 16-344, the Metropolitan Transportation Authority or subsidiary in connection with the New Haven commuter railroad service.

Instructions for the Purchaser: Use this certificate for purchases of tangible personal property to be installed or placed in a project being performed under a contract with an exempt entity that will remain in the project after its completion. To qualify for the exemption from sales and use taxes, you must present this certificate to the retailer at the time of the purchase of the qualifying tangible personal property. For at least six years from the date it is issued, keep a copy of this certificate and records that substantiate the information entered on this certificate including records to support the contractor's use of this certificate and to show the disposition of all materials or supplies purchased.

If you are unable to designate the exact amount of materials or supplies to be installed or placed in a project being performed under contract with an exempt entity, you must estimate the amount of the purchases. You will be held strictly accountable for any use tax due the state on the purchases in the event of any use other than the permanent installation or placement of the purchases in the exempt project identified in this certificate.

Contractors are the consumers of all the tools, supplies, and equipment used in fulfilling a construction contract that are not installed or placed in the exempt job even if they are used up during the job.

Instructions for the Seller: Acceptance of this certificate, when properly completed, relieves the seller from the burden of proving that tangible personal property is not subject to sales and use taxes when the tangible personal property will be installed or placed in a project being performed under a contract with an exempt entity and will remain in the project after its completion. The certificate is valid only if taken in good faith from a contractor under contract with an exempt entity. The good faith of the seller will be questioned if the seller knows of, or should know of, facts that suggest the contractor does not intend to install or place the property in a project being performed under contract with an exempt entity.

Keep this certificate and bills or invoices to the purchaser for at least six years from the date of purchase. The bills, invoices, or records covering the purchase made under this certificate must be marked to indicate an exempt purchase was made. The words "Exempt under CERT-141" satisfy the requirement.

This certificate may be used for individual purchases, in which case the box marked "Certificate for One Purchase Only" must be checked. This certificate may also be used for a continuing line of exempt purchases for the project identified in this certificate, in which case the box marked "Blanket Certificate" must be checked. A blanket certificate remains in effect for three years unless the purchaser revokes it in writing before the period expires.

For More Information: Call Taxpayer Services at 1-800-382-9463 (Connecticut calls outside the Greater Hartford calling area only) or 860-297-5962 (from anywhere). **TTY, TDD, and Text Telephone users** only may transmit inquiries anytime by calling 860-297-4911. Visit the DRS website at www.ct.gov/DRS to preview and download forms and publications.

SUPPLEMENTARY CONDITIONS OF THE CONSTRUCTION CONTRACT

These Supplementary Conditions amend or supplement EJCDC® C-700, Standard General Conditions of the Construction Contract (2018). The General Conditions remain in full force and effect except as amended.

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

The address system used in these Supplementary Conditions is the same as the address system used in the General Conditions, with the prefix "SC" added—for example, "Paragraph SC-4.05."

CONTENTS OF SUPPLEMENTARY CONDITIONS

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ARTICLE 1—DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

SC-1.01.A.2.

Add the following language to the end of Paragraph 1.01.A.2:

The Project is financed in whole or in part by the Connecticut Department of Energy and Environmental Protection (CT DEEP). For these documents, the Agency shall consist of each of the listed organizations. Representatives of the City, DEEP, Environmental Protection Agency (EPA), Connecticut Department of Labor (DOL), and any local or federal agencies having an interest in the Work shall have access to the Work wherever it is in preparation or progress and the Successful Bidder shall provide proper facilities for such access and inspection for up to three years following project completion.

SC-1.01.A.8 CHANGE ORDER

Add the following language to the end of Paragraph 1.01.A.8:

The Change Order form to be used on this Project is EJCDC No. C-941. Agency approval is required before Change Orders are effective.

Add the following language to the end of Paragraph 1.01.A.8: The Change Order form to be used on this Project is the modified version of EJCDC No. C-941 provided in these specifications.

SC-1.01 A.30 OWNER

Add the following to the end of Paragraph 1.01.A.30 of the General Conditions:

Owner is referred to as Grantee in certain sections of these Contract Documents. Owner and Grantee are one and the same.

Add the following at the end of Paragraph 1.01.A.30 of the General Conditions:

Owner is referred to as Grantee in certain sections of these Contract Documents. Owner and Grantee are one and the same. For the purposes of Rural Development, this term is synonymous with the term "applicant" as defined in 7 CFR 1780.7 (a) (1), (2) and (3) and is an entity receiving financial assistance from the federal programs.

SC-1.01 A.50 WORK CHANGE DIRECTIVE

Add the following language at the end of the last sentence of Paragraph 1.01.A.50

The Work Change Directive form to be used on this Project is EJCDC C-940 (2018). A Work Change Directive cannot change Contract Price or Contract Times without a subsequent Change Order.

Add the following language at the end of Paragraph 1.01.A.50

The Work Change Directive form to be used on this Project is EJCDC C-940 (2018). Agency approval is required before a Work Change Directive is issued. A Work Change Directive cannot change Contract Price or Contract Times without a subsequent Change Order.

SC-1.01 A.53 NON-RESIDENT CONTRACTOR

Add the following paragraph immediately after Paragraph 1.01.A.52 of the General Conditions, which is to read as follows:

53. Non-Resident Contractor -
- a. A person who is not a resident in the State where the proposed construction is to be located, or
 - b. Any partnership that has no member thereof resident in the State where the proposed construction is to be located.
 - c. Any corporation established under laws other than those of the State in which the proposed construction is located.

ARTICLE 2—PRELIMINARY MATTERS

2.01 *Delivery of Bonds and Evidence of Insurance*

Add a new paragraph immediately after Paragraph 2.01.C of the General Conditions, which is to read as follows:

- D. *Non-Resident Contractor:* The Contractor, if a corporation established under laws other than the State in which the proposed construction is located, shall file with the Owner, notice of the name of its resident attorney, appointed as required by the laws of the State in which the proposed construction is located. The Contractor, if a resident of a State other than that in which the proposed construction is located and not a corporation, shall file, at the time of execution of the Agreement, with the Owner a written appointment of a resident of the State in which the construction is located, having an office or place of business therein, to be his/her true and lawful attorney upon whom all lawful processes in any actions or proceedings against him/her may be served; and in such writing, which shall set forth said attorney's place of residence, shall agree that any lawful process against him/her which is served on said attorney shall be of the same legal force and validity as if served on him/her and that the authority shall continue in force so long as any liability remains outstanding against him/her in said State. The power of attorney shall be filed in the office of the Secretary of State if required, and copies certified by the Secretary shall be sufficient evidence thereof. Such appointment shall continue in force until revoked by an instrument in writing, designating in a like manner some other person upon whom such processes may be served, which instrument shall be filed in the manner provided herein for the original appointment.

2.06 *Electronic Transmittals*

SC-2.06 Delete Paragraphs 2.06.B and 2.06.C in their entirety and insert the following in their place:

- B. *Electronic Documents Protocol:* The parties shall conform to the following provisions in Paragraphs 2.06.B and 2.06.C, together referred to as the Electronic Documents Protocol ("EDP" or "Protocol") for exchange of electronic transmittals.

1. *Basic Requirements*

- a. To the fullest extent practical, the parties agree to and will transmit and accept Electronic Documents in an electronic or digital format using the procedures described in this Protocol. Use of the Electronic Documents and any information contained therein is subject to the requirements of this Protocol and other provisions of the Contract.
- b. The contents of the information in any Electronic Document will be the responsibility of the transmitting party.
- c. Electronic Documents as exchanged by this Protocol may be used in the same manner as the printed versions of the same documents that are exchanged using non-electronic format and methods, subject to the same governing requirements, limitations, and restrictions, set forth in the Contract Documents.
- d. Except as otherwise explicitly stated herein, the terms of this Protocol will be incorporated into any other agreement or subcontract between a party and any third party for any portion of the Work on the Project, or any Project-related services, where that third party is, either directly or indirectly, required to exchange Electronic Documents with a party or with Engineer. Nothing herein will modify the requirements of the Contract regarding communications between and among the parties and their subcontractors and consultants.

- e. When transmitting Electronic Documents, the transmitting party makes no representations as to long term compatibility, usability, or readability of the items resulting from the receiving party's use of software application packages, operating systems, or computer hardware differing from those established in this Protocol.
 - f. Nothing herein negates any obligation 1) in the Contract to create, provide, or maintain an original printed record version of Drawings and Specifications, signed and sealed according to applicable Laws and Regulations; 2) to comply with any applicable Law or Regulation governing the signing and sealing of design documents or the signing and electronic transmission of any other documents; or 3) to comply with the notice requirements of Paragraph 18.01 of the General Conditions.
2. *System Infrastructure for Electronic Document Exchange*
- a. Each party will provide hardware, operating system(s) software, internet, e-mail, and large file transfer functions ("System Infrastructure") at its own cost and sufficient for complying with the EDP requirements. With the exception of minimum standards set forth in this EDP, and any explicit system requirements specified by attachment to this EDP, it is the obligation of each party to determine, for itself, its own System Infrastructure.
 - 1) The maximum size of an email attachment for exchange of Electronic Documents under this EDP is 10 MB. Attachments larger than that may be exchanged using large file transfer functions or physical media.
 - 2) Each Party assumes full and complete responsibility for any and all of its own costs, delays, deficiencies, and errors associated with converting, translating, updating, verifying, licensing, or otherwise enabling its System Infrastructure, including operating systems and software, for use with respect to this EDP.
 - b. Each party is responsible for its own system operations, security, back-up, archiving, audits, printing resources, and other Information Technology ("IT") for maintaining operations of its System Infrastructure during the Project, including coordination with the party's individual(s) or entity responsible for managing its System Infrastructure and capable of addressing routine communications and other IT issues affecting the exchange of Electronic Documents.
 - c. Each party will operate and maintain industry-standard, industry-accepted, ISO-standard, commercial-grade security software and systems that are intended to protect the other party from: software viruses and other malicious software like worms, trojans, adware; data breaches; loss of confidentiality; and other threats in the transmission to or storage of information from the other parties, including transmission of Electronic Documents by physical media such as CD/DVD/flash drive/hard drive. To the extent that a party maintains and operates such security software and systems, it shall not be liable to the other party for any breach of system security.
 - d. In the case of disputes, conflicts, or modifications to the EDP required to address issues affecting System Infrastructure, the parties shall cooperatively resolve the issues; but, failing resolution, the Owner is authorized to make and require

reasonable and necessary changes to the EDP to effectuate its original intent. If the changes cause additional cost or time to Contractor, not reasonably anticipated under the original EDP, Contractor may seek an adjustment in price or time under the appropriate process in the Contract.

- e. Each party is responsible for its own back-up and archive of documents sent and received during the term of the contract under this EDP, unless this EDP establishes a Project document archive, either as part of a mandatory Project website or other communications protocol, upon which the parties may rely for document archiving during the specified term of operation of such Project document archive. Further, each party remains solely responsible for its own post-Project back-up and archive of Project documents after the term of the Contract, or after termination of the Project document archive, if one is established, for as long as required by the Contract and as each party deems necessary for its own purposes.
- f. If a receiving party receives an obviously corrupted, damaged, or unreadable Electronic Document, the receiving party will advise the sending party of the incomplete transmission.
- g. The parties will bring any non-conforming Electronic Documents into compliance with the EDP. The parties will attempt to complete a successful transmission of the Electronic Document or use an alternative delivery method to complete the communication.

SC-2.06 Supplement Paragraph 2.06 of the General Conditions by adding the following paragraph:

D. Requests *by Contractor for Electronic Documents in Other Formats*

1. Release of any Electronic Document versions of the Project documents in formats other than those identified in the Electronic Documents Protocol (if any) or elsewhere in the Contract will be at the sole discretion of the Owner.
2. To extent determined by Owner, in its sole discretion, to be prudent and necessary, release of Electronic Documents versions of Project documents and other Project information requested by Contractor ("Request") in formats other than those identified in the Electronic Documents Protocol (if any) or elsewhere in the Contract will be subject to the provisions of the Owner's response to the Request, and to the following conditions to which Contractor agrees:
 - a. The content included in the Electronic Documents created by Engineer and covered by the Request was prepared by Engineer as an internal working document for Engineer's purposes solely, and is being provided to Contractor on an "AS IS" basis without any warranties of any kind, including, but not limited to any implied warranties of fitness for any purpose. As such, Contractor is advised and acknowledges that the content may not be suitable for Contractor's application, or may require substantial modification and independent verification by Contractor. The content may include limited resolution of models, not-to-scale schematic representations and symbols, use of notes to convey design concepts in lieu of accurate graphics, approximations, graphical simplifications, undocumented intermediate revisions, and other devices that may affect subsequent reuse.

- b. Electronic Documents containing text, graphics, metadata, or other types of data that are provided by Engineer to Contractor under the request are only for convenience of Contractor. Any conclusion or information obtained or derived from such data will be at the Contractor's sole risk and the Contractor waives any claims against Engineer or Owner arising from use of data in Electronic Documents covered by the Request.
- c. Contractor shall indemnify and hold harmless Owner and Engineer and their subconsultants from all claims, damages, losses, and expenses, including attorneys' fees and defense costs arising out of or resulting from Contractor's use, adaptation, or distribution of any Electronic Documents provided under the Request.
- d. Contractor agrees not to sell, copy, transfer, forward, give away or otherwise distribute this information (in source or modified file format) to any third party without the direct written authorization of Engineer, unless such distribution is specifically identified in the Request and is limited to Contractor's subcontractors. Contractor warrants that subsequent use by Contractor's subcontractors complies with all terms of the Contract Documents and Owner's response to Request.

ARTICLE 3—CONTRACT DOCUMENTS: INTENT, REQUIREMENTS, REUSE

3.02 *Standards Specifications, Codes, Laws and Regulations*

SC-3.02.A Add the following paragraphs immediately following *Paragraph 3.02.A.2*:

- 3. If referenced documents have been discontinued by the issuing organization, references to those documents shall mean the replacement documents issued or otherwise identified by that organization or, if there are no replacement documents, the last version of the document before it was discontinued.
- 4. Where the date of a reference standard is provided, reference shall be to the version of the reference standard associated with that date, regardless if the reference standard has been superseded by a version with a later date, discontinued, or replaced."

ARTICLE 4—COMMENCEMENT AND PROGRESS OF THE WORK

4.01 *Commencement of Contract Times; Notice to Proceed*

SC-4.01 Delete Paragraph 4.01.A in its entirety and insert the following in its place:

- A. The Contract Times will commence to run on the day indicated in the Notice to Proceed. A Notice to Proceed may be issued at any time within 30 calendar days after the Effective Date of the Agreement.

SC-4.01 Delete the last sentence of Paragraph 4.01.A

4.03 *Reference Points*

SC-4.03 Add a new paragraph immediately after Paragraph 4.03A of the General Conditions which is to read as follows:

- B. Engineer may check the lines, elevations, reference marks, batter boards, etc., set by Contractor, and Contractor shall correct any errors disclosed by such check. Such a check shall

Exhibit C—Geotechnical Baseline Report Supplement to the Supplementary Conditions.

EJCDC® C-800, Supplementary Conditions of the Construction Contract.

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not be considered as approval of Contractor's work and shall not relieve Contractor of the responsibility for accurate construction of the entire Work. Contractor shall furnish personnel to assist Engineer in checking lines and grades.

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

5.03 *Subsurface and Physical Conditions*

SC-5.03 SUBSURFACE AND PHYSICAL CONDITIONS

Delete Paragraphs 5.03.A and 5.03.B in their entirety and insert the following:

- A. No reports of explorations or tests of subsurface conditions at or adjacent to the Site, or drawings of physical conditions relating to existing surface or subsurface structures at the Site, are known to Owner.

SC-5.06 HAZARDOUS ENVIRONMENTAL CONDITIONS

Delete Paragraphs 5.06.A and 5.06.B in their entirety and insert the following:

- A. No reports or drawings related to Hazardous Environmental Conditions at the Site are known to Owner.
- B. Not Used.

ARTICLE 6—BONDS AND INSURANCE

6.03 *Contractor's Insurance*

Supplement Paragraph 6.03.C by inserting a new sentence at the end of the paragraph which is to read as follows:

- 6. "In addition to Owner and Engineer, include as additional insureds the following: Contractor/Vendor shall agree to maintain in force during the term of this contract the following insurance coverage and shall name the Town of Montville as Additional Insured on a primary and non-contributory basis to all policies except Workers' compensation."

Add the following new paragraphs immediately after Paragraph 6.03.C:

- D. The limits of liability for the insurance required by Paragraph 6.03 of the General Conditions shall provide coverage for not less than the following amounts or greater where required by Laws and Regulations:
 - 1. Workers' Compensation, and related coverages under Paragraphs 6.03.A.1 and A.2 of the General Conditions:

| | |
|--|------------------|
| State: | <u>Statutory</u> |
| Federal, if applicable (e.g., Longshoreman's): | <u>Statutory</u> |

SUPPLEMENTARY CONDITIONS OF THE CONSTRUCTION CONTRACT

Employer's Liability:

| | | |
|---|----|--------------------|
| Bodily injury, each accident | \$ | <u>\$500,000</u> |
| Bodily injury by disease, each employee | \$ | <u>\$500,000</u> |
| Bodily injury/disease aggregate | \$ | <u>\$1,000,000</u> |

Foreign voluntary worker compensation Statutory

2. Contractor's Commercial General Liability under Paragraphs 6.03.B and 6.03.C of the General Conditions:

| | | |
|---|----|--------------------|
| General Aggregate | \$ | <u>\$5,000,000</u> |
| Products - Completed Operations Aggregate | \$ | <u>\$5,000,000</u> |
| Each Occurrence (Bodily Injury and Property Damage) | \$ | <u>\$1,000,000</u> |

3. Automobile Liability under Paragraph 6.03.D. of the General Conditions:

Combined Single Limit of \$ \$1,000,000

4. Contractor's Pollution Liability:

Each Occurrence \$ _____
 General Aggregate \$ _____

If box is checked, Contractor is not required to provide Contractor's Pollution Liability insurance under this Contract

- E. All policies should also include a Waiver of Subrogation.
- F. If any policy is written on a "Claims Made" basis, the policy must be continually renewed for a minimum of two (2) years from the completion date of this contract. If the policy is replaced and/or the retroactive date is changed, then the expiring policy must be endorsed to extend the reporting period for claims for the policy in effect during the contract for two (2) years from the completion date.

ARTICLE 7—CONTRACTOR'S RESPONSIBILITIES

SC-7.05 *"Or Equals"*

Modify Paragraph 7.05A as follows: Amend the third sentence of Paragraph 7.05A by striking out the following words: Unless the specifications or description contains or is followed by words reading that no like, equivalent, or 'or-equal' item is permitted.

Amend the last sentence of Paragraph 7.05.A.1.a.3 by striking out "and;" and adding a period at the end of Paragraph 7.05.A.1.a.3.

Delete Paragraph 7.05.A.1.a.4 in its entirety and insert the following in its place: [Deleted]

Add a new subparagraph SC-7.05.B.1 immediately after subparagraph 7.05.B:

1. It shall be Contractor's responsibility to coordinate all submittals to Engineer for approval to eliminate any conflicts which might arise due to the use of "or equal" items. Any additional costs incidental to the use of "or equal" items shall be paid by Contractor.

SC-7.06 *Substitutes*

Modify Paragraph 7.06A as follows:

Remove "and" from end of Paragraph 7.06.A.3.a.2

Add "; and" to the end of Paragraph 7.06.A.3.a.3

Add a new subparagraph SC-7.06.E.1 immediately after subparagraph 7.06.E:

1. It shall be Contractor's responsibility to coordinate all submittals to Engineer for approval to eliminate any conflicts which might arise due to the use of substitutes. Any additional costs incidental to the use of substitutes shall be paid by Contractor.

SC-7.07 *Concerning Subcontractors and Suppliers*

Amend Paragraph 7.07.A by adding the following to the end of the paragraph:

The total amount of work subcontracted by the Contractor shall not exceed fifty percent of the Contract price without prior approval from the Owner, Engineer and Agency.

Delete Paragraph 7.07.B in its entirety and insert [Deleted].

Amend Paragraph 7.07.E by deleting the second sentence of the paragraph and insert the following in its place: "Owner may not require that Contractor use a specific replacement."

SC-7.09 *Permits*

Add the following paragraph immediately after Paragraph 7.09.A:

- B. The following permits/approvals have been or will be obtained by the Owner. Copies of the permit approvals are in the Appendices of the Bidding Documents. Full copies of the permit applications and approvals will be on file at the Owner's Offices. It is the responsibility of the Contractor to be familiar with and comply with the applicable provisions of each permit as they apply to the work:

1. *Inlands Wetlands Permit 221 IWC – General permit to conduct regulated activities within wetlands and/or watercourses in the Town of Montville.*

7.10 Taxes

SC-7.10 Add a new paragraph immediately after Paragraph 7.10.A:

- B. Owner is exempt from payment of sales and compensating use taxes of the State of CT and of cities and counties thereof on all materials to be incorporated into the Work.
1. Owner will furnish the required certificates of tax exemption to Contractor for use in the purchase of supplies and materials to be incorporated into the Work.
 2. Owner's exemption does not apply to construction tools, machinery, equipment, or other property purchased by or leased by Contractor, or to supplies or materials not incorporated into the Work.

SC-7.10 Add a new paragraph immediately after Paragraph 7.10.A:B. The Contractor's attention is called to Regulation 18 as amended, promulgated by the Sales and Use Tax Division of the State Department of Revenue Services, which provided for the exemption of the sales and use tax on the purchase of such materials and supplies as are to be physically incorporated in and become a permanent part of the Project being performed under this Contract. The Contractor may avail himself/herself of the savings of this tax and shall take this exemption into account in calculating his/her bid for this work. The Contractor or Subcontractor shall furnish his/her suppliers with a completed Exempt Purchase Certificate. A copy of the Contractor's Exempt Purchase Certificate is included in Article SC-20 of the Supplementary Conditions.

SC-7.17 Contractor's General Warranty and Guarantee

Add a new paragraph immediately after Paragraph 7.17.E:

- F. CONTRACTOR shall guarantee all materials and equipment furnished and Work performed for a period of one (1) year from the date of Substantial Completion. CONTRACTOR warrants and guarantees for a period of one (1) year from the date of Substantial Completion of the systems that the completed systems are free from all defects due to faulty materials or workmanship and CONTRACTOR shall promptly make such corrections as may be necessary by reason of such defects including the repairs of any damage to other parts of the system resulting from such defects. OWNER will give notice of observed defects with reasonable promptness. In the event that CONTRACTOR should fail to make such repairs, adjustments, or other work that may be made necessary by such defects, OWNER may do so and charge CONTRACTOR the cost thereby incurred.

Add a new paragraph immediately after Paragraph 7.17.E:

- F. The Performance Bond shall remain in full force and effect through the guarantee period.

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

13.01 *Cost of the Work*

Delete Paragraph 13.01.B.5.c in its entirety and insert the following in its place:

- c. Construction Equipment and Machinery:

- (1) Rentals of all construction equipment and machinery, and the parts thereof, in accordance with rental agreements approved by Owner with the advice of Engineer, and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs shall be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts shall cease when the use thereof is no longer necessary for the Work.
- (2) Costs for equipment and machinery owned by Contractor will be paid at a rate shown for such equipment in the latest version of the RSMMeans Construction Cost Manual. An hourly rate will be computed by dividing the monthly rates by 176. These computed rates will include all operating costs. Costs will include 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, shall cease to accrue when the use thereof is no longer necessary for the changed Work. Equipment or machinery with a value of less than \$1,000 will be considered small tools.

SC 13.02 ALLOWANCES

Delete Paragraphs 13.02.A, B, C and D in their entirety.

Delete Paragraph 13.02.C in its entirety and insert the following in its place: "[Deleted]"

SC-13.03 UNIT PRICE WORK

SC-13.03 Delete Paragraph 13.03.E in its entirety and insert the following in its place:

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 extended price of a particular item of Unit Price Work amounts to 5 percent or more of the Contract Price (based on estimated quantities at the time of Contract formation) and the variation in the quantity of that particular item of Unit Price Work actually furnished or performed by Contractor differs by more than 25 percent from the estimated quantity of such item indicated in the Agreement.
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

SC 14.07 Owner May Correct Defective Work

In the first sentence of Paragraph 14.07.A, delete the words "7 days" and replace with the words "21 days".

ARTICLE 15—PAYMENTS TO CONTRACTOR, SET OFFS; COMPLETIONS; CORRECTION PERIOD

SC-15.01 PROGRESS PAYMENTS

SC-15.01 Add the following language at the end of Paragraph 15.01.B.4:

No payments will be made that would deplete the retainage, place in escrow any funds that are required for retainage or invest the retainage for the benefit of the Contractor.

SC-15.01 Add the following new paragraph after Paragraph 15.01.B.2: For All Stored Materials:

- i. The Contractor shall submit the Manufacturer's short-term and long-term storage and shall have established a written program to implement the Manufacturer's required storage procedures, including written schedule for all required maintenance activities.
 - ii. For each payment requisition that includes payment for stored materials, Contractor shall include the following documentation:
 - 1) Identification of the item(s), including model number, serial number and photographs.
 - 2) Copy of the updated maintenance schedule including certification that all required maintenance has been performed.
 - 3) Lien waivers for the preceding monthly payments.
 - iii. Contractor shall furnish evidence that payment for stored materials has in fact been paid to the respective supplier(s) within sixty days of payment by Owner. Failure to provide such evidence of payment may result in the withdrawal of previous approval(s) and removal of the cost of related materials and equipment from the next submitted Application for Payment.
- b. For Off-Site Stored Materials:
- i. Payment for off-site stored materials will be determined on a case-by-case basis at the discretion of the Owner and, if considered acceptable by Owner, the off-site facility shall be no more than 2 hours from the job site by car.
 - ii. Contractor shall provide the Owner and/or Engineer guaranteed right-of-entry to the storage facility to inspect the stored materials. Contractor shall be responsible for paying travel costs and Engineer's time associated with inspections.
 - iii. Contractor's Builder's Risk certificate of insurance shall explicitly identify the off-site storage location as well as transportation of stored materials from the storage facility to the job site.

Delete Paragraph 15.01.D.1 in its entirety and insert the following in its place: 1. Twenty 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.

After Subparagraph 15.01.E.1.I add new subparagraphs:

- m. Contractor has failed to make payment to Subcontractors or Suppliers or for labor.
- n. Contractor has not delivered, or Engineer has not been given sufficient time to review such submittals and other documentation as final shop drawings; warranties; installation, operation and maintenance manuals; test reports, certifications; start-up reports and other documentation required by the Contract Documents.

- o. Contractor has not complied with applicable prevailing wage rates established for the project, as determined by Engineer's review of the Application for Payment.

SC-15.02 CONTRACTOR'S WARRANTY OF TITLE

Amend Paragraph 15.02.A by striking out the following text: "7 days after".

SC-15.03 SUBSTANTIAL COMPLETION

SC-15.03 Add the following new subparagraph to Paragraph 15.03.B:

1. If some or all of the Work has been determined not to be at a point of Substantial Completion and will require re-inspection or re-testing by Engineer, the cost of such re-inspection or re-testing, including the cost of time, travel and living expenses, will be paid by Contractor to Owner. If Contractor does not pay, or the parties are unable to agree as to the amount owed, then Owner may impose a reasonable set-off against payments due under this Article 15.

SC-15.03 Add the following to the end of the Paragraph 15.03.C:

1. Substantial Completion shall only be granted for the Milestones identified in the Agreement.

SC-15.03 Add the following new subparagraph immediately after Paragraph 15.03.F:

- G. ENGINEER shall be entitled to withhold substantial completion if CONTRACTOR has not brought all systems and subsystems that are part of the Work substantially complete to functioning condition to the satisfaction of the OWNER; provided training to OWNER to the satisfaction of the OWNER on all operating systems that are part of the Work substantially complete; and provided all necessary documentation for operation and maintenance of all operating systems including, but not limited to, final manufacturer's operation and maintenance manuals.

15.04 Add the following new paragraph after Paragraph 15.04.A and related subparagraphs:

- B. Owner and Engineer define the phrase "a separately functioning and usable part of the Work that can be used by the Owner for its intended purpose without significant interference with Contractor's performance of the remainder of the Work" as meaning the following:
 1. Equipment system start-up and demonstration testing shall be completed and documented. Equipment shall be demonstrated to operate in the manual and automatic modes. The equipment system shall consist of all equipment and appurtenances serving the same function. Equipment alarms shall be confirmed to dial out via the Owner's alarm system.
 2. All relevant operation and maintenance manual submittals are completed.
 3. All relevant Owner training is completed and documented.
 4. All equipment safety-related items (e.g., equipment guards, handrails, ESTOPs, etc.) shall be completed, demonstrated and documented.
 5. All relevant ventilation system start-up, balancing, testing and training have been completed and documented.
 6. All relevant electrical systems are completed and documented (e.g., megger test reports, grounding report, VFD settings, circuit breaker settings, etc.).

7. Spare parts are transferred and documented.
- C. If the above conditions are met, then the Owner will consider Partial Use or Occupancy with the following conditions:
1. The structures, equipment system and appurtenances shall remain fully covered under the Contractor's Builder's Risk policy.
 2. Any damages, complications and consequences resulting from other on-going construction activities shall be addressed by the Contractor.
 3. The operation and maintenance activities associated with the equipment system and appurtenances shall be performed by the Owner; however, the Contractor shall provide a reasonable amount of assistance when requested by the Owner.
 4. Final clean-up and touch up coatings shall be completed prior to Substantial Completion.
 5. No reduction in retainage will be made.
 6. [The mechanical warranty on the equipment system and appurtenances shall begin. / The mechanical warranty on the equipment system and appurtenances may begin; however, the Contractor shall provide the Owner with a warranty that matches the Correction Period the remainder of the Work.

ARTICLE 16—SUSPENSION OF WORK AND TERMINATION

No changes in this Article.

ARTICLE 17—FINAL RESOLUTIONS OF DISPUTES

ARTICLE 18—MISCELLANEOUS

SC-18.08 Add the following new paragraph immediately after Paragraph 18.08.A:

18.09 Wage Rates:

- A. The requirements and provisions of all applicable laws and any amendments thereof or additions thereto as to the employment of labor, and to the schedule of minimum wage rates established in compliance with laws shall be a part of these Contract Documents. Copies of the wage schedules are included in SC-32 of these Supplementary Conditions. If, after the Notice of Award, it becomes necessary to employ any person in a trade or occupation not classified in the wage determinations, such person shall be paid at not less than such rates as shall be determined by the officials administering the laws mentioned above. Such approved minimum rate shall be retroactive to the time of the initial employment of such person in such trade or occupation. CONTRACTOR shall notify OWNER of CONTRACTOR's intention to employ persons in trades or occupations not classified in sufficient time for OWNER to obtain approved rates for such trades or occupations.
- B. The schedules of wages referred to above are minimum rates only, and OWNER will not consider any claims for additional compensation made by CONTRACTOR because of payment by CONTRACTOR of any wage rate in excess of the applicable

Exhibit C—Geotechnical Baseline Report Supplement to the Supplementary Conditions.

EJCDC® C-800, Supplementary Conditions of the Construction Contract.

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rate contained in these Contract Documents. All disputes in regard to the payment of wages in excess of these specified in the schedules shall be resolved by CONTRACTOR.

- C. The said schedules of wages shall continue to be the minimum rates to be paid during the life of this Agreement and a legible copy of said schedules shall be kept posted in a conspicuous place at the site of the work.
- D. The State schedule of minimum wage rates are included in SC-32 of these Supplementary Conditions. Where rates differ, the higher rates shall apply as a minimum for that trade.

SC-19 Add the following new Article 19 immediately after Article 18:

ARTICLE 19—FEDERAL REQUIREMENTS

19.01 *Conflict of Interest*

- A. Contractor may not knowingly contract with a Supplier or Manufacturer if the individual or entity who prepared the Drawings and Specifications has a corporate or financial affiliation with the Supplier or Manufacturer. Owner's officers, employees, or agents shall not engage in the award or administration of this Contract if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when: (i) the employee, officer or agent; (ii) any member of their immediate family; (iii) their partner or (iv) an organization that employs, or is about to employ, any of the above, has a financial interest or other interest in or a tangible personal benefit from the Contractor. Owner's officers, employees, or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from Contractor or subcontractors.

19.02 *Gratuities*

- A. If Owner finds after a notice and hearing that Contractor, or any of Contractor's agents or representatives, offered or gave gratuities (in the form of entertainment, gifts, or otherwise) to any official, employee, or agent of Owner or Agency in an attempt to secure this Contract or favorable treatment in awarding, amending, or making any determinations related to the performance of this Contract, Owner may, by written notice to Contractor, terminate this Contract. Owner may also pursue other rights and remedies that the law or this Contract provides. However, the existence of the facts on which Owner bases such findings shall be an issue and may be reviewed in proceedings under the dispute resolution provisions of this Contract.
- B. In the event this Contract is terminated as provided in paragraph 19.04.A, Owner may pursue the same remedies against Contractor as it could pursue in the event of a breach of this Contract by Contractor. As a penalty, in addition to any other damages to which it may be entitled by law, Owner may pursue exemplary damages in an amount (as determined by Owner) which shall not be less than three nor more than ten times the costs Contractor incurs in providing any such gratuities to any such officer or employee.

19.03 *Anti-Kickback*

- A. Contractor shall comply with the Copeland Anti-Kickback Act (40 USC 3145) as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Buildings or Public Works Financed in Whole or in Part by Loans or Grants of the United States"). The Act provides that Contractor or subcontractor shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public facilities, to give up any part of the compensation to which they are otherwise entitled. Owner shall report all suspected or reported violations to Agency.

19.04 *Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended*

- A. Contractor to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

19.05 *Equal Employment Opportunity*

- A. The Contract is considered a federally assisted construction contract. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

19.06 *Environmental Requirements*

- A. When constructing a Project involving trenching and/or other related earth excavations, Contractor shall comply with the following environmental conditions:
1. Wetlands – When disposing of excess, spoil, or other Construction Materials on public or private property, Contractor shall not fill in or otherwise convert wetlands.
 2. Floodplains – When disposing of excess, spoil, or other Construction Materials on public or private property, Contractor shall not fill in or otherwise convert 100-year floodplain areas (Standard Flood Hazard Area) delineated on the latest Federal Emergency Management Agency Floodplain Maps, or other appropriate maps, e.g., alluvial soils on NRCS Soil Survey Maps.
 3. Historic Preservation - Applicants shall ensure that Contractors maintain a copy of the following inadvertent discovery plan onsite for review:
 - a. If during the course of any ground disturbance related to any Project, any post review discovery, including but not limited to, any artifacts, foundations, or other indications of past human occupation of the area are uncovered, shall be protected by complying with 36 CFR § 800.13(b)(3) and (c) and shall include the following:

SUPPLEMENTARY CONDITIONS OF THE CONSTRUCTION CONTRACT

- i) All Work, including vehicular traffic, shall immediately stop within a 50 ft. radius around the area of discovery. The Contractor shall ensure barriers are established to protect the area of discovery and notify the Engineer to contact the appropriate RD personnel. The Engineer shall engage a Secretary of the Interior (SOI) qualified professional archeologist to quickly assess the nature and scope of the discovery; implement interim measures to protect the discovery from looting and vandalism; and establish broader barriers if further historic and/or precontact properties, can reasonably be expected to occur.
- ii) The RD personnel shall notify the appropriate RD environmental staff member, the Federal Preservation Officer (FPO), and State Historic Preservation Office (SHPO) immediately. Indian tribe(s) or Native Hawaiian Organization (NHOs) that have an interest in the area of discovery shall be contacted immediately. The SHPO may require additional tribes or NHOs who may have an interest in the area of discovery also be contacted. The notification shall include an assessment of the discovery provided by the SOI qualified professional archeologist.
- iii) When the discovery contains burial sites or human remains, the Contractor shall immediately notify the appropriate RD personnel who will contact the RD environmental staff member, FPO, and the SHPO. The relevant law enforcement authorities shall be immediately contacted by onsite personnel to reduce delay times, in accordance with tribal, state, or local laws including 36 CFR Part 800.13; 43 CFR Part 10, Subpart B; and the Advisory Council on Historic Preservation's Policy Statement Regarding treatment of Burial Sites, Human Remains, or Funerary Objects (February 23, 2007).
- iv) When the discovery contains burial sites or human remains, all construction activities, including vehicular traffic shall stop within a 100 ft. radius of the discovery and barriers shall be established. The evaluation of human remains shall be conducted at the site of discovery by a SOI qualified professional. Remains that have been removed from their primary context and where that context may be in question may be retained in a secure location, pending further decisions on treatment and disposition. RD may expand this radius based on the SOI professional's assessment of the discovery and establish broader barriers if further subsurface burial sites, or human remains can reasonably be expected to occur. RD, in consultation with the SHPO and interested tribes or NHOs, shall develop a plan for the treatment of native human remains.
- v) Work may continue in other areas of the undertaking where no historic properties, burial sites, or human remains are present. If the inadvertent discovery appears to be a consequence of illegal activity such as looting, the onsite personnel shall contact the appropriate legal authorities immediately if the landowner has not already done so.

SUPPLEMENTARY CONDITIONS OF THE CONSTRUCTION CONTRACT

- vi) Work may not resume in the area of the discovery until a notice to proceed has been issued by RD. RD shall not issue the notice to proceed until it has determined that the appropriate local protocols and consulting parties have been consulted.
 - vii) Inadvertent discoveries on federal and tribal land shall follow the processes required by the federal or tribal entity.
4. Endangered Species – Contractor shall comply with the Endangered Species Act, which provides for the protection of endangered and/or threatened species and critical habitat. Should any evidence of the presence of endangered and/or threatened species or their critical habitat be brought to the attention of Contractor, Contractor will immediately report this evidence to Owner and a representative of Agency. Construction shall be temporarily halted pending the notification process and further directions issued by Agency after consultation with the U.S. Fish and Wildlife Service.

END OF SECTION

SECTION SC-32

WAGE RATES

State Prevailing Wages

State prevailing wage rates apply to this project.

A copy of the applicable state Prevailing Wage determination(s) is included in the Supplementary Conditions.

If the applicable state Prevailing Wage determination does not provide a rate for a classification of work to be performed, the Contractor must request additional classifications and wage rates to be added in conformance to the contract wage determination after contract award.

END OF SECTION

SECTION SC 36EQUAL OPPORTUNITY CLAUSE

During the performance of this contract, the contractor agrees as follows:

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- (3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or workers' representatives of the contractor's commitment under this section, and shall post copies of the notice in conspicuous places available employees and applicants for employment.
- (4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the Department and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (6) In the event of the contractor's non compliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (7) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24,1965, so that such provisions

will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Department may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Department, the contractor may request the United States to enter into such litigation to protect the interest of the United States.

END OF SECTION

SECTION SC-38EXECUTIVE ORDER 11246PART 1 - GENERAL1.1 DESCRIPTION

A. Standard Federal Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246)

1. As used in these specifications:
 - a. "Covered area" means the geographical area described in the solicitation from which this Contract resulted;
 - b. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;
 - c. "Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U. S. Treasury Department Form 941.
 - d. "Minority" includes:
 - i. Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
 - ii. Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);
 - iii. Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
 - iv. American Indian or Alaskan Native (all persons having origins in any of the original peoples of North American and maintaining identifiable tribal affiliations through membership and participation or community identification).
2. Whenever the CONTRACTOR, or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this Contract resulted.
3. If the CONTRACTOR is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or Subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and

to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors or Subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or Subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.

4. The CONTRACTOR shall implement the specific affirmative action standards provided in paragraphs 7a through 7p of these specifications. The goals set forth in the solicitation from which this Contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the CONTRACTOR should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction contractors performing construction work in geographical areas where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the Federal Register in notice form, and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The CONTRACTOR is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.
5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the CONTRACTOR has a collective bargaining agreement, to refer either minorities or women shall excuse the CONTRACTOR's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.
6. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the CONTRACTOR during the training period, and the CONTRACTOR must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.
7. The CONTRACTOR shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the CONTRACTOR's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The CONTRACTOR shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:
 - a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the CONTRACTOR's employees are assigned to work. The CONTRACTOR, where possible, will assign two or more women to each construction project. The CONTRACTOR shall specifically ensure that all foremen, superintendents and other on-site supervisory personnel are aware of and carry out the CONTRACTOR's obligation to maintain

- such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.
- b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the CONTRACTOR or its unions have employment opportunities available, and maintain a record of the organizations' responses.
 - c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the CONTRACTOR by the union or, if referred, not employed by the CONTRACTOR, this shall be documented in the file with the reason therefore, along with whatever additional actions the CONTRACTOR may have taken.
 - d. Provide immediate written notification to the Director when the union or unions with which the CONTRACTOR has a collective bargaining agreement has not referred to the CONTRACTOR a minority person or woman sent by the CONTRACTOR, or when the CONTRACTOR has other information that the union referral process has impeded the CONTRACTOR's efforts to meet its obligations.
 - e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the CONTRACTOR's employment needs, especially those programs funded or approved by the Department of Labor. The CONTRACTOR shall provide notice of these programs to the sources compiled under 7b above.
 - f. Disseminate the CONTRACTOR's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the CONTRACTOR in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year, and, by posting the company's EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
 - g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with onsite supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of

- these meetings, persons attending, subject matter discussed and disposition of the subject matter.
- h. Disseminate the CONTRACTOR's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media and providing written notification to and discussing the CONTRACTOR's EEO policy with other Contractors and Subcontractors with whom the CONTRACTOR does or anticipates doing business.
 - i. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the CONTRACTOR's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source the CONTRACTOR shall send written notification to organizations such as the above, describing the openings, screening procedures and tests to be used in the selection process.
 - j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a CONTRACTOR's workforce.
 - k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60.3.
 - l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
 - m. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the CONTRACTOR's obligations under these specifications are being carried out.
 - n. Ensure that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
 - o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.
 - p. Conduct a review, at least annually, of all supervisors' adherence to and performance under the CONTRACTOR's EEO policies and affirmative action obligations.
8. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (7a through 7p). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the CONTRACTOR is

a member and participant, may be asserted as fulfilling any one or more of its obligations under 7a through 7p of these Specifications provided that the CONTRACTOR actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the CONTRACTOR's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the CONTRACTOR. The obligation to comply, however, is the CONTRACTOR's and failure of such a group to fulfill an obligation shall not be a defense for the CONTRACTOR's noncompliance.

9. A single goal for minorities and a separate single goal for women have been established. The CONTRACTOR, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the CONTRACTOR may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the CONTRACTOR has achieved its goals for women generally, the CONTRACTOR may be in violation of the Executive Order if a specific minority group of women is underutilized).
10. The CONTRACTOR shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.
11. The CONTRACTOR shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.
12. The CONTRACTOR shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing Subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any CONTRACTOR who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.
13. The CONTRACTOR, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the CONTRACTOR fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 80-4.8.
14. The CONTRACTOR shall designate a responsible official to monitor all employment related activity to ensure that the company's EEO policy is being carried out, to submit reports relating to the provision hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction

trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, Contractors shall not be required to maintain separate records.

15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g. those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

END OF SECTION

SECTION SC-22aDAS PREQUALIFICATION REQUIREMENTS

State of Connecticut Department of Administrative Services (DAS) prequalification requirements apply to this project. The contractor must submit a completed CT DAS Bid Update statement, included in this section, and the Contractors prequalification certificate in “WATER TREATMENT PLANTS”.

State of Connecticut
 Department of Administrative Services (DAS) Contractor Prequalification
Update (Bid) Statement
 (Statement to be included with the bid)

Connecticut General Statute §4a-100 and Connecticut General Statute §4b-91

Each bid submitted for a contract shall include a copy of a prequalification certificate issued by the Commissioner of Administrative Services. The bid shall also be accompanied by an **update bid statement** in such form as the Commissioner of Administrative Services prescribes. The form for such **update bid statement** shall provide space for information regarding all projects completed by the bidder since the date the bidder's prequalification certificate was issued or renewed, all projects the bidder currently has under contract, including the percentage of work on such projects not completed, the names and qualifications of the personnel who will have supervisory responsibility for the performance of the contract, any significant changes in the bidder's financial position or corporate structure since the date the certificate was issued or renewed, any change in the contractor's qualification status, and such other relevant information as the Commissioner of Administrative Services prescribes. Any bid submitted without a copy of the prequalification certificate and an **update bid statement** shall be invalid. Any public agency that accepts a bid submitted without a copy of such prequalification certificate and an **update bid statement**, as required by this section, may become ineligible for the receipt of funds related to such bid.

| | | |
|--|----------------------|---|
| Name of Project that company is bidding on: | | |
| Project Number: | | |
| Name of Company: | | |
| FEIN: | | |
| Company Address: | | |
| Prequalification Contact: | | Telephone Number: |
| Date of Prequalification with the DAS: | Single Limit: | Aggregate Work Capacity (AWC): |
| * This amount equals your company's AWC minus the Total \$ Amount of Work Remaining. | | * Remaining Aggregate Work Capacity: |

Please list all of your company's BONDED PROJECTS (BOTH PUBLIC AND PRIVATE) WHICH WERE 100% COMPLETED SINCE THE DATE YOUR PREQUALIFICATION WAS ISSUED OR RENEWED: (Please add additional page(s) if required)

| Name of Project | Owner of Project | Date Project Completed | Total Contract Amount |
|-----------------|------------------|------------------------|-----------------------|
| | | | |
| | | | |
| | | | |
| | | | |

Please list all of your company's BONDED PROJECTS (BOTH PUBLIC AND PRIVATE) CURRENTLY UNDER CONTRACT:
 (Please add additional page(s) if required. Please total the Work Remaining column)

| Name of Project | Owner of Project | Total Contract Amount | % Complete | Work Remaining (\$) |
|-----------------------------------|------------------|-----------------------|------------|---------------------|
| | | | | |
| | | | | |
| | | | | |
| Total \$ Amount of Work Remaining | | | | → |

Please list the names and titles of the personnel who will have supervisory responsibility for the performance of the contract being bid on:
 (Please add additional page(s) if required)

| Individual Name | Title of Individual |
|-----------------|---------------------|
| | |
| | |
| | |
| | |
| | |

Have there been any changes in your company's financial condition or business organization, which might affect your company's ability to successfully complete this contract?

Yes No

If yes, please explain:

I certify under penalty of law that all of the information contained in this Update (Bid) Statement is true and accurate to the best of my knowledge as of the date below.

 Signature

 Date

It is the responsibility of the Awarding Authority to determine if any of the information provided above will impact the contractor's performance on this project.
 The DAS' Contractor Prequalification Program can be reached at (860) 713-5280

SECTION 00920

CERTIFICATE OF SUBSTANTIAL COMPLETION

| | |
|----------------|---------------------------|
| Owner: | Owner's Project No.: |
| Engineer: | Engineer's Project No.: |
| Contractor: | Contractor's Project No.: |
| Project: | |
| Contract Name: | |

This Preliminary Final Certificate of Substantial Completion applies to:

All Work The following specified portions of the Work:

[Describe the portion of the work for which Certificate of Substantial Completion is issued]

Date of Substantial Completion: [Enter date, as determined by Engineer]

The Work to which this Certificate applies has been inspected by authorized representatives of Owner, Contractor, and Engineer, and found to be substantially complete. The Date of Substantial Completion of the Work or portion thereof designated above is hereby established, subject to the provisions of the Contract pertaining to Substantial Completion. The date of Substantial Completion in the final Certificate of Substantial Completion marks the commencement of the contractual correction period and applicable warranties required by the Contract.

A punch list of items to be completed or corrected is attached to this Certificate. This list may not be all-inclusive, and the failure to include any items on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

Amendments of contractual responsibilities recorded in this Certificate should be the product of mutual agreement of Owner and Contractor; see Paragraph 15.03.D of the General Conditions.

The responsibilities between Owner and Contractor for security, operation, safety, maintenance, heat, utilities, insurance, and warranties upon Owner's use or occupancy of the Work must be as provided in the Contract, except as amended as follows:

Amendments to Owner's Responsibilities: None As follows:

[List amendments to Owner's Responsibilities]

Amendments to Contractor's Responsibilities: None As follows:

[List amendments to Contractor's Responsibilities]

The following documents are attached to and made a part of this Certificate:

[List attachments such as punch list; other documents]

This Certificate does not constitute an acceptance of Work not in accordance with the Contract Documents, nor is it a release of Contractor's obligation to complete the Work in accordance with the Contract Documents.

Engineer

By (signature): _____

Name (printed): _____

Title: _____

END OF SECTION

SECTION 00935NOTICE OF ACCEPTABILITY OF WORK

| | |
|----------------|--|
| Owner: | Owner's Project No.: |
| Engineer: | Engineer's Project No.: |
| Contractor: | Contractor's Project No.: |
| Project: | |
| Contract Name: | |
| Notice Date: | Effective Date of the Construction Contract: |

The Engineer hereby gives notice to the Owner and Contractor that Engineer recommends final payment to Contractor, and that the Work furnished and performed by Contractor under the Construction Contract is acceptable, expressly subject to the provisions of the Construction Contract's Contract Documents ("Contract Documents") and of the Agreement between Owner and Engineer for Professional Services dated [date of professional services agreement] ("Owner-Engineer Agreement"). This Notice of Acceptability of Work (Notice) is made expressly subject to the following terms and conditions to which all who receive and rely on said Notice agree:

1. This Notice has been prepared with the skill and care ordinarily used by members of the engineering profession practicing under similar conditions at the same time and in the same locality.
2. This Notice reflects and is an expression of the Engineer's professional opinion.
3. This Notice has been prepared to the best of Engineer's knowledge, information, and belief as of the Notice Date.
4. This Notice is based entirely on and expressly limited by the scope of services Engineer has been employed by Owner to perform or furnish during construction of the Project (including observation of the Contractor's Work) under the Owner-Engineer Agreement, and applies only to facts that are within Engineer's knowledge or could reasonably have been ascertained by Engineer as a result of carrying out the responsibilities specifically assigned to Engineer under such Owner-Engineer Agreement.
5. This Notice is not a guarantee or warranty of Contractor's performance under the Construction Contract, an acceptance of Work that is not in accordance with the Contract Documents, including but not limited to defective Work discovered after final inspection, nor an assumption of responsibility for any failure of Contractor to furnish and perform the Work thereunder in accordance with the Contract Documents, or to otherwise comply with the Contract Documents or the terms of any special guarantees specified therein.
6. This Notice does not relieve Contractor of any surviving obligations under the Construction Contract, and is subject to Owner's reservations of rights with respect to completion and final payment.

Engineer

By *(signature)*: _____
 Name *(printed)*: _____
 Title: _____

END OF SECTION

SECTION 00936

CONSENT OF SURETY TO FINAL PAYMENT

To: _____ (Owner)

From: _____ (Contractor)

CONTRACT TITLE: _____

BOND NUMBER: _____

In accordance with the provisions of the Contract between the Owner and the Contractor as indicated above, the _____ (Surety Company) on the bond of the Contractor hereby approves of the final payment to the Contractor, and agrees that final payment to the Contractor shall not relieve the Surety Company of any of its obligations to the Owner as set forth in the said Surety Company's Bond.

IN WITNESS WHEREOF, the Surety Company has hereunto set its hand this _____ day of _____, 20____.

Surety Company Name

Signature of Authorized Representative

Attest: (Seal)

Printed Name and Title

Note: Power of Attorney should be attached in instances where same applies.

END OF SECTION

SECTION 00937
CONTRACTOR'S AFFIDAVIT

STATE OF _____

COUNTY OF _____

Before me, the undersigned, a _____

(Notary Public, Justice of Peace, Alderman)

in and for said County and State personally appeared, _____

(Individual, Partner or duly

_____ who being duly sworn according to law

(Authorized Representative of Corporate Contractor)

deposes and says that the cost of all the Work, and outstanding claims and indebtedness of whatever nature arising out of the performance of the contract between

(Owner)

and _____ of _____

(Contractor)

dated _____ for the construction of the _____

(Agreement Date)

(Project)

_____ and necessary appurtenant installations have been paid in full.

(Individual, Partner, or duly authorized representative of corporate contractor)

Sworn to and subscribed before me

This _____ day of _____, 20__

END OF SECTION

SECTION 00938CONTRACTOR'S RELEASE

KNOW ALL PERSONS BY THESE PRESENTS that _____
 _____ (Contractor)
 of _____, County of _____ and State of _____
 do hereby acknowledge that _____ has this day had, and received of
 _____ (Contractor)
 and from _____ the sum of One Dollar and other valuable considerations in
 _____ (Owner)
 full and complete satisfaction and payment of all sums of money owed, payable and belonging to
 _____ by any means whatsoever, for on account of a Contract
 _____ (Contractor)
 Agreement between _____ and _____
 _____ (Owner) _____ (Contractor)
 dated _____ for _____
 _____ (Agreement Date) _____ (Project)

NOW, THEREFORE, the said _____
 _____ (Contractor)

(for myself, my heirs, executors and administrators) (for itself, its successors and assigns)
 do/does, by these presents remise, release, quit-claim and forever discharge _____
 _____ (Owner)
 , of and from all claims and demands, arising from or in connection
 with the said contract dated _____, and of and from all, and all manner of action
 _____ (Agreement Date)
 and actions, cause and causes of action and actions, suits, debts, dues, duties, sum and sums of
 money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, agreements, promises,
 variances, damages, judgments, extents, executions, claims and demand, whatsoever in law or
 equity, or otherwise, against _____ its successors and assigns, which (I,
 _____ (Owner)
 my heirs, executors, or administrators) (it, its successors and assigns) ever had, now have or which
 (I, my heirs, executors, or administrators) (it, its successors and assigns) hereafter can, shall or
 may have, for, upon or by reason of any matter, cause, or thing whatsoever; from the beginning of
 recorded time to the date of these presents.

IN WITNESS WHEREOF, _____
(Contractor)

has caused these presents to be duly executed this _____ day of _____ 20_____

Signed, Sealed and Delivered in the presence of:

(Individual -Contractor) (seal)

(Partnership - Contractor) (seal)

_____ By _____ (seal)
(Partner)

Attested:

(Corporation)

_____ By _____
(Secretary) (President or Vice President)

(Corp. Seal)

END OF SECTION

SECTION 00939

WAIVER OF LIEN - MATERIALS AND LABOR

STATE OF _____

COUNTY OF _____

To: _____ (Owner)

WHEREAS, _____ (the undersigned) have been employed by _____ (Contractor) on the _____ (Project Name) to furnish the following:

_____ (description of material and services).

NOW THEREFORE, the undersigned, for good and valuable considerations do hereby waive and release any and all lien, or right of lien, or claim to lien on said above project and premises under the Law, in relation to Mechanics' Liens Law, on account of labor and materials, or both, furnished by the undersigned to or on account of the said contract for the said project and premises only so far as that portion of work which has been included in our requisition dated _____ and all prior requisitions.

THIS WAIVER AND RELEASE is being made to the undersigned in the amount of \$ _____ which sum the undersigned certifies to be the balance due the undersigned for all labor, materials or both, furnished by the undersigned to or on account of the said contract as included on Contractor's requisition dated _____.

GIVEN UNDER our hand and seal, this _____ day of _____, 20 ____.

By: _____

Manufacturer, Supplier or Subcontractor Name

Signature of Authorized Representative

Printed Name and Title

END OF SECTION

SECTION 00941

CHANGE ORDER NO.: [Number of Change Order]

Owner: _____ Owner's Project No.: _____
 Engineer: _____ Engineer's Project No.: _____
 Contractor: _____ Contractor's Project No.: _____
 Project: _____
 Contract Name: _____
 Date Issued: _____ Effective Date of Change Order: _____

The Contract is modified as follows upon execution of this Change Order:

Description:

[Description of the change]

Attachments:

[List documents related to the change]

| Change in Contract Price | Change in Contract Times [as days or dates] |
|--|--|
| Original Contract Price: \$ _____ | Original Contract Times: Substantial Completion: _____ Ready for final payment: _____ |
| [Increase] [Decrease] from previously approved Change Orders No. 1 to No. [Number of previous CO]: \$ _____ | [Increase] [Decrease] from previously approved Change Orders No.1 to No. [Number of previous CO]: Substantial Completion: _____ Ready for final payment: _____ |
| Contract Price prior to this Change Order: \$ _____ | Contract Times prior to this Change Order: Substantial Completion: _____ Ready for final payment: _____ |
| [Increase] [Decrease] this Change Order: \$ _____ | [Increase] [Decrease] this Change Order: Substantial Completion: _____ Ready for final payment: _____ |
| Contract Price incorporating this Change Order: \$ _____ | Contract Times with all approved Change Orders: Substantial Completion: _____ Ready for final payment: _____ |

| | |
|---|---|
| <p>Recommended by Engineer (if required)</p> <p>By: _____ Title: _____ Date: _____</p> <p style="text-align: center;"><u>Authorized by Owner</u></p> <p>By: _____ Title: _____ Date: _____</p> | <p>Accepted by Contractor</p> <p>_____</p> <p>_____</p> <p>_____</p> <p style="text-align: center;"><u>Approved by Funding Agency (if applicable)</u></p> <p>_____</p> <p>_____</p> <p>_____</p> |
|---|---|

END OF SECTION

SECTION 00942

FIELD ORDER NO.: [Number of Field Order]

| | |
|----------------|--------------------------------|
| Owner: | Owner's Project No.: |
| Engineer: | Engineer's Project No.: |
| Contractor: | Contractor's Project No.: |
| Project: | |
| Contract Name: | |
| Date Issued: | Effective Date of Field Order: |

Contractor is hereby directed to promptly perform the Work described in this Field Order, issued in accordance with Paragraph 11.04 of the General Conditions, for minor changes in the Work without changes in Contract Price or Contract Times. If Contractor considers that a change in Contract Price or Contract Times is required, submit a Change Proposal before proceeding with this Work.

Reference:

Specification Section(s):

Drawing(s) / Details (s):

Description:

[Description of the change to the Work]

Attachments:

[List documents supporting change]

Issued by Engineer

By: _____

Title: _____

Date: _____

END OF SECTION

TOWN OF MONTVILLE
WATER POLLUTION CONTROL AUTHORITY

Request for Proposal (RFP)-

REHABILITATION OF TWO CONCRETE DISTRIBUTION BOXES LOCATED AT THE MONTVILLE WATER POLLUTION CONTROL FACILITY

Ron McDaniel (rmcdaniel@montville-ct.org)
Administrator

Derek J. Albertson
Superintendent (dalbertson@montville-ct.org)

Telephone: (860) 848-3830
Facsimile: (860) 848-9872

SECTION 03930

CONCRETE COATINGS AND TECHNICAL SPECIFICATIONS

INTRODUCTION AND SUMMARY

The Town of Montville Water Pollution Control Authority (WPCA) is seeking proposals to rehabilitate (with a protective lining) two concrete distribution boxes to specifications at their Water Pollution Control Facility (WPCF) located at 83 Pink Row Uncasville Connecticut. The existing distribution boxes receive municipal and industrial wastewater and direct flow to downstream Sequencing Batch Reactors for treatment. The distribution boxes were constructed prior to 2000 and are deteriorated and in need of rehabilitation. The two distribution boxes to be rehabilitated under this project are known as the "Influent Distribution Box" and the "Distribution Box No.1". See Appendix for Site Layout showing the location of the distribution boxes to be rehabilitated and associated record drawings.

TECHNICAL REQUIREMENTS AND SPECIFICATIONS

This specification covers work, materials and equipment required for protecting and rehabilitating the existing concrete distribution boxes by monolithic spray-application of a high-build, rigid and solvent-free polyurethane coating to eliminate infiltration, provide corrosion protection, repair voids and enhance structural integrity as required. Procedures for surface and site preparation, cleaning, application and testing are described herein.

SITE PREPARATIONS

PART 1 GENERAL

1.01 GENERAL

A. All labor, materials and equipment shall be required by the contractor.

1.02 Scope of Work

A. Distribution box lids along with Gate Valves to be removed by contractor. Contractor is responsible for all work and costs associated with removing lids and gate valves. Contractor shall coordinate with Montville WPCF staff prior to work. Gate valves shall only be operated by Montville WPCF staff.

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B. All distribution box cleaning and debris collection to be performed/coordinated by the contractor. Flows of up to 5,000,000 gallons per day total flow are to be planned for.

C. Bypassing distribution boxes:

1. Contractor is responsible for all work and coordination required to bypass the distribution boxes as necessary to perform their work and removing the bypass at completion of work. Flows of up to 5,000,000 gallons per day total flow are to be planned for.

2. Contractor is responsible for preparing a job specific bypass plan which shall be submitted to both Montville WPCF staff and CT DEEP. Contractor shall not initiate bypass until formal review and approval has been received by both Montville and CT DEEP.

3. Contractor shall coordinate with Montville staff and provide at least 7 days notice prior to bypass.

4. Montville WPCF staff will be responsible for notifying CT DEEP when any structure is being bypassed and notifying when bypass has been removed.

5. Please reference the CT DEEP "Sewage Right to Know" for guidance on notification and submitting construction specific bypass reports.

6. Contractor shall not impact the operations at the Montville WPCF or the ability of the Montville WPCF to meet their discharge permit requirements during bypass (or any time during the course of the construction). During construction, the Montville WPCF staff will continue to operate in a normal manner and maintain their current sampling and monitoring program to ensure compliance with their discharge permit.

C. Surface preparation and repairs shall be performed by a contractor. Details are found in the following sections. Surface preparation and repairs shall include the full extent of the walls and floor of each distribution box. Please reference the Appendix to these Specifications for record drawings. The estimated square feet of surface preparation and repairs required is 700 square feet for the "Influent Distribution Box" and 2000 square feet for "Distribution Box No.1". Contractor should factor in these quantities in their bid.

D. Please reference the Appendix to these Specifications for record drawings. The coatings shall include the full extent of the walls and floor of each distribution box. The estimated square feet of coatings

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required is 700 square feet for the "Influent Distribution Box" and 2000 square feet for "Distribution Box No.1". Contractor should factor in these quantities in their bid.

E. The estimated minimum Mil thickness of Monolithic spray applied liner 628 Mil. Contractor should factor this thickness in their bid.

F. Protective coating and application to be performed by the contractor detailed in sections 2.0 and 3.0.

G. The coatings shall include the full extent of the walls and floor of each distribution box. Please reference the Appendix to these Specifications for record drawings. The estimated square feet of coatings required is 700 square feet for the "Influent Distribution Box" and 2000 square feet for "Distribution Box No.1". Contractor should factor in these quantities in their bid.

H. The estimated minimum Mil thickness of Monolithic spray applied liner 628 Mil. Contractor should factor this thickness in their bid.

I. Contractor to reinstall distribution box lids along with gate valves

j. After final inspection and acceptance of the work by the Owner, Contractor to remove the bypass and coordinate with Montville WPCF staff to place the system back in service. Gate valves shall only be operated by Montville WPCF staff. Contractor to remove bypass and put system back in service.

1.03

A. Requirements for surface preparation, repairs and solvent-free rigid polyurethane material application to specified surfaces.

1.04

A. Concrete Repair.

B. Environmental, Health and Safety.

1.05 REFERENCES

A. ASTM D638 - Tensile Properties of Plastics.

B. ASTM D790 - Flexural Properties of Unreinforced and Reinforced Plastics.

C. ASTM D695 - Compressive Properties of Rigid Plastics.

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D. ASTM D 7234 (Concrete) - Pull-off Strength of Coatings Using a Portable

ASTM D 4541 (Steel) Adhesion Tester.

E. ASTM D2584 - Volatile Matter Content.

F. ASTM D2240 - Durometer Hardness, Type D.

G. ASTM D543 - Resistance of Plastics to Chemical Reagents.

H. ASTM C109 - Compressive Strength Hydraulic Cement Mortars.

I. ACI 506.2-77 - Specifications for Materials, Proportioning, and Application of Shotcrete.

J. ASTM C579 - Compressive Strength of Chemically Setting Silicate and Silica Chemical Resistant Mortars.

K. ASTM - The published standards of the American Society for Testing and Materials, West Conshohocken, PA.

L. SSPC - The published standards of the Society of Protective Coatings, Pittsburgh, PA.

N. ASTM F1216 (Including Appendix XI-X7): Design Parameters for Buried Structures (structural rehabilitation) utilizing the External Buckling Equation for thickness determination.

O. ASTM D2990: Test Methods for Tensile, Compressive and Flexural Creep and Creep Rupture in Plastics

P. SSPWC 210-2.3.3 - Chemical resistance testing published in the Standard Specifications for Public Works Construction, 1997 edition (otherwise known as "The Greenbook").

Q. NACE - The published standards of National Association of Corrosion Engineers (NACE International), Houston, TX.

1.06 SUBMITTALS

A. The following items shall be submitted:

1. Technical data sheet on each product used, including ASTM test

results indicating the product conforms to and is suitable for its

intended use per these specifications.

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2. Safety Data Sheets (SDS) for each product used.
3. Project specific guidelines and recommendations.
4. Project Specific Bypass Plan
5. Applicator Qualifications:
 - a. Manufacturer certification that Applicator has been trained and approved in the handling, mixing and application of the products to be used. Certification letter shall be dated within six months of bid date.
 - b. The Manufacturer shall provide four (4) references which demonstrate previous successful projects completed for the specified structural protective coating system or comparable, during the last two (2) years.
 - c. Certification that the equipment to be used for applying the products has been manufactured or approved by the protective coating manufacturer and Applicator personnel have been trained and certified for proper use of the equipment. Certification letter shall be dated within six months of bid date.
 - d. Proof of any necessary federal, state or local permits or licenses necessary for the project.
5. Structural Design:
 - a. Manufacturer will supply third party testing verifying the short term Modulus of Elasticity used on this project, minimum of 735,000 psi.
 - b. Manufacturer will supply third party testing verifying long term Flexural Modulus of Elasticity, minimum of 529,200 psi. This third party testing will verify the long term reduction factor (Creep Analysis) of a minimum of 28%. This long term reduction factor verification shall be conducted utilizing ASTM D2990-01 via a third party, independently certified laboratory.

1.07 Design Conditions

The following design conditions shall be assumed for all structures being rehabilitated with the approved resin system:

Parameter Design Requirement

1. Structure Condition Partially/Fully Deteriorated, based on condition of the existing structure.

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2. Design Thickness ASTM 1216-09 or Two Way Flat Wall Beam Analysis
3. Ovality Not greater than 5%
4. Soil Load 120 lbs/cu. ft.
5. Traffic Load AASHTO-HS-20-44 Highway
6. Soil Modulus >500 psi.<1000 psi.
7. Safety Factor 2.0
8. Soil Cover Distance from grade to crown of conduit 9. Water Table

Distance from invert to water table Wall thickness design calculations for each structure to be rehabilitated utilizing the specified resin technology systems must be submitted with all qualified bids, VER 9-20 Rehabilitation of 12 along with supporting formulas that document that version of formula used. Additionally, product specific strength values, including the short term flexural modulus and the long term flexural modulus strength, must be substantiated by third party testing which will be submitted with all qualified bids. The materials utilized for the contracted project shall be of a quality equal to or better than the materials used in the long term test with respect to the initial flexural modulus and the long term reduction factor used in design.

9. Estimated minimum Mil thickness of Monolithic spray applied liner 628 Mils. Contractor should factor this thickness in their bid.

1.08 QUALITY ASSURANCE

A. Applicator shall initiate and enforce quality control procedures consistent with applicable ASTM, NACE and SSPC standards and the protective coating manufacturer's recommendations.

B. (OPTIONAL) A NACE Certified Coating Inspector shall be provided by and paid for by the Owner. The Inspector will observe surface preparation, application and material handling procedures to ensure adherence to the specifications.

1.09 DELIVERY, STORAGE, AND HANDLING

A. Materials are to be kept dry, protected from weather and stored under cover.

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B. Protective coating materials are to be stored between 50 deg F and 90 deg F. Do not store near flame, heat or strong oxidants.

C. Protective coating materials are to be handled according to their safety data sheets.

1.10 SITE CONDITIONS

A. Applicator shall conform with all local, state and federal regulations including those set forth by OSHA, RCRA and the EPA and any other applicable authorities.

B. Method statements and design procedures are to be provided by Owner when confined space entry, flow diversion or bypass is necessary in order for the Applicator to perform the specified work.

1.11 WARRANTY

A. Manufacturer Certified Applicator shall warrant all work against defects in materials and workmanship for a period of three (3) years, unless otherwise noted, from the date of final acceptance of the project. Applicator shall, within a reasonable time after receipt of written notice thereof, repair defects in materials or workmanship which may develop during said three (3) year period, and any damage to other work caused by such defects or the repairing of same, at his own expense and without cost to the Owner.

PART 2 - PRODUCTS

2.01 EXISTING PRODUCTS

A. Standard Portland cement or new concrete (not quick setting high strength cement) must be well cured prior to application of the protective coating. Generally, 28 days is adequate cure time for standard Portland cement. If earlier application is desired, compressive or tensile strength of the concrete can be tested to determine if acceptable cure has occurred. (Note: Bond strength of the coating to the concrete surface is generally limited to the tensile strength of the concrete itself. Engineer may require pull tests to determine suitability of concrete or metal for coating)

B. Cementitious patching and repair materials should not be used unless their manufacturer provides information as to its compatibility and procedures for top coating with the approved coating. Project specific submittals should be provided including application, cure time and surface preparation procedures which permit optimum bond strength with the approved coating.

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C. Remove existing coatings prior to application of the new protective coating. Applicator is to maintain strict adherence to applicable NACE and SSPC recommendations with regard to proper surface preparation and compatibility with existing coatings.

2.02 MANUFACTURER

A. Sprayroq, Inc.

B. Nukote Industries

C. Or Equal

2.03 REPAIR MATERIALS

A. Repair materials shall be used to; fill voids, bug holes, structurally reinforce and/or rebuild surfaces, etc. as determined necessary by the engineer and protective coating applicator. Repair materials must be compatible with the specified coating and shall be applied in accordance with the manufacturer's recommendations.

B. The following products may be accepted and approved as compatible repair basecoat materials for approved top coating for use within the specifications:

1. 100% solids, solvent-free grout specifically formulated for approved top coating compatibility. The grout manufacturer shall provide instructions for trowel or spray application and for approved top coating procedures.

2. Factory blended, rapid setting, high early strength, non-shrink cementitious or epoxy repair mortar that can be trowelled or pneumatically spray applied may be approved if specifically VER 9-20 Rehabilitation formulated to be compatible for approved top coating. Such repair mortars should not be used unless their manufacturer provides information as to its suitability for top coating with the approved top coating. Project specific submittals should be provided including application, cure time and surface preparation procedures which permit optimum bond strength with the approved coating.

2.04 PROTECTIVE COATING MATERIAL

A. 1. The resin based material shall be used to form the sprayed structurally enhanced monolithic liner covering all interior surfaces of the structure, including benches and inverts of manholes. The finished liner shall be 100% Solids polyurethane and conform to the minimum physical requirements listed below.

TOWN OF MONTVILLE
WATER POLLUTION CONTROL AUTHORITY

Request for Proposal (RFP)-

REHABILITATION OF TWO CONCRETE DISTRIBUTION BOXES LOCATED AT THE MONTVILLE WATER POLLUTION CONTROL FACILITY

Ron McDaniel (rmcdaniel@montville-ct.org)
Administrator

Derek J. Albertson
Superintendent (dalbertson@montville-ct.org)

Telephone: (860) 848-3830
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The physical requirements must be verified by an independent, certified, third party testing laboratory within the last five years and must be submitted with the bid package. Any bid package not including the verifiable, independent third party testing shall be ruled non-responsive and will be rejected. Compressive strength ASTM D 695 > 18,000 psi , Tensile strength ASTM D 638 > 7,450 psi, Bond (Concrete) ASTM D7234 > 200 psi Or Substrate Failure Bond (Steel) ASTM D4541 > 1,000 psi, Flexural Modulus (Initial) ASTM D 790 > 735,000 psi, Flexural Modulus (Long Term) ASTM D 2990 > 529,000 psi, Density 87 ± pcf, Chemical Resistance: ASTM D543 Severe Municipal Sewer: All types of service, Successful Pass: Sanitation District of L.A. County Coating Evaluation Study or SSPWC 211-2

2. When the wall of the resin based liner is to be structurally designed to withstand the hydraulic load generated by the groundwater table the long term (50yr) value of the flexural modulus of elasticity will be utilized to calculate the thickness of the structural liner. The initial flexural modulus of elasticity (short term) of the submitted resin material will be utilized with the long term deformation percentage as determined by ASTM D2990 VER 9-20 Rehabilitation (see below) in the design equations outlined in ASTM 1216-09, Appendix X1-X7 (Circular Geometries) or Flat Wall Beam Analysis for walled structures. No adhesion to the substrate is assumed in structural calculations. The value of the long term flexural modulus of the proposed product will be certified by an independent, certified, third party testing lab, independent of the Manufacturer and submitted with the bid package. [The definition of long term value will be identified as the initial flexural modulus of elasticity less the reduction in value caused by Creep over a fifty (50) year minimum period and verified by third party DMA testing(ASTM D2990).] All design submittals will include this certified third party DMA testing (ASTM D2990) value in their respective design calculations for each structure being rehabilitated.

2.05 PROTECTIVE COATING APPLICATION EQUIPMENT

A. Manufacturer approved heated plural component spray equipment shall be used in the application of the specified protective coating.

2.06 REPAIR MORTAR SPRAY APPLICATION EQUIPMENT (if spray applied)

A. Spray applied repair mortars shall be applied with manufacturer approved equipment.

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PART 3 - EXECUTION

3.01 ACCEPTABLE APPLICATORS

- A. Repair mortar applicators shall be trained to properly apply the cementitious mortar according to manufacturer's recommendations.
- B. Protective coating must be applied by a Certified Applicator of the protective coating manufacturer and according to manufacturer specifications.

3.02 EXAMINATION

- A. All structures to be coated shall be readily accessible to the Applicator. VER 9-20 Rehabilitation
- B. Appropriate actions shall be taken to comply with local, state and federal regulatory and other applicable agencies with regard to environment, health and safety.
- C. Contractor is responsible for all labor, equipment and costs associated with diverting flows and bypassing the distribution boxes as necessary to prepare the surfaces, perform coatings and allow for proper cure time. Any active flows shall be diverted by the contractor as required to ensure that the liquid flow is maintained below the surfaces to be coated. All flows into the distribution boxes at or above the area coated shall be diverted until the coating has properly cured in strict accordance to manufacturer's instructions. As an option, hot air may be added to the manhole and structures to accelerate set time of the coating.
- D. Installation of the protective coating shall not commence until the concrete substrate has properly cured in accordance with these specifications.
- E. Temperature of the surface to be coated should be maintained between 70 deg F and 110 deg F during application. Prior to and during application, care should be taken to avoid exposure of direct sunlight or other intense heat source to the structure being coated.

3.03 SURFACE PREPARATION

- A. Applicator shall inspect all surfaces specified to receive a protective coating prior to surface preparation. Applicator shall notify Owner of any noticeable disparity in the surfaces which may interfere with the proper preparation or application of the repair mortar and protective coating.

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B. All contaminants including: oils, grease, incompatible existing coatings, waxes, form release, curing compounds, efflorescence, sealers, salts, or other contaminants shall be removed.

C. All concrete or metal that is not sound or has been damaged by chemical exposure shall be removed to a sound surface or replaced.

D. Surface preparation method(s) should be based upon the conditions of the substrate, service environment and the requirements of the resin protective coating to be applied.

E. Surfaces to receive protective coating shall be cleaned and abraded to produce a sound surface with profile to meet as a minimum ICRI CSP3 – CSP6 profile and porosity to provide a strong bond between the protective coating and the substrate. Generally, this can be achieved with a high pressure water cleaning using equipment capable of a minimum 4,500 psi at 4.5 gpm with a turbo head jet nozzle. Other methods such as high pressure water jetting (refer to SSPC-SP 13/NACE No.6), abrasive blasting, shot blasting, grinding, scarifying or acid etching may also be used. Detergent water cleaning and hot water blasting may be necessary to VER 9-20 Rehabilitation remove oils, grease or other hydrocarbon residues from the concrete. Whichever method(s) are used, they shall be performed in a manner that provides a uniform, sound clean neutralized surface that is not excessively damaged.

F. Any area that might exhibit movement or cracking due to expansion and contraction, shall be grouted with a flexible grout or gel.

G. Castings can be abrasively blasted and coated to prevent corrosion.

H. Surfaces to receive protective coating shall be dry to the touch and or with no visible dampness. This is to ensure maximum adhesion to the substrate. If required, drying may be accomplished by a minimum of 20 minutes of a heated, indirect forced air blower. The drying shall be to the specification dictated by the resin manufacturer and its trained applicator.

I. Surfaces to receive protective coating utilizing Flat Wall Beam Analysis design shall be prepared with a series of grooves cut into the substrate at a spacing and depth determined by the manufacturer to “key” or lock the protective coating to the substrate. All coating termination edges shall be “locked” into the substrate with a termination groove “key” cut into the substrate. The “key” shall be a minimum ¼”w x ¼”d and cut at a 45 degree angle.

J. All surfaces should be inspected by the Inspector during and after preparation and before the repair material is applied.

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3.04 APPLICATION OF REPAIR MATERIALS

A. Areas where structural steel has been exposed or removed shall be repaired in accordance with the Manufacturer's recommendations.

B. Repair materials shall meet the specifications herein. The materials shall be trowel or spray applied utilizing proper equipment on specified surfaces. The material thickness shall be specified according to Owner's requirements and manufacturer's recommendations.

C. If using approved cementitious repair materials, such shall be trowelled to provide a smooth surface with an average profile equivalent to coarse 60 grit sandpaper or a minimum ICRI CSP3-CSP6 profile to optimally receive the protective coating. No bug holes or honeycomb surfaces should remain after the final trowel procedure of the repair mortar. VER 9-20 Rehabilitation

D. The repair materials shall be permitted to cure according to manufacturer recommendations. Curing compounds should not be used unless approved for compatibility with the specified protective coating.

E. Application of the repair materials, if not performed by the coating certified applicator, should be inspected by the protective coating certified applicator to ensure proper finishing for suitability to receive the specified coating.

F. After high pressure water blasting and leak repair is performed, all surfaces shall be inspected for remaining laitance prior to protective coating application. Any evidence of remaining contamination or laitance shall be removed by additional abrasive blast, shotblast or other approved method. If repair materials are used, refer to these specifications for surface preparation. Areas to be coated must also be prepared in accordance with these specifications after receiving a cementitious repair mortar and prior to application of the approved coating.

G. All surfaces should be inspected during and after preparation and before the protective coating is applied.

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3.05 APPLICATION OF PROTECTIVE LINING

A. Application procedures shall conform to the recommendations of the protective coating manufacturer, including material handling, mixing, environmental controls during application, safety, and spray equipment.

B. The spray equipment shall be specifically designed to accurately ratio and apply the specified protective coating materials and shall be regularly maintained and in proper working order.

C. The protective coating material must be spray applied by a Certified Applicator of the protective coating manufacturer.

D. Specified surfaces shall be coated by spray application of a solvent-free, 100% solids, rigid structural lining as further described herein.

E. Plural component spray application equipment approved by the coating manufacturer shall be used to apply each coat of the protective coating.

F. If necessary, subsequent top coating or additional coats of the protective coating should occur as soon as the base coat becomes tack free, no later than the recoat window for the specified products. Additional surface preparation procedures will be required if this recoat window is exceeded as per Manufacturer's recommendation.

3.06 TESTING AND INSPECTION

A. High Voltage Spark Test. After the protective coating has set hard to the touch it shall be inspected with high-voltage holiday detection equipment. This test is critical when applied to corrosion protection applications (i.e. mil coatings less than 250 mils). Surface shall first be dried, an induced holiday shall then be made on to the coated concrete or metal surface and shall serve to determine the minimum/maximum voltage to be used to test the coating for holidays at that particular area. The spark tester shall be initially set at 100 volts per 1 mil (25 microns) of film thickness applied but may be adjusted as necessary to detect the induced holiday (refer to NACE RPO188-99 or D4787 Continuity Testing of Liquid or Sheet Liners On Concrete-Holidays). All detected holidays shall be marked and repaired by abrading the coating surface with grit disk paper or other hand tooling method. After abrading and cleaning, additional protective coating material can be hand applied to the repair area. All touch-up/repair procedures shall follow the protective coating manufacturer's recommendations.

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B. Adhesion Testing. The adhesion tests shall be performed on a minimum of one or 10% of all rehabilitated structures, whichever is greater, or as shown on the Plan and/or specified in the Special Provisions. Adhesion testing shall be conducted after the lining or coating system has cured per manufacturer instruction and in accordance with ASTM D4541(Steel) or ASTM 7234(Concrete). Adhesion is critical for proper performance of a corrosion barrier (i.e. < 250 mils). A minimum of one 50 mm dolly shall be affixed to the lined surface of the structure at the upper section or cone area, mid section and at the bottom, unless otherwise specified in the Special Provisions. Each testing location shall be identified by the Engineer. The adhesive used to attach the dollies to the liner shall be rapid setting with tensile strength in excess of the liner material and permitted to cure in accordance with manufacturer recommendations. The lining material and dollies shall be adequately prepared to receive the adhesive. Prior to pull test, the Contractor shall utilize a scoring device to cut through the coating until the substrate is reached. Extreme care shall be required while scoring to prevent micro cracking in the coating, since cracks may cause failures at diminished strengths. Failure due to improper dolly adhesive or scoring shall require retesting. The pull tests in each area shall meet or exceed 200 psi. and shall include subbase adhered to the back of the dolly or no visual signs of coating material in the test hole. Pull tests with results between a minimum 150 psi and 200 psi shall be acceptable if more than 50% of the subsurface is adhered to the back of the dolly. A test result can be discarded, as determined by the Engineer, if there is a valid non statistical reason for discarding the test results as directed by Sections 8.4 and 8.5 of ASTM D4541 and ASTM D7234. If any test fails, a minimum of three additional locations in the section of the failure shall be tested, as directed by the Engineer. If any of the retests fail, all loosely adhered or unadhered liner in the failed area, as determined by the Engineer, shall be removed and replaced at the Contractor's expense. If a structure fails the adhesion test, one additional structure or 10% of the initial number of structures selected for testing shall be tested at the discretion of the Engineer and/or as specified in the Special Provisions.

NOTE: The mil thickness will be measured and confirmed with the scored and pulled test samples. In structural repairs (partially or fully deteriorated design assumptions), it is critical to confirm the design thickness with the pulled sample as adhesion is not assumed in the ASTM 1216-09 design. The primary purpose of the pull test in structural rehabilitation is to confirm applied thickness, not adhesion. Any derived adhesion is further enhancement to the final installation strength of the rehabilitated structure.

C. A final visual inspection shall be made by the Inspector and manufacturer's representative. Any deficiencies in the finished coating shall be marked and repaired according to the procedures set forth herein by Applicator.

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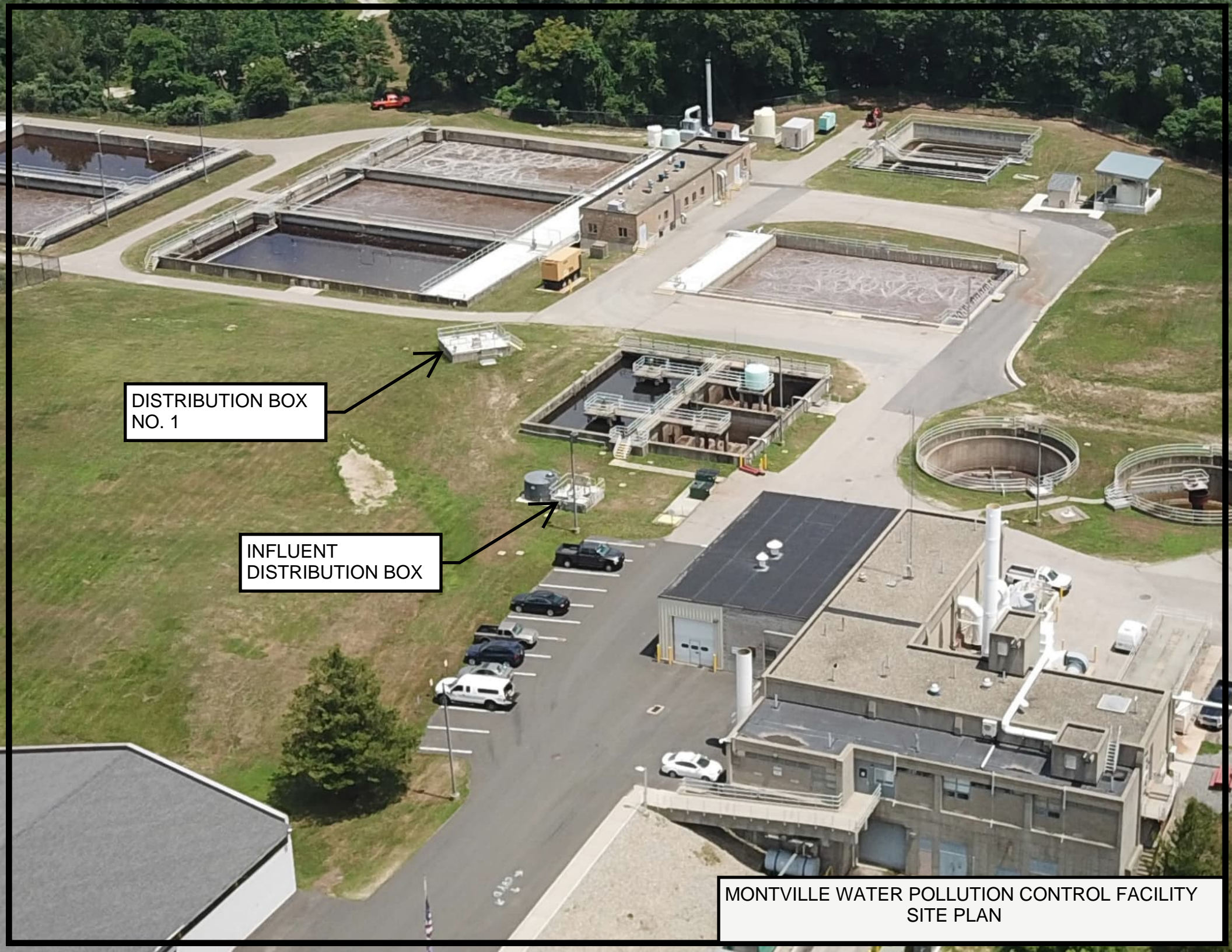
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D. The distribution boxes may be put back into non-severe operational service as soon as the final inspection has taken place. However, for severe corrosion duty such as high concentrations of acids, bases or solvents, 4 to 8 hours may be necessary prior to returning to service. Consult the coating manufacturer for further details. Maximum return to service time not to exceed a 12 hour window after final inspection.

APPENDIX A
Site Plan

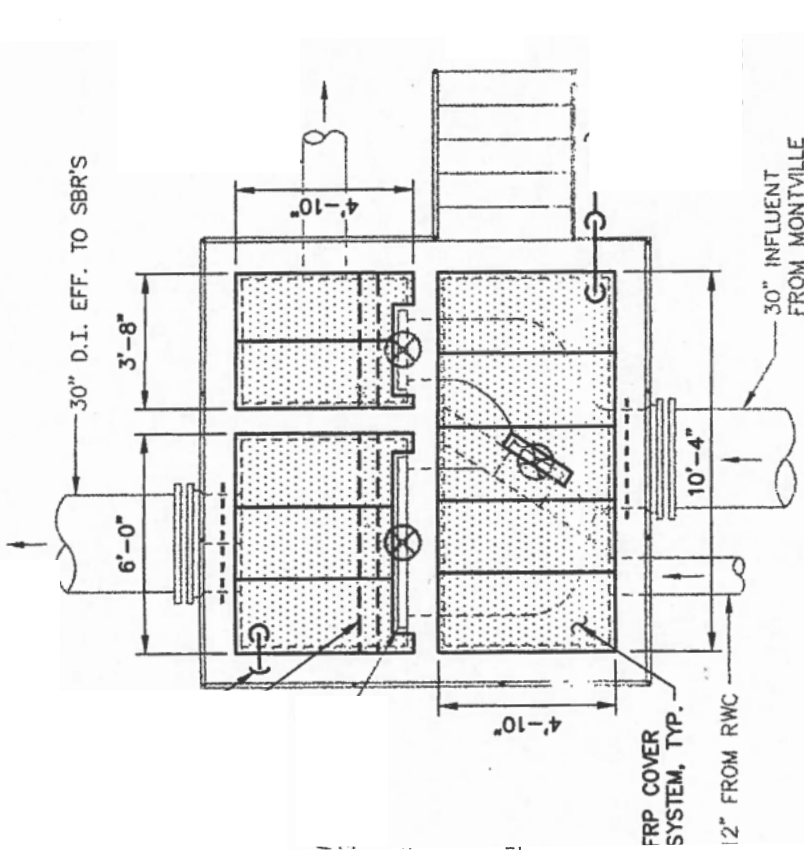


DISTRIBUTION BOX
NO. 1

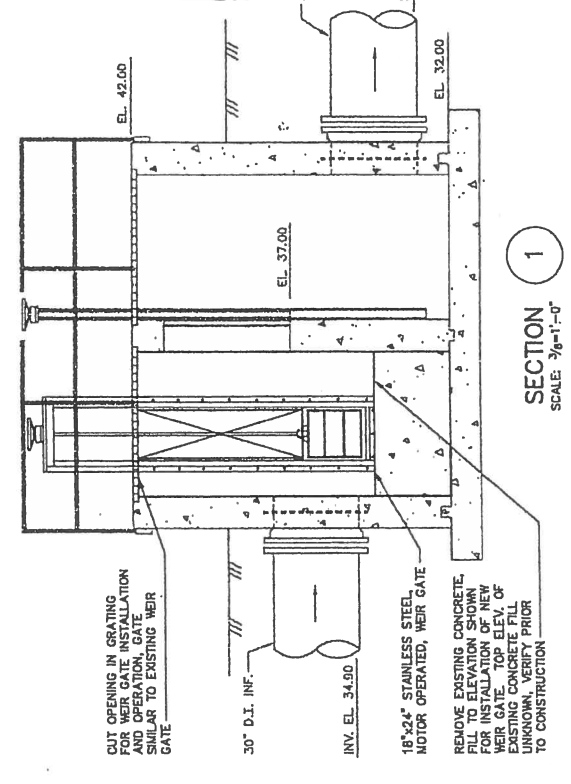
INFLUENT
DISTRIBUTION BOX

MONTVILLE WATER POLLUTION CONTROL FACILITY
SITE PLAN

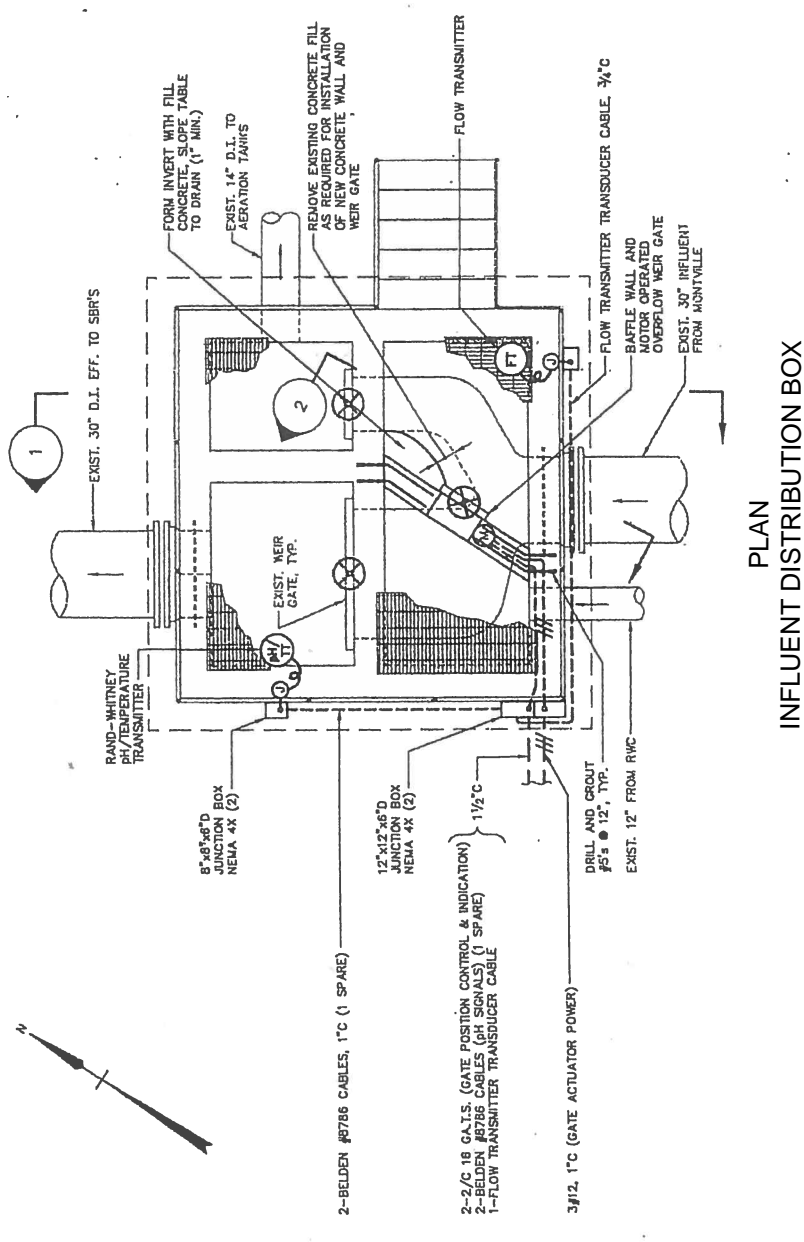
APPENDIX B
Influent Distribution Box Record Drawing



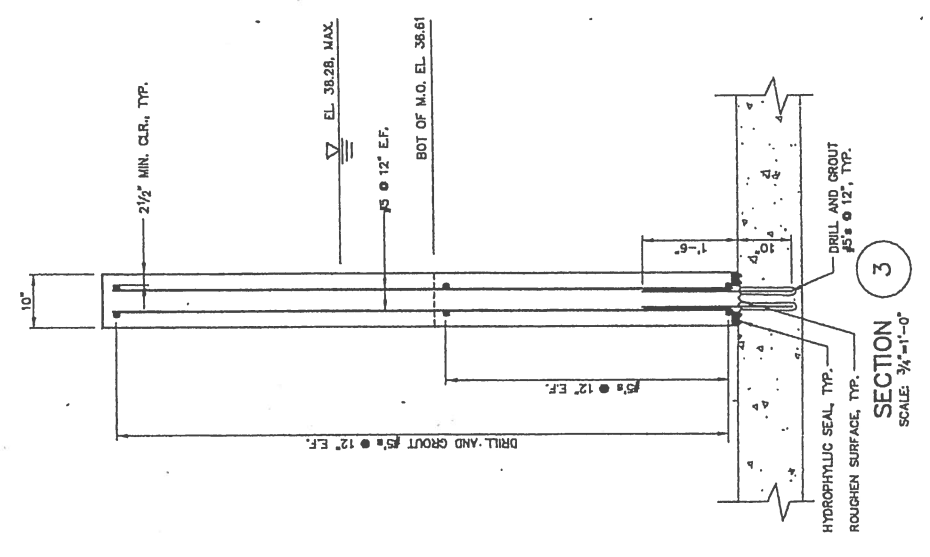
PLAN
INFLUENT DISTRIBUTION BOX
Not to scale



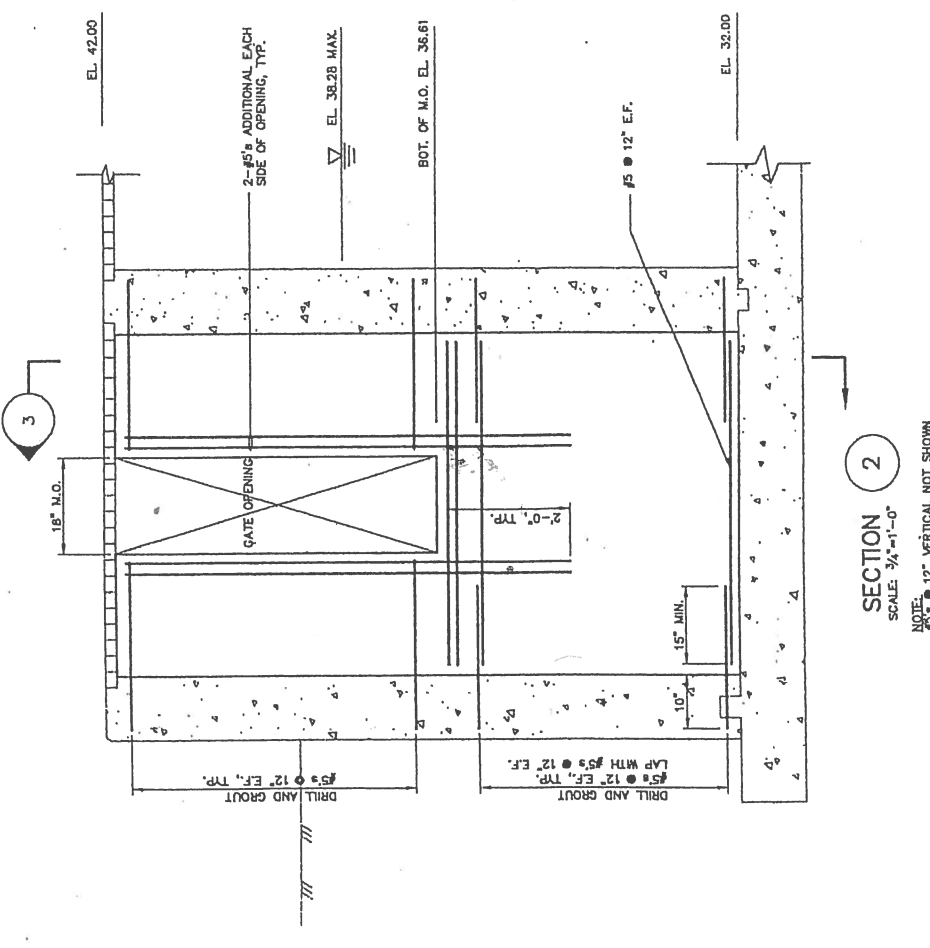
SECTION 1
SCALE: 3/8"=1'-0"



PLAN
INFLUENT DISTRIBUTION BOX
Not to scale



SECTION 3
SCALE: 3/4"=1'-0"



SECTION 2
SCALE: 3/4"=1'-0"
NOTE: #5 x 12" VERTICAL NOT SHOWN FOR CLARITY.

CONCRETE NOTES

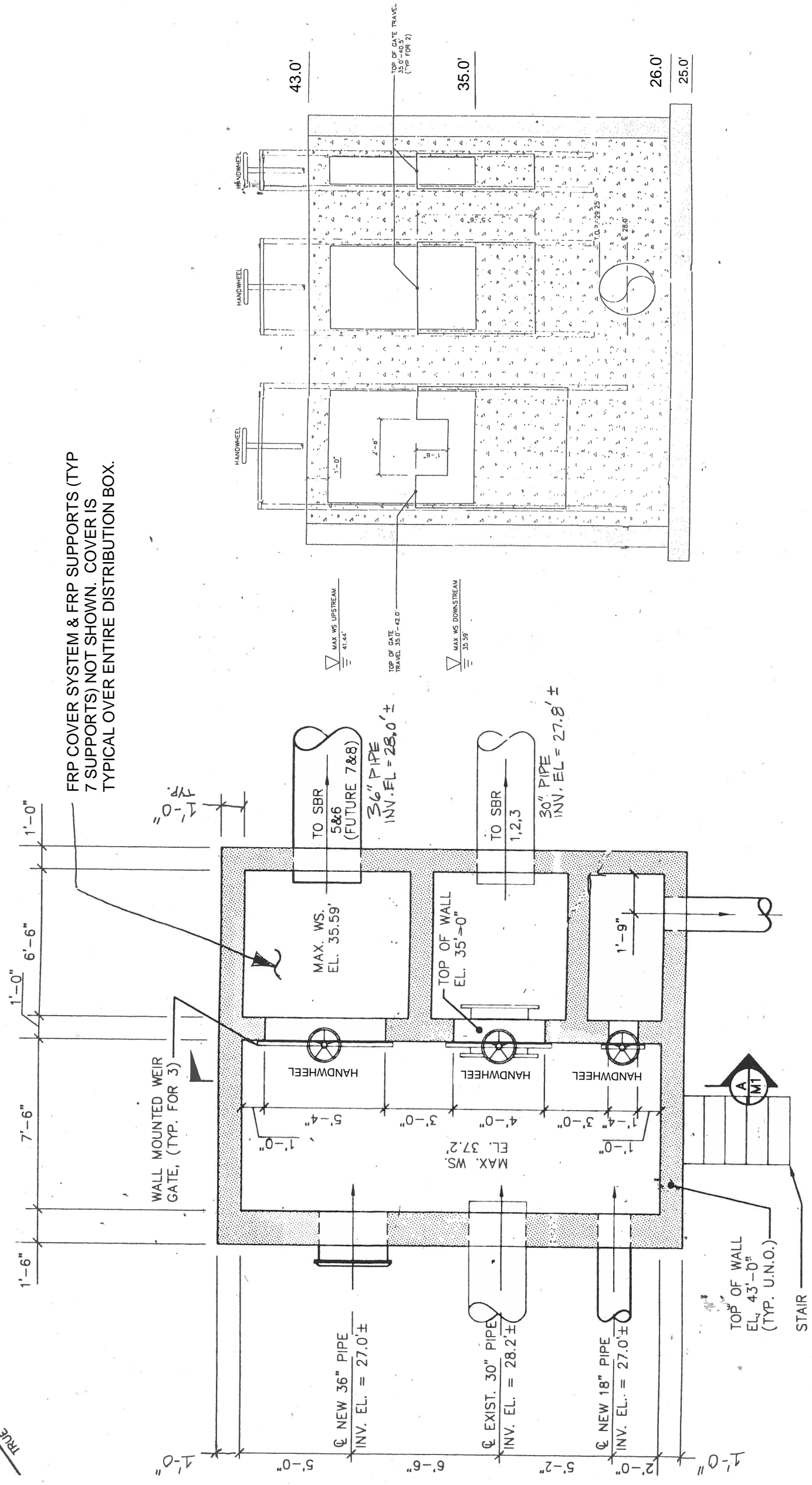
1. ALL CONCRETE CONSTRUCTION SHALL CONFORM WITH ACI 318-95 CODE.
2. CONCRETE SHALL DEVELOP A MINIMUM COMPRESSIVE STRENGTH OF 4000 PSI AT 28 DAYS.
3. REINFORCING STEEL SHALL BE ASTM A615 GRADE 60.
4. REINFORCING STEEL SHALL HAVE A CONCRETE COVER AS FOLLOWS, EXCEPT AS OTHERWISE SHOWN ON DRAWINGS: **
 - SURFACES CAST IN PLACE AGAINST EARTH..... 3"
 - SURFACES PROTECTED FROM WEATHER, EARTH OR LIQUIDS..... 1"
 - SLABS..... 1"
 - SURFACES EXPOSED TO WEATHER OR EARTH..... 2"
 - SURFACES EXPOSED TO LIQUID OR SEWAGE OR SEWAGE CONDENSATION..... 2 1/2"
5. ALL EXPOSED CONCRETE EDGES SHALL HAVE 3/4" CHAMFER.
6. SHOP DRAWINGS SHALL BE COMPLETED AND CHECKED BY THE CONTRACTOR PRIOR TO SUBMISSION FOR ENGINEER'S APPROVAL.
7. ADHESIVE CAPSULE ANCHORS (REBAR) SHALL BE HILTI HVA ADHESIVE ANCHORS OR EQUAL. THE CAPSULE SHALL CONTAIN VINYLESTER RESIN OR EPOXY RESIN. POLYESTER RESIN CAPSULE SHALL NOT BE USED.

| REV. | DATE | DESCRIPTION | BY | CHK. | APPD. |
|------|------|-------------|----|------|-------|
| | | | | | |



TOWN OF MONTVILLE, CONNECTICUT
 WATER POLLUTION CONTROL FACILITY
 EXPANSION-PHASE 1
 BLOWER BUILDING AND DISTRIBUTION STRUCTURE
 STRUCTURAL/MECHANICAL/ELECTRICAL
 PLANS AND SECTIONS
 FAY, SPOFFORD & THORNDIKE, INC.
 ENGINEERS • PLANNERS • SCIENTISTS
 BURLINGTON, MA
 DES. E.P.M.S. PA. CHK. E.P.M.S. PA. 851 APPROVED
 DR. VAL.G.G.C.W. ENGR. P. *[Signature]*
 FS&T PROJECT NUMBER: JM-041
 SCALE: AS NOTED DATE: DECEMBER 1986
 DRAWING NO. SWE-8

APPENDIX C
Distribution Box No.1 Record Drawing



FRP COVER SYSTEM & FRP SUPPORTS (TYP 7 SUPPORTS) NOT SHOWN. COVER IS TYPICAL OVER ENTIRE DISTRIBUTION BOX.

PLAN
DISTRIBUTION BOX NO. 1
NOT TO SCALE

SECTION A/M1
DISTRIBUTION BOX NO. 1
NOT TO SCALE

