

REQUEST FOR SEALED BIDS

FOR

TANGIPAHOA PARISH GOVERNMENT MIDDLE MILE FIBER OPTIC BROADBAND NETWORK OSP CONSTRUCTION LABOR & MATERIAL

Sealed BIDS will be received by Tangipahoa Parish Government at the: Parish Council Chambers, Gordon A. Burgess Government Building, 206 East Mulberry St., Amite City, LA, 70422 **until 2:00 PM on Wednesday, September 14, 2022** for the following:

Tangipahoa Parish Government Request for Sealed Bid #TAP-2022-FON-0002 Middle Mile Fiber Optic Broadband Network West Parish Expansion OSP Construction Labor & Material

Project is comprised of: **All Labor and Materials required to perform the OSP Construction of a Middle Mile Fiber Optic Broadband Network as per the design provided in the Request for Sealed Bid document package.**

At 2:00 pm on Wednesday, September 14, 2022, the bids shall at that time and place be publicly opened and read aloud in the Parish Council meeting room at 206 E. Mulberry St. in Amite City, Louisiana. Any person requiring special accommodations shall notify the Tangipahoa Parish Government of the type of accommodations required not less than seven days before bid opening.

Sealed Bids, amendments to Sealed Bids, or requests for withdrawal of Sealed Bids received after the time specified for Sealed Bid openings shall not be considered for any cause whatsoever. Bidders or their authorized representative are invited to be present. No other information or tabulations will be available until awards are made after all bids are fully checked for responsiveness and accuracy. The Sealed Bid Price shall be firm for a period of at least **thirty (30) days** from the opening of bids, and no Sealed Bid can be withdrawn for any reason during this period of time.

BIDDERS must submit bids in a sealed envelope and must show sufficient reference on the outside of the sealed envelope to identify bids including, PROJECT NAME and BID OPENING DATE.

Each Sealed Bid shall be accompanied by a bid bond and certified check or cashier's check equivalent to 5% of the total bid as evidence of good faith of the bidder as prescribed by LA RS 38:2218.A. Sureties used for obtaining bonds must appear as acceptable on the US Department of the Treasury Circular 570.

A mandatory Pre-Bid Conference will be held at the Parish Council at 2:00 PM CDT on Wednesday, August 31, 2022. Prospective Bidders wishing to participate remotely, via telephone, or computer, may request the remote connection meeting telephone number and web link information by emailing a request to the Tangipahoa Parish Government's Purchasing Agent, Donna Domiano, at ddomiano@tangipahoa.org. Such requests must be made by **no later than 11:30 am CDT on Wednesday, August 31, 2022.** Only Bidders attending in person, or via remote access, will be considered Authorized Bidders.

Project completion/delivery time: 24 calendar weeks

If applicable, the attention of bidders is called particularly to the requirements for conditions of employment, equal opportunity, DBE outreach and Davis-Bacon regulations for minimum wage rates and work hours (if applicable) to be paid under the contract, along with all applicable laws and regulations of the federal government and State of Louisiana, bonding and insurance requirements.

In accordance with bid law LA RS 38:2212 (C)(2)(a), the right to reject any or all bids, and to waive any informalities is reserved.

Robby Miller, Parish President

PUBLISH DATES:

Tuesday August 16, 2022

Tuesday August 23, 2022

Tuesday August 30, 2022



Title:

**TANGIPAHOA PARISH GOVERNMENT
REQUEST FOR SEALED BID #TAP- 2022-FON-0002
MIDDLE MILE FIBER OPTIC BROADBAND NETWORK
WEST PARISH EXPANSION
OSP CONSTRUCTION LABOR & MATERIAL
DUE ON OR BEFORE 2:00 P.M. CDT ON WEDNESDAY, SEPTEMBER 14, 2022**

Contact:

Donna Domiano
Purchasing Agent
Tangipahoa Parish Government
P.O. Box 215
Amite City, LA 70422
Telephone: 985-748-3211
Email: ddomiano@tangipahoa.org

Prepared by:



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Project Requirements and Instructions to Bidders

The Tangipahoa Parish Government (herein referenced as the "Owner", or the "Parish") will be accepting Sealed Bids to install a Middle Mile Fiber Optic Broadband Network, referred to as the West Parish Expansion, which is a portion of a larger Middle Mile Fiber Optic Broadband Network to be constructed by the Owner. Drawings, specifications, and additional requirements for installation are attached. The Bidder shall provide all materials and installation services for this project.

Mandatory Pre-Bid Conference

A Mandatory Pre-Bid Conference will be held in the Tangipahoa Parish Government Building at **2:00 PM CDT on Wednesday, August 31, 2022**, at the address below:

**TPC Chambers
Gordon A. Burgess Government Building
206 E. Mulberry Street,
Amite City, LA 70422**

All questions regarding this project shall be directed to the Owner and their consulting engineers during the Mandatory Pre-bid Conference. Prospective Bidders wishing to participate remotely, via telephone, or computer, may request the remote connection meeting telephone number and web link information by emailing a request to the Tangipahoa Parish Government's Purchasing Agent, Donna Domiano at ddomiano@tangipahoa.org. ***Such requests must be made by no later than 11:30 am CDT on Wednesday, August 31, 2022.*** Only Bidders attending in person, or via remote access, will be considered Authorized Bidders. After the Mandatory Pre-Bid Conference, only written questions from Authorized Bidders, directed to ddomiano@tangipahoa.org, will be accepted. Questions from the Mandatory Pre-Bid Conference, as well as any submitted in writing by Authorized Bidders, will be answered in an official Addendum and provided to all Authorized Bidders. The deadline for Submitting Questions will be ***Tuesday, September 2, 2022, 4:00 PM CDT.*** An Addendum Acknowledgement page will be included in any official Addendums and must be signed and included in any Sealed Bids that are submitted for consideration on this project.

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Bid Preparation and Delivery

All Sealed Bids must be made on the required bid forms contained in this Request for Sealed Bid document. All blank spaces for individual bid prices and total bid price must be filled in via ink, or typewritten, and the bid forms must be fully completed and executed when submitted. Quantities cannot be altered in the bid forms. Only one copy of the bid forms is required.

When purchasing materials for this project, the winning Bidder will be authorized to act as an authorized purchasing agent of the Parish and qualify for the respective tax exemptions. Therefore, sales taxes should not be included in the bid prices.

Each bid must be accompanied by a bid bond payable to the Owner for 5% of the total amount of the bid.

Sealed Bids must be submitted in hardcopy no later than the date and time listed as the Bid's Due Date. Late Sealed Bids will not be considered. Each Bidder shall bear all expenses associated with the preparation and submission of their Sealed Bids.

Sealed bids shall be received by the Tangipahoa Parish Government, until the advertised time and date of the bid opening, at the location listed on the following page. Each bid must be delivered in a sealed envelope. Each sealed envelope containing a bid must be plainly marked on the outside with the **Bidder's Legal Company Name, Address, and Louisiana Contractor License Number**.

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In addition, each sealed bid must be labeled and addressed on the outside as follows:

**Tangipahoa Parish Government
Sealed Bid #TAP- 2022-FON-0002
Middle Mile Fiber Optic Broadband Network
West Parish Expansion
OSP Construction Labor & Materials
Due Date: 2:00 PM CDT Wednesday, September 14, 2022**

**Attention: Donna Domiano
Purchasing Agent
TPC Chambers
Gordon A. Burgess Government Building
206 E. Mulberry Street,
Amite City, LA 70422**

To bid and perform work covered by these documents, the Bidder must have an active registration from the System for Award Management (SAM.gov). The Owner may waive any informalities, or minor defects, or reject, any and all sealed bids, in accordance with the Law. Any bid may be withdrawn prior to the published scheduled time for the opening of bids, or authorized postponement thereof. Any bid received after the time and date specified, or in a form other than that described above, shall not be considered. No bidder may withdraw a bid within thirty (30) days after the actual date of the opening thereof. The Owner may make investigations as deemed necessary to determine the ability of the bidder to perform the work, and the bidder shall furnish to the Owner all such information and data for this purpose as the Owner may request. The Owner reserves the right to reject any bid if the evidence submitted by, or investigation of, such bidder fails to satisfy the Owner that such bidder is properly qualified to carry out the obligations of the

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Agreement and to complete the work contemplated therein. A conditional, or qualified, bid will not be accepted.

A Specific listing and required quantity of each Labor & Material item is included in ***Attachment B – Louisiana Uniform Public Work Bid Form.***

Base Bid

The Bidder must provide a total unit cost for each line item, as well as a **Sealed Base Bid** amount for the full list and quantities of Construction Services, Installation Services and Material items. The Overall Sealed Base Bid must be inclusive of any shipping, handling, or freight charges. Bidders must also provide lead time commitments for the material component of each line item and a confirmation that the Bidder's price is valid for a period of **forty-five (45) days** from the bid award date. The Base Bid Design specifies a 3-duct system with the first duct having a 432-ct fiber optic cable, the second duct having a 288-ct fiber optic cable, and the third duct being vacant. This Base Bid Design is represented in **Attachment F – Drawings** as the callouts, and the unit quantities, listed as Option 1. Construction must be completed within the allowed two hundred (200) Construction Days.

Alternate Bid

The Bidder must also provide a total unit cost for each line item, as well as an **Alternate Bid** amount for the full list and quantities of Construction Services, Installation Services and Material items. The Alternate Bid must be inclusive of any shipping, handling, or freight charges. Bidders must also provide lead time commitments for the material component of each line item and a confirmation that the Bidder's price is valid for a period of **forty-five (45) days** from the bid award date. The Alternate Bid Design specifies a 4-duct system with the first duct having a 432-ct fiber optic cable, the second duct having a 288-ct fiber optic cable, and the third duct and fourth duct being vacant. This Alternate Bid Design is represented in **Attachment F – Drawings** as the callouts, and the unit quantities, listed as Option 2. Construction must be completed within the allowed two hundred (200) Construction Days.

TDC2, LLC

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Upon award of the project and upon request by the Owner, the winning Bidder shall submit detailed specification datasheets and information for all materials to be installed for the project. Prior to the delivery of any materials to the job site, winning Bidder shall provide to Owner all written documentation regarding the Manufacturer's Quality Control/Quality Assurance, Installation Procedures and Warranties for the materials described in ***Attachment B – Louisiana Uniform Public Work Bid Form*** and in ***Attachment D - Technical Specifications***.

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Required Qualifications

To be considered a responsive and responsible Bidder, a Bidder must meet the following Qualifications:

1. The Bidder must have past performance, experience, and success, as the Prime Contractor, in the implementation of similar size, scope, and type of Fiber Optic Broadband Network Construction projects.
2. The professional experience, background, and ability of the Bidder's identified project team must be sufficient to perform the required services and complete the project within the required timeframe.
3. The Bidder must have past experience working on projects with terrain and construction environments similar to the region of this project's location.
4. The Bidder must be able to confirm and describe its history providing complete and detailed Timeline & Methodology for projects similar in size and scope to the proposed project. This will include plan, schedule, and clearly identified project milestones. The Bidder must demonstrate that its proposed equipment, staffing, and resource plan will successfully complete the project within the allotted timeframe.
5. The Bidder must be able to provide references who can provide a first-hand knowledgeable description of their experience with the Bidder, and specifically the Bidder's accuracy in reporting, frequency and quality of communications, and performance while completing similar fiber projects within the reference project's established timeline and budget.
6. The Bidder must have equipment, office staff, and support personnel that will be located and available within reasonable proximity to service this project without causing project delays due to deployment and mobilization.

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Required Sealed Bid Format

This section outlines specific instructions for the Bidder's submissions. **Bidders not adhering to these instructions shall be disqualified without further consideration.**

Bids will be opened publicly. The information that will be read aloud during the public bid opening includes the Name, the Base Bid Amount, and any Alternate Bid Amounts of each apparently responsive and responsible Bidder, whose Sealed Bid Package has been accepted for further review by the Owner. All Sealed Bid Packages become the property of the Tangipahoa Parish Government.

The Tangipahoa Parish Government requires comprehensive written responses to every section within this Request for Sealed Bid. Conciseness and clarity of content are emphasized and encouraged. Vague and general information will be considered non-responsive and will result in disqualifications. To facilitate the review of the responses, Firms shall follow the described sealed bid format. The intent of the sealed bid format requirements is to expedite review and evaluation. It is not the intent to constrain Vendors with regard to content, but to assure that the specific requirements set forth in these Specifications are addressed in a uniform manner amenable to review and evaluation. Failure to arrange the information presented in the sealed bid as requested may result in the disqualification of the sealed bid.

Sealed Bid documents shall have 1" margins and be single-sided, single spaced, using Times New Roman 12-point font. All pages of the sealed bid must be numbered. The sealed bid must contain an organized, paginated table of contents corresponding to the sections and pages of the sealed bid.

Bid Timeline

Mandatory Pre-Bid Conference Call: Wednesday, August 31, 2022, 2:00 PM CDT
Deadline for Submitting Questions: Tuesday, September 2, 2022, 4:00 PM CDT
Sealed Bid Submission Deadline: Wednesday, September 14, 2022, 2:00 PM CDT

To help ensure that all Sealed Bid Packages receive the same considerations, a standard layout for submittal is required.

Section	Topic
I	Letter of Transmittal
II	Table of Contents
III	Executive Summary & References
IV	Project Timeline and Methodology
V	System of Award Management (SAM.gov) Registration
VI	Bid Bond
VII	Louisiana Uniform Public Works Bid Form
VIII	Additional Federal Compliance Provisions for Construction Contracts

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The topics must be organized under the specific section as stated above and indicated appropriately. Each topic must be addressed in the Bidder's Sealed Bid, or the Sealed Bid may be rejected.

Bidders are encouraged to include as much pertinent data and information as necessary to allow the Owner to make an informed and thorough decision, however, general purpose marketing material should not be included. The Bidder should provide enough detail that Owner can understand the Bidder's background and experience, as well as the Bidder's Bid Cost and Timeline for completion of the project.

I. Letter of Transmittal

Provide a 1-page transmittal letter with the following:

- A brief Bidder introduction with years of relevant experience, company type, and information pertaining to financial stability.
- Highlights of the Bidder's qualifications, understanding of the project, and ability to perform the project services
- The name, title, phone number, e-mail address, and street address of the person in the Bidder's organization who will respond to questions about the Sealed Bid.

II. Table of Contents

Provide a 1-page table of contents listing each section and the page in which it begins.

III. Executive Summary

Provide an executive summary (no more than 6 pages) with the following information:

- **Bidder's Capabilities & Relevant Experience as per the Required Qualifications listed on page 8 of this document. The Reference Form in *Attachment A* should be filled out to accompany this section.**

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- Listing of Bidder's dedicated project team that will be tasked with completing the project on time and within budget. Name, Title, Years of Relevant Experience, Brief Bio, a specific explanation of project responsibilities should be provided.
- Listing of the nearest location of office facilities, support staff and other resources that will be utilized in implementation of the project

IV. Project Timeline and Methodology & DBE

Provide a Timeline and Methodology (no more than 10 pages) inclusive of the following:

- Synopsis of Bidder's methodology, project milestones, timelines, and resource plan explaining number and type of OSP Construction Crews proposed and expected production per day for each crew in order to complete the project within the allowed 200 construction days. A project Gant Chart is to be included.
- Description of the Bidder's understanding of the specific construction environment throughout the project area, identification of risk factors and explanation of Bidder's contingency plans to mitigate risks, cost overruns, and delays.
- Description of the Bidder's access to the appropriate and adequate quantities of skilled personnel and equipment to allow timely completion of the project in a quality manner.
- Description of type and quantity of work for which the Bidder proposes the use of Subcontractors.
- Identification of any project related or associated subcontractors or supplies having certified DBE status. Identify such by name, address, and inclusion of a DBE certification document. The Parish of Tangipahoa encourages the use of DBE contractors, subcontractors and suppliers, although it is not required

V. System for Award Management (SAM.gov) Registration

An active System for Award Management (SAM) registration is required to bid on this project. The Bidder must include a copy of the active registration documentation in the submitted bid packet.

VI. Bid Bond Form

Each Sealed Bid must be accompanied by a bid bond payable to the Owner for 5% of the total amount of the bid.

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VII. Bid Pricing

All bids must be made on the required Sealed Bid forms; included as *Attachment B – Louisiana Uniform Public Work Bid Forms*. This Sealed Bid Request includes a Base Bid and an Alternate Bid. Specific Bid Forms with the proper quantities and line items for the Base Bid and for the Alternate Bid are included in *Attachment B – Louisiana Uniform Public Work Bid Forms*.

All blank spaces for individual bid prices and total bid price must be filled in, via ink, or typewritten, and the Sealed Bid forms must be fully completed and executed when submitted. Quantities cannot be altered in the Sealed Bid forms. Lead times for each material line item must be provided. Only one copy of the Sealed Bid forms is required.

VIII. Additional Federal Compliance Provisions for Construction Contracts

Various applicable Federal Compliance Provisions for Construction Contracts are included in *Attachment E* and must be acknowledged via the Bidder's signature on the Federal Compliance Acknowledgement Form and returned along with the Sealed Bid Package.

TDC2, LLC

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Attachments

Attachment A – References

Attachment B – Louisiana Uniform Public Work Bid Form

Attachment C – Bid Bond Form

Attachment D – Technical Specifications

Attachment E – Federal Compliance Provisions for Construction Contracts

Attachment F – Drawings

Attachment G – Example Contract Documents

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Attachment A – References

Please list three (3) references of customers who can verify the quality of service your company provides. The References should be customers for which the Bidder has performed work of similar size and scope of work to that described in this request for sealed bid.

REFERENCE ONE

Name: _____

Address: _____

Project Location: _____

Contact Person and Title: _____

Phone: _____ E-mail: _____

Contract Time Period: _____ Date Completed: _____

Scope of Work: _____

REFERENCE TWO

Name: _____

Address: _____

Project Location: _____

Contact Person and Title: _____

Phone: _____ E-mail: _____

Contract Time Period: _____ Date Completed: _____

Scope of Work: _____

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REFERENCE THREE

Name: _____

Address: _____

Project Location: _____

Contact Person and Title: _____

Phone: _____ E-mail: _____

Contract Time Period: _____ Date Completed: _____

Scope of Work: _____

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Attachment B – Louisiana Uniform Public Work Bid Form

1. Base Bid

The Bid Forms for the Base Bid are on the following pages. The OSP Construction Labor & Materials, as necessary to implement the design depicted as Option 1 in drawings contained in *Attachment F – Drawings*, must be bid on these forms.

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LOUISIANA UNIFORM PUBLIC WORK BID FORM

TO: Tangipahoa Parish Government
TPC Chambers, Gordon A. Burgess Government Building
206 E. Mulberry Street
Amite City, LA 70422
(Owner to provide name and address of owner)

BID FOR: Tangipahoa Parish Government - BASE BID
Sealed Bid # TAP-2022-FON-0002
Middle Mile Fiber Optic Broadband Network
OSP Construction & Materials
(Owner to provide name of project and other identifying information)

The undersigned bidder hereby declares and represents that she/he/it has carefully examined and understands the Bidding Documents, has not received, relied on, or based his bid on any verbal instructions contrary to the Bidding Documents or any addenda, has personally inspected and is familiar with the project site, and hereby proposes to provide all labor, materials, tools, appliances and facilities as required to perform, in a workmanlike manner, all work and services for the construction and completion of the referenced project, all in strict accordance with the Bidding Documents prepared by: TDC2, LLC and dated: August 14, 2022
(Owner to provide name of entity preparing bidding documents.)

Bidders must acknowledge all addenda. The Bidder acknowledges receipt of the following **ADDENDA:** (Enter the number the Designer has assigned to each of the addenda that the Bidder is acknowledging) _____.

TOTAL BASE BID: For all work required by the Bidding Documents (including any and all unit prices designated Base Bid but not alternates) the sum of:

Dollars (_____)

ALTERNATES: For any and all work required by the Bidding Documents for Alternates including any and all unit prices designated as alternates in the unit price description.

Alternate No. 1 (Owner to provide description of alternate and state whether add or deduct) for the lump sum of:

Dollars (_____)

Alternate No. 2 (Owner to provide description of alternate and state whether add or deduct) for the lump sum of:

Dollars (_____)

Alternate No. 3 (Owner to provide description of alternate and state whether add or deduct) for the lump sum of:

Dollars (_____)

NAME OF BIDDER: _____

ADDRESS OF BIDDER: _____

LOUISIANA CONTRACTOR'S LICENSE NUMBER: _____

NAME OF AUTHORIZED SIGNATORY OF BIDDER: _____

TITLE OF AUTHORIZED SIGNATORY OF BIDDER: _____

SIGNATURE OF AUTHORIZED SIGNATORY OF BIDDER **: _____

DATE: _____

THE FOLLOWING ITEMS ARE TO BE INCLUDED WITH THE SUBMISSION OF THIS LOUISIANA UNIFORM PUBLIC WORK BID FORM:

The Unit Price Form shall be used if the contract includes unit prices. Otherwise it is not required and need not be included with the form. The number of unit prices that may be included is not limited and additional sheets may be included if needed.

**** A CORPORATE RESOLUTION OR WRITTEN EVIDENCE** of the authority of the person signing the bid for the public work as prescribed by A.R.S. §(B)(5).

BID SECURITY in the form of a bid bond, certified check or cashier's check as prescribed by A.R.S. (Attached to and made a part of this bid.

LOUISIANA UNIFORM PUBLIC WORK BID FORM UNIT PRICE FORM

TO: Tangipahoa Parish Government
TPC Chambers, Gordon A. Burgess Government Building
208 E. Mulberry Street
Amite City, LA 70422
(Owner to provide name and address of owner)

BID FOR: Tangipahoa Parish Government - BASE BID
Sealed Bid # TAP-2022-FOM-0002
Middle Mile Fiber Optic Broadband Network
OSP Construction & Materials
(Owner to provide name of project and other identifying information)

UNIT PRICES: This form shall be used for any and all work required by the Bidding Documents and described as unit prices. Amounts shall be stated in figures and only in figures.

DESCRIPTION:	<input checked="" type="checkbox"/> Base Bid or <input type="checkbox"/> Alt #	0001 BM60 - 1.5" HDPE SDR11 Duct (Color Coded)(Color #1) (MATERIAL ONLY)		
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (Quantity times Unit Price)
0001	125,410.0	Foot		
DESCRIPTION:	<input checked="" type="checkbox"/> Base Bid or <input type="checkbox"/> Alt #	0002 BM60 - 1.5" HDPE SDR11 Duct (Color Coded)(Color #2) (MATERIAL ONLY)		
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (Quantity times Unit Price)
0002	125,410.0	Foot		
DESCRIPTION:	<input checked="" type="checkbox"/> Base Bid or <input type="checkbox"/> Alt #	0003 BM60 - 1.5" HDPE SDR11 Duct (Color Coded)(Color #3) (MATERIAL ONLY)		
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (Quantity times Unit Price)
0003	125,410.0	Foot		
DESCRIPTION:	<input checked="" type="checkbox"/> Base Bid or <input type="checkbox"/> Alt #	0004 BM60 - 1.5" HDPE SDR11 Duct (Color Coded)(Color #4) (MATERIAL ONLY)		
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (Quantity times Unit Price)
0004	0.0	Foot		
DESCRIPTION:	<input checked="" type="checkbox"/> Base Bid or <input type="checkbox"/> Alt #	0005 Tracer Wire (12 AWG) (MATERIAL ONLY)		
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (Quantity times Unit Price)
0005	125,410.0	Foot		
DESCRIPTION:	<input checked="" type="checkbox"/> Base Bid or <input type="checkbox"/> Alt #	0006 Mule Tape (1,800 lbs) (All Ducts) (MATERIAL ONLY)		
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (Quantity times Unit Price)
0006	376,230.0	Foot		
DESCRIPTION:	<input checked="" type="checkbox"/> Base Bid or <input type="checkbox"/> Alt #	0007 Conduit Plugs (MATERIAL ONLY)		
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (Quantity times Unit Price)
0007	576.0	Each		
DESCRIPTION:	<input checked="" type="checkbox"/> Base Bid or <input type="checkbox"/> Alt #	0008 UG Composite Labor Unit - Place 3 X 1.5" HDPE SDR11 Duct (Color Coded - All Colors) via Directional Drilling Operation. Plus 1,000lb Mule Tape in each Duct, Plus 1 X 12AWG Tracer Wire, also includes all Duct Plugs and Couplers necessary (LABOR ONLY)		
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (Quantity times Unit Price)
0008	125,410.0	Foot		

Wording for "DESCRIPTION" is to be provided by the Owner.
All quantities are estimated. The contractor will be paid based upon actual quantities as verified by the Owner

TDC2, LLC

August 14, 2022

Tangipahoa Parish Government
Request for Sealed Bid #TAP- 2022-FON-0002
Middle Mile Fiber Optic Broadband Network
West Parish Expansion
OSP Construction Labor & Materials

0010 Conduit Plugs

LOUISIANA UNIFORM PUBLIC WORK BID FORM

UNIT PRICE FORM

TO: Tangipahoa Parish Government
TPC Chambers, Gordon A. Burgess Government Building
206 E. Mulberry Street
Amite City, LA 70422
(Owner to provide name and address of owner)

BID FOR: Tangipahoa Parish Government - BASE BID
Sealed Bid # TAP-2022-FON-0002
Middle Mile Fiber Optic Broadband Network
OSP Construction & Materials
(Owner to provide name of project and other identifying information)

UNIT PRICES: This form shall be used for any and all work required by the Bidding Documents and described as unit prices. Amounts shall be stated in figures and only in figures.

DESCRIPTION:	REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (Quantity times Unit Price)
<input checked="" type="checkbox"/> Base Bid or <input type="checkbox"/> Alt # 0009 Provide & Place BFO 432i (Corning, or equivalent) into the first new duct (LABOR & MATERIALS)					
	0009	135,410.0	Foot		
<input checked="" type="checkbox"/> Base Bid or <input type="checkbox"/> Alt # 0010 Provide & Place BFO 285i (Corning, or equivalent) into the second new duct (LABOR & MATERIALS)					
	0010	135,410.0	Foot		
<input checked="" type="checkbox"/> Base Bid or <input type="checkbox"/> Alt # 0011 Place New Large Splice Case with all necessary Splice Trays and Bonding (LABOR ONLY)					
	0011	30.0	Each		
<input checked="" type="checkbox"/> Base Bid or <input type="checkbox"/> Alt # 0012 HBFO(L) - Large Splice Case (Tyco, or equivalent) (MATERIAL ONLY)					
	0012	30.0	Each		
<input checked="" type="checkbox"/> Base Bid or <input type="checkbox"/> Alt # 0013 Large Splice Tray (6 per Case) (Tyco, or equivalent) (MATERIAL ONLY)					
	0013	180.0	Each		
<input checked="" type="checkbox"/> Base Bid or <input type="checkbox"/> Alt # 0014 Bonding Clamps (2 per Case) (MATERIAL ONLY)					
	0014	60.0	Each		
<input checked="" type="checkbox"/> Base Bid or <input type="checkbox"/> Alt # 0015 Ground Wire (#8) - Bare (Case to Ground Rod) (MATERIAL ONLY)					
	0015	750.0	Foot		
<input checked="" type="checkbox"/> Base Bid or <input type="checkbox"/> Alt # 0016 Ground Wire (#8) - Blue Jacket (CO Side) (MATERIAL ONLY)					
	0016	750.0	Foot		

Wording for "DESCRIPTION" is to be provided by the Owner.
All quantities are estimated. The contractor will be paid based upon actual quantities as verified by the Owner

BASE BID Unit Price Form Page 2 of 4

TDC2, LLC

August 14, 2022

Tangipahoa Parish Government
Request for Sealed Bid #TAP- 2022-FON-0002
Middle Mile Fiber Optic Broadband Network
West Parish Expansion
OSP Construction Labor & Materials

**LOUISIANA UNIFORM PUBLIC WORK BID FORM
UNIT PRICE FORM**

TO: Tangipahoa Parish Government
TPC Chambers, Gordon A. Burgess Government Building
208 E. Mulberry Street
Amite City, LA 70422
(Owner to provide name and address of owner)

BID FOR: Tangipahoa Parish Government - BASE BID
Sealed Bid # TAP-2022-FON-0002
Middle Mile Fiber Optic Broadband Network
OSP Construction & Materials
(Owner to provide name of project and other identifying information)

DESCRIPTION:	<input checked="" type="checkbox"/> Base Bid or <input type="checkbox"/> Alt. #	0017 Ground Wire (#8) - Orange Jacket (Field Side)		(MATERIAL ONLY)
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (Quantity times Unit Price)
0017	750.0	Foot		
DESCRIPTION:	<input checked="" type="checkbox"/> Base Bid or <input type="checkbox"/> Alt. #	0018 Ground Wire (#6) - Green Jacket (Ground Rod)		(MATERIAL ONLY)
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (Quantity times Unit Price)
0018	750.0	Foot		
DESCRIPTION:	<input checked="" type="checkbox"/> Base Bid or <input type="checkbox"/> Alt. #	0019 Provide & Place BM55F Locate Post with Bonding & Grounding as required (LABOR & MATERIALS)		
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (Quantity times Unit Price)
0019	30.0	Each		
DESCRIPTION:	<input checked="" type="checkbox"/> Base Bid or <input type="checkbox"/> Alt. #	0020 Provide & Place BM53 Marker Post (LABOR & MATERIALS)		
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (Quantity times Unit Price)
0020	150.0	Each		
DESCRIPTION:	<input checked="" type="checkbox"/> Base Bid or <input type="checkbox"/> Alt. #	0021 BM2 (5/8") (8') Ground Rod		(MATERIAL ONLY)
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (Quantity times Unit Price)
0021	96.0	Each		
DESCRIPTION:	<input checked="" type="checkbox"/> Base Bid or <input type="checkbox"/> Alt. #	0022 Ground Rod Clamps		(MATERIAL ONLY)
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (Quantity times Unit Price)
0022	96.0	Each		
DESCRIPTION:	<input checked="" type="checkbox"/> Base Bid or <input type="checkbox"/> Alt. #	0023 BHF (36"X60"X36") Tier 22K (Stamped) Hand Hole		(MATERIAL ONLY)
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (Quantity times Unit Price)
0023	96.0	Each		
DESCRIPTION:	<input checked="" type="checkbox"/> Base Bid or <input type="checkbox"/> Alt. #	0024 Place BHF (36" X 60" X 36") Tier 22K (Stamped) Hand Hole with ground rod, ground clamps, and ground wire (LABOR ONLY) and gravel provided by Bidder		
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (Quantity times Unit Price)
0024	96.0	Each		

Wording for "DESCRIPTION" is to be provided by the Owner.
All quantities are estimated. The contractor will be paid based upon actual quantities as verified by the Owner

TDC2, LLC

August 14, 2022

Tangipahoa Parish Government
Request for Sealed Bid #TAP- 2022-FON-0002
Middle Mile Fiber Optic Broadband Network
West Parish Expansion
OSP Construction Labor & Materials

LOUISIANA UNIFORM PUBLIC WORK BID FORM
UNIT PRICE FORM

TO: Tangipahoe Parish Government
TPC Chambers, Gordon A. Burgess Government Building
206 E. Mulberry Street
Amite City, LA 70422
(Owner to provide name and address of owner)

BID FOR: Tangipahoe Parish Government - BASE BID
Sealed Bid # TAP-2022-FON-0002
Middle Mile Fiber Optic Broadband Network
OSP Construction & Materials
(Owner to provide name of project and other identifying information)

DESCRIPTION:	<input checked="" type="checkbox"/> Base Bid or <input type="checkbox"/> Alt.#	0025 Rock Adder to Directional Drilling Unit		(LABOR ONLY)
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (Quantity times Unit Price)
0025	1,254.0	Foot		
DESCRIPTION:	<input checked="" type="checkbox"/> Base Bid or <input type="checkbox"/> Alt.#	0026 Remove & Restore 1 square ft of Asphalt		(LABOR & MATERIALS)
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (Quantity times Unit Price)
0026	1,254.0	Square Foot		
DESCRIPTION:	<input checked="" type="checkbox"/> Base Bid or <input type="checkbox"/> Alt.#	0027 Remove & Restore 1 square ft of Concrete		(LABOR & MATERIALS)
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (Quantity times Unit Price)
0027	1,254.0	Square Foot		
DESCRIPTION:	<input checked="" type="checkbox"/> Base Bid or <input type="checkbox"/> Alt.#	0028 Splice & Test individual fiber, includes prep, splice as well as OTDR and other testing		(LABOR & MATERIALS)
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (Quantity times Unit Price)
0028	6,480.0	Each		
DESCRIPTION:	<input checked="" type="checkbox"/> Base Bid or <input type="checkbox"/> Alt.#	0029 Perform Building Entrance - Pull fiber tail into building thru existing duct route cable to rack with fiber termination panel, leave 100ft slack coil		(LABOR ONLY)
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (Quantity times Unit Price)
0029	4.0	Each		
DESCRIPTION:	<input checked="" type="checkbox"/> Base Bid or <input type="checkbox"/> Alt.#			
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (Quantity times Unit Price)
0030				
DESCRIPTION:	<input checked="" type="checkbox"/> Base Bid or <input type="checkbox"/> Alt.#			
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (Quantity times Unit Price)
0031				
DESCRIPTION:	<input checked="" type="checkbox"/> Base Bid or <input type="checkbox"/> Alt.#			
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (Quantity times Unit Price)
00				

Wordings for "DESCRIPTION" is to be provided by the Owner.
All quantities are estimated. The contractor will be paid based upon actual quantities as verified by the Owner

BASE BID Unit Price Form Page 4 of 4

2. Alternate Bid

The Bid Forms for the Alternate Bid are on the following pages. The OSP Construction Labor & Materials as necessary to implement the design depicted as Option 2 in drawings contained in *Attachment F – Drawings*, must be bid on these forms.

August 14, 2022

Tangipahoa Parish Government
Request for Sealed Bid #TAP- 2022-FON-0002
Middle Mile Fiber Optic Broadband Network
West Parish Expansion
OSP Construction Labor & Materials

LOUISIANA UNIFORM PUBLIC WORK BID FORM

TO: Tangipahoa Parish Government
TPC Chambers, Gordon A. Burgess Government Building
206 E. Mulberry Street
Amite City, LA 70422
(Owner to provide name and address of owner)

BID FOR: Tangipahoa Parish Government - **ALTERNATE BID**
Sealed Bid # TAP-2022-FON-0002
Middle Mile Fiber Optic Broadband Network
OSP Construction & Materials
(Owner to provide name of project and other identifying information)

The undersigned bidder hereby declares and represents that she/he has carefully examined and understands the Bidding Documents, has not received, relied on, or based his bid on any verbal instructions contrary to the Bidding Documents or any addenda, has personally inspected and is familiar with the project site, and hereby proposes to provide all labor, materials, tools, appliances and facilities as required to perform, in a workmanlike manner, all work and services for the construction and completion of the referenced project, all in strict accordance with the Bidding Documents prepared by:

TDC2, LLC and dated: **August 14, 2022**
(Owner to provide name of entity preparing bidding documents)

Bidders must acknowledge all addenda. The Bidder acknowledges receipt of the following **ADDENDA**: (Enter the number the Designer has assigned to each of the addenda that the Bidder is acknowledging)

TOTAL BASE BID: For all work required by the Bidding Documents (including any and all unit prices designated Base Bid but not alternates the sum of:

Dollars (

ALTERNATES: For any and all work required by the Bidding Documents for Alternates including any and all unit prices designated as alternates in the unit price description.

Alternate No. 1 (Owner to provide description of alternate and state whether add or deduct) for the lump sum of:

Dollars (

Alternate No. 2 (Owner to provide description of alternate and state whether add or deduct) for the lump sum of:

Dollars (

Alternate No. 3 (Owner to provide description of alternate and state whether add or deduct) for the lump sum of:

Dollars (

NAME OF BIDDER:

ADDRESS OF BIDDER:

LOUISIANA CONTRACTOR'S LICENSE NUMBER:

NAME OF AUTHORIZED SIGNATORY OF BIDDER:

TITLE OF AUTHORIZED SIGNATORY OF BIDDER:

SIGNATURE OF AUTHORIZED SIGNATORY OF BIDDER **:

DATE:

THE FOLLOWING ITEMS ARE TO BE INCLUDED WITH THE SUBMISSION OF THIS LOUISIANA UNIFORM PUBLIC WORK BID FORM:

The Unit Price Form shall be used if the contract includes unit prices. Otherwise it is not required and need not be included with the form. The number of unit prices that may be included is not limited and additional sheets may be included if needed.

**** A CORPORATE RESOLUTION OR WRITTEN EVIDENCE** of the authority of the person signing the bid for the public work as prescribed by L.A.R.S. 22:2(B)(5).

BID SECURITY in the form of a bid bond, certified check or cashier's check as prescribed by L.A.R.S. 22:2(A) attached to and made a part of this bid.

LOUISIANA UNIFORM PUBLIC WORK BID FORM UNIT PRICE FORM

TO: Tangipahoa Parish Government
TPC Chambers, Gordon A. Burgess Government Building
208 E. Mulberry Street
Amite City, LA 70422
(Owner to provide name and address of owner)

BID FOR: Tangipahoa Parish Government - ALTERNATE BID
Sealed Bid # TAP-2022-FON-0002
Middle Mile Fiber Optic Broadband Network
OSP Construction & Materials
(Owner to provide name of project and other identifying information)

UNIT PRICES: This form shall be used for any and all work required by the Bidding Documents and described as unit prices. Amounts shall be stated in figures and only in figures.

DESCRIPTION:	<input type="checkbox"/> Base Bid or <input checked="" type="checkbox"/> Alt. # 1	0001 BM60 - 1.5" HDPE SDR11 Duct (Color Coded)(Color #1)(LABOR ONLY)		
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (Quantity times Unit Price)
0001	125,410.0	Foot		
DESCRIPTION:	<input type="checkbox"/> Base Bid or <input checked="" type="checkbox"/> Alt. # 1	0002 BM60 - 1.5" HDPE SDR11 Duct (Color Coded)(Color #2)(LABOR ONLY)		
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (Quantity times Unit Price)
0002	125,410.0	Foot		
DESCRIPTION:	<input type="checkbox"/> Base Bid or <input checked="" type="checkbox"/> Alt. # 1	0003 BM60 - 1.5" HDPE SDR11 Duct (Color Coded)(Color #3)(LABOR ONLY)		
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (Quantity times Unit Price)
0003	125,410.0	Foot		
DESCRIPTION:	<input type="checkbox"/> Base Bid or <input checked="" type="checkbox"/> Alt. # 1	0004 BM60 - 1.5" HDPE SDR11 Duct (Color Coded)(Color #4)(LABOR ONLY)		
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (Quantity times Unit Price)
0004	125,410.0	Foot		
DESCRIPTION:	<input type="checkbox"/> Base Bid or <input checked="" type="checkbox"/> Alt. # 1	0005 Tracer Wire (12 AWG)(MATERIAL ONLY)		
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (Quantity times Unit Price)
0005	125,410.0	Foot		
DESCRIPTION:	<input type="checkbox"/> Base Bid or <input checked="" type="checkbox"/> Alt. # 1	0006 Mule Tape (1,800 lbs)(All Ducts)(MATERIAL ONLY)		
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (Quantity times Unit Price)
0006	501,640.0	Foot		
DESCRIPTION:	<input type="checkbox"/> Base Bid or <input checked="" type="checkbox"/> Alt. # 1	0007 Conduit Plugs (MATERIAL ONLY)		
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (Quantity times Unit Price)
0007	768.0	Each		
DESCRIPTION:	<input type="checkbox"/> Base Bid or <input checked="" type="checkbox"/> Alt. # 1	0008 UT Composite Bore Labor Unit - Place 4 x 1.5" HDPE SDR11 Duct (All Colors) via Directional Drilling Operation, Plus install 1,800 lbs Mule Tape inside each duct, Plus 1 X 12 AWG Tracer Wire Along with, but outside Duct. Also includes all Duct Plugs and Couplers		
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (Quantity times Unit Price)
0008	125,410.0	Foot		

wording for "DESCRIPTION" is to be provided by the Owner.
All quantities are estimated. The contractor will be paid based upon actual quantities as verified by the Owner

TDC2, LLC

August 14, 2022

Tangipahoa Parish Government
Request for Scaled Bid #TAP- 2022-FON-0002
Middle Mile Fiber Optic Broadband Network
West Parish Expansion
OSP Construction Labor & Materials

LOUISIANA UNIFORM PUBLIC WORK BID FORM
UNIT PRICE FORM

TO: Tangipahoa Parish Government
TPG Chambers, Gordon A. Burgess Government Building
206 E. Mulberry Street
Amite City, LA 70422
(Owner to provide name and address of owner)

BID FOR: Tangipahoa Parish Government - ALTERNATE BID
Scaled Bid # TAP-2022-FON-0002
Middle Mile Fiber Optic Broadband Network
OSP Construction & Materials
(Owner to provide name of project and other identifying information)

UNIT PRICES: This form shall be used for any and all work required by the Bidding Documents and described as unit prices. Amounts shall be stated in figures and only in figures.

DESCRIPTION:	REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (Quantity times Unit Price)
<input type="checkbox"/> Base Bid or <input checked="" type="checkbox"/> Alt # 1 0009 Provide & Place BFO 4321 (Coring, or equivalent) into the first new duct (LABOR & MATERIALS)					
	0009	125,410.0	Foot		
<input type="checkbox"/> Base Bid or <input checked="" type="checkbox"/> Alt # 1 0010 Provide & Place BFO 288i (Coring, or equivalent) into the second new duct (LABOR & MATERIALS)					
	0010	135,410.0	Foot		
<input type="checkbox"/> Base Bid or <input checked="" type="checkbox"/> Alt # 1 0011 Place New Large Splice Case with all necessary Splice Trays, Grounding & Bonding (LABOR ONLY)					
	0011	30.0	Each		
<input type="checkbox"/> Base Bid or <input checked="" type="checkbox"/> Alt # 1 0012 HRF(C/L) - Large Splice Case (Tyco, or equivalent)(MATERIAL ONLY)					
	0012	30.0	Each		
<input type="checkbox"/> Base Bid or <input checked="" type="checkbox"/> Alt # 1 0013 Large Splice Tray (6 per Splice Case)(Tyco, or equivalent)(MATERIAL ONLY)					
	0013	180.0	Each		
<input type="checkbox"/> Base Bid or <input checked="" type="checkbox"/> Alt # 1 0014 Bonding Clamps (2 per Splice Case)(MATERIAL ONLY)					
	0014	60.0	Each		
<input type="checkbox"/> Base Bid or <input checked="" type="checkbox"/> Alt # 1 0015 Ground Wire (#6) - Bare (Splice Case to Ground Rod)(MATERIAL ONLY)					
	0015	750	Foot		
<input type="checkbox"/> Base Bid or <input checked="" type="checkbox"/> Alt # 1 0016 Ground Wire (#6) - Blue Jacket (CO Side)(MATERIAL ONLY)					
	0016	750	Foot		

Wording for "DESCRIPTION" is to be provided by the Owner.
All quantities are estimated. The contractor will be paid based upon actual quantities as verified by the Owner

ALTERNATE BID Unit Price Form Page 2 of 4

TDC2, LLC

August 14, 2022

Tangipahoa Parish Government
Request for Sealed Bid #TAP- 2022-FON-0002
Middle Mile Fiber Optic Broadband Network
West Parish Expansion
OSP Construction Labor & Materials

LOUISIANA UNIFORM PUBLIC WORK BID FORM
UNIT PRICE FORM

TO: Tangipahoa Parish Government
TPC Chambers, Gordon A. Burgess Government Building
206 E. Mulberry Street
Amite City, LA 70422
(Owner to provide name and address of owner)

BID FOR: Tangipahoa Parish Government - ALTERNATE BID
Sealed Bid # TAP-2022-FON-0002
Middle Mile Fiber Optic Broadband Network
OSP Construction & Materials
(Owner to provide name of project and other identifying information)

UNIT PRICES: This form shall be used for any and all work required by the Bidding Documents and described as unit prices. Amounts shall be stated in figures and only in figures.

DESCRIPTION:	<input type="checkbox"/> Base Bid or <input checked="" type="checkbox"/> Alt # 1	0017 Ground Wire (#6) - Orange Jacket (Field Side)(MATERIAL ONLY)		
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (Quantity times Unit Price)
0017	750.0	Foot		
DESCRIPTION:	<input type="checkbox"/> Base Bid or <input checked="" type="checkbox"/> Alt # 1	0018 Ground Wire (#6) - Green Jacket (Ground Rod)(MATERIAL ONLY)		
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (Quantity times Unit Price)
0018	750.0	Foot		
DESCRIPTION:	<input type="checkbox"/> Base Bid or <input checked="" type="checkbox"/> Alt # 1	0019 Provide & Place BM55F Locate Post with Bonding & Grounding as required (LABOR & MATERIALS)		
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (Quantity times Unit Price)
0019	30.0	Each		
DESCRIPTION:	<input type="checkbox"/> Base Bid or <input checked="" type="checkbox"/> Alt # 1	0020 Provide & Place BM53 Marker Post (LABOR & MATERIALS)		
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (Quantity times Unit Price)
0020	150.0	Each		
DESCRIPTION:	<input type="checkbox"/> Base Bid or <input checked="" type="checkbox"/> Alt # 1	0021 BM2 (5/8" X 8') Ground Rod (MATERIAL ONLY)		
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (Quantity times Unit Price)
0021	96.0	Each		
DESCRIPTION:	<input type="checkbox"/> Base Bid or <input checked="" type="checkbox"/> Alt # 1	0022 Ground Rod Clamps (MATERIAL ONLY)		
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (Quantity times Unit Price)
0022	96.0	Each		
DESCRIPTION:	<input type="checkbox"/> Base Bid or <input checked="" type="checkbox"/> Alt # 1	0023 BHF (36" X 60" X 36") Tier 22K (Stamped) Hand Hole (MATERIAL ONLY)		
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (Quantity times Unit Price)
0023	96.0	Each		
DESCRIPTION:	<input type="checkbox"/> Base Bid or <input checked="" type="checkbox"/> Alt # 1	0024 Place BHF (36" X 60" X 36") Tier 22K (Stamped) Hand Hole with Ground Rod, Ground Clamps, Ground Wire (LABOR ONLY). Also includes gravel to be provided by Contractor.		
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (Quantity times Unit Price)
0024	96.0	Each		

Wording for "DESCRIPTION" is to be provided by the Owner.
All quantities are estimated. The contractor will be paid based upon actual quantities as verified by the Owner

ALTERNATE BID Unit Price Form Page 3 of 4

TDC2, LLC

August 14, 2022

Tangipahoa Parish Government
Request for Sealed Bid #TAP- 2022-FON-0002
Middle Mile Fiber Optic Broadband Network
West Parish Expansion
OSP Construction Labor & Materials

LOUISIANA UNIFORM PUBLIC WORK BID FORM
UNIT PRICE FORM

TO: Tangipahoa Parish Government
TPG Chambers, Gordon A. Burgess Government Building
209 E. Mulberry Street
Amite City, LA 70422
(Owner to provide name and address of owner)

BID FOR: Tangipahoa Parish Government - ALTERNATE BID
Sealed Bid # TAP-2022-FON-0002
Middle Mile Fiber Optic Broadband Network
OSP Construction & Materials
(Owner to provide name of project and other identifying information)

UNIT PRICES: This form shall be used for any and all work required by the Bidding Documents and described as unit prices. Amounts shall be stated in figures and only in figures.

DESCRIPTION:	<input type="checkbox"/> Base Bid or <input checked="" type="checkbox"/> Alt # 1	0025 Rock Admit to Directional Drilling Unit (LABOR ONLY)		
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (Quantity times Unit Price)
0025	1,254.0	Foot		
DESCRIPTION:	<input type="checkbox"/> Base Bid or <input checked="" type="checkbox"/> Alt # 1	0026 Remove & Restore 1 square foot of Asphalt (LABOR & MATERIALS)		
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (Quantity times Unit Price)
0026	1,254.0	Square Foot		
DESCRIPTION:	<input type="checkbox"/> Base Bid or <input checked="" type="checkbox"/> Alt # 1	0027 Remove & Restore 1 square foot of Concrete (LABOR & MATERIALS)		
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (Quantity times Unit Price)
0027	1,254.0	Square Foot		
DESCRIPTION:	<input type="checkbox"/> Base Bid or <input checked="" type="checkbox"/> Alt # 1	0028 Splice & Test Individual Fiber, includes Prep, Splice, as well as OTDR and all other testing & documentation (LABOR & MATERIALS)		
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (Quantity times Unit Price)
0028	6,480.0.0	Each		
DESCRIPTION:	<input type="checkbox"/> Base Bid or <input checked="" type="checkbox"/> Alt # 1	0029 Perform Building Entrance - Pull fiber tail thru existing duct, route cable to rack with fiber termination panel, leave 100ft slack coil (LABOR ONLY)		
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (Quantity times Unit Price)
0029	4.0	Each		
DESCRIPTION:	<input type="checkbox"/> Base Bid or <input checked="" type="checkbox"/> Alt # 1			
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (Quantity times Unit Price)
0030				
DESCRIPTION:	<input type="checkbox"/> Base Bid or <input checked="" type="checkbox"/> Alt # 1			
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (Quantity times Unit Price)
0031				
DESCRIPTION:	<input type="checkbox"/> Base Bid or <input checked="" type="checkbox"/> Alt # 1			
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (Quantity times Unit Price)
0032				

wording for "DESCRIPTION" is to be provided by the Owner.
All quantities are estimated. The contractor will be paid based upon actual quantities as verified by the Owner

ALTERNATE BID Unit Price Form Page 4 of 4

Attachment C – Bid Bond Form

The Bid Bond Form on the following page should be completed and returned with the Sealed Bid.

BID BOND

Any singular reference to Bidder, Surety, Owner or other party shall be considered plural where applicable.

BIDDER (Name and Address):

SURETY (Name, and Address of Principal Place of Business):

OWNER (Name and Address):

Tangipahoa Parish Government
 206 East Mulberry Street
 Amite, LA 70422

BID

Bid Due Date:

Description (Project Name— Include Location):

BOND

Bond Number:

Date:

Penal sum

(Words)

(Figures)

Surety and Bidder, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Bid Bond to be duly executed by an authorized officer, agent, or representative.

BIDDER

SURETY

(Seal)

(Seal)

Bidder's Name and Corporate Seal

Surety's Name and Corporate Seal

By:

Signature

By:

Signature (Attach Power of Attorney)

Print Name

Print Name

Title

Title

Attest:

Signature

Attest:

Signature

Title

Title

Note: Addresses are to be used for giving any required notice.

Provide execution by any additional parties, such as joint venturers, if necessary.

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Attachment D - Technical Specifications

Project Introduction

The Tangipahoa Parish Government is seeking Sealed Bids from qualified vendors to provide and place approximately 29 route miles of underground conduit and fiber optic cable, in the Public Right-of-Way, to facilitate the first section, referred to as the West Parish Expansion, of a Parish-wide Middle Mile Fiber Optic Broadband Network. This network will enable expanded access to affordable high-speed broadband services for the residents and businesses within the Tangipahoa Parish of Louisiana. It is the intent of the Tangipahoa Parish to select a single Bidder to accomplish all services outlined in this Request for Sealed Bid. Additional sections of this network will be constructed by the Owner in sequence, or in parallel to this project, at the Owner's sole discretion.

Scope of Work

The winning Bidder will be required to provide Underground Outside Plant (OSP) Construction Services as necessary to place multiple HDPE SDR11 conduits and fiber optic cables into the Public Right-of-Way in accordance with the Construction Drawings included with these Specifications. As such, only Bidders who demonstrate that they are properly licensed to provide Underground OSP Construction Services in the State of Louisiana, and who can demonstrate that they have experienced staff and equipment sufficient to meet the project timeline will be considered as responsive. The Bidder must also provide evidence of an active System of Awards Management (SAM.gov) registration from the Federal Contractor Registry in order to be considered as an eligible bidder. The Bidder shall furnish all labor, supervision, subcontractors, traffic control, construction equipment, transportation, licenses, taxes, safety supplies, consumable supplies, as well as all OSP Construction materials, and all other incidental items required to complete the Project in accordance with the Contract Documents. The Bidder shall comply with all requirements of any necessary jurisdictional Right-of-Way permits and owner's approvals to complete the Project in accordance with the Design & Construction Documents provided by the Tangipahoa Parish Government. During progress of the work, the Bidder shall comply with the

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construction standards contained herein and develop additional specifications as required to ensure compliance with special instructions from manufacturers, fabricators, or suppliers. In addition, the Bidder will comply with any special construction requirements of the Tangipahoa Parish Government, as well as any authorities having jurisdiction over the work or work areas.

Network Description

The Network will originate in the Emergency Operations Center (EOC) located at 114 N Laurel St, Amite City, Louisiana, as depicted in the Construction Drawings contained in **Attachment F**. Inside the Equipment Room of the EOC will be access to the necessary power and electronics that will serve to light the fiber network and interconnect the new proposed OSP Middle Mile Fiber Optic Broadband Network to the transport fiber connecting to various Service Provider networks. The Network will route from the EOC, North along N Laurel Street until it intersects with E Mulberry Street. At that point, the route will turn East, along the South side of E Mulberry Street, and continue East across the CN Railroad Track to the Intersection of E Mulberry Street and LA State Hwy 51. The Network will then route North along LA State Hwy 51 to end at a hand hole to be placed in the Public Right-of-Way near the Louisiana/Mississippi State Line.

The Network will be constructed to accommodate the provision of dark fiber infrastructure to Internet Service Providers (ISPs), Municipal Entities, and other end user customers who will have the opportunity to lease individual dark fiber strands to connect their existing facilities to access point locations along the Middle Mile Fiber Optic Broadband Network Route to enable broadband transport or distribution service. The Middle Mile Fiber Optic Broadband Network has been designed to pass a significant variety of public, private, residential, and business locations. As such, numerous hand holes will be placed along the fiber route in locations designed to allow for network access points near municipal buildings, critical care facilities, industrial/business parks, commercial developments, and residential real estate developments.

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The Bidder will be responsible for performing the building entrance into the EOC and route the Outside Plant Conduit and Fiber Optic Cables along the route described above to terminate in a hand hole near the Louisiana/Mississippi State Line as depicted in the Construction Drawings. The Bidder is responsible for providing all necessary labor and materials to complete the designed network build, inclusive of all splicing and testing. The line items in *Attachment B – Louisiana Uniform Public Work Bid Form* provided in this Request for Sealed Bid shall be used by the Bidder to arrive at an **Overall Base Bid** total for this project.

Outside Plant Construction

The selected Bidder will be responsible for all outside plant construction and management of field activities including purchase, delivery, insurance, logistics, and management of necessary materials. The Selected Bidder is expected to perform the following tasks:

1. Provide completed construction of the Network according to the approved design.
2. Procure locates as per local/state requirements prior to construction beginning.
3. Procure, store and stage material for the construction of the network being constructed
4. Construct the Middle Mile Fiber Optic Broadband Network system according to approved design, and in compliance with any regulatory requirements and specifications such as buried depth, road crossings, facility placement requirements, etc.
5. Perform fusion splicing with minimal loss and within Manufacturer and TIA/EIA specifications and requirements
6. Perform, record and report required fiber test results.
7. Provide accurate redlined as-built records in electronic format containing form and content that has been approved by Owner in advance inclusive of fiber reel numbers, GIS data on hand holes and other fixtures as well as any approved alterations to the design found to be necessary during construction.
8. Perform construction Management and coordinate with Owner via weekly progress meetings to provide, Contractor Units Placed (CUP) sheets, Redlines and other project documentation as required.

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9. Work with Owner's Engineers and Inspectors to ensure that all are applying to codes and standards.
10. Ensure that all construction areas are cleaned, repaired, and restored to original condition before construction began.
11. Provide adequate traffic control and safe working environment in work areas.

Fiber Installation Requirements

The winning Bidder will conform to TIA/EIA and all Manufacturer's standards while installing Fiber Optic Cable.

- Accepted Optical Attenuation loss in reference to fiber installation related to this project following TIA/EIA standards.
- Verification of Link Integrity. Optical Time Domain Reflectometer (OTDR) traces revealing a point of discontinuity greater than 0.30 shall be a valid basis for rejection of test fiber by the owner.
- An OTDR will be used by the winning Bidder to test splice loss and to conduct overall analysis. OTDRs utilized will be capable of saving traces in a format generated by EXFO OTDR and software (or equivalent). All OTDR tests will be saved and submitted for sign-off (uni-directional for LCP to NAP testing).
- An Optical Power Meter will be used to measure dB level on each fiber from the Hub to the LCP to verify continuity between fibers (no transposed or "frogged" fibers will be allowed). Power level will be recorded and submitted for sign-off.
- LCP to NAP Spans will be OTDR tested. Each span will be tested at both wavelengths (1310nm and 1550nm) for 30 sec trace time uni-directionally. Tests will be accepted on an overall total loss. Losses will be taken using the OTDR's measurement analysis. At patch panel traces will include the use of a 1-km launch reel or a 20-meter jumper.

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- Installed fiber must meet or exceed the following performance specifications:

Fiber cable type	Wavelength (nm)	Max. Attn. (dB/Km)
Single mode, Outside plant	1,310	0.35
	1,550	0.25

Minimum Fiber Optic Test Guidelines

SCHEDULE OF ACCEPTANCE TESTS AND MEASUREMENTS

Description of Test or management	Test or Measurement			Participants		
	Subscriber Loop Plant	Feeder Pairs	Trunk Plant	Owner	Construction Monitor	Design-Builder
	Dist. Pairs					
Copper Shield or Shield/Armor Continuity	X	X	X		P	P
Conductor Continuity	X*	X	X		P	P
Conductor Insulation Resistance	X*	X	X		P	P
DC Loop Resistance			N/A		P	P
DC Loop Resistance Unbalance			N/A		P	P
Loop Measurement (Loop Checking)			N/A			
One-Person Open Circuit Measurement			N/A		P	P
Cable Insertion Loss at Carrier Frequencies			N/A		P	P
Fiber Armor Continuity	X	X	X		P	P
Fiber Optic Splice Loss – C.O.	X	X	X		P	P
End-to-End Attenuation	X	X	X		P	P
End-to-End Fiber Signature	X	X	X		P	P
Signal-to-C Notched Noise (S/CNN)						
Envelope Delay Distortion (EDD)						
Amplitude Jitter (AJ)						
Phase Jitter (PJ)						
Impulse Noise						
Shield or Armor Ground Resistance	X	X	X		P	P
CO and Remote Switching Terminal (RST) Ground Measurement					P	P
Electronic Equipment Ground Resistance					P	P

The following page includes a listing of minimum fiber optic tests that will be required

Fiber Splice loss tests to be performed at: X 1310nm X 1550nm

(Engineer to check one or both wavelengths above)

Engineer to check ☐ optional tests to be made.

X - These are standard tests and measurements required on facilities as designated by the Engineer, constructed, or installed under the Contract Documents.

NA - Not Applicable.

* - These tests will not be required on distribution pairs that are not cross-connected to feeder pairs at time of acceptance testing.

P - Indicates participation in conducting acceptance tests and measurements.

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Warranty Requirement

Owner will require that at the end of the project, the selected Bidder will submit a letter certifying that installation of the product was performed in accordance with all Manufacturer's, or Supplier's Quality Assurance/Quality Control standards and recommended Installation Procedures. Final acceptance by the Owner will only be acknowledged after receipt of this certifying letter. Bidder shall guarantee labor and workmanship for a period of 12 months from the Owner's acceptance. Bidder shall pass along all Manufacturer's Warranties related to network materials prior to final turn-over of Network to Owner. Any costs of Manufacturer's or Supplier's warranty for network materials shall be included in the bidder's price. Freight and delivery costs should also be included in the bid price. Other materials not supplied by the Owner shall have a warranty against defects in materials and workmanship for a period equal or greater than one year after final acceptance.

Additional Conditions

All applicable laws, ordinances, rules, and regulations, including applicable Federal, State and Local Laws, shall apply to the bid process and contract throughout. Bidders must fully acquaint themselves with the work by examination of the site and review of the drawings and technical specifications, including all addenda. Bidders are responsible for verifying the quantities presented in the Bid Form and notifying the Engineer and Owner of any variances or discrepancies prior to bidding. After bids have been submitted, the bidder shall not assert that there was a misunderstanding concerning the quantities of work or of the nature of the work to be done. The drawings and technical specifications contain the provisions required for the construction of the project. Information obtained from an officer, agent, or employee of the Owner or any other person shall not affect the risks or obligations assumed by the Bidder or relieve the Bidder from fulfilling any of the conditions of the contract.

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Award and Notice to Proceed

Award, if made, will be to the lowest responsive and responsible bidder within the available funds for the project. All applicable laws, ordinances, and rules and regulations of all authorities having jurisdiction over construction of the project shall apply to the bid process and contract throughout.

The Notice to Proceed for materials purchase will be issued within fifteen (15) days of the execution of the Agreement by the Owner. A performance bond, payment bond and 1-year maintenance bond, each in the value of 100% of the contract price, will be required from the Bidder upon awarding of the contract. The performance bond shall be issued by a financial institution to be approved in writing, in advance, by the Owner.

Time for Completion and Liquidated Damages

Time is of the essence. The winning Bidder shall begin to deliver the materials, in accordance with the approved project schedule accepted by the Owner as part of the Sealed Bid award, within forty-five (45) days after signature of the agreement between Owner and Bidder and the Notice to Proceed for Materials is issued to the winning Bidder. Bidder agrees to commence work for this project within forty-five (45) calendar days after receipt of the Notice to Proceed for Installation and to fully complete the work within 200 calendar days from the date of the Note to Proceed, excluding approved weather delays. Liquidated damages will be assessed to the Bidder at a rate of One Thousand Dollars (\$1,000) for each and every day during which the Bidder has not completed the project in accordance with the project's specifications or to the Owner's satisfaction.

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Acceptance of Work and Clear Lien Certificate

Upon satisfactory completion of the work and compliance by the Bidder with all terms of this contract, the Bidder shall notify the Owner of this completion and request that a final inspection of the work be conducted. Provided the work has been completed to the satisfaction of the Owner, within ten (10) days from the date of inspection, a letter of acceptance of the work will be issued to the Bidder by the Owner

Work Extension / Change Order

Owner, at its sole discretion, upon recommendation by its designated Engineer/Inspector, may decide to extend the amount of time allowed for the Bidder to complete its contractual responsibilities, or allow the reasonable substitution of a comparable item of material. If Bidder and Owner mutually agree in advance, in writing, to such an extension, or modification of the allowed contract work period, or substitution of a designated item of material, payment will be authorized strictly based on the line-item labor and material unit prices stated by the Bidder on the Louisiana Uniform Public Work Bid Form. Only time extensions, or material substitutions, fully described in a written change order, and approved by the Owner in advance will be recognized.

Drawings

The work shall be performed in strict accordance with the drawings that are provided as a part of this contract by the Engineer for the Tangipahoa Parish Government and that have hereby been made a part of the Statement of Work, by the reference "Drawings," "Project Drawings", "Construction Drawings", "Permit Drawings", or "Engineering Drawings". The details provided are considered a part of the existing contract award package.

Specifications

The Work shall be coordinated and performed in accordance with the specifications provided by Tangipahoa Parish Government herein. All items not specifically identified in the Specifications, or other contract documents, shall be performed in accordance with Rural Utilities Service standards of construction, the National Electric Safety Code, the manufacturer's specifications for the installation of any material or equipment.

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Materials

Bidder shall furnish and place all materials required for the complete performance of the Work. The installation of materials shall be construed as conclusive evidence that the Bidder has made all necessary examination and inspections and is satisfied as to the quality and quantity of materials received. All manufacturer's test results, warranties and product documentation shall be provided to the Owner at the time of inspection and turn-over to the Owner. Any materials that are lost, stolen or damaged shall be replaced by the Bidder at its sole expense, and any delay incurred shall not be cause for an extension in time. Any unused materials shall be removed from the project area within fourteen (14) days after the completion of the Contract. Coordination for all necessary insurance and logistics involved in the delivery, inventory, storage, transportation between locations during construction, and removal of any unused materials after completion of the project is the sole responsibility of the Bidder.

Permits

Jurisdictional Right of Way Permits will be provided to the Bidder, along with the associated Construction Drawings, on or before, the time that each given section of the fiber route is released to the Bidder for Construction. It is not expected that any supplemental Right of Way, or other permits or authorizations, will be required. However, Bidder shall, at its own expense, obtain encroachment, or other permits, if required, for equipment access, or movement (ingress/egress), to or from Public Rights of Way or Private Easements, along roads and/or property not owned by the Owner. Copies of such permits shall be furnished to all involved parties and kept on hand by any of the Bidder's crew vehicles that are engaged in any work associated with this project. All traffic control, if applicable, shall be coordinated and approved by the Tangipahoa Parish Government Police Department and be in accordance with any and all applicable local, state, county, federal, or jurisdictional permitting agency laws, regulations, and requirements, and will be the Bidder's responsibility at the Bidder's expense.

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Safety and Precautions

All personnel are required to abide by all rules and regulations set forth in each Utility's Safety Requirement, Railroad Safety Code and Governing Jurisdiction. The Work under this Contract will be constructed along Public Rights of Way that will likely contain existing and operational utilities. The Bidder shall be fully responsible for locating existing utilities and for compliance with the requirements of any Statewide, and/or Local area, "One Call" program, or agency, prior to the start of any construction activity being performed under this Contract. Extreme care must be exercised to avoid hitting or causing damage to any above ground or subsurface structures. It shall be the responsibility of the Bidder to timely notify the owners of aboveground or subsurface plant (plus those Agencies not associated with the Parish & Statewide and/or Local "One Call" programs or agencies) in advance of any construction, installation, excavation, boring or placing work and the Bidder shall locate and expose by hand all existing subsurface plant. Any damage caused by the Bidder shall be repaired by the Bidder at his sole expense and any delay incurred shall not be cause for an extension in time of the Contract. If damage to live communication cables occurs, Bidder will be charged for the repair by utility owner. Bidder shall be responsible for the protection and maintenance of public and private properties. Bidder shall protect, shore, brace, support and maintain all underground pipes, conduits, drains, and other subsurface structures uncovered or otherwise affected by the Work. Bidder shall be responsible for all damage to streets, roads, highways, shoulders, ditches, embankments, culverts, bridges or other public or private property or facility, regardless of location or character, which may be caused by the Work, or by moving, hauling, or otherwise transporting equipment, materials, or works to or from designated work areas, or any site thereof, whether by the Bidder or any subcontractors employed by the Bidder.

During all phases of construction, the Bidder shall maintain work areas in a neat and orderly manner. Construction equipment, material and supplies that are stored on the Right of Way shall not restrict access to such Right of Way, or the Right of Way itself.

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Security

Bidder is responsible for all security required to protect its warehouse, laydown, and staging area and the Outside Plant Work. Security shall also include traffic control where required including the use of off duty police officers, which must be coordinated with the Tangipahoa Parish Government, at the Bidder's sole expense, in advance of deployment.

Right of Way Clearing

Any required Right of Way clearing shall be completed prior to construction; The Bidder shall coordinate all clearing operations and placing operations with the Tangipahoa Parish Government Public Works Supervisor, and any relevant local City government, to avoid delays and interference. Bidder will provide flagmen and signalmen as required. The Bidder shall be required to coordinate its needs for such signalmen and flagmen with the Parish, City, all Carriers, Utility Companies, and/or the railroad as appropriate to the work being performed. In addition to the Scheduling Requirements in the General Provisions, upon request, the Bidder shall also submit, to the Project Supervisor, daily/weekly crew assignment reports specifying planned crew quantities, crew composition and proposed work locations.

Special Considerations

The following Special Considerations should be understood by the Bidder.

- Bidder shall be required to provide 24-hour security protection on any exposed conduit/cable that contains an operational fiber optic cable.
- All waste and/or abandoned materials to be removed shall be disposed of at a "Recognized Dump Facility" in the area as designated by the local governing authority.
- When working in the vicinity of a handhole, manhole, or splice location on an existing Carriers fiber optic system, all conduit/cable sweeps into the handhole/manhole/splice box must be hand exposed for their entire length. This exposure must be done until the inspector is satisfied that the entire sweep has been exposed and identified. Potholing only is not sufficient in this

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situation. This will also include the opening of all Handholes for verification of cable routing information.

- Bidder is hereby informed that a standard work week is defined as five (5), ten (10) hour work periods per week (Monday through Friday), unless specifically restricted by permitting requirements and/or unless specific written authorization is provided by the Parish, and any relevant City Government bodies, in advance for alternate work schedules. Bidder shall schedule crews in accordance with such considerations, and unit prices shall be inclusive of any overtime required. Only daylight hour work will be allowed unless specific written authorization is provided by the Owner in advance.
- When completing the project, the Bidder is responsible for leaving the Right-of-Way in as good or better condition as original.

Testing Procedures

The successful Bidder shall, at its own expense, conduct certification testing on all fibers upon delivery, while on-reel, prior to any construction activity, and provide documentation of this certification to the Owner. The successful Bidder shall present a Fiber Optic Cable Splicing and Test Plan to the Owner for approval in advance of the start of OSP Construction. The Fiber Optic Cable Splicing and Test Plan must include, at a minimum, the tests described in **Minimum Fiber Optic Test Guidelines**. Upon approval of the Fiber Optic Cable Splicing and Test Plan, the successful Bidder will be responsible to conduct certification testing on all fibers upon the completion of construction and to provide hardcopy and softcopy documentation of each test result, along with the Red-line Construction Drawings as part of the As-built documentation. The fiber optic cabling shall support up to 10 GB data rates. The Vendor shall have a representative locally and readily available for the duration of the acceptance testing. A final acceptance period of thirty (30) days following testing shall be required before final acceptance of the system will be considered.

TDC2, LLC

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Attachment E – Additional Federal Compliance Provisions for Construction Contracts

The following pages contain Additional Federal Compliance Provisions for Construction Contracts. The Bidder must sign and date the acknowledgement below and include it in the Sealed Bid.

Federal Compliance Provision Acknowledgement

The Bidder's signature below indicates that the Bidder has reviewed, understands, and agrees to comply with the Additional Federal Compliance Provisions for Construction Contracts listed in Attachment E of this Request for Sealed Bid document.

Bidder Name (Printed)

Bidder Signature

Date

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SECTION E
ADDITIONAL FEDERAL PROVISIONS
COMPLIANCE PROVISIONS for CONSTRUCTION
CONTRACTS

(These provisions must be included in all construction contracts)

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1. EQUAL EMPLOYMENT OPPORTUNITY (Equal Opportunity Clause) [80 FR 54975, Sept. 11, 2015] (applicable to contracts and subcontracts above \$10,000)

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, sexual orientation, gender identity, 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, sexual orientation, gender identity, 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, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) 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.

(6) 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 administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

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(7) In the event of the contractor's noncompliance 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, and such other sanctions may be imposed and remedies invoked as provided 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.

(8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) 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 administering agency 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 administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided*, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

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2. STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY CONSTRUCTION CONTRACT SPECIFICATIONS (applicable to contracts and subcontracts above \$10,000)

A. As used in these specifications:

- (1) "Covered area" means the geographical area described in the solicitation from which this contract resulted;
- (2) "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;
- (3) "Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.
- (4) "Minority" includes:
 - (a) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
 - (b) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South America or other Spanish Culture or origin, regardless of race);
 - (c) Asian and Pacific Islander (all persons having origins in any of the original people of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
 - (d) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

- B. When the Contractor, or any subcontractor, at anytime, 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.
- C. 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 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.

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- D. The Contractor shall implement the specific affirmative action standards provided in paragraphs G(1) through G(16) 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 contracts 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 geographic area where the contract 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.
- E. 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.
- F. In order for the non-working 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.
- G. The Contractor shall take specific affirmative action 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:
- (1) 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.
 - (2) 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 organization's responses.
 - (3) 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.

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(4) Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement have 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.

(5) Develop on-the-job training opportunities and/or participate in training programs for the area which expressly includes 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 G(2) above.

(6) 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 EEO policy on a bulletin board accessible to all employees at each location where construction work is performed.

(7) 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 on-site supervisory personnel such as Superintendents, General Foreman, 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.

(8) 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.

(9) 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 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.

(10) 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 work force.

(11) Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.

(12) Conduct, at least annually, an inventory and evaluation of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate

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training, etc., such opportunities.

(13) 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.

(14) Ensure that all facilities and company activities are non-segregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

(15) Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitation to minority and female contractor associations and other business associations.

(16) Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.

- H. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (G(1) through G(16)). 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 G(1) through G(16) 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 shall not be a defense for the Contractor's non-compliance.
- I. A single goal for minorities and a separate single goal for women has 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).
- J. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any persons because of race, color, religion, sex, or national origin.
- K. The Contractor shall not enter into any subcontract with any person or firm debarred from government contracts pursuant to E.O. 11246.
- L. 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 E.O. 11246, as amended.

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- M. 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 G 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 60-4.8.
- N. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions 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 where assigned, social security number, race, sex, status (e.g., mechanic, apprenticeship trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and location 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.
- O. 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 or 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).

3. NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION

(applicable to contracts and subcontract over \$10,000)

- A. The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.
- B. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

Goals for minority participation: *(see table below)*

Goals for female participation: 6.9%

These goals are applicable to all the Contractor's construction work (whether or not it is federal or federally assisted) performed in the covered area. If the contractor performs construction work in a geographic area located outside of the covered area, it shall apply the goals established for such geographic area where the work is actually performed.

With regard to this second area, the Contractor also is subject to the goals for both its federally involved and non-federally involved construction. The Contractor's compliance with the Executive

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Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3 (a) and its efforts to meet the goals established for the geographical area where the contract resulting from this solicitation is to be performed. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order, and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

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MINORITY PARTICIPATION GOALS

PARISH	MIN. GOAL (%)	PARISH	MIN. GOAL (%)	PARISH	MIN. GOAL (%)	PARISH	MIN. GOAL (%)
Acadia	24.1	E. Baton Rouge	26.1	Madison	27.9	St. Landry	24.1
Allen	17.8	East Carroll	27.9	Morehouse	27.9	St. Martin	24.1
Ascension	26.1	East Feliciana	30.4	Natchitoches	29.3	St. Mary	24.1
Assumption	27.7	Evangeline	24.1	Orleans	31.0	St. Tammany	31.0
Avoyelles	29.3	Franklin	27.9	Ouachita	22.8	Tangipahoa	27.7
Beauregard	17.8	Grant	25.7	Plaquemines	27.7	Tensas	27.9
Bienville	29.3	Iberia	24.1	Pointe Coupee	30.4	Terrebonne	27.7
Bossier	29.3	Iberville	30.4	Rapides	25.7	Union	27.9
Caddo	29.3	Jackson	27.9	Red River	29.3	Vermilion	24.1
Calcasieu	19.3	Jefferson	31.0	Richland	27.9	Vernon	17.8
Caldwell	27.9	Jefferson Davis	17.8	Sabine	29.3	Washington	27.7
Cameron	17.8	Lafayette	20.6	St. Bernard	31.0	Webster	29.3
Catahoula	27.9	Lafourche	27.7	St. Charles	27.7	W. Baton Rouge	26.1
Claiborne	29.3	LaSalle	27.9	St. Helena	30.4	West Carroll	27.9
Concordia	30.4	Lincoln	27.9	St. James	27.7	West Feliciana	30.4
De Soto	29.3	Livingston	26.1	St. John the Baptist	27.7	Winn	29.3

- C. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address, and telephone number of the subcontractor; employer identification number; estimated dollar amount of the subcontract; estimated starting and completion dates of the sub-contract; and the geographical area in which the contract is to be performed.
- D. As used in this Notice, and in the contract resulting from this solicitation, the "covered area" is *(insert description of the geographical areas where the contract is to be performed, giving the State, parish, and city, if any):*

4. CERTIFICATION OF NONSEGREGATED FACILITIES

(applicable to contracts and subcontracts over \$10,000)

By the submission of this bid, the bidder, offeror, applicant or subcontractor certifies that he/she does not maintain or provide for his/her establishments, and that he/she does not permit employees to perform their services at any location, under his/her control, where segregated facilities are maintained. He/she certifies further that he/she will not maintain or provide for employees any segregated facilities at any of his/her establishments, and he/she will not permit employees to perform their services at any location under his/her control where segregated facilities are

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maintained. The bidder, offeror, applicant or subcontractor agrees that a breach of this certification is a violation of the equal opportunity clause of this contract.

As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation and housing facilities provided for employees which are segregated by explicit directive or are, in fact, segregated on the basis of race, color, religion, or national origin because of habit, local custom, or any other reason.

He/she further agrees that (except where he/she has obtained for specific time periods) he/she will obtain identical certification from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the equal opportunity clause; that he/she will retain such certifications in his/her files; and that he/she will forward the following notice to such proposed subcontractors (except where proposed subcontractors have submitted identical certifications for specific time periods).

5. CIVIL RIGHTS

The Contractor shall comply with the provisions of Title VI of the Civil Rights Act of 1964. No person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

6. SECTION 109 OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974

The Contractor shall comply with the provisions of Section 109 of the Housing and Community Development Act of 1974. No person in the United States shall on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title. Section 109 further provides that discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in Section 504 of the Rehabilitation Act of 1973, as amended, is prohibited.

7. SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968 COMPLIANCE IN THE PROVISION OF TRAINING, EMPLOYMENT AND BUSINESS OPPORTUNITIES

- A. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which

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implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

- C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each, and the name and location of the person(s) taking applications for each of the positions, and the anticipated date the work shall begin.
- D. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.
- E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.
- F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
- G. With respect to work performed in connection with Section 3 covered Indian housing assistance, Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 and section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with Section 7(b).

8. SECTION 503 OF THE REHABILITATION ACT OF 1973 (29 USC 793)
(applicable to contracts and subcontracts over \$10,000)

- A. The contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is otherwise qualified. The contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following:

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employment upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

- B. The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.
- C. In the event of the Contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.
- D. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, provided by or through the contracting officer. Such notices shall state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.
- E. The Contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of Section 503 of the Rehabilitation Act of 1973, and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.
- F. The Contractor will include the provisions of this clause in every subcontract or purchase order of \$10,000 or more unless exempted by rules, regulations, or orders of the Secretary issued pursuant to Section 503 of the Act, 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 Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

9. SECTION 504 OF THE REHABILITATION ACT OF 1973, AS AMENDED

The Contractor agrees that no otherwise qualified individual with disabilities shall, solely by reason of his disability, be denied the benefits, or be subjected to discrimination including discrimination in employment, any program or activity that receives the benefits from the federal financial assistance.

10. AGE DISCRIMINATION ACT OF 1975

The Contractor shall comply with the provisions of the Age Discrimination Act of 1975. No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving federal financial assistance.

11. CERTIFICATION OF COMPLIANCE WITH AIR AND WATER ACTS

(applicable to contracts and subcontracts exceeding \$100,000)

The Contractor and all subcontractors shall comply with the requirements of the Clean Air Act, as

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amended, 42 USC 1857 et seq., the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq., and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR Part 15, as amended.

In addition to the foregoing requirements, all nonexempt contractors and subcontractors shall furnish to the owner, the following:

- A. A stipulation by the Contractor or subcontractors, that any facility to be utilized in the performance of any nonexempt contract or subcontract, is not listed on the List of Violating Facilities issued by the Environmental Protection Agency (EPA) pursuant to 40 CFR Part 15, as amended.
- B. Agreement by the Contractor to comply with all the requirements of Section 114 of the Clean Air Act, as amended, (42 USC 1857 c-8) and Section 308 of the Federal Water Pollution Control Act, as amended, (33 USC 1318) relating to inspection, monitoring, entry, reports and information, as well as all other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.
- C. A stipulation that as a condition for the award of the contract, prompt notice will be given of any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized, or to be utilized for the contract, is under consideration to be listed on the EPA List of Violating Facilities.
- D. Agreement by the Contractor that he will include, or cause to be included, the criteria and requirements in paragraph (1) through (4) of this section in every nonexempt subcontract and requiring that the Contractor will take such action as the government may direct as a means of enforcing such provisions.

12. SPECIAL CONDITIONS PERTAINING TO HAZARDS, SAFETY STANDARDS AND ACCIDENT PREVENTION

- A. Lead-Based Paint Hazards (include in contracts for construction or rehabilitation of residential structures) The construction or rehabilitation of residential structures is subject to the HUD Lead-Based Paint regulations, 24 CFR Part 35. The Contractor and subcontractors shall comply with the provisions for the elimination of lead-based paint hazards under Subpart B of said regulations. The Owner will be responsible for the inspections and certifications required under Section 35.14 (f) thereof.
- B. Use of Explosives (Modify as required)

When the use of explosives is necessary for the prosecution of the work, the Contractor shall observe all local, state and federal laws in purchasing and handling explosives. The Contractor shall take all necessary precaution to protect completed work, neighboring property, water lines, or other underground structures. Where there is danger to structures or property from blasting, the charges shall be reduced, and the material shall be covered with suitable timber, steel, or rope mats.

The Contractor shall notify all owners of public utility property of intention to use explosives at least 8 hours before blasting is done close to such property. Any supervision or direction of use of explosives

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by the engineer does not in any way reduce the responsibility of the Contractor or his Surety for damages that may be caused by such use.

C. Danger Signals and Safety Devices (Modify as Required)

The Contractor shall make all necessary precautions to guard against damages to property and injury to persons. He shall put up and maintain in good condition, sufficient red or warning lights at night, suitable barricades and other devices necessary to protect the public. In case the Contractor fails or neglects to take such precautions, the Owner may have such lights and barricades installed and charge the cost of this work to the Contractor. Such action by the Owner does not relieve the Contractor of any liability incurred under these specifications or contract.

13. FLOOD DISASTER PROTECTION

This contract is subject to the requirements of the Flood Disaster Protection Act of 1973 (P.L. 93-234). Nothing included as a part of this contract is approved for acquisition or construction purposes as defined under Section 3(a) of said

Act, for use in an area identified by the Secretary of HUD as having special flood hazards which is located in a community not then in compliance with the requirements for participation in the National Flood Insurance Program pursuant to Section 201(d) of said Act; and the use of any assistance provided under this contract for such acquisition for construction in such identified areas in communities then participating in the National Flood Insurance Program shall be subject to the mandatory purchase of flood insurance requirements or Section 102(a) of said Act.

Any contract or agreement for the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this Contract shall contain, if such land is located in an area identified by the Secretary as having special flood hazards and in which the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4001 et seq., provisions obligating the transferee and its successors or assigns to obtain and maintain, during the ownership of such land, such flood insurance as required with respect to financial assistance for acquisition or construction purposes under Section 102(a) of Flood Disaster Protection Act of 1973.

14. ACCESS TO RECORDS - MAINTENANCE OF RECORDS

The State of Louisiana, the Department of Housing and Urban Development, the Comptroller General of the United States, the US Department of Treasury, or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the Contractor which are directly pertinent to this specific contract, for the purpose of audits, examinations, and making excerpts and transcriptions. All records connected with this contract will be maintained in a central location by ~~the unit of local government~~ Tangipahoa Parish and will be maintained for a period of five (5) years from the official date of the U.S. Department of Treasury final closeout of the grant.

15. INSPECTION

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The authorized representative and agents of the State of Louisiana and the Department of Housing and Urban Development shall be permitted to inspect all work, materials, payrolls, records of personnel, invoices of materials, and other relevant data and records.

16. REPORTING REQUIREMENTS

The Contractor shall complete and submit all reports, in such form and according to such schedule, as may be required by the Owner.

17. CONFLICT OF INTEREST

- A. No officer or employee of the local jurisdiction or its designees or agents, no member of the governing body, and no other public official of the locality who his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed. Further, the Contractor shall cause to be incorporated in all subcontracts the language set forth in this paragraph prohibiting conflict of interest.
- B. No member of or delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of this contract or to any benefit that may arise therefrom, but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

18. ACTIVITIES AND CONTRACTS NOT SUBJECT TO EXECUTIVE ORDER 11246, AS AMENDED (applicable to contracts and subcontracts of \$10,000 and under)

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

- A. The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor shall take affirmative action to ensure that applicants for employment 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.
- B. The Contractor shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by Contracting Officer setting forth the provisions of this non-discrimination clause. The Contractor shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- C. Contractors shall incorporate foregoing requirements in all subcontracts.

19. PATENTS

- A. The Contractor shall hold and save the Owner and its officers, agents, servants, and employees harmless from liability of any nature or kind, including cost and expenses for, or on account of any

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patented or unpatented invention, process, article, or appliance manufactured or used in the performance of the contract including its use by the Owner, unless otherwise specifically stipulated in the Contract Document.

- B. License or Royalty Fees: License and/or Royalty Fees for the use of a process which is authorized by the Owner of the project must be reasonable, and paid to the holder of the patent, or his authorized license, direct by the Owner and not by or through the Contractor.
- C. If the Contractor uses any design device or materials covered by letters, patent or copyright, he shall provide for such use by suitable agreement with the owner of such patented or copyrighted design device or material. It is mutually agreed and understood, that without exception the contract prices shall include all royalties or costs arising from the use of such design, device, or materials, in any way involved in the work. The Contractor and/or his Sureties shall indemnify and save harmless the Owner of the project from any and all claims for infringement by reason of the use of such patented or copyrighted design, device or materials or any trademark or copy-right in connection with work agreed to be performed under this contract, and shall indemnify the Owner for any cost, expense, or damage which it may be obliged to pay by reason of such infringement at any time during the prosecution of the work or after completion of the work.

20. COPYRIGHT

No materials, to include but not limited to reports, maps, or documents produced as a result of this contract, in whole or in part, shall be available to the Contractor for copyright purposes. Any such materials produced as a result of this contract that might be subject to copyright shall be the property of the Owner and all such rights shall belong to the Owner.

21. TERMINATION FOR CAUSE

If, through any cause, the Contractor shall fail to fulfill in a timely and proper manner his obligations under this contract, or if the Contractor shall violate any of the covenants, agreements, or stipulations of this contract, the Owner shall thereupon have the right to terminate this contract by giving written notice to the Contractor of such termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports prepared by the Contractor under this contract shall, at the option of the Owner, become the Owner's property and the Contractor shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder. Notwithstanding the above, the Contractor shall not be relieved of liability to the Owner for damages sustained by the Owner by virtue of any breach of the contract by the Contractor, and the Owner may withhold any payments to the Contractor for the purpose of set-off until such time as the exact amount of damages due the Owner from the Contractor is determined.

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22. TERMINATION FOR CONVENIENCE

The Owner may terminate this contract at any time by giving at least ten (10) days notice in writing to the Contractor. If the contract is terminated by the Owner as provided herein, the Contractor will be paid for the time provided and expenses incurred up to the termination date.

23. ENERGY EFFICIENCY

The Contractor shall comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Public Law 94-163).

24. SUBCONTRACTS

- A. The Contractor shall not enter into any subcontract with any subcontractor who has been debarred, suspended, declared ineligible, or voluntarily excluded from participating in contracting programs by any agency of the United States Government or the State of Louisiana.
- B. The Contractor shall be as fully responsible to the Owner for the acts and omissions of the Contractor's subcontractors, and of persons either directly or indirectly employed by them, as he is for the acts and omissions of persons directly employed by the Contractor.
- C. The Contractor shall cause appropriate provisions to be inserted in all subcontracts relative to the work to bind subcontractor to the Contractor by the terms of the contract documents insofar as applicable to the work of subcontractors and to give the Contractor the same power as regards terminating any subcontract that the Owner may exercise over the Contractor under any provision of the contract documents.
- D. Nothing contained in this contract shall create any contractual relation between any subcontractor and the Owner.

25. DEBARMENT, SUSPENSION, AND INELIGIBILITY

The Contractor represents and warrants that it and its subcontractors are not debarred, suspended, or placed in ineligibility status under the provisions of 24 CFR 24 (government debarment and suspension regulations).

26. PROTECTION OF LIVES AND HEALTH

The Contractor shall exercise proper precaution at all times for the protection of persons and property and shall be responsible for all damages to persons or property, either on or off the worksite, which occur as a result of his prosecution of the work. The safety provisions of applicable laws and building and construction codes, in addition to specific safety and health regulations described by Chapter XIII, Bureau of Labor Standards, Department of Labor, Part 1518, Safety and Health Regulations for Construction, as outlined in the Federal Register,

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Volume 36, No. 75, Saturday, April 17, 1971, Title 29 - LABOR, shall be observed and the Contractor shall take or cause to be taken, such additional safety and health measures as the Owner may determine to be reasonably necessary.

27. BREACH OF CONTRACT TERMS

Any violation or breach of terms of this contract on the part of the Contractor or the Contractor's subcontractors may result in the suspension or termination of this contract or such other action that may be necessary to enforce the rights of the parties of this contract. The duties and obligations imposed by the contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.

28. PROVISIONS REQUIRED BY LAW DEEMED INSERTED

Each and every provision of law and clause required by law to be inserted in this contract shall be deemed to be inserted herein and the contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the contract shall forthwith be physically amended to make such insertion or correction.

29. CHANGES

The Owner may, from time to time, request changes in the scope of the services of the Contractor to be performed hereunder. Such changes, including any increase or decrease in the amount of the Contractor's compensation which are mutually agreed upon by and between the Owner and the Contractor, shall be incorporated in written and executed amendments to this Contract.

30. PERSONNEL

The Contractor represents that it has, or will secure at its own expense, all personnel required in performing the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the Owner.

All the services required hereunder will be performed by the Contractor or under its supervision, and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under State and local law to perform such services.

No person who is serving sentence in a penal or correctional institution shall be employed on work under this Contract.

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31. ANTI-KICKBACK RULES

Salaries of personnel performing work under this Contract shall be paid unconditionally and not less often than once a month without payroll deduction or rebate on any account except only such payroll deductions as are mandatory by law or permitted by the applicable regulations issued by the Secretary of Labor pursuant to the "Anti-Kickback Act" of June 13, 1934 (48 Stat. 948; 62 Stat. 740; 63 Stat. 108; Title 18 U.S.C. 874; and Title 40 U.S.C. 276c). The Contractor shall comply with all applicable "Anti-Kickback" regulations and shall insert appropriate provisions in all subcontracts covering work under this contract to insure compliance by the subcontractors with such regulations, and shall be responsible for the submission of affidavits required of subcontractors thereunder except as the Secretary of Labor may specifically provide for variations of or exemptions from the requirements thereof.

32. ASSIGNABILITY

The Contractor shall not assign any interest in this Contract, and shall not transfer any interest in the same (whether by assignment or novation) without prior written approval of the Owner provided that claims for money due or to become due the Contractor from the Owner under this Contract may be assigned to a bank, trust company, or other financial institution, or to a Trustee in Bankruptcy, without such approval. Notice of any such assignment or transfer shall be furnished promptly to the Owner.

33. INTEREST OF CONTRACTOR

The Contractor covenants that he presently has no interest and shall not acquire any interest direct or indirect in the above described project or any parcels therein or any other interest which would conflict in any manner or degree with the performance of his services hereunder. The Contractor further covenants that in the performance of this Contract no person having any such interest shall be employed.

34. POLITICAL ACTIVITY

The Contractor will comply with the provisions of the Hatch Act (5 U.S.C. 1501 et seq.), which limits the political activity of employees.

35. COMPLIANCE WITH THE OFFICE OF MANAGEMENT AND BUDGET

The parties agree to comply with the regulations, policies, guidelines, and requirements of the Office of Management and Budget, Circulars A-95, A-102, A-133, and A-54, as they relate to the use of Federal funds under this contract.

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36. DISCRIMINATION DUE TO BELIEFS

No person with responsibilities in operation of the project to which this grant relates will discriminate with respect to any program participant or any applicant for participation in such program because of political affiliation or beliefs.

37. CONFIDENTIAL FINDINGS

All of the reports, information, data, etc., prepared or assembled by the Contractor under this Contract are confidential, and the Contractor agrees that they shall not be made available to any individual or organization without prior written approval of the Owner.

38. LOBBYING

The Contractor certifies, to the best of his or her knowledge and belief that:

1. No federally appropriated funds have been paid or will be paid, by or on behalf of the contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
2. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

39. PROCUREMENT OF RECOVERED MATERIALS

Tangipahoa Parish Government shall comply with Section 6002 of the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, which include procuring only items designated in guidelines of the EPA at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery, and establishing an affirmative procurement program for procurement of recovered materials identified in EPA guidelines.

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40. FEDERAL LABOR STANDARDS PROVISIONS

The Contractor shall abide by the requirements of the Federal Labor Standards Provisions (form HUD-4010) as follows, including Davis-Bacon:

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**Federal Labor Standards Provisions
U.S. Department of Housing and Urban Development
Office of Labor Relations**

Applicability

The Project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

A. 1. (i) Minimum Wages. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible, place where it can be easily seen by the workers.

(ii) (a) Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

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(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(b) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 12150140.)

(c) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

(d) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii)(b) or (c) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) **If the contractor does not make payments to a trustee or other third person, the contractor may consider as part** of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

2. Withholding. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract In the event of failure to pay any laborer

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or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work, all or part of the wages required by the contract, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

3.(i) Payrolls and basic records. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section l(b)(2)(B) of the Davis-bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5 (a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section l(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

(ii) (a) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i) except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner,

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as the case may be, for transmission to HUD or its designee, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this subparagraph for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to HUD or its designee. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

(b) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under 29 CFR

5.5 (a)(3)(ii), the appropriate information is being maintained under 29 CFR 5.5(a)(3)(i), and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(c) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by subparagraph A.3.(ii)(b).

(d) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under subparagraph A.3.(i) available for inspection, copying, or transcription by authorized representatives of HUD or its designee or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the contractor, sponsor, applicant or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and Trainees.

(i) **Apprentices.** Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually

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registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under 29 CFR Part 5 shall be in conformity with the equal employment opportunity requirements of Executive

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Order 11246, as amended, and 29 CFR Part 30.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this contract

6. Subcontracts. The contractor or subcontractor will insert in any subcontracts the clauses contained in subparagraphs 1 through 11 in this paragraph A and such other clauses as HUD or its designee may by appropriate instructions require, and a copy of the applicable prevailing wage decision, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this paragraph.

1 **Contract termination; debarment.** A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

2 **Compliance with Davis-Bacon and Related Act Requirements.**

All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and

7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and HUD or its designee, the U.S. Department of Labor, or the employees or their representatives.

10. (i) Certification of Eligibility. By entering into this contract the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1 01 0, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of . . . influencing in any way the action of such

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Administration..... makes, utters or publishes any statement knowing the same to be false..... shall be fined not more than \$5,000 or imprisoned not more than two years, or both.”

11. Complaints, Proceedings, or Testimony by Employees. No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.

B. Contract Work Hours and Safety Standards Act. The provisions of this paragraph B are applicable where the amount of the prime contract exceeds \$100,000. As used in this paragraph, the terms “laborers” and “mechanics” include watchmen and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which the individual is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in sub paragraph (1) of this paragraph.

(3) Withholding for unpaid wages and liquidated damages. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contract, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act which is held by the same prime contractor such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (2) of this paragraph.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (4) of this paragraph and also a clause requiring the subcontractors to include

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these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (1) through (4) of this paragraph.

C. Health and Safety. The provisions of this paragraph C are applicable where the amount of the prime contract exceeds \$100,000.

(1) No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

(2) The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, (Public Law 91-54, 83 Stat 96). 40 USC 3701 et seq.

(3) The contractor shall include the provisions of this paragraph in every subcontract so that such provisions will be binding on each subcontractor. The contractor shall take such action with respect to any subcontractor as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

form HUD-4010 (06/2009) Previous edition is obsolete. ref. Handbook 1344.1

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"General Decision Number: LA20220004 03/18/2022

Superseded General Decision Number: LA20210004

State: Louisiana

Construction Type: Heavy

Counties: Allen, Assumption, Avoyelles, Beauregard, Bienville, Caldwell, Cameron, Catahoula, Claiborne, Concordia, De Soto, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Iberia, Iberville, Jackson, Jefferson Davis, La Salle, Lincoln, Madison, Morehouse, Natchitoches, Pointe Coupee, Red River, Richland, Sabine, St Helena, St Mary, Tangipahoa, Tensas, Union, Vermilion, Vernon, Washington, West Carroll, West Feliciana and Winn Counties in Louisiana.

HEAVY CONSTRUCTION PROJECTS (includes water wells, water & sewer lines, and flood control; excludes elevated storage tanks)

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658. Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60).

If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022:	<ul style="list-style-type: none"> Executive Order 14026 generally applies to the contract. The contractor must pay all covered workers at least \$15.00 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in 2022.
If the contract was awarded on or between January 1, 2015 and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022:	<ul style="list-style-type: none"> Executive Order 13658 generally applies to the contract. The contractor must pay all covered workers at least \$11.25 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on that contract in 2022.

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker protections under the Executive Orders is available at <https://www.dol.gov/agencies/whd/government-contracts>.

Modification Number	Publication Date
0	01/07/2022
1	01/14/2022
2	02/18/2022
3	02/25/2022
4	03/18/2022

ELEC0130-007 12/06/2021

ASSUMPTION AND ST. MARY (Northeast of Atchafalaya River)
PARISHES

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	Rates	Fringes
ELECTRICIAN.....	\$ 32.25	13.75

ELEC0194-006 09/06/2021

BIENVILLE, CLAIBORNE, DE SOTO, NATCHITOCHES (Northeast of the Red River), and RED RIVER PARISHES

	Rates	Fringes
ELECTRICIAN.....	\$ 30.25	13.81

* ELEC0446-004 03/01/2022

CALDWELL, EAST CARROLL, FRANKLIN, JACKSON, LINCOLN, MADISON, MOREHOUSE, RICHLAND, TENSAS, UNION, and WEST CARROLL PARISHES

	Rates	Fringes
ELECTRICIAN.....	\$ 26.03	14.73

ELEC0576-002 09/01/2021

AVOYELLES, CATAHOULA, CONCORDIA, EVANGELINE, GRANT, LA SALLE, NATCHITOCHES (Southwest of Red River), SABINE, VERNON, AND WINN PARISHES

	Rates	Fringes
ELECTRICIAN.....	\$ 25.70	4.25%+9.00

ELEC0061-004 09/01/2021

ALLEN, BEAUREGARD, CAMERON, IBERIA, JEFFERSON DAVIS, ST. MARY (Southwest of Atchafalaya River), AND VERMILION PARISHES

	Rates	Fringes
ELECTRICIAN.....	\$ 29.03	4.34%+12.75

ELEC0995-002 01/01/2022

EAST FELICIANA, IBERVILLE, POINTE COUPEE, ST. HELENA, AND WEST FELICIANA PARISHES

	Rates	Fringes
ELECTRICIAN.....	\$ 26.64	12.30

ELEC1077-005 12/06/2021

TANGIPAHOA and WASHINGTON PARISHES

	Rates	Fringes
ELECTRICIAN.....	\$ 26.39	3%+9.42

* SULA2004-008 05/19/2004

	Rates	Fringes
CARPENTER (including formsetting/formbuilding).....	\$ 14.75 **	0.00
Laborers:		
Common.....	\$ 7.60 **	0.00
Pipelayer.....	\$ 8.47 **	0.00
PIPEFITTER (excluding pipelaying).....	\$ 18.75	4.05
Power equipment operators:		
Backhoe/Excavator.....	\$ 11.67 **	0.00
Boring Machine.....	\$ 10.25 **	0.00

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Bulldozer.....	\$ 11.82 **	0.00
Crane.....	\$ 13.60 **	0.00
Dragline.....	\$ 13.12 **	0.00
Front End Loader.....	\$ 9.93 **	0.00
Mechanic.....	\$ 12.50 **	0.00
Trackhoe.....	\$ 11.99 **	0.00
Tractor.....	\$ 10.43 **	0.00
Water Well Driller.....	\$ 10.73 **	2.01

Truck drivers:		
Dump.....	\$ 10.00 **	0.00
Water.....	\$ 8.00 **	0.00

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

** Workers in this classification may be entitled to a higher minimum wage under Executive Order 14026 (\$15.00) or 13658 (\$11.25). Please see the Note at the top of the wage determination for more information.

Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at <https://www.dol.gov/agencies/whd/government-contracts>.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "Identifiers" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than "SU" or "UAVG" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

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Survey Rate Identifiers

Classifications listed under the "SU" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- * an existing published wage determination
- * a survey underlying a wage determination
- * a Wage and Hour Division letter setting forth a position on a wage determination matter
- * a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour National Office because National Office has responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage

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payment data, project description, area practice material,
etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an
interested party may appeal directly to the Administrative
Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION"

TDC2, LLC

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Attachment F – Drawings

A set of representative Project Drawings are attached on the following pages. These drawings call out design details and bid unit quantities for both Option 1, which is the Base Bid, and Option 2, which is the Alternate Bid.

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Base Bid – Option 1 Drawings

The set of drawings associated with the Base Bid are listed on the following pages with references to Option 1. This set of drawings is representative of the final set of drawings that will be provided to the winning Bidder. The Base Bid – Option 1 Drawings depict the primary design which calls for the placement of 3 X 1.5" HDPE SDR11 ducts. The first duct will need to have a 432-ct fiber optic cable installed in it. The second duct will need to have a 288-ct fiber optic cable installed in it. And the third duct will need to be vacant. Traffic Rate Hand Holes, fiber marker & locate posts, and large splice cases will also need to be installed where indicated along the route. All splice & test and all bonding and grounding must be performed to USDA RUS, TIA/EIA, and NESC standards.

GENERAL NOTES

GENERAL NOTES:

1. ALL WORK TO BE DONE WITH EXTREME CAUTION, FIBER OPTIC CABLE CARRYING TRAFFIC, AND LOSS OF SERVICE WILL RESULT IN LOSS OF REVENUE.
2. ALL WORK TO BE PERFORMED IN STRICT ACCORDANCE WITH THE APPLICABLE CODES OR REQUIREMENTS OF ANY REGULATING GOVERNMENTAL AGENCY, ACCESS TRANSMISSION SERVICES, INC. OR THE RIGHT-OF-WAY-GRANTOR.
3. ALL KNOWN BURIED OBSTRUCTIONS ARE SHOWN ON THE CONSTRUCTION DRAWINGS, ANY AND ALL OTHERS ENCOUNTERED ARE ALSO THE RESPONSIBILITY OF THE CONTRACTOR TO LOCATE, PROTECT, AND REPAIR, IF DAMAGED.
4. ANY AND ALL IMPROVEMENTS, SUCH AS, ASPHALT OR CONCRETE PAVEMENT, CURBS, GUTTERS, WALKS, DRAINAGE DITCHES, EMBANKMENTS, SHRUBS, TREES, GRASS SOD, ETC., IF DAMAGED, SHALL BE RESTORED TO ORIGINAL OR BETTER CONDITION.
5. MATERIAL INSTALLATIONS SHOULD NOT EXCEED THE MANUFACTURER'S RECOMMENDATIONS. ALL CABLE SPANS SHOULD BE PROPERLY SAGGED WHILE MAINTAINING A MINIMUM DISTANCE FROM LOCAL UTILITY LINES AS REQUIRED.
6. IT IS THE CONTRACTOR'S RESPONSIBILITY TO VERIFY THAT ALL AERIAL INSTALLATIONS AND CLEARANCES ARE IN ACCORDANCE WITH THE LATEST EDITION OF NESC (NATIONAL ELECTRIC SAFETY CODE) RULES OR FEDERAL, STATE, OR LOCAL CODES. LOCAL, STATE OR FEDERAL CODES MAY ALTER CONSTRUCTION SPECIFICATIONS SHOWN.
7. BONDING AND GROUNDING SHOULD BE IN ACCORDANCE WITH THE LATEST EDITION OF NESC RULES.
8. UTILITIES PRESENTED ON THESE DRAWINGS ARE SHOWN BASED ON THE BEST AVAILABLE INFORMATION. CONTRACTOR SHALL VERIFY IN THE FIELD THE EXACT LOCATIONS IN THE FIELD PRIOR TO COMMENCING CONSTRUCTION. CONTACT THE LOCAL ONE CALL AGENCY 48 HOURS PRIOR TO CONSTRUCTION FOR EXACT UTILITY LOCATIONS AT: "LA One Call, INC.-CALL BEFORE YOU DIG", AT 1-800-482-7171
9. ALL PROPOSED FACILITIES SHALL MAINTAIN 12" CLEAR FROM ALL PUBLIC AND PRIVATE UTILITIES, UNLESS SPECIFIED OTHERWISE ON THE CONSTRUCTION DRAWINGS.
10. THE CONTRACTOR SHALL BE FULLY RESPONSIBLE FOR ANY DAMAGES TO EXISTING WATER, WASTEWATER, STORM WATER LINES AND TRAFFIC CONTROL DEVICES. ALL DAMAGES SHALL BE REPAIRED IN ACCORDANCE WITH THE APPROPRIATE CITY/DEPARTMENT OF PUBLIC WORKS AND ENGINEERING'S STANDARD CONSTRUCTION SPECIFICATIONS FOR WASTEWATER COLLECTION SYSTEMS, WATER LINES, STORM DRAINAGE, AND STREET PAVING AND "STREET PAVING AND STANDARD CONSTRUCTION DETAILS FOR WASTE WATER COLLECTION SYSTEMS, WATER LINES, STORM DRAINAGE AND STREET PAVING, REFERENCED ABOVE, AT NO ADDITIONAL COST.
11. ADEQUATE DRAINAGE SHALL BE MAINTAINED AT ALL TIMES DURING CONSTRUCTION AND ANY DRAINAGE DITCH OR STRUCTURE DISTURBED DURING CONSTRUCTION SHALL BE RESTORED TO EXISTING CONDITIONS OR BETTER.
12. CONTRACTOR SHALL TAKE NECESSARY PRECAUTIONS TO PROTECT ROOT SYSTEMS OF SHRUBS, PLANTS AND TREES ALONG THE AREAS OF EXCAVATION.
13. THE CONTRACTOR SHALL COMPLY WITH THE LATEST EDITION OF OSHA REGULATIONS AND THE STATE OF LOUISIANA LAWS CONCERNING EXCAVATION.

CONSTRUCTION NOTES:

1. ALL CONDUIT WILL BE 1 1/2" HDPE SDR11, UNLESS SPECIFIED OTHERWISE.
2. SHORING MAY BE REQUIRED AND SHALL COMPLY TO O.S.H.A. STANDARDS.
3. ALL BURIED CONDUIT/CABLE WILL BE PLACED AT 36" MINIMUM COVER UNLESS SPECIFIED OTHERWISE ON THE CONSTRUCTION DRAWINGS.
4. CONTRACTOR SHALL NOTIFY ALL APPROPRIATE AGENCIES, 48 HOURS BEFORE STARTING WORK ON THIS PROJECT.



LEGEND

1. 1/2" HDPE SDR11 CONDUIT	2. 1/2" HDPE SDR11 CONDUIT
3. 1/2" HDPE SDR11 CONDUIT	4. 1/2" HDPE SDR11 CONDUIT
5. 1/2" HDPE SDR11 CONDUIT	6. 1/2" HDPE SDR11 CONDUIT
7. 1/2" HDPE SDR11 CONDUIT	8. 1/2" HDPE SDR11 CONDUIT
9. 1/2" HDPE SDR11 CONDUIT	10. 1/2" HDPE SDR11 CONDUIT
11. 1/2" HDPE SDR11 CONDUIT	12. 1/2" HDPE SDR11 CONDUIT
13. 1/2" HDPE SDR11 CONDUIT	14. 1/2" HDPE SDR11 CONDUIT
15. 1/2" HDPE SDR11 CONDUIT	16. 1/2" HDPE SDR11 CONDUIT
17. 1/2" HDPE SDR11 CONDUIT	18. 1/2" HDPE SDR11 CONDUIT
19. 1/2" HDPE SDR11 CONDUIT	20. 1/2" HDPE SDR11 CONDUIT
21. 1/2" HDPE SDR11 CONDUIT	22. 1/2" HDPE SDR11 CONDUIT
23. 1/2" HDPE SDR11 CONDUIT	24. 1/2" HDPE SDR11 CONDUIT
25. 1/2" HDPE SDR11 CONDUIT	26. 1/2" HDPE SDR11 CONDUIT
27. 1/2" HDPE SDR11 CONDUIT	28. 1/2" HDPE SDR11 CONDUIT
29. 1/2" HDPE SDR11 CONDUIT	30. 1/2" HDPE SDR11 CONDUIT
31. 1/2" HDPE SDR11 CONDUIT	32. 1/2" HDPE SDR11 CONDUIT
33. 1/2" HDPE SDR11 CONDUIT	34. 1/2" HDPE SDR11 CONDUIT
35. 1/2" HDPE SDR11 CONDUIT	36. 1/2" HDPE SDR11 CONDUIT
37. 1/2" HDPE SDR11 CONDUIT	38. 1/2" HDPE SDR11 CONDUIT
39. 1/2" HDPE SDR11 CONDUIT	40. 1/2" HDPE SDR11 CONDUIT
41. 1/2" HDPE SDR11 CONDUIT	42. 1/2" HDPE SDR11 CONDUIT
43. 1/2" HDPE SDR11 CONDUIT	44. 1/2" HDPE SDR11 CONDUIT
45. 1/2" HDPE SDR11 CONDUIT	46. 1/2" HDPE SDR11 CONDUIT
47. 1/2" HDPE SDR11 CONDUIT	48. 1/2" HDPE SDR11 CONDUIT
49. 1/2" HDPE SDR11 CONDUIT	50. 1/2" HDPE SDR11 CONDUIT
51. 1/2" HDPE SDR11 CONDUIT	52. 1/2" HDPE SDR11 CONDUIT
53. 1/2" HDPE SDR11 CONDUIT	54. 1/2" HDPE SDR11 CONDUIT
55. 1/2" HDPE SDR11 CONDUIT	56. 1/2" HDPE SDR11 CONDUIT
57. 1/2" HDPE SDR11 CONDUIT	58. 1/2" HDPE SDR11 CONDUIT
59. 1/2" HDPE SDR11 CONDUIT	60. 1/2" HDPE SDR11 CONDUIT
61. 1/2" HDPE SDR11 CONDUIT	62. 1/2" HDPE SDR11 CONDUIT
63. 1/2" HDPE SDR11 CONDUIT	64. 1/2" HDPE SDR11 CONDUIT
65. 1/2" HDPE SDR11 CONDUIT	66. 1/2" HDPE SDR11 CONDUIT
67. 1/2" HDPE SDR11 CONDUIT	68. 1/2" HDPE SDR11 CONDUIT
69. 1/2" HDPE SDR11 CONDUIT	70. 1/2" HDPE SDR11 CONDUIT
71. 1/2" HDPE SDR11 CONDUIT	72. 1/2" HDPE SDR11 CONDUIT
73. 1/2" HDPE SDR11 CONDUIT	74. 1/2" HDPE SDR11 CONDUIT
75. 1/2" HDPE SDR11 CONDUIT	76. 1/2" HDPE SDR11 CONDUIT
77. 1/2" HDPE SDR11 CONDUIT	78. 1/2" HDPE SDR11 CONDUIT
79. 1/2" HDPE SDR11 CONDUIT	80. 1/2" HDPE SDR11 CONDUIT
81. 1/2" HDPE SDR11 CONDUIT	82. 1/2" HDPE SDR11 CONDUIT
83. 1/2" HDPE SDR11 CONDUIT	84. 1/2" HDPE SDR11 CONDUIT
85. 1/2" HDPE SDR11 CONDUIT	86. 1/2" HDPE SDR11 CONDUIT
87. 1/2" HDPE SDR11 CONDUIT	88. 1/2" HDPE SDR11 CONDUIT
89. 1/2" HDPE SDR11 CONDUIT	90. 1/2" HDPE SDR11 CONDUIT
91. 1/2" HDPE SDR11 CONDUIT	92. 1/2" HDPE SDR11 CONDUIT
93. 1/2" HDPE SDR11 CONDUIT	94. 1/2" HDPE SDR11 CONDUIT
95. 1/2" HDPE SDR11 CONDUIT	96. 1/2" HDPE SDR11 CONDUIT
97. 1/2" HDPE SDR11 CONDUIT	98. 1/2" HDPE SDR11 CONDUIT
99. 1/2" HDPE SDR11 CONDUIT	100. 1/2" HDPE SDR11 CONDUIT

KEY MAP

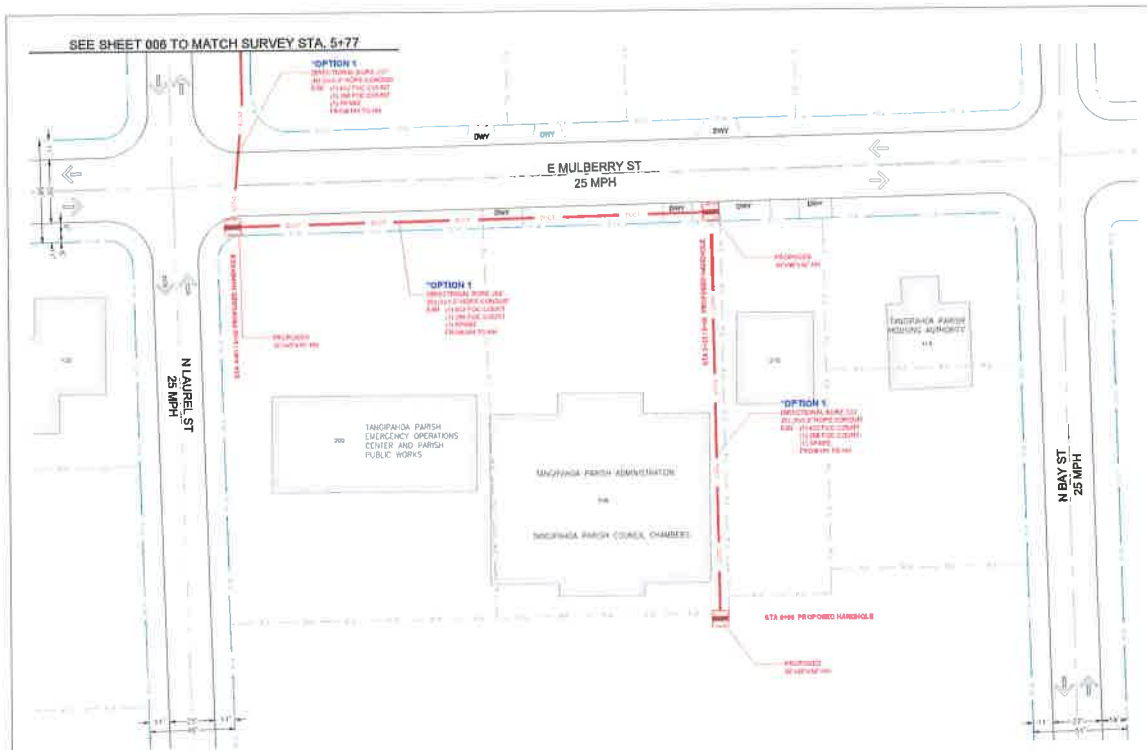


SCALE	SHEET NUMBER
NTS	002
PLOT DATE	8/15/2022
FILE NAME	OPTION1

PROJECT MATERIAL SUMMARY

MATERIAL SUMMARY		
RUS Unit #	DESCRIPTION	QTY
BHF(36X60X36)T	20k traffic rated handhole (36"X60"X36")	96 EA.
BHF(24X36X24)T	20k traffic rated handhole (24"X36"X24")	-
BFO288(S)	288 ct. fiber loop placed in handhole	9,600 FT.
BFO288I	Buried 288 ct. fiber cable placed in conduit	104,410 FT.
BFO432(S)	432 ct. fiber loop placed in handhole	9,600 FT.
BFO432I	Buried 432 ct. fiber cable placed in conduit	104,410 FT.
BM60 (2)(1.25" SDR11)	Directional Drilled Conduit	-
BM60 (3)(1.5" SDR11)	Directional Drilled Conduit	104,410 FT.
BM2	Ground Rod (5/8"X8')	96 EA.
BM55F	Fiber Marker w/Test Station	96 EA.

[illegible]



- INSTALLATION NOTES:**
1. MAINTAIN A MIN. 48" DEPTH.
 2. PLACE SHOWN (6" x 18") HOPE DUCTS.
 3. RESTORE ALL SURFACES TO ORIGINAL OR BETTER CONDITION.
 4. MINIMUM 4' HORIZONTAL CLEARANCE & 2' VERTICAL CLEARANCE FROM ALL CITY UTILITIES WHICH INCLUDE WATER & SEWER.
 5. IF SIDEWALK IS DAMAGED, SAW CUT, REMOVE & REPLACE SIDEWALK.
 6. CONTRACTOR SHALL PLACE LINE UNDER ALL UTILITIES BEING CROSSED.

NOTE:
RIGHT-OF-WAY ARE DEPICTED BASED ON FIELD OBSERVATION AND THE LATEST COUNTY RECORDS AVAILABLE IF FURTHER ACCURACY IS REQUIRED, LAND SURVEYS WILL BE NECESSARY.

AFTER EXISTING FACILITIES ARE LOCATED,
POTHOLE EACH UTILITY CONFLICT TO CONFIRM EXACT LOCATION AND DEPTH OF THE UTILITY.

CAUTION:
FOR THE EXISTING UTILITIES IN THE AREA, CONTRACTOR TO CONTACT LOUISIANA ONE CALL TO LOCATE ALL EXISTING UTILITIES PRIOR TO CONSTRUCTION.

Louisiana 811
(225) 275-3700

*OPTION 1

UTILITIES SUMMARY		
ITEM	DESCRIPTION	DEPTH
1	20" traffic related handhole (36" x 60" x 36")	3 E.A.
2	Buried 20" ct. fiber cable placed in conduit	377 F.T.
3	20" ct. fiber loop placed in handhole	300 F.T.
4	Buried 432" ct. fiber cable placed in conduit	377 F.T.
5	432" ct. fiber loop placed in handhole	300 F.T.
6	Directional Drilled Conduit	377 F.T.
7	Ground Rod (6" x 36")	3 E.A.
8	Fiber Marker w/exit station	3 E.A.



LEGEND

<ul style="list-style-type: none"> Water Sewer Gas Electric Fiber Proposed Fiber 	<ul style="list-style-type: none"> Water Sewer Gas Electric Fiber Proposed Fiber
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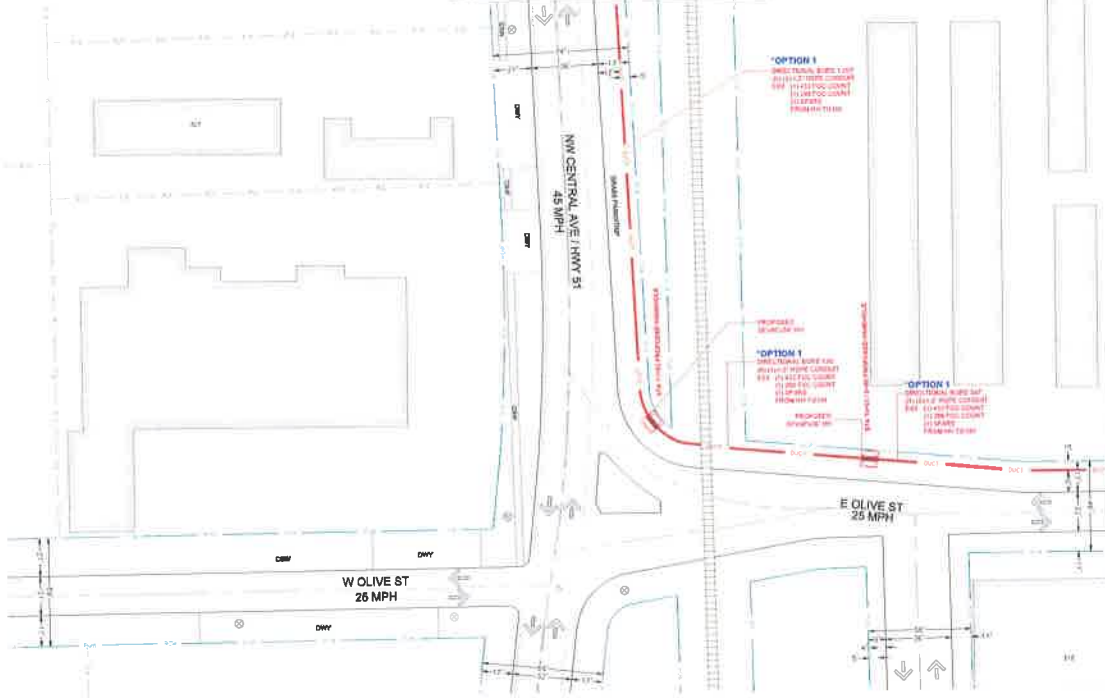
KEY MAP



SCALE	SHEET NUMBER
1:50	005
PLOT DATE	8/15/2022
FILE NAME	OPTION1

[illegible]

SEE SHEET 09 TO MATCH SURVEY STA. 19+88



- INSTALLATION NOTES:**
1. MAINTAIN A MIN. 48" DEPTH
 2. PLACE SADDON (X-1.5") HDPE DUCTS.
 3. RESTORE ALL SURFACES TO ORIGINAL OR BETTER CONDITION.
 4. MINIMUM 4' HORIZONTAL CLEARANCE & 2' VERTICAL CLEARANCE FROM ALL CITY UTILITIES WHICH INCLUDE WATER & SEWER.
 5. IF SIDEWALK IS DAMAGED, SAW CUT, REMOVE & REPLACE SIDEWALK.
 6. CONTRACTOR SHALL PLACE LINE UNDER ALL UTILITIES BEING CROSSED.

NOTE:
RIGHT-OF-WAY ARE DEPICTED BASED ON FIELD OBSERVATION AND THE LATEST COUNTY RECORDS AVAILABLE IF FURTHER ACCURACY IS REQUIRED LAND SURVEYS WILL BE NECESSARY

CAUTION:
FOR THE EXISTING UTILITIES IN THE AREA CONTRACTOR TO CONTACT LOUISIANA ONE CALL TO LOCATE ALL EXISTING UTILITIES PRIOR TO CONSTRUCTION.

AFTER EXISTING FACILITIES ARE LOCATED, POTHOLE EACH UTILITY CONFLICT TO CONFIRM EXACT LOCATION AND DEPTH OF THE UTILITY.

Louisiana 811
(225) 275-3700

*OPTION 1

MATERIAL SUMMARY		
ITEM NO.	DESCRIPTION	QTY
BM01 (20'x30'x40')	20' traffic rated handhole (55'x55'x55')	2 EA
BM02 (20'x30'x40')	Hand 20' x 30' fiber cable placed in conduit	400 FT
BM03 (20'x30'x40')	20' x 30' fiber loop placed in handhole	200 FT
BM04 (20'x30'x40')	Hand 40' x 30' fiber cable placed in conduit	400 FT
BM05 (20'x30'x40')	40' x 30' fiber loop placed in handhole	200 FT
BM06 (20'x30'x40')	Directional Drilled Conduit	400 FT
BM07	Ground Rod (50'x50')	2 EA
BM08	Fiber Marker w/ret. Station	2 EA



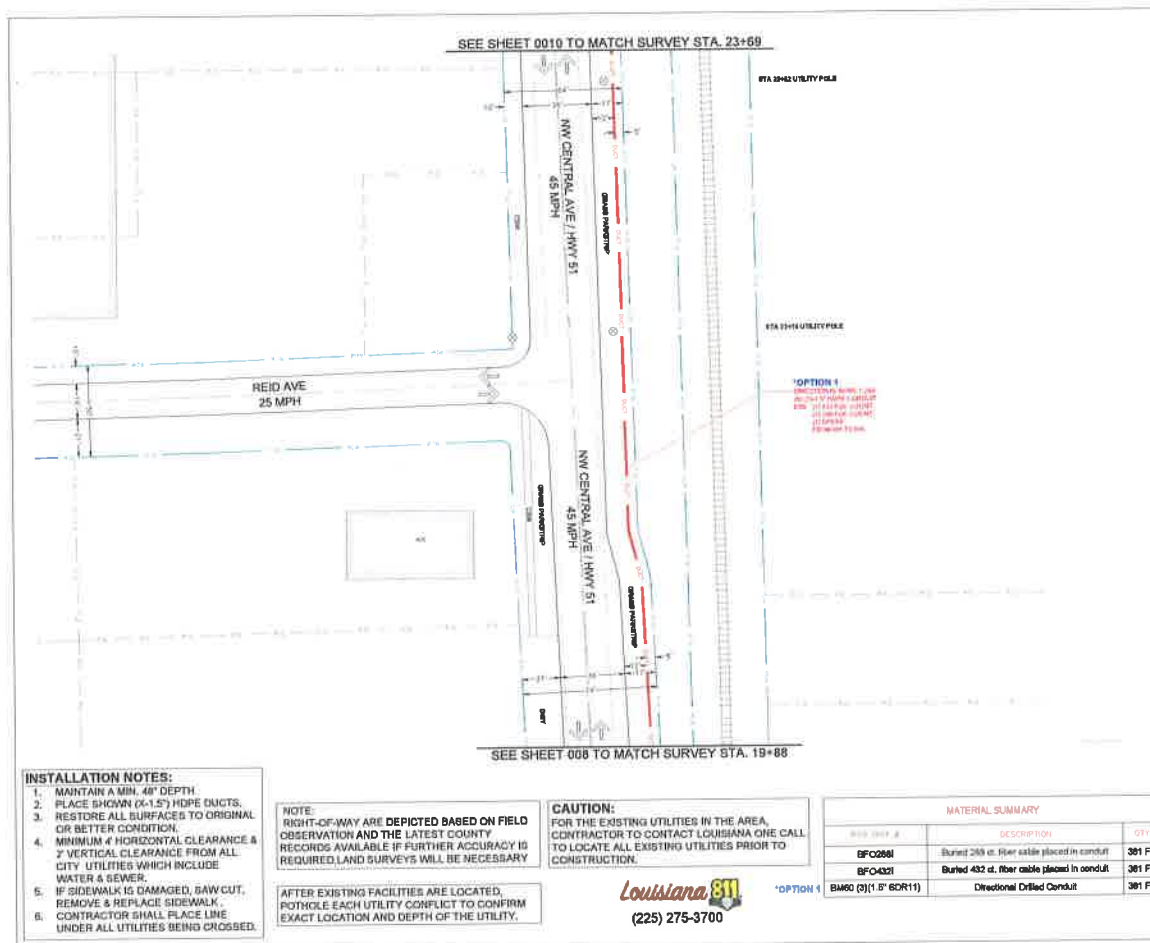
LEGEND

1. Road	2. Utility	3. Easement	4. Right of Way	5. Lot Lines
6. Fence	7. Boundary	8. Survey	9. Easement	10. Right of Way
11. Boundary	12. Survey	13. Easement	14. Right of Way	15. Lot Lines
16. Boundary	17. Survey	18. Easement	19. Right of Way	20. Lot Lines
21. Boundary	22. Survey	23. Easement	24. Right of Way	25. Lot Lines
26. Boundary	27. Survey	28. Easement	29. Right of Way	30. Lot Lines
31. Boundary	32. Survey	33. Easement	34. Right of Way	35. Lot Lines
36. Boundary	37. Survey	38. Easement	39. Right of Way	40. Lot Lines
41. Boundary	42. Survey	43. Easement	44. Right of Way	45. Lot Lines
46. Boundary	47. Survey	48. Easement	49. Right of Way	50. Lot Lines

KEY MAP



SCALE	SHEET NUMBER
1:50	008
PLOT DATE	8/15/2022
FILE NAME	OPTION1



Tungipahou
Louisiana ONE CALL

LEGEND

1. 12" UTILITY POLE
2. 12" UTILITY PIPE
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98. 12" UTILITY PIPE
99. 12" UTILITY PIPE
100. 12" UTILITY PIPE

KEY MAP

SCALE 1:50

SHEET NUMBER 009

PLOT DATE 8/15/2022

FILE NAME OPTION1



LEGEND

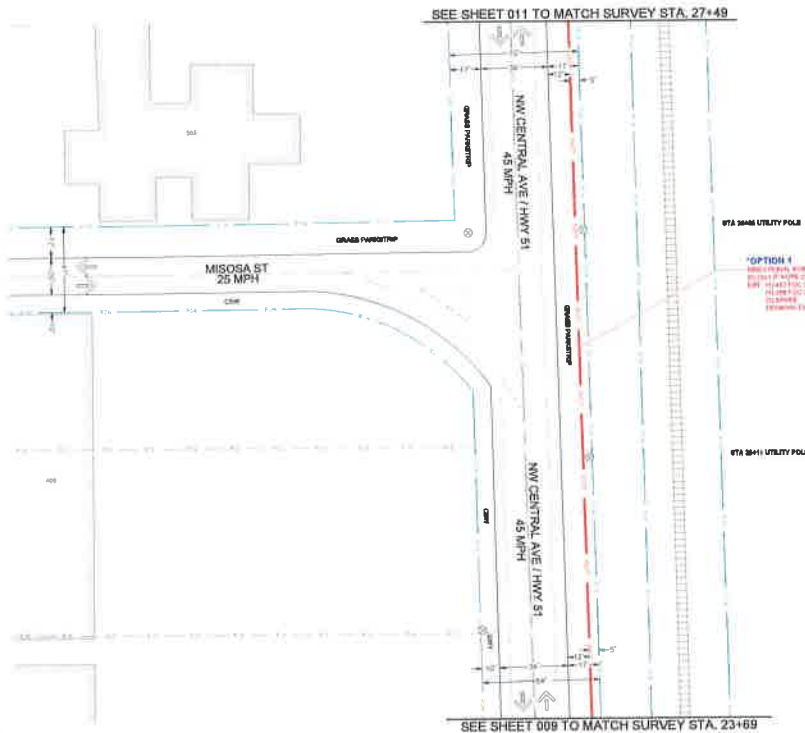
1	Proposed Right of Way	1	Existing Right of Way
2	Proposed Roadway	2	Existing Roadway
3	Proposed Sidewalk	3	Existing Sidewalk
4	Proposed Utility Pole	4	Existing Utility Pole
5	Proposed Utility Pole	5	Existing Utility Pole
6	Proposed Utility Pole	6	Existing Utility Pole
7	Proposed Utility Pole	7	Existing Utility Pole
8	Proposed Utility Pole	8	Existing Utility Pole
9	Proposed Utility Pole	9	Existing Utility Pole
10	Proposed Utility Pole	10	Existing Utility Pole
11	Proposed Utility Pole	11	Existing Utility Pole
12	Proposed Utility Pole	12	Existing Utility Pole
13	Proposed Utility Pole	13	Existing Utility Pole
14	Proposed Utility Pole	14	Existing Utility Pole
15	Proposed Utility Pole	15	Existing Utility Pole
16	Proposed Utility Pole	16	Existing Utility Pole
17	Proposed Utility Pole	17	Existing Utility Pole
18	Proposed Utility Pole	18	Existing Utility Pole
19	Proposed Utility Pole	19	Existing Utility Pole
20	Proposed Utility Pole	20	Existing Utility Pole

KEY MAP



SCALE	SHEET NUMBER
1:50	010
PLOT DATE	8/15/2022
FILE NAME	OPTION1

SEE SHEET 011 TO MATCH SURVEY STA. 27+49



SEE SHEET 009 TO MATCH SURVEY STA. 23+69

INSTALLATION NOTES:

1. MAINTAIN A MIN. 48" DEPTH
2. PLACE SHOWN (x-1.5) HDPE DUCTS.
3. RESTORE ALL SURFACES TO ORIGINAL OR BETTER CONDITION.
4. MINIMUM 4' HORIZONTAL CLEARANCE & 2' VERTICAL CLEARANCE FROM ALL CITY UTILITIES WHICH INCLUDE WATER & SEWER.
5. IF SIDEWALK IS DAMAGED, SAW CUT, REMOVE & REPLACE SIDEWALK.
6. CONTRACTOR SHALL PLACE LINE UNDER ALL UTILITIES BEING CROSSED.

NOTE:
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CAUTION:
FOR THE EXISTING UTILITIES IN THE AREA, CONTRACTOR TO CONTACT LOUISIANA ONE CALL TO LOCATE ALL EXISTING UTILITIES PRIOR TO CONSTRUCTION.

AFTER EXISTING FACILITIES ARE LOCATED, POTHOLE EACH UTILITY CONFLICT TO CONFIRM EXACT LOCATION AND DEPTH OF THE UTILITY.

Louisiana 811
(225) 275-3700

OPTION 1

MATERIAL SUMMARY

RUS Unit #	DESCRIPTION	QTY
BFO-2881	Buried 288 cl. fiber cable placed in conduit	300 FT.
BFO-4321	Buried 432 cl. fiber cable placed in conduit	300 FT.
BOM-02 (1)(1.5" RDR11)	Directional Drilled Conduit	300 FT.



LEGEND

1	Proposed	2	Proposed
3	Proposed	4	Proposed
5	Proposed	6	Proposed
7	Proposed	8	Proposed
9	Proposed	10	Proposed
11	Proposed	12	Proposed
13	Proposed	14	Proposed
15	Proposed	16	Proposed
17	Proposed	18	Proposed
19	Proposed	20	Proposed
21	Proposed	22	Proposed
23	Proposed	24	Proposed
25	Proposed	26	Proposed
27	Proposed	28	Proposed
29	Proposed	30	Proposed
31	Proposed	32	Proposed
33	Proposed	34	Proposed
35	Proposed	36	Proposed
37	Proposed	38	Proposed
39	Proposed	40	Proposed
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97	Proposed	98	Proposed
99	Proposed	100	Proposed

KEY MAP



SCALE SHEET NUMBER

1:50

PLOT DATE

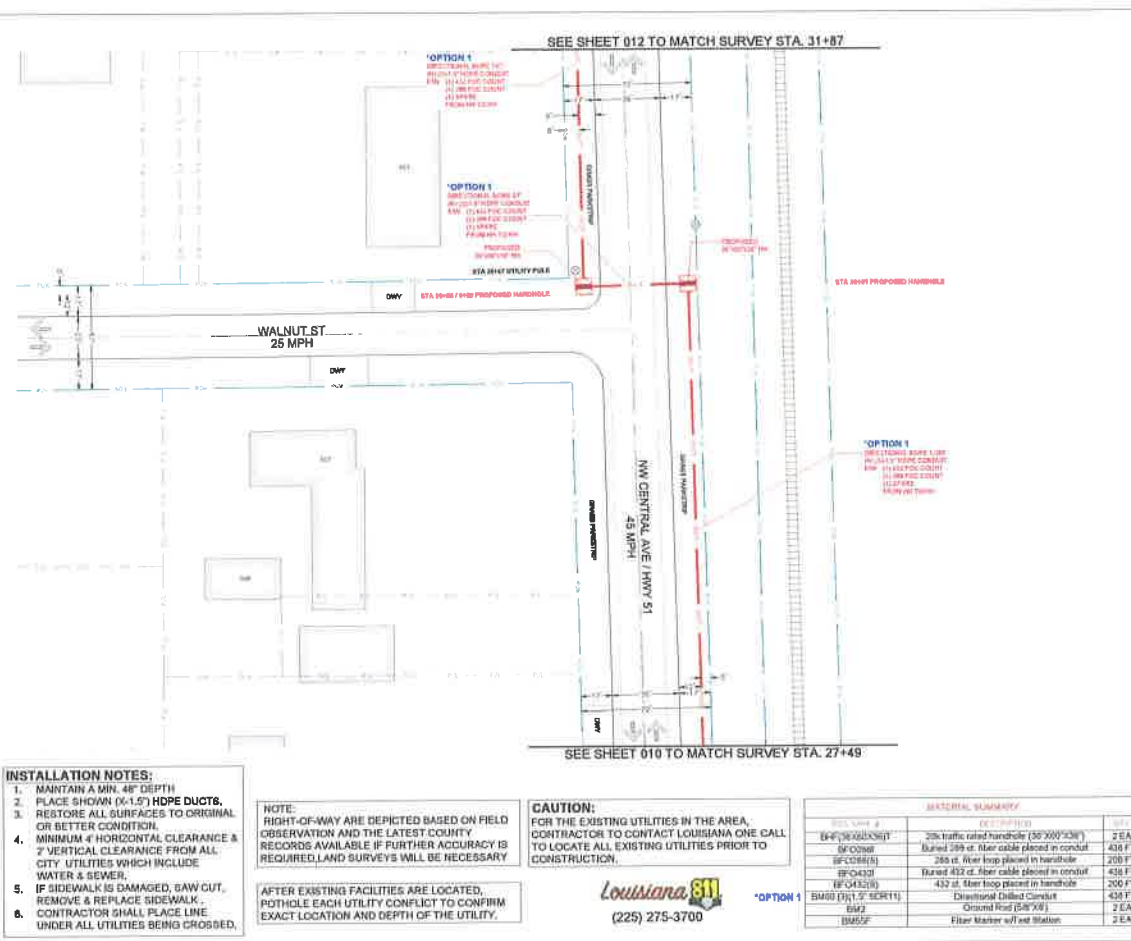
8/15/2022

FILE NAME

OPTION1

011

OPTION1



Tangipahoa Parish Government
Request for Sealed Bid #TAP- 2022-FON-0002
Middle Mile Fiber Optic Broadband Network
West Parish Expansion
OSP Construction Labor & Materials

Alternate Bid – Option 2 Drawings

The set of drawings associated with the Alternate Bid are listed on the following pages with references to Option 2. This set of drawings is representative of the final set of drawings that will be provided to the winning Bidder. The Alternate Bid – Option 2 Drawings depict the primary design which calls for the placement of 4 X 1.5" HDPE SDR11 ducts. The first duct will need to have a 432-ct fiber optic cable installed in it. The second duct will need to have a 288-ct fiber optic cable installed in it. And the third and fourth ducts will need to be vacant. Traffic Rate Hand Holes, fiber marker & locate posts, and large splice cases will also need to be installed where indicated along the route. All splice & test and all bonding and grounding must be performed to USDA RUS, TIA/EIA, and NESC standards.

GENERAL NOTES:

- CONSTRUCTION NOTES:**

1. ALL CONDUIT WILL BE 1 1/2" HDPE SDR11, UNLESS SPECIFIED OTHERWISE.
2. SHORING MAY BE REQUIRED AND SHALL COMPLY TO C.S.H.A. STANDARDS.
3. ALL BURIED CONDUIT/CABLE WILL BE PLACED AT 36" MINIMUM COVER UNLESS SPECIFIED OTHERWISE ON THE CONSTRUCTION DRAWINGS.
4. CONTRACTOR SHALL NOTIFY ALL APPROPRIATE AGENCIES, 48 HOURS BEFORE STARTING WORK ON THIS PROJECT.



The image displays a variety of business forms and documents, likely from a legal or accounting firm. The forms are arranged in a grid-like fashion, showing different layouts and fields for data entry. The forms include:

- Form 1041** (top left): A form with a header section and several numbered items (1-4) with corresponding descriptions.
- Form 1042** (top right): A form with a header section and several numbered items (1-4) with corresponding descriptions.
- Form 1043** (middle left): A form with a header section and several numbered items (1-4) with corresponding descriptions.
- Form 1044** (middle right): A form with a header section and several numbered items (1-4) with corresponding descriptions.
- Form 1045** (bottom left): A form with a header section and several numbered items (1-4) with corresponding descriptions.
- Form 1046** (bottom right): A form with a header section and several numbered items (1-4) with corresponding descriptions.

The forms are arranged in a grid-like fashion, showing different layouts and fields for data entry. The forms include various sections for data entry, such as "Form 1041", "Form 1042", "Form 1043", "Form 1044", "Form 1045", and "Form 1046".



SCALE	SHEET NUMBER
NTS	002
PLOT DATE	
8/15/2022	
FILE NAME	
OPTION2	

PROJECT MATERIAL SUMMARY

MATERIAL SUMMARY		
RUS Unit #	DESCRIPTION	QTY
BHF(36X60X36)T	20k traffic rated handhole (36"X60"X36")	96 EA.
BHF(24X36X24)T	20k traffic rated handhole (24"X36"X24")	-
BFO288(S)	288 ct. fiber loop placed in handhole	9,600 FT.
BFO288I	Buried 288 ct. fiber cable placed in conduit	104,410 FT.
BFO432(S)	432 ct. fiber loop placed in handhole	9,600 FT.
BFO432I	Buried 432 ct. fiber cable placed in conduit	104,410 FT.
BM60 (2)(1.25" SDR11)	Directional Drilled Conduit	-
BM60 (4)(1.5" SDR11)	Directional Drilled Conduit	104,410 FT.
BM2	Ground Rod (5/8"X8')	96 EA.
BM55F	Fiber Marker w/Test Station	96 EA.

[illegible]

SYMBOLS KEY



NOCKOUT

Vacant



Field Splitter 1x4



Field Splitter 1x3



Field Splitter 1x2



Split Point



BOLT PED



1/2 KATE REC



PRIDE PED



EMPTY PED



CHARLES LARGE PED



CHARLES SMALL PED



BOSS PED



BOSS PED



CRYSTALLINE WATER BG



MILD FANFOLD



LWA METER



TOWER



FLOWER POT



WATERPOLE



SEWER COVER



WIRELESS TOWER



SPliced HANDHOLE



HOT VISIBLE HANDHOLE



WATER METER



FIBER HANDOVER



CORTON SPLICE



HTS HANDHOLE



STREET LIGHTS/TRAFFIC



FIBER HANDOVER



BUCKLEUP



ACTIVE CABINET



TREES



FIBER HANDOVER



Aerial Access Point



SPLITTER CABINET



FIRE HYDRANT



GATE



FIBER HUT



POLE



CRESTING ANCHOR



GULL VENT



CENTRAL OFFICE



HTS CO



CRESTING BRIDGE/PAV. ANCHOR



CASTLE GUARD



GROUND



GROUND



ANCHOR



DELETE



BORE CONDUIT



BORE CONDUIT



BORE CONDUIT



BORE CONDUIT

COPPER 12	CO12
COPPER 15	CO15
COPPER 20	CO20
STORM DRAIN	SD
WATER	W
FIBER OPTIC OVERHEAD	FOH
FIBER OPTIC UNDER	FOU
LEAD CABLE	LC
TELEPHONE IN DUCT	TD
BURIED TELEPHONE CABLE	BTD
EXISTING	EX
PROPERTY LINE	PL
PUBLIC UTILITY EASEMENT	PUE
STRAIGHT ONLY	SO
SEWER	S
SEWER AREA BOUNDARY	SAB
MATCH LINE	ML
GAS LINE	GL
EDGE OF PAVEMENT	EOP
ELECTRIC	E
EASEMENT	EA
DUCT	D
CITY LIMITS	CL
BORDER	B
ATT DUCT	ADD
INNERDUCT 1.25"	ID1.25
INNERDUCT 2"	ID2
R/R TRACKS	RT
FENCE	F
ROADS	R
ENGINEERING NOTES	EN
CENTER LINES	CL
PHANTOM	P
AERIAL DROP	AD
BURIED DROP	BAD
BF012	BF012
BF024	BF024
BF032	BF032
BF036	BF036
BF048	BF048
BF080	BF080
BF072	BF072
BF084	BF084
BF098	BF098
BF0120	BF0120
BF0144	BF0144
BF0168	BF0168
BF0182	BF0182
BF0216	BF0216
BF0288	BF0288
BF0340	BF0340
BF0384	BF0384
BF0432	BF0432
CO12	CO12
CO15	CO15
CO24	CO24
CO36	CO36
CO48	CO48
CO60	CO60
CO72	CO72
CO84	CO84
CO96	CO96
CO128	CO128
CO140	CO140
CO144	CO144
CO168	CO168
CO182	CO182
CO216	CO216
CO288	CO288
CO432	CO432

LEGEND

Field Splitter 1x4	Field Splitter 1x3	Field Splitter 1x2	Split Point
BOLT PED	1/2 KATE REC	PRIDE PED	EMPTY PED
CHARLES LARGE PED	CHARLES SMALL PED	BOSS PED	BOSS PED
CRYSTALLINE WATER BG	MILD FANFOLD	LWA METER	TOWER
FLOWER POT	WATERPOLE	SEWER COVER	WIRELESS TOWER
SPliced HANDHOLE	HOT VISIBLE HANDHOLE	WATER METER	FIBER HANDOVER
CORTON SPLICE	HTS HANDHOLE	STREET LIGHTS/TRAFFIC	FIBER HANDOVER
BUCKLEUP	ACTIVE CABINET	TREES	FIBER HANDOVER
SWITCHBOX	SPLITTER CABINET	FIRE HYDRANT	WIND TURBINE
Aerial Access Point	POLE	CRESTING ANCHOR	GATE
FIBER HUT	POLE RISER	CRESTING BRIDGE/PAV. ANCHOR	GULL VENT
CENTRAL OFFICE	HTS CO	CRESTING DRAINWALK ANCHOR	CASTLE GUARD
	GROUND	ANCHOR	BOY DRAVE T
		DELETE	
		BORE CONDUIT	

KEY MAP

SCALE: NTS

PLOT DATE: 8/15/2022

FILE NAME: OPTION2



LEGEND

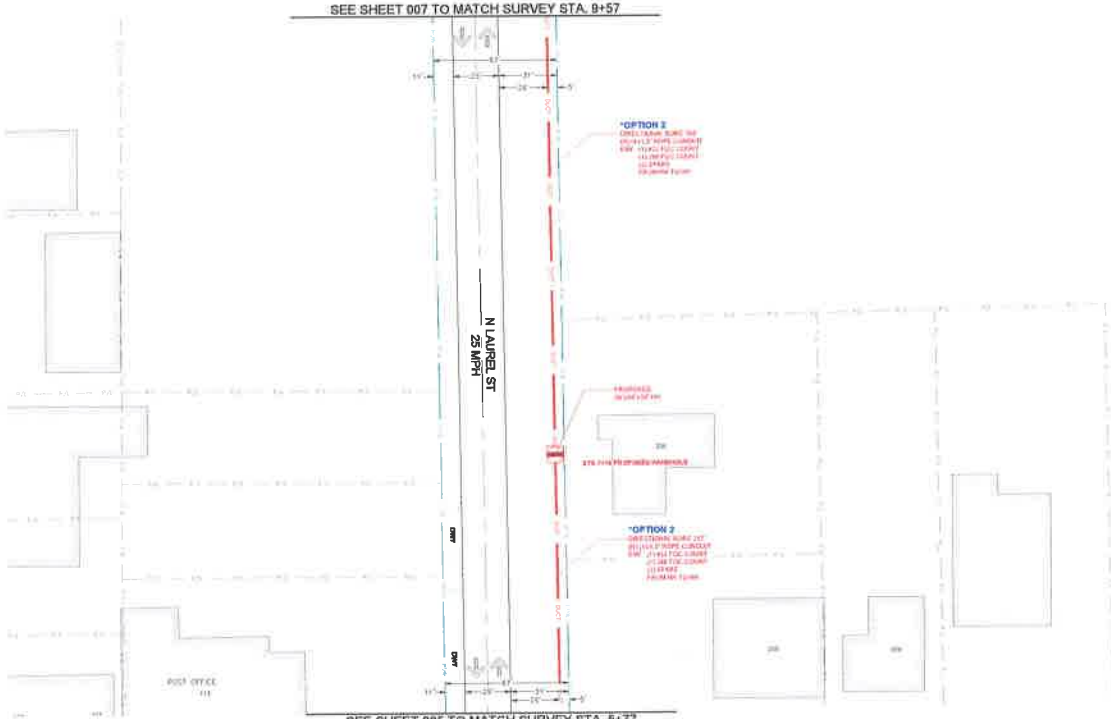
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9	Proposed	10	Proposed
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13	Proposed	14	Proposed
15	Proposed	16	Proposed
17	Proposed	18	Proposed
19	Proposed	20	Proposed
21	Proposed	22	Proposed
23	Proposed	24	Proposed
25	Proposed	26	Proposed
27	Proposed	28	Proposed
29	Proposed	30	Proposed
31	Proposed	32	Proposed
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97	Proposed	98	Proposed
99	Proposed	100	Proposed

KEY MAP



SCALE	SHEET NUMBER
1:50	006
PLOT DATE	8/15/2022
FILE NAME	OPTION2

SEE SHEET 007 TO MATCH SURVEY STA. 9+57



SEE SHEET 005 TO MATCH SURVEY STA. 5+77

- INSTALLATION NOTES:**
1. MAINTAIN A MIN. 48" DEPTH
 2. PLACE SHOWN (X-1.5") HDPE DUCTS
 3. RESTORE ALL SURFACES TO ORIGINAL OR BETTER CONDITION.
 4. MINIMUM 4' HORIZONTAL CLEARANCE & 2' VERTICAL CLEARANCE FROM ALL CITY UTILITIES WHICH INCLUDE WATER & SEWER.
 5. IF SIDEWALK IS DAMAGED, SAW CUT, REMOVE & REPLACE SIDEWALK.
 6. CONTRACTOR SHALL PLACE LINE UNDER ALL UTILITIES BEING CROSSED.

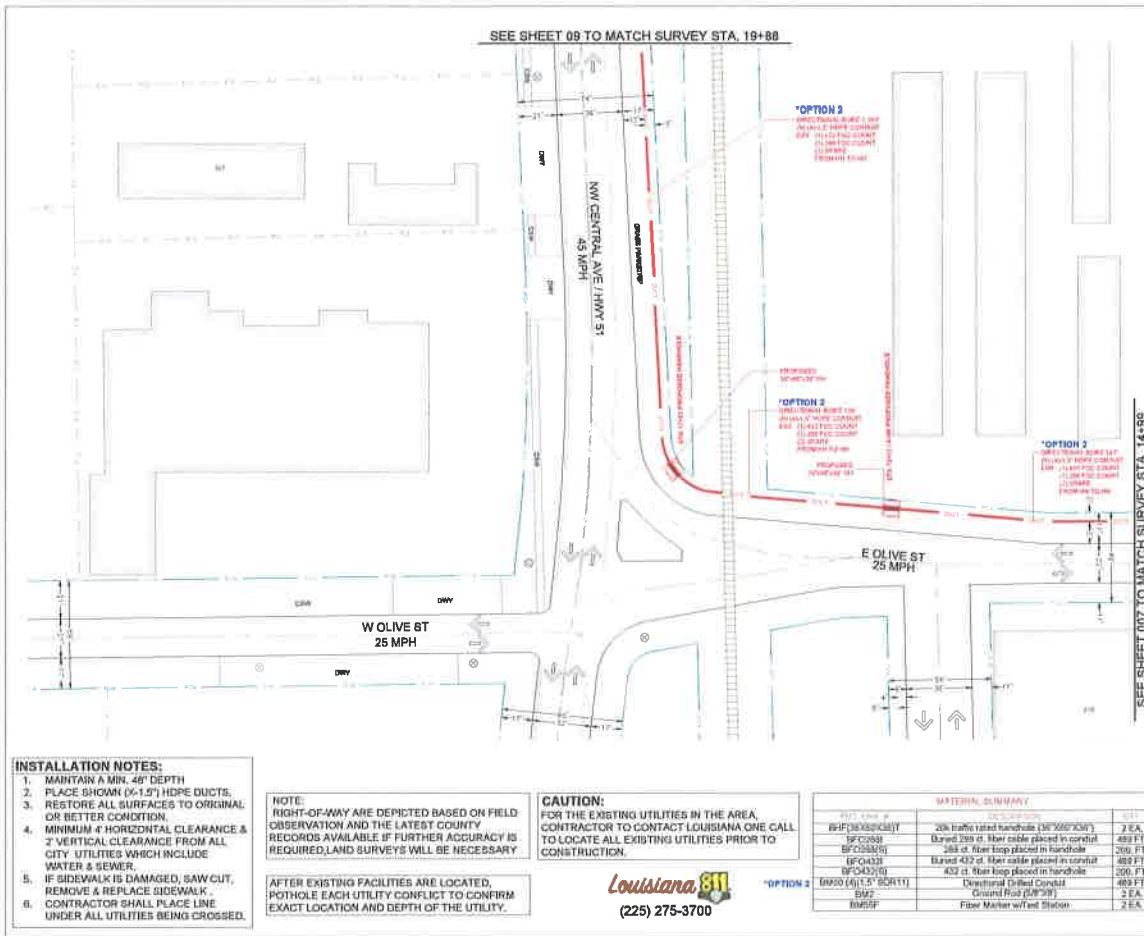
NOTE:
RIGHT-OF-WAY ARE DEPICTED BASED ON FIELD OBSERVATION AND THE LATEST COUNTY RECORDS AVAILABLE IF FURTHER ACCURACY IS REQUIRED, LAND SURVEYS WILL BE NECESSARY.

AFTER EXISTING FACILITIES ARE LOCATED, POTHOLE EACH UTILITY CONFLICT TO CONFIRM EXACT LOCATION AND DEPTH OF THE UTILITY.

CAUTION:
FOR THE EXISTING UTILITIES IN THE AREA, CONTRACTOR TO CONTACT LOUISIANA ONE CALL TO LOCATE ALL EXISTING UTILITIES PRIOR TO CONSTRUCTION.

Louisiana 811
(225) 275-3700

ITEM	DESCRIPTION	QTY
1	20' x 12' x 12' concrete manhole	1 EA.
2	20' x 12' x 12' concrete manhole	1 EA.
3	20' x 12' x 12' concrete manhole	1 EA.
4	20' x 12' x 12' concrete manhole	1 EA.
5	20' x 12' x 12' concrete manhole	1 EA.
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98	20' x 12' x 12' concrete manhole	1 EA.
99	20' x 12' x 12' concrete manhole	1 EA.
100	20' x 12' x 12' concrete manhole	1 EA.



- INSTALLATION NOTES:**
1. MAINTAIN A MIN. 48" DEPTH
 2. PLACE SHOAK (6x1.5") HDPE DUCTS, RESTORE ALL SURFACES TO ORIGINAL OR BETTER CONDITION.
 3. RESTORE ALL SURFACES TO ORIGINAL OR BETTER CONDITION.
 4. MINIMUM 4' HORIZONTAL CLEARANCE & 3' VERTICAL CLEARANCE FROM ALL CITY UTILITIES WHICH INCLUDE WATER & SEWER.
 5. IF SIDEWALK IS DAMAGED, SAW CUT, REMOVE & REPLACE SIDEWALK.
 6. CONTRACTOR SHALL PLACE LINE UNDER ALL UTILITIES BEING CROSSED.

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AFTER EXISTING FACILITIES ARE LOCATED, POTHOLE EACH UTILITY CONFLICT TO CONFIRM EXACT LOCATION AND DEPTH OF THE UTILITY.

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(225) 275-3700

OPTION 2

MATERIAL SUMMARY			
ITEM	DESCRIPTION	QUANTITY	UNIT
1	20% Traffic Rated Handhole (36" x 36" x 36")	2 EA	
2	20% Traffic Rated Handhole (36" x 36" x 36")	2 EA	
3	20% Traffic Rated Handhole (36" x 36" x 36")	2 EA	
4	20% Traffic Rated Handhole (36" x 36" x 36")	2 EA	
5	20% Traffic Rated Handhole (36" x 36" x 36")	2 EA	
6	20% Traffic Rated Handhole (36" x 36" x 36")	2 EA	
7	20% Traffic Rated Handhole (36" x 36" x 36")	2 EA	
8	20% Traffic Rated Handhole (36" x 36" x 36")	2 EA	
9	20% Traffic Rated Handhole (36" x 36" x 36")	2 EA	
10	20% Traffic Rated Handhole (36" x 36" x 36")	2 EA	

LEGEND

- 1. 1" DIA. WATER
- 2. 1" DIA. SEWER
- 3. 1" DIA. GAS
- 4. 1" DIA. FIBER
- 5. 1" DIA. CABLE
- 6. 1" DIA. DUCT
- 7. 1" DIA. TRENCH
- 8. 1" DIA. POTHOLE
- 9. 1" DIA. CURB
- 10. 1" DIA. SIDEWALK
- 11. 1" DIA. DRIVEWAY
- 12. 1" DIA. LOT LINE
- 13. 1" DIA. RIGHT-OF-WAY
- 14. 1" DIA. FENCE
- 15. 1" DIA. ACROSS-ROADS
- 16. 1" DIA. CENTER LINE
- 17. 1" DIA. BUILDING FOOTPRINT
- 18. 1" DIA. AERIAL
- 19. 1" DIA. 0' BATH
- 20. 1" DIA. 1' BATH
- 21. 1" DIA. 2' BATH
- 22. 1" DIA. 3' BATH
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- 116. 1" DIA. 97' BATH
- 117. 1" DIA. 98' BATH
- 118. 1" DIA. 99' BATH
- 119. 1" DIA. 100' BATH

KEY MAP

SCALE 1:50

SHEET NUMBER 008

PLOT DATE 8/15/2022

FILE NAME OPTION2



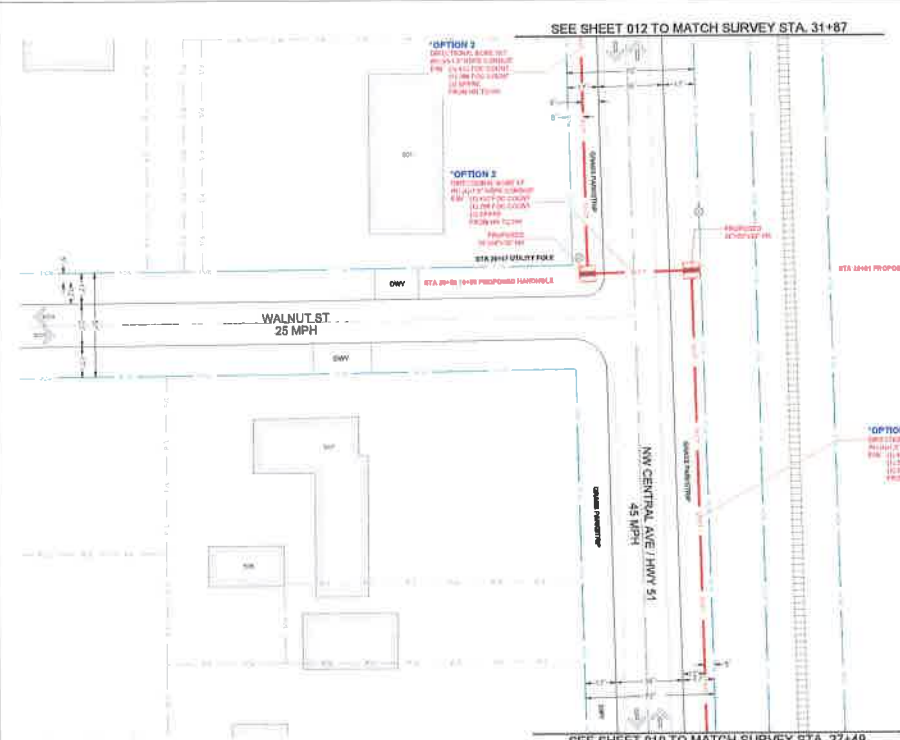
LEGEND

1	Proposed	1	Proposed
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KEY MAP



SCALE	SHEET NUMBER
1:50	011
PLOT DATE	8/15/2022
FILE NAME	OPTION2



- INSTALLATION NOTES:**
1. MAINTAIN A MIN. 48" DEPTH
 2. PLACE SHOWN (6"x18") HDPE DUCTS.
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MATERIAL SUMMARY		
ITEM	DESCRIPTION	QUANTITY
BFC1000(30FT)	20ft traffic rated handhole (36"x30"x30")	2 EA.
BFC0250(5)	Buried 250 of fiber cable placed in conduit	438 FT.
BFC0250(5)	200 of fiber loop placed in handhole	200 FT.
BFC0432(1)	Buried 432 of fiber cable placed in conduit	438 FT.
BFC0432(1)	432 of fiber loop placed in handhole	200 FT.
BUSD (4) 1/2" SDR11	Directional Drilled Conduit	438 FT.
BM3	Ground Rod (5/8"x9')	2 EA.
BM50F	Fiber Marker w/last Station	2 EA.

Tangipahoa Parish Government
Request for Sealed Bid #TAP- 2022-FON-0002
Middle Mile Fiber Optic Broadband Network
West Parish Expansion
OSP Construction Labor & Materials

Attachment G – Example Contract Documents

Upon determination of the most responsible and responsive bidder, the Owner will ask the Bidder to enter into a Contract for the implementation of the Project. The contract forms attached are representative of the contract forms that will be required.

The following example Contract Document Templates are included in this section:

- C510 - Notice of Award
- C520 - Agreement Between Owner and Contractor for Construction Contract (Stipulated Price)
- C523 - Construction Subcontract
- C550 - Notice to Proceed
- C610 - Performance Bond Form
- C612 - Warranty Bond Form
- C615 - Payment Bond Form
- C625 - Certificate of Substantial Completion
- C700 - General Conditions
- C800 - Supplementary Conditions

NOTICE 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

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

This Agreement is by and between **[name of contracting entity]** ("Owner") and **[name of contracting entity]** ("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 or indicated in the Contract Documents. The Work is generally described as follows: **[Brief description of Work]**

ARTICLE 2—THE PROJECT

2.01 The Project, of which the Work under the Contract Documents is a part, is generally described as follows: **[Brief description of Project]**

ARTICLE 3—ENGINEER

Guidance Notes—If an entity or individual other than the design engineer will serve as Owner's representative during construction, then make appropriate revisions and additions to this Agreement, the General Conditions, the Supplementary Conditions, and other Contract Documents regarding the construction-phase roles and duties of the design engineer and such other entity or individual. Such revisions may include using a designation other than "Engineer" for the representative named in Paragraph 3.01 below, and expressly naming the design firm (for example, "ABC Engineering, Inc.") instead of referring to "Engineer" in Paragraph 3.02.

3.01 The Owner has retained **[insert name of engineering firm]** ("Engineer") to act as Owner's representative, assume all duties and responsibilities of Engineer, and have the rights and authority assigned to Engineer in the Contract.

3.02 The part of the Project that pertains to the Work has been designed by **[insert "Engineer" if an entity has been identified as such in Paragraph 3.01, and that same entity prepared the design; or indicate by name the entity other than Engineer that prepared the design]**.

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.

Notes to User

Select one of the two Contract Times paragraphs (either Paragraph 4.02 or Paragraph 4.03), and delete the other. The first option, Paragraph 4.02, uses dates for the time of completion; Paragraph 4.03 uses

number of days. (References in these Notes will be to paragraph numbers as published—the final numbering will change as paragraphs, such as either 4.02 or 4.03, are deleted during the finalization process.)

1. Paragraph 4.04, which establishes binding intermediate Milestones, may be used with either Paragraph 4.02 or Paragraph 4.03; or Paragraph 4.04 may be deleted if the Contract does not impose Milestone requirements.
2. In the common case in which Owner elects to predetermine fixed dates or a fixed number of days for completion of the Work, such dates or number of days should be inserted in the selected Contract Times paragraph (either Paragraph 4.02 or Paragraph 4.03) below prior to the bidding or other contractor selection process. If the time for completion will be determined through negotiation or a bidding process that allows bidders to specify the time for completion (for example, a price-plus-time—A + B—award process), then leave the blanks below open until the Contract is finalized (typically after the Successful Bidder has been determined and its proposed completion time accepted).
3. If the Work is divided into individual sections that have differing completion dates (or number of days for completion), then the selected Contract Times paragraph (either Paragraph 4.02 or Paragraph 4.03) below should be expanded to specify the completion dates (or number of days) for each section. Such completion dates may be categorized as Milestones under Paragraph 4.04.

4.02 *Contract Times: Dates*

- A. The Work will be substantially complete on or before **[date]**, and completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions on or before **[date]**.

4.03 *Contract Times: Days*

- A. The Work will be substantially complete within **[number]** days after the date when the Contract Times commence to run as provided 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 within **[number]** days after the date when the Contract Times commence to run.

Notes to User

1. "Milestone" in Paragraph 4.04 is a defined term.
2. For each Milestone, indicate the event that must be attained, such as "Substantial Completion of Lift Station 1" and the date or number of days from commencement by which the event must be attained.
3. In Paragraph 4.04 use a specific date for attainment of the Milestone if Paragraph 4.02 above (Contract Times: Date) has been selected; use the number of days from commencement of Contract Times for the Milestone if Paragraph 4.03 (Contract Times: Days) has been selected.
4. If the Contract does not include Milestones, delete Paragraph 4.04.

4.04 *Milestones*

- A. Parts of the Work must be substantially completed on or before the following Milestone(s):

1. Milestone 1 **[event & date/days]**

2. Milestone 2 [event & date/days]
3. Milestone 3 [event & date/days]

Guidance Notes—Liquidated Damages

1. Liquidated damages are commonly used to address unexcused late completion of the Work. The topic is discussed in the Commentary. Delete Paragraph 4.05, Liquidated Damages, if such damages will not be established in the specific Contract.
2. At Substantial Completion, the Owner is able to use the Work for its intended purpose, by definition. See General Conditions, Paragraph 1.01.A. Achieving Substantial Completion is typically a critical deadline, and the associated damages for missing this deadline are typically significant. Paragraph 4.05.A.1 is the location for stating a liquidated amount for such damages, usually on a per-day basis.
3. The subsequent failure to complete the punch list tasks and bring the Work to a complete close by the final completion date may also result in some degree of damages to Owner—though typically these damages are significantly less than the daily damages for not achieving Substantial Completion on time. Some users may choose to establish liquidated damages only for the failure to achieve Substantial Completion. If that is the case, delete Paragraph 4.05.A.2 below.
4. If failure to achieve a Milestone on time is of such consequence that the assessment of liquidated damages is warranted for the failure to reach the Milestone on time, then retain and complete Paragraph 4.05.A.3; if not, delete it. Add additional similar paragraphs for any additional Milestones subject to a liquidated damages assessment. Liquidated damages for Milestones might, in some cases, be additive to liquidated damages for failing to timely attain Substantial Completion; if so Paragraphs 4.05.A.3 and 4.05.A.4 should be revised accordingly.

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 \$[number] 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 \$[number] for each day that expires after such time until the Work is completed and ready for final payment.
 3. *Milestones*: Contractor shall pay Owner \$[number] for each day that expires after the time (as duly adjusted pursuant to the Contract) specified above for achievement of Milestone 1, until Milestone 1 is achieved, or until the time specified for Substantial

Completion is reached, at which time the rate indicated in Paragraph 4.05.A.1 will apply, rather than the Milestone rate.

4. Liquidated damages for failing to timely attain Milestones, 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.

Notes to Users—If early completion would be a benefit to Owner, then consider retaining and completing the bonus clause below as Paragraph 4.05.C. The daily bonus for early completion need not be exactly the same as the daily post-Substantial Completion liquidated damages amounts, but presumably the two amounts will be reasonably compatible. If no bonus will be offered, then delete 4.05.C.

- C. *Bonus:* Contractor and Owner further recognize the Owner will realize financial and other benefits if the Work is completed prior to the time specified for Substantial Completion. Accordingly, Owner and Contractor agree that as a bonus for early completion, Owner shall pay Contractor \$[number] for each day prior to the time specified above for Substantial Completion (as duly adjusted pursuant to the Contract) that the Work is substantially complete. The maximum value of the bonus will be limited to \$[number].

Guidance Notes—Special Damages

If liquidated damages are used to address late completion by Contractor, EJCDC recommends developing daily liquidated damages amounts that comprehensively account for the full range of Owner's damages, including but not limited to loss of beneficial use; extended financing expenses; costs of additional engineering, construction observation, inspection, and administrative services; and potential fines or penalties. This comprehensive approach is well established and generally enforceable. If the recommended and conventional path is followed, and a comprehensive daily liquidated damages amount has been established in Paragraph 4.05 above, then delete the clause that follows, Paragraph 4.06, Special Damages, and rely solely on Paragraph 4.05, Liquidated Damages, to cover the full scope of damage done by late Contractor completion.

1. Some Owners prefer to charge a Contractor that has not completed the Work on schedule for Owner's additional hard-dollar costs in specified categories, such as regulatory fines and penalties, or extended engineering, construction observation, inspection, and administrative services; these charges (referred to here as "special damages") are levied on top of the daily liquidated damages amount. Those users that choose the "liquidated damages plus specified actual hard dollar costs" (special damages) approach may use the following Paragraph 4.06, Special Damages, revised as needed to reflect the intended scope of the special damages, together with the liquidated damages provisions in Paragraph 4.05, Liquidated Damages, above. It is very important if this approach is followed to be certain that the liquidated damages amount does not already include or rely in part on the potential for incurring these very same special damages costs.
2. Finally, note that Paragraph 4.06.B below does not refer to fines or penalties imposed by third parties. In the typical case, such fines and penalties are linked to Substantial Completion, and are not applicable to delays in final completion of the Work.

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

Guidance Notes—Contract Price

1. Depending upon the particular Contract's pricing structure, use Paragraph 5.01.A alone (lump sum with no Unit Price Work items); Paragraphs 5.01.A, 5.01.B, and 5.01.C together (lump sum plus Unit Price items); Paragraph 5.01.B alone (Unit Prices for all Work); or Paragraph 5.01.D alone (price based on contents of incorporated Contractor's Bid), and delete those not used and renumber accordingly. If Paragraph 5.01.D is used, Contractor's Bid is attached as an exhibit and listed as a Contract Document in Article 7 below.
2. With respect to Paragraph 5.01.B concerning Unit Prices, if adjustment prices for variations from stipulated Base Bid or other baseline quantities have been agreed to, insert appropriate provisions.
3. Performance Requirements and Damages. In some cases, the construction contract will contain performance requirements that must be met by the equipment, systems, or facilities constructed or furnished by Contractor. Performance provisions most commonly will be located in the Specifications. On some projects the Owner and Contractor may contractually stipulate specific damages for failure to meet the performance requirements. It may be useful to provide a cross-reference to such provisions here in Article 5 of the Agreement (as a new Paragraph 5.02), or in some cases to expressly state the stipulated damages amounts here because of their importance to the pricing of the Contract, which is one of the primary subjects of the Agreement.

In addition to, or as an alternative to imposition of stipulated damages to compensate Owner for not receiving its full contractual performance entitlement, the performance provisions in the Specifications may identify other Owner remedies for Contractor's failure to meet the performance requirements, such as rejection of the items in question; correction remedies; exercise of warranty rights; recovery of actual damages; and acceptance of the underperforming items coupled with a reduction in Contract Price.

Typical damages for underperformance might be for reduced production or treatment, or for the costs of increased electricity or chemical consumption over the life of the equipment. It is important when drafting damages provisions to clarify whether the availability of underperformance damages is

meant to close off other potential remedies that will be owed in the event of specific levels of underperformance.

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 other than Unit Price Work, a lump sum of \$[number].

All specific cash allowances are included in the above price in accordance with Paragraph 13.02 of the General Conditions.

B. For all Unit Price Work, an amount equal to the sum of the extended prices (established for each separately identified item of Unit Price Work by multiplying the unit price times the actual quantity of that item).

Unit Price Work					
Item No.	Description	Unit	Estimated Quantity	Unit Price	Extended Price
				\$	\$
				\$	\$
				\$	\$
				\$	\$
				\$	\$
Total of all Extended Prices for Unit Price Work (subject to final adjustment based on actual quantities)					\$

The extended prices for Unit Price Work set forth as of the Effective Date of the Contract are based on estimated quantities. As provided in Paragraph 13.03 of the General Conditions, estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by Engineer.

C. Total of Lump Sum Amount and Unit Price Work (subject to final Unit Price adjustment) \$[number].

D. 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 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 [ordinal number, such as 5th] 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.

Guidance Notes—Retainage

1. In Paragraph 6.02.A.1.a, the percentage stated should be that percentage to be paid to Contractor. Thus, if retainage is 10%, indicate “90” in Paragraph 6.02.A.1.a.
2. Paragraph 6.02.A.1.a(1) provides that after the Work is 50% complete (based on value of Work completed), Owner will no longer take retainage from progress payments, if performance of the Work has been satisfactory. This practice rewards and incentivizes good work and compliance with the schedule. If Owner is not able or willing to offer this incentive, delete Paragraph 6.02.A.1.a(1).
3. Although Paragraph 6.02.A.1.a(1), if utilized, provides for retainage to be reduced after 50% of the Work is complete, the standard provisions in Paragraph 6.02 do not provide for an early return of retainage—Contractor’s first opportunity to receive retained funds occurs at Substantial Completion (see Paragraph 6.02.B). If a specific project involves partial utilization of a portion of the Work or other special factors, the user may wish to include a supplemental provision that allows for a partial early return of retainage, under specified conditions.
4. As an alternative to retainage, some Owners allow the Contractor to receive 100% of each progress payment, provided that the Contractor has provided an irrevocable letter of credit or similar instrument that allows the Owner access to the Contractor’s funds under prescribed conditions. Any such alternative mechanism requires custom drafting and participation of legal counsel.

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. **[number]** percent of the value of the Work completed (with the balance being retainage).
 - 1) If 50 percent or more of the Work has been completed, as determined by Engineer, and if the character and progress of the Work have been satisfactory to Owner and Engineer, then as long as the character and progress of the Work remain satisfactory to Owner and Engineer, there will be no additional retainage; and
 - b. **[number]** percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).

Notes to Users—Typical values used in Paragraph 6.02.B are 100 percent and 200 percent respectively, subject to Laws and Regulations specific to the Project.

- B. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to **[number]** percent of the Work completed, less such amounts set off by Owner pursuant to Paragraph 15.01.E of the General Conditions, and less **[number]**

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 **[number]** percent per annum.

ARTICLE 7—CONTRACT DOCUMENTS

7.01 Contents

- A. The Contract Documents consist of all of the following:

Notes to Users—If any of the items listed below are not to be included as Contract Documents, remove such item from the list and renumber the remaining items.

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).

Notes to Users—Use either Paragraph 6 or 7, delete the paragraph not used.

6. Drawings (not attached but incorporated by reference) consisting of **[number]** sheets with each sheet bearing the following general title: **[title on Drawings]**.
7. Drawings listed on the attached sheet index.

Notes to Users—In the following paragraph list the numbers and dates of those Addenda that modified the Contract Documents; do not list Addenda that only affected the Bidding Requirements, and therefore should not be Contract Documents. See EJCDC® C-001 Commentary on the 2018 EJCDC Construction Documents (2018).

8. Addenda (numbers **[number]** to **[number]**, inclusive).

Guidance Notes—Exhibits that are Contract Documents

1. In the following paragraph list exhibits (if any) to the Agreement that merit the status of Contract Documents.
 2. As noted in the introduction to this Agreement, in the typical case bidding-related documents such as the Instructions to Bidders and Bid are not included as Contract Documents. Include Contractor's Bid as a Contract Document here only as a matter of necessity, for example if the Bid contains numerous line items and their prices, and rekeying such information would be burdensome and susceptible to error.
 3. List other required attachments (if any), such as documentation submitted by Contractor prior to Notice of Award and documents required by funding or lending agencies.
 4. If Contractor is required in this Contract to accept assignment of a procurement contract, previously entered into by Owner (as "Buyer") with a manufacturer or distributor (as "Seller") for the direct purchase of goods (most commonly equipment) and related special services, include the procurement contract as a Contract Document by listing it as a lettered item under Paragraph 7.01.A.9—"Assigned Procurement Contract between Owner (Buyer) and Seller, dated [date]." The contractual wording governing the assignment of a procurement contract should be located in the Supplementary Conditions; see Supplementary Conditions, Paragraph SC-18.08.B. For additional information on assigning a procurement contract, refer to EJCDC® P-001, Commentary on the EJCDC Procurement Documents.
 5. If a Geotechnical Baseline Report or a Geotechnical Data Report is used, include these reports as Contract Documents by listing them as lettered items under Paragraph 7.01.A.9. For a further discussion of GBRs and GDRs see EJCDC® C-001, Commentary on the 2018 EJCDC Construction Documents (2018).
9. Exhibits to this Agreement (enumerated as follows):
 - a. **[list exhibits]**
 10. 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*

Notes to Users—Modify the following representations to suit the specific Project. For example: change or delete Paragraph 8.01.A.2 if Contractor was restricted from visiting the Site prior to entering into the Contract; change or delete Paragraph 8.01.A.4 and 5 if there are no reports or drawings of the type referred to.

- 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® C-700, 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.

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

This Agreement will be effective on [indicate date on which Contract becomes effective] (which is the Effective Date of the Contract).

Guidance Notes—Signing and Dating Agreement:

1. See Article 20 of the Instructions to Bidders and correlate procedures for format and signing of the documents.
2. The Effective Date of the Contract stated above and the dates of any construction performance bond (EJCDC® C-610, Performance Bond (2018) or other) and construction payment bond (EJCDC® C-615, Payment Bond (2018) or other) should be the same, if possible. In no case should the date of any bonds be earlier than the Effective Date of the Contract.

Owner:

(typed or printed name of organization)

By: _____
(individual's signature)

Date: _____
(date signed)

Name: _____
(typed or printed)

Title: _____
(typed or printed)

Attest: _____
(individual's signature)

Title: _____
(typed or printed)

Address for giving notices:

Designated Representative:

Name: _____
(typed or printed)

Title: _____
(typed or printed)

Address:

Contractor:

(typed or printed name of organization)

By: _____
(individual's signature)

Date: _____
(date signed)

Name: _____
(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)

Title: _____
(typed or printed)

Address for giving notices:

Designated Representative:

Name: _____
(typed or printed)

Title: _____
(typed or printed)

Address:

Phone: _____

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.)

Phone: _____

Email: _____

License No.: _____
(where applicable)

State: _____

CONSTRUCTION SUBCONTRACT

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CONSTRUCTION SUBCONTRACT

This is a Construction Subcontract (Subcontract) between **[Name of Contractor]** (Contractor) and **[Name of Subcontractor]** (Subcontractor). This Subcontract is effective as of **[Effective Date of Subcontract]**.

Prime Contract: Contractor has entered into a contract (Prime Contract) dated **[Date of Prime Contract]** with **[Name of Owner]** (Owner).

Contractor and Subcontractor further agree as follows:

ARTICLE 1—PRELIMINARY MATTERS

1.01 *Prime Contract*

- A. The Prime Contract requires Contractor to perform and furnish construction labor, materials, equipment, and services ("Prime Contract Work") in connection with the Project described therein. The Prime Contract (excluding compensation and other confidential information) is incorporated in this Subcontract by reference. Portions of the Prime Contract are attached as Exhibit 1 to this Subcontract; Subcontractor may review other non-confidential portions upon request. The Project described in the Prime Contract is summarized as follows:

[Describe project]

1.02 *Scope of Subcontract Work*

- A. Contractor hereby retains Subcontractor to provide construction labor, materials, equipment, and services under this Subcontract described as follows:

[Here describe with specificity the scope of the Subcontract Work, or incorporate a scope of work exhibit. The subcontract scope of work will typically include specific reference to the portions of the Prime Contract—the Specification sections, Drawing numbers, etc.—that Subcontractor is responsible for performing.] ("Subcontract Work").

- B. The Subcontract Work is a part of the Prime Contract Work. Except as otherwise stated in this Subcontract, the provisions of the Prime Contract that apply to the performance and quality of the Prime Contract Work apply to the Subcontract Work.
- C. The express terms of this Paragraph 1.02 govern in establishing the Subcontract scope of work. The divisions and sections of the Prime Contract's Specifications and the identifications and organization of the Prime Contract's drawings do not control or limit Contractor in dividing the Work among subcontractors or suppliers, or delineating the work to be performed by, or obligations of any specific trade, including Subcontractor.

1.03 *Subcontract Documents*

- A. The Subcontract Documents are identified in Article 14 of this Subcontract.

1.04 *Independent Contractor*

- A. Subcontractor is an independent contractor, and is not an employee or partner of, or a joint-venturer with Contractor, and has no contractual relationship or privity with Owner or Owner's engineers or consultants.

ARTICLE 2—OBLIGATIONS OF THE PRIME CONTRACT

2.01 *Incorporation of Prime Contract Obligations*

- A. The Subcontractor is bound to the Contractor under the Subcontract to the same extent that the Contractor is bound to the Owner under the Prime Contract, and Subcontractor shall comply with all requirements, terms, and conditions of the Prime Contract that relate in any way to the performance and completion of the Subcontract Work.
- B. The obligation of the Subcontractor to comply with the requirements, terms, and conditions of the Prime Contract does not provide any rights, benefits, or third-party beneficiary standing to the Subcontractor with respect to the Prime Contract.

2.02 *Precedence of Subcontract*

- A. If a provision of this Subcontract conflicts with a provision of the Prime Contract, the terms of this Subcontract govern, unless under controlling laws the conflicted provision of the Prime Contract cannot be waived.

ARTICLE 3—SUBCONTRACT TIMES

3.01 *Subcontract Times*

Notes to User—Select one of the options (1, 2, or 3) to complete the sentence in Paragraph 3.01.A. Delete those options not selected. Delete the number and return to make a complete continuous sentence.

- A. The Subcontract Work will be completed in full:
 - 1. on or before **[insert Subcontract completion date]**.
 - 2. within **[insert number of days]** days after notice to commence work at the site.
 - 3. pursuant to the attached preliminary progress schedule.
- B. Subcontractor shall provide all required submittals on a timely basis, and shall provide sufficient labor and materials to comply with the Contractor's progress schedule and avoid delaying the progress of Contractor's work under the Prime Contract. Subcontractor shall make modifications in the performance and completion of the Subcontract Work as necessary to comply with modifications, if any, in the Contractor's progress schedule.
- C. The time for completion of the Subcontract Work, as set forth in Paragraph 3.01.A, and compliance with the Contractor's progress schedule, as set forth in Paragraph 3.01.B, all as duly modified under this Subcontract, together will be referred to as "Subcontract Times."

3.02 *Time of the Essence*

- A. Subcontractor's obligation to comply with the Subcontract Times is of the essence of the Subcontract.

3.03 *Damages for Late Completion*

- A. Subcontractor and Contractor recognize that Contractor will suffer financial loss if the Subcontract Work is not completed within the Subcontract Times.

- B. The damages resulting to the Contractor may include liquidated damages, special damages, and other damages (if any) assessed by the Owner, actual damages claimed by the Owner as a result of the delay, and the Contractor's costs for extended general conditions, field overhead, and home office overhead.
- C. As a result of the losses, costs, and damages recognized in Paragraphs 3.03.A. and B., if Subcontractor fails to complete the Subcontract Work within the Subcontract Times, and without limiting any additional remedies available to Contractor, Subcontractor shall pay Contractor for losses, costs, and damages incurred by Contractor for Subcontractor's failure to comply with the Subcontract Times, including the share attributable to Subcontractor of delay damages and costs imposed on or levied against Contractor. Contractor has the right to set off any such amounts against payments due Subcontractor under this Subcontract.

ARTICLE 4—SUBCONTRACT PRICE

4.01 *Payment Obligation*

- A. Contractor shall pay Subcontractor for completion of the Subcontract Work in accordance with the Subcontract Documents an amount equal to the sum of the amounts determined pursuant to the following paragraphs (Subcontract Price).
- B. For all Subcontract Work other than Unit Price Work, a lump sum of: **\${Lump sum amount}**.
 - 1. Cash Allowances: All specific cash allowances are included in the above price and include the cost to Subcontractor (less any applicable trade discounts) of materials and equipment required by the cash allowances to be delivered at the site, and all applicable taxes. Subcontractor'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 Subcontract Price, and no demand for additional payment on account of any of the foregoing will be valid.
- C. For all Unit Price Work, an amount equal to the sum of the established unit price for each separately identified item of Unit Price Work multiplied by the actual quantity of that item:

Unit Price Subcontract Work					
Item No.	Description	Unit	Estimated Quantity	Unit Price	Extended Price
Total of all Extended Prices (Unit Price Subcontract Work)					\$

The extended prices for Unit Price Work set forth as of the Subcontract Date are based on estimated quantities. Estimated quantities are not guaranteed, and determinations of actual quantities will be verified by the Contractor and will be subject to any applicable procedures for measurement and verification under the Prime Contract.

ARTICLE 5—PAYMENT PROCEDURES

5.01 *Progress Payments*

A. *Applications for Payments*

1. Ten days prior to the date established in the Prime Contract for submission by the Contractor of the Contractor's application for each progress payment (but not more often than once a month), Subcontractor shall submit to Contractor for review a draft progress payment application covering the Subcontract Work completed as of the date of the progress payment application. The amount requested under each progress payment application will be calculated in accordance with Article 4, and: (a) for lump sum work by determining the percentage of the Subcontract Work completed as of the date of the progress payment application; (b) for unit price work by applying unit prices to units provided; (c) subject to subtraction to account for amounts previously paid. Subcontractor's progress payments will be subject to the retainage provisions of the Prime Contract, or to retainage of **[number]** percent, whichever is greater.
2. Each Subcontractor progress payment application must be accompanied by supporting documentation required by the Prime Contract to be attached to the Contractor's progress payment submission. The Subcontract progress payment application must also be accompanied by required lien waivers; a bill of sale, invoice, or other documentation warranting that Owner has received the materials and equipment free and clear of all liens; and for stored material and equipment, evidence that the materials and equipment are covered by appropriate property insurance or other arrangements to protect Owner's interest therein. All such supporting documentation must be satisfactory to Contractor and Owner.
3. Beginning with Subcontractor's second progress payment application, each Subcontractor progress payment application must include a Subcontractor's affidavit stating that all previous progress payments received on account of the Subcontract Work have been paid to persons and entities providing labor, equipment, materials and services on account of amounts received on behalf of said sub-subcontractors, suppliers, and vendors from prior progress payment applications. Each Subcontractor's affidavit must list all sub-subcontractors, suppliers, and vendors having contracts with Subcontractor to provide said labor, equipment, material, and services on the Project including the amount of each contract, the amount paid to date and the amount due or to become due to each sub-subcontractor, supplier, and vendor. Each progress payment application must also include lien waivers executed by each sub-subcontractor, supplier, and vendor listed on the Subcontractor's affidavit.

B. *Review of Applications*

1. Within five days after receipt of each draft progress payment application submitted by Subcontractor, Contractor will return the draft progress payment application with corrections (if any). Subcontractor will submit a final progress payment application, incorporating all resolved corrections, together with all supporting documentation, within three days thereafter.

2. Contractor may withhold amounts requested in one or more payment applications from the Subcontractor in whole or part if one or more of the following occurs:
 - a. The Subcontract Work is defective, or completed Subcontract Work has been damaged, requiring correction or replacement;
 - b. The Subcontract Price has been reduced by change orders;
 - c. The Contractor has been required to correct defective Subcontract Work or complete Subcontract Work;
 - d. Claims have been made against Contractor on account of Subcontractor's performance or furnishing of the Subcontract Work;
 - e. Liens have been filed in connection with the Subcontract Work, except where Subcontractor has delivered a specific bond satisfactory to Contractor and Owner to secure the satisfaction and discharge of such liens;
 - f. The Owner has exercised a set-off against payments to Contractor attributable to Subcontractor's activities or performance of the Subcontract Work; or
 - g. The Subcontractor has defaulted under the terms of the Subcontract.
- C. *Payment:* Contractor shall pay Subcontractor any amounts due to Subcontractor under a payment application for Subcontract Work within ten days after Contractor's receipt from the Owner of payment for such Subcontract Work.

ARTICLE 6—FINAL PAYMENT AND COMPLETION

6.01 *Final Payment*

- A. Upon final completion of obligations under the Subcontract, including acceptance by Owner (or its representative) of the Subcontract Work as part of the Work under the Prime Contract, and submission and acceptance of all close-out documents required under the Subcontract, Subcontractor shall submit to Contractor an application for final payment and release of retainage, if any.
- B. Final payment becomes due 10 days after Contractor's receipt of payment from the Owner of amounts requested on behalf of Subcontractor. Contractor's receipt of payment of retainage withheld by Owner from amounts due to Contractor for the Subcontract Work is an express condition precedent to Contractor's obligation to pay such retainage to Subcontractor.

6.02 *Final Lien Waivers*

- A. Upon the request of Contractor, Subcontractor shall submit, as part of the application for final payment, a final waiver of lien and sworn statement indicating all sub-subcontractors, suppliers, and vendors, their contract amounts, and the final amounts paid to each sub-subcontractor, supplier, and vendor.

6.03 *Warranty of Title*

- A. Subcontractor warrants and guarantees that title to all Subcontract Work, materials, and equipment furnished under the Subcontract will pass to Owner free and clear of all liens and other title defects, and all patent, licensing, copyright, or royalty obligations.

6.04 *Waiver of Claims*

A. Final payment by Contractor to Subcontractor constitutes:

1. A waiver of all claims by Contractor against Subcontractor, except claims arising from unsettled liens, from defective Subcontract Work appearing after final inspection, from failure to comply with the Subcontract Documents or the terms of any special guarantees specified therein, or from Subcontractor's continuing obligations under the Prime Contract; and
2. A waiver of all claims by Subcontractor against Contractor other than those previously made in accordance with the requirements herein that remain unsettled.

ARTICLE 7—SUB-SUBCONTRACTORS

7.01 *Subcontractor's Responsibility*

- A. Subcontractor shall be fully responsible to Contractor for all acts and omissions of the sub-subcontractors, suppliers, and other individuals or entities performing or furnishing any of the Subcontract Work, just as Subcontractor is responsible for Subcontractor's own acts and omissions.

7.02 *No Third-Party Relationships*

- A. Nothing in the Subcontract Documents creates for the benefit of any such sub-subcontractor, supplier, or other individual or entity any contractual relationship between Contractor, Owner, or Owner's engineers or consultants and any such sub-subcontractor, supplier, or other individual or entity.
- B. Nothing in the Subcontract Documents creates any obligation on the part of Contractor, Owner, or Engineer to pay or to see to the payment of any money due any such sub-subcontractor, supplier, or other individual or entity, except as may otherwise be required by laws and regulations.

ARTICLE 8—PERFORMANCE OF THE SUBCONTRACT WORK

8.01 *Subcontractor's Obligations*

- A. Subcontractor shall provide all material, equipment, services, and labor necessary for the completion of the Subcontract Work.
- B. All materials and equipment must be as specified in the Subcontract Documents and be of good quality and new, except as otherwise provided in the Subcontract Documents. Subcontractor shall provide Contractor with such information and test results required under the Prime Contract to verify the quality of the materials and equipment furnished under the Subcontract Documents.

8.02 *Verification of Existing Conditions*

- A. The dimensions, locations, and limits of the Subcontract Work are shown or indicated in the Subcontract Documents.
- B. The Contractor has used reasonable efforts to verify the accuracy of dimensions, locations, and limits in the Subcontract Documents, but takes no responsibility for the verification of information concerning actual conditions affecting the Subcontract Work. Subcontractor has

an independent obligation to verify actual conditions, including but not limited to dimensions, locations, and limits, prior to ordering equipment and materials and performing the Subcontract Work, and shall be responsible for all costs and expenses resulting from the failure to verify such information.

8.03 *Supervision*

- A. At all times during the progress of the Subcontract Work, Subcontractor shall assign an authorized representative to provide competent, on-site supervision. Such representative must not be replaced without written notice to Contractor except under extraordinary circumstances.
- B. Subcontractor shall be solely responsible for scheduling and coordinating the work of sub-subcontractors, suppliers, and other individuals or entities performing or furnishing any of the Subcontract Work under a direct or indirect contract with Subcontractor.
- C. Subcontractor shall supervise, inspect, and direct the Subcontract Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Subcontract Work in accordance with the Subcontract Documents.

8.04 *Coordination with Other Subcontractors; Other Work at the Site*

- A. Subcontractor shall cooperate with other subcontractors and coordinate its Subcontract Work and schedule with other subcontractors on the Project. Subcontractor shall attend coordination meetings and endeavor to resolve all conflicts with other subcontractors without the intervention of Contractor. If a conflict cannot be resolved without the intervention of Contractor, the decision of Contractor regarding resolution of the conflict will be final.
- B. Subcontractor shall not damage, delay, or interfere with the work of other subcontractors or of Contractor, Owner, or others working at the site, shall be responsible for the cost of damage, delay, or interference caused by the operations of Subcontractor to the work of others.

8.05 *Prosecution of the Subcontract Work*

- A. *Clean-up:* On not less than a daily basis, Subcontractor shall be responsible for cleaning up and removing all debris and waste resulting from the Subcontract Work, to avoid interference with the work and progress of others at the site. If Subcontractor fails to clean up and remove waste and debris in accordance with this provision, Contractor may provide for clean-up and removal of waste and debris at Subcontractor's expense.
- B. *Hoisting and Lifting:* Subcontractor shall provide all hoisting and lifting required for the Subcontract Work, unless Contractor has otherwise expressly agreed to provide hoisting, lifting, or both.
- C. *Temporary Utility Services and Temporary Facilities:* Subcontractor shall at its expense provide temporary utility services and temporary facilities needed for the performance of the Subcontract Work, except those temporary utility services and temporary facilities that Contractor has expressly agreed to provide at its expense.
- D. *Safety and Protection*
 - 1. Subcontractor shall perform the Subcontract Work in a safe manner, taking full responsibility for the prevention of harm or injury to its workforce, and taking all

reasonable steps necessary to protect from harm, injury, or damage all persons, property, structures, materials, and equipment at or adjacent to the Subcontractor's work areas.

2. Subcontractor shall comply with the safety programs of the Owner and Contractor, when Subcontractor has been made aware of such requirements in writing.
 3. Subcontractor shall coordinate the safety of its employees, Subcontractor's lower-tier subcontractors, and Subcontractor's suppliers with Contractor's safety representative, and shall comply with all applicable OSHA and other laws and regulations related to safety and protection. Subcontractor shall ensure that its employees and the on-site employees of Subcontractor's lower-tier subcontractors and suppliers are properly trained and understand (a) Owner's, Contractor's, and Subcontractor's safety requirements, and (b) applicable safety laws and regulations. Subcontractor is responsible for furnishing to Contractor and others as applicable all required material safety data sheets.
 4. Subcontractor shall report promptly to Contractor all injuries, accidents, and damage that occurs during the performance of the Subcontract Work, and all failures or near-miss events that could have resulted in serious injury, even if no serious injury actually occurred.
- E. *Labor*: Subcontractor shall comply with applicable labor and jurisdictional requirements to prevent strikes and other work stoppages and slowdowns that would interfere with the Subcontract Work and the work of others. Subcontractor shall be responsible for delays resulting from Subcontractor's violation of this provision.
- F. *Communications with Owner and Engineer*: Subcontractor shall communicate with Owner, Owner's engineers, and Owner's other representatives solely through Contractor, with the following limited exceptions: (1) in the case of an emergency, Subcontractor may communicate directly with any entity or individual in the interests of safety and protection of property, (2) Subcontractor may directly request Owner to provide information about amounts paid to Contractor on account of Subcontract Work performed, and (3) Subcontractor may directly request Owner to provide Subcontractor with a copy of any payment bond furnished by Contractor.

8.06 *Correction and Warranties*

- A. Subcontractor warrants and guarantees to Contractor that all Subcontract Work will be in accordance with the Subcontract Documents and will not be defective. Subcontractor's warranty and guarantee hereunder excludes defects or damage caused by abuse, modification, or improper maintenance or operation by persons other than Subcontractor and its sub-subcontractors, suppliers, or any other individual or entity for whom Subcontractor is responsible; or normal wear and tear under normal usage.
- B. Subcontractor's obligation to perform and complete the Subcontract Work in accordance with the Subcontract Documents will be absolute and Subcontractor shall be fully responsible for the Subcontract Work under the Subcontract to the same extent that Contractor is responsible for the Subcontract Work to the Owner under the Prime Contract.
- C. Subcontractor shall correct the Subcontract Work to the same extent that Contractor is required to correct the Prime Contract Work (including the Subcontract Work) under the Prime Contract. Subcontractor shall correct Subcontract Work whether or not installed or completed. If the Subcontract Work has been rejected, Subcontractor shall remove such

rejected Subcontract Work from the Project at the direction of Contractor, and replace it with Subcontract Work that is not defective.

- D. For a period of one year after substantial completion of the Prime Contract Work, and for any additional period beyond one year as required under the Prime Contract for correction by the Contractor of the Prime Contract Work, and promptly after receipt of written notice, Subcontractor shall correct all defective Subcontract Work as directed by Contractor. Subcontractor shall indemnify Contractor, Owner, Owner's engineers and consultants, for 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 such correction or removal (including but not limited to all costs of repair or replacement of work of others).
- E. All such correction obligations are in addition to the warranty, guarantee, and contractual duties established above and elsewhere in the Subcontract Documents.
- F. The obligations under this Paragraph 8.06 will survive completion of the Subcontract Work and, when the Prime Contract is complete and ready for final payment by Owner, Contractor may assign its rights under this Paragraph 8.06 to Owner upon agreement between Owner and Contractor and notice to Subcontractor.

ARTICLE 9—CHANGES TO THE SUBCONTRACT

9.01 *Changes*

- A. Without invalidating the Subcontract, Contractor may, at any time or from time to time, order changes to the Subcontract Work including additions, deletions, or revisions in the Subcontract Work. Subcontractor shall promptly proceed with the Subcontract Work as changed. All changed Subcontract Work will be performed under the applicable conditions of the Subcontract Documents. Subcontractor shall not perform any changes to the Subcontract Work that would increase the Subcontract Price or Subcontract Times without express written authority from Contractor.
- B. Subcontractor shall deliver notice of each request for a change in compensation or time within 7 days of the associated directive to perform changed Subcontract Work, and not later than 2 days before Prime Contract requirements relative to submitting claims and change proposals.
- C. Changes in the Subcontract Price for changed Subcontract Work will be made on the basis of either a mutually acceptable lump sum price, or under unit prices consistent with the unit prices set forth in the Subcontract as of the Subcontract Date. To the extent the changed Subcontract Work has no predetermined costs or unit prices under the original Subcontract, and the parties do not agree to a lump sum for the changed Subcontract Work, the amount of the request for changed compensation will be based upon Subcontractor's cost of labor (consistent with any applicable rates negotiated under the original Subcontract), plus the direct costs of sub-subcontracts, materials and equipment to be consumed or incorporated in the changed Subcontract Work, plus overhead and profit consistent with the price negotiated for the original Subcontract Work and subject to approval by Contractor.
- D. To the extent that a change to the Subcontract Work resulted from a revision of the Prime Contract, the compensation to Subcontractor for such changed Subcontract Work will be limited to the amount collected by Contractor from Owner on behalf of Subcontractor for

such change in the Subcontract Work. In the event that the revision results in a deduction of the Subcontract Price, the deduction will be based upon the share of the deduction assessed against Contractor under the Prime Contract that is attributable to the change in Subcontract Work.

ARTICLE 10—BONDS, INSURANCE, AND INDEMNIFICATION

10.01 *Performance Bond, Payment Bond, and Other Bonds*

- A. If expressly listed as Subcontract Documents in Article 13, or expressly required of Subcontractor elsewhere in the Subcontract Documents, Subcontractor shall at its expense furnish a performance bond and a payment bond, each in an amount equal to or greater than the Subcontract Price, as security for the faithful performance and payment of all of Subcontractor's obligations under the Subcontract Documents. If the Subcontract Documents as of the Subcontract Date do not require performance and payment bonds, but Contractor subsequently instructs Subcontractor to furnish such bonds, Subcontractor shall do so at Contractor's expense.
- B. The performance and payment bonds must remain in effect until not less than the longer of:
 - (1) one year after the date when final payment becomes due from Contractor; or
 - (2) completion of the correction period specified in this Subcontract, except as provided otherwise by applicable laws or regulations. Subcontractor shall also furnish such other bonds as are required by the Subcontract Documents. The performance bond will be issued on EJCDC® C-610 Performance Bond (2018). The Payment Bond will be issued on the EJCDC® C-615 Payment Bond (2018). Terms of these bonds apply except as expressly provided otherwise by laws or regulations.
- C. If the Prime Contract requires that Contractor furnish a Warranty Bond, then Subcontractor shall furnish a Warranty Bond with respect to the Subcontract Work, under the same requirements. The bond will be issued using EJCDC® C-612, Warranty Bond (2018).
- D. All bonds must be executed by such sureties as are named in "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Financial Management Service, Surety Bond Branch, 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.
- E. Subcontractor shall obtain the required bonds from surety companies that are duly licensed or authorized in the jurisdiction in which the Project is located to issue bonds in the required amounts.
- F. If the surety on a bond furnished by Subcontractor is declared bankrupt or becomes insolvent, or its right to do business is terminated in any state or jurisdiction where any part of the Project is located, or the surety ceases to meet the requirements above, then Subcontractor shall promptly notify Contractor and shall, within 20 days after the event giving rise to such notification, furnish another bond and surety, both of which must comply with the bond and surety requirements above.
- G. If the Subcontract requires Subcontractor to provide its own performance bond and payment bond, as described in Paragraphs 10.01.A. through D., the Contractor may, at its sole

discretion, provide such bonds for the Subcontractor, either as individual instruments or as a part of Contractor's bonding. In such case Subcontractor shall be responsible to Contractor for a proportionate share of Contractor's bond costs, computed as the percentage of the total Subcontract Price relative to the total bonded Contract Price, and the Subcontract Price will be adjusted accordingly.

- H. As an alternative to requiring Subcontractor to provide or contribute to the cost of performance bonds or payment bonds as described in this Paragraph 10.01, the Contractor may, at its sole discretion, waive such requirements for this Subcontract, and the Subcontract Price will be adjusted accordingly.
- I. If Subcontractor has failed to obtain a required bond, Contractor may exclude the Subcontractor from the site and exercise Contractor's termination rights under Article 11.
- J. Upon request, Contractor shall provide a copy of the payment bond to any sub-subcontractor, supplier, or other person or entity claiming to have furnished labor or materials used in the performance of the Subcontract Work.

10.02 *Insurance—General Provisions*

- A. Subcontractor shall obtain and maintain insurance as required in this Article and in any Subcontract exhibit or supplementary Subcontract Document regarding insurance.
- B. All insurance required by the Subcontract to be purchased and maintained by Subcontractor must 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 elsewhere in the Subcontract Documents, all companies that provide insurance policies required under this Subcontract must have an A.M. Best rating of A-VII or better.
- C. Subcontractor shall deliver to Contractor, with copies to each named insured and additional insured (as identified here or elsewhere in the Subcontract Documents), certificates of insurance establishing that Subcontractor has obtained and is maintaining the policies, coverages, and endorsements required by the Subcontract. Upon request by Contractor or any other insured, Subcontractor shall also furnish other evidence of such required insurance, including but not limited to copies of policies and endorsements, and documentation of applicable self-insured retentions and deductibles. Subcontractor may block out (redact) any confidential premium or pricing information contained in any policy or endorsement furnished under this provision.
- D. Failure of Contractor to demand such certificates or other evidence of the Subcontractor's full compliance with these insurance requirements, or failure of Contractor to identify a deficiency in compliance from the evidence provided, will not be construed as a waiver of the Subcontractor's obligation to obtain and maintain such insurance.
- E. If Subcontractor does not purchase or maintain all of the insurance required of it by this Subcontract, the Subcontractor shall notify Contractor in writing of such failure to purchase prior to the start of the Subcontract Work, or of such failure to maintain prior to any change in the required coverage.
- F. If Subcontractor has failed to obtain and maintain required insurance, Contractor may exclude the Subcontractor from the site and exercise Contractor's termination rights under Article 11.

- G. Without prejudice to any other right or remedy, if Subcontractor has failed to obtain required insurance, Contractor may elect to obtain equivalent insurance to protect Contractor's interests at the expense of Subcontractor, and the Subcontract Price will be adjusted accordingly.
- H. Contractor does not represent that insurance coverage and limits established in this Subcontract necessarily will be adequate to protect Subcontractor or Subcontractor's interests.
- I. The insurance and insurance limits required herein will not be deemed as a limitation on Subcontractor's liability under the indemnities granted to Contractor and other individuals and entities in the Subcontract Documents.

10.03 Subcontractor's Insurance

- A. **Workers' Compensation:** Subcontractor shall purchase and maintain workers' compensation and employer's liability insurance for:
 - 1. claims under workers' compensation, disability benefits, and other similar employee benefit acts.
 - 2. United States Longshoreman and Harbor Workers' Compensation Act (if applicable) and Jones Act coverage (if applicable).
 - 3. claims for damages because of bodily injury, occupational sickness or disease, or death of Subcontractor's employees (by stop-gap endorsement in monopolist worker's compensation states).
 - 4. Foreign voluntary worker compensation (if applicable).

Workers' Compensation and Related Policies	Policy limits of not less than:
Workers' Compensation	
State	Statutory
Applicable Federal (e.g., Longshoreman's)	Statutory
Foreign voluntary workers' compensation (employer's responsibility coverage), if applicable	Statutory
Jones Act (if applicable)	
Bodily injury by accident—each accident	\$
Bodily injury by disease—aggregate	\$
Employer's Liability	
Each accident	\$
Each employee	\$
Policy limit	\$
Stop-gap Liability Coverage	
For work performed in monopolistic states, stop-gap liability coverage must be endorsed to either the worker's compensation or commercial general liability policy with a minimum limit of:	\$

- B. *Commercial General Liability—Claims Covered:* Subcontractor shall purchase and maintain commercial general liability insurance, covering all operations by or on behalf of Subcontractor, on an occurrence basis, against:
1. Claims for damages because of bodily injury, sickness or disease, or death of any person other than Subcontractor's employees;
 2. Claims for damages insured by reasonably available personal injury liability coverage; and
 3. Damages because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom.
- C. *Commercial General Liability—Form and Content:* Subcontractor's commercial liability policy must be written on a 1996 (or later) ISO commercial general liability form (occurrence form) and include the following coverages and endorsements:
1. Products and completed operations coverage:
 - a. Such insurance must remain in effect for three years after final payment.
 - b. Subcontractor shall furnish Contractor and each other additional insured (as identified in this Article or elsewhere in the Subcontract Documents) evidence of continuation of such insurance at final payment and three years thereafter.
 2. Blanket contractual liability coverage, including but not limited to coverage of Subcontractor's contractual indemnity obligations under the Subcontract Documents.
 3. Severability of interest.
 4. Underground, explosion, and collapse coverage.
 5. Personal injury coverage.
 6. Additional insured endorsements that include both ongoing operations and products and completed operations coverage through ISO Endorsements CG 20 10 10 01 and CG 20 37 10 01 (together); or their equivalent if Subcontractor demonstrates that the specified endorsements are not commercially available.
 7. For design professional additional insureds, ISO Endorsement CG 20 32 07 04, "Additional Insured—Engineers, Architects or Surveyors Not Engaged by the Named Insured" or its equivalent.
 8. If governing law invalidates or restricts the use of a specified additional insurance endorsement, then Subcontractor will furnish an endorsement that is compliant with governing law while providing reasonable protection of the interests of the additional insureds.
- D. *Commercial General Liability—Excluded Content:* The commercial general liability insurance policy, including its coverages, endorsements, and incorporated provisions, must not include any of the following:
1. Any modification of the standard definition of "insured contract" (except to delete the railroad protective liability exclusion if Subcontractor is required to indemnify a railroad or others with respect to Work within 50 feet of railroad property).
 2. Any exclusion for water intrusion or water damage.

3. Any provisions resulting in the erosion of insurance limits by defense costs other than those already incorporated in ISO form CG 00 01.
4. Any exclusion of coverage relating to earth subsidence or movement.
5. Any exclusion for the insured's vicarious liability, strict liability, or statutory liability (other than worker's compensation).
6. Any limitation or exclusion based on the nature of Subcontractor's work.
7. Any professional liability exclusion broader in effect than the most recent edition of ISO form CG 22 79.

Commercial General Liability	Policy limits of not less than:
General Aggregate	\$
Products—Completed Operations Aggregate	\$
Personal and Advertising Injury	\$
Bodily Injury and Property Damage—Each Occurrence	\$

- E. *Automobile Liability*: Subcontractor shall purchase and maintain automobile liability insurance against claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance, or use of any motor vehicle. The automobile liability policy must be written on an occurrence basis.

Automobile Liability	Policy limits of not less than:
Bodily Injury	
Each Person	\$
Each Accident	\$
Property Damage	
Each Accident	\$
[or]	
Combined Single Limit	
Combined Single Limit (Bodily Injury and Property Damage)	\$

- F. *Umbrella or Excess Liability*: Subcontractor shall purchase and maintain umbrella or excess liability insurance written over the underlying employer's liability, commercial general liability, and automobile liability insurance described in the paragraphs above. The coverage afforded must be at least as broad as that of each and every one of the underlying policies.

Excess or Umbrella Liability	Policy limits of not less than:
Each Occurrence	\$
General Aggregate	\$

- G. *Subcontractor's Pollution Liability Insurance*: Subcontractor shall purchase and maintain a policy covering third-party injury and property damage claims, including clean-up costs, as a result of pollution conditions arising from Subcontractor's operations and completed

operations. The completed operations coverage must remain in effect for no less than three years after final completion.

Contractor's Pollution Liability	Policy limits of not less than:
Each Occurrence/Claim	\$
General Aggregate	\$

- H. *Additional Insureds:* The Subcontractor's commercial general liability, automobile liability, employer's liability, umbrella or excess, and pollution liability policies must include and list as additional insureds Contractor, Owner, and Owner's engineers, architects, and consultants, and any individuals or entities identified as additional insureds elsewhere in the Subcontract Documents; include coverage for the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of all such additional insureds; and the insurance afforded to these additional insureds must provide primary coverage for all claims covered thereby (including as applicable those arising from both ongoing and completed operations) on a non-contributory basis. Subcontractor shall obtain all necessary endorsements to support these requirements.
- I. *Subcontractor's Professional Liability Insurance:* If Subcontractor will provide or furnish professional services under this Subcontract, through a delegation of professional design services or otherwise, then Subcontractor shall be responsible for purchasing and maintaining applicable professional liability insurance. This insurance must cover negligent acts, errors, or omissions in the performance of professional design or related services by the insured or others for whom the insured is legally liable. The insurance must be maintained throughout the duration of the Subcontract and for a minimum of two years after Substantial Completion of the Project. The retroactive date on the policy must pre-date the commencement of furnishing services on the Project.
- J. *General provisions:* The policies of insurance required by this Paragraph 10.03 must:
1. include at least the specific coverages provided in this Subcontract.
 2. be written for not less than the limits of liability expressly provided in this Subcontract, including any Subcontract exhibit or supplementary Subcontract Document specifying insurance policy limits, or if no such express insurance limits are set forth in the Subcontract, then for not less than the limits required of Contractor by Owner in the Prime Contract, for the corresponding types of insurance. If laws or regulations require a higher limit, then Subcontractor shall meet such legal requirement.
 3. contain a provision or endorsement that the coverage afforded will not be canceled, materially changed or renewal refused until at least 10 days prior written notice has been given to Subcontractor. Within three days of receipt of any such written notice, Subcontractor shall provide a copy of the notice to Contractor and each other insured under the policy.
 4. remain in effect at least until final payment (and longer if expressly required herein) and at all times thereafter when Subcontractor may be correcting, removing, or replacing defective Subcontract Work as a warranty or correction obligation, or otherwise, or returning to the site to conduct other tasks arising from the Subcontract Documents.

5. be appropriate for the Subcontract Work being performed and provide protection from claims that may arise out of or result from Subcontractor's performance of the Subcontract Work and Subcontractor's other obligations under the Subcontract Documents, whether it is to be performed by Subcontractor, any lower-tier subcontractor or supplier, or by anyone directly or indirectly employed by any of them to perform any of the Subcontract Work, or by anyone for whose acts any of them may be liable.
- K. Subcontractor waives all rights against Owner, Contractor, and all individuals or entities identified in the Prime Contract's Supplementary Conditions to be listed as insureds or additional insureds under the builder's risk, installation floater, or other forms of property insurance, and against the Owner's engineers and consultants, and their 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 any of the perils or causes of loss covered by such builder's risk, installation floater, or other form of property insurance applicable to the work under the Prime Contract; and Contractor waives all rights against Subcontractor for all such losses and damages caused by, arising out of, relating to, or resulting from any of the perils or causes of loss covered by such builder's risk, installation floater, or other form of property insurance applicable to the work under the Prime Contract.
- L. If Contractor is responsible under the Prime Contract and any builder's risk or other property insurance policy for the payment of a deductible, or an amount within a deductible, and the need to pay such deductible or amount within a deductible is attributable in whole or part to the actions or inactions of Subcontractor, its sub-subcontractors, employees, agents, or others for which Subcontractor is responsible, then Subcontractor shall pay its attributable share of such deductible.
- M. Upon request the Contractor shall provide to Subcontractor a copy of any builder's risk, installation floater, or other property insurance policy applicable to the work under the Prime Contract. Contractor may block out (redact) any confidential premium or pricing information contained in any such policy. Subcontractor may elect to obtain other insurance at its expense, if it concludes that its interests are not insured under such policy.
- N. ***Other Required Insurance: [Identify any other policies that Subcontractor must obtain and maintain, such as railroad protective liability insurance].***

10.04 Indemnification

- A. To the fullest extent permitted by laws and regulations, Subcontractor shall indemnify and hold harmless Contractor, Owner, and Owner's engineers and consultants, 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 performance of the Subcontract Work, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Subcontract Work itself), including the loss of use resulting therefrom, but only to the extent caused by any negligent act or omission of Subcontractor, any lower tier subcontractor, supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Subcontract Work or anyone for whose acts any of them may be liable.

- B. In addition to the indemnification obligations in the preceding paragraph, Subcontractor shall indemnify Contractor for all economic costs and expenses, including attorney's fees, for any claim against Contractor as a result of and to the extent caused by Subcontractor's breach of any obligation under the Subcontract.
- C. In any and all claims against Contractor, Owner, or Owner's engineers or consultants, 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 Subcontractor, any lower tier subcontractor, any supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Subcontract Work, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 10.04.A. must not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Subcontractor, lower-tier subcontractor, supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.
- D. With respect to the Subcontract Work, the breach of obligations under the Subcontract, and any negligent act or omission of Subcontractor, any lower tier subcontractor, supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Subcontract Work, or anyone for whose acts any of them may be liable, and to the fullest extent permitted by law, Subcontractor assumes the same or corresponding responsibilities as Contractor for indemnity obligations set forth in the Prime Contract.

ARTICLE 11—SUSPENSION AND TERMINATION

11.01 Contractor May Suspend Work

- A. In the event that Owner suspends the work of Contractor under the Prime Contract, Contractor may suspend the performance of the Subcontract or any portion thereof for a period of not more than 90 consecutive days, by giving notice in writing to Subcontractor of such suspension. Subcontractor shall resume the Subcontract Work when instructed by Contractor to do so. Subcontractor shall be granted an adjustment in the Subcontract Price or an extension of the Subcontract Times, or both, directly attributable to any such suspension only to the extent that Contractor receives an adjustment of the Prime Contract price or the Prime Contract time for the Subcontractor's proportionate share of work under the Prime Contract.
- B. Contractor may suspend the Subcontract Work for a period of not more than 90 days, or to the extent permitted by the progress schedule or any express provision of the Subcontract Documents, for Contractor's own purposes.
- C. Contractor may suspend the work of Subcontractor with all costs and liability for any delay in the Subcontract Work and others to be assessed against the Subcontractor for the following Subcontract violations until the Subcontractor demonstrates it has cured the violations as follows:
 - 1. Subcontractor fails to comply with the Owner's or Contractor's safety program;
 - 2. Subcontractor or its employees are in violation of OSHA or state or local safety laws or regulations;

3. Subcontractor has installed defective Subcontract Work that is not in compliance with the Subcontract Documents and has failed to cure the defective Subcontract Work;
 4. Subcontractor has violated any laws or regulations applicable to the performance of the Subcontract Work; and
 5. Subcontractor has failed to pay a supplier or lower-tier subcontractor pursuant to Subcontractor's legal or contractual obligations.
- D. If Subcontractor fails to comply with the progress schedule, causing delay to the Subcontract Work or the Prime Contract work, after three days' notice by Contractor and failure of Subcontractor to demonstrate that it has implemented procedures to comply with the schedule through measures such as providing supplemental labor, materials, and tools, then Contractor may implement its own procedures to meet the schedule, by providing supplemental labor, materials, tools, or taking other measures, through its own or other forces, and Contractor may assess the cost of such supplemental procedures against the Subcontract.

11.02 *Contractor May Terminate for Cause*

- A. The occurrence of any one or more of the following events will justify termination for cause:
1. Subcontractor's persistent failure to perform the Subcontract Work in accordance with the Subcontract Documents (including, but not limited to, failure to supply sufficient skilled workers, suitable materials, or equipment, or failure to adhere to the Subcontract progress schedule);
 2. Subcontractor's disregard of laws or regulations of any public body having jurisdiction;
 3. Subcontractor's repeated disregard of the authority of Contractor; or
 4. Subcontractor's failure to perform or otherwise to comply with a material term of the Subcontract.
- B. If one or more of the events identified in the preceding paragraph occur, Contractor may, after giving Subcontractor 7 days written notice of its intent to terminate the services of Subcontractor, or in the event the Subcontractor provided a performance bond covering the Subcontract the Contractor may provide notice to the Subcontractor and surety in accordance with the requirements of the applicable performance bond of its intent to terminate the services of Subcontractor to preserve Contractor's rights under the performance bond. Upon termination of the Subcontract, Contractor may:
1. exclude Subcontractor from the site, and take possession of the Subcontract Work;
 2. incorporate in the Subcontract Work all materials and equipment stored at the site, or for which Contractor has paid Subcontractor but which are stored elsewhere; and
 3. complete the Subcontract Work as Contractor may deem expedient.
- C. If Contractor proceeds as provided in Paragraph 11.02.B., Subcontractor shall not be entitled to receive any further payment until the Subcontract Work is completed. If the unpaid balance of the Subcontract Price exceeds 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) sustained by Contractor arising out of or relating to completing the Subcontract Work, such excess will be paid to Subcontractor.

If such claims, costs, losses, and damages exceed such unpaid balance, Subcontractor shall pay the difference to Contractor. When exercising any rights or remedies under this paragraph, Contractor shall not be required to obtain the lowest price for the Subcontract Work performed.

- D. Notwithstanding Paragraphs 11.02.A. and 11.02.B., Subcontractor's services will not be terminated if Subcontractor begins within four days of receipt of notice of intent to terminate to correct its failure to perform and proceeds diligently to cure such failure within no more than 14 days of receipt of said notice. If the Subcontractor fails to cure within 14 days of receipt of said notice, the Subcontract will be deemed terminated in accordance with provisions 11.02.A through 11.02.C upon two days' notice by the Contractor following the 14-day period.
- E. Where Subcontractor's services have been so terminated by Contractor, the termination will not affect any rights or remedies of Contractor against Subcontractor then existing or which may thereafter accrue. Any retention or payment of money due Subcontractor by Contractor will not release Subcontractor from liability.
- F. If and to the extent that Subcontractor has provided a performance bond, the termination procedures of that bond will supersede the procedures in this Paragraph 11.02.

11.03 *Termination of Contractor or Rejection of Subcontract by Owner*

- A. The Contractor may terminate the Subcontract at any time, if the Prime Contract is terminated by the Owner, or if Owner rejects the Subcontract in accordance with the terms of the Prime Contract, the Contractor may terminate the Subcontract without penalty.
- B. In the event of a termination pursuant to Paragraph 11.03, the costs and expenses to be paid to Subcontractor resulting from a termination under this provision must be limited to the costs and expenses recovered by Contractor from Owner on Subcontractor's behalf.

11.04 *Contractor May Terminate for Convenience*

- A. Upon 7 days written notice to Subcontractor, Contractor may, without cause and without prejudice to any other right or remedy of Contractor, terminate the Subcontract. In such case, Subcontractor shall be paid for (without duplication of any items):
 - 1. Completed and acceptable Subcontract Work executed in accordance with the Subcontract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Subcontract Work;
 - 2. Expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Subcontract in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses; and
 - 3. Reasonable expenses directly attributable to termination.
- B. Subcontractor shall not be paid on account of loss of anticipated profits or revenue or other economic loss arising out of or resulting from such termination.

11.05 *Subcontractor May Stop Work or Terminate*

- A. If, through no act or fault of Subcontractor, Contractor after receipt of payment from Owner fails to make payment due Subcontractor, for more than 30 days after payment is due, then

Subcontractor may, upon 7 days written notice to Contractor, and provided Contractor does not remedy such failure within 7 days thereafter, terminate the Subcontract and recover payment from Contractor subject to the terms of this Subcontract.

- B. As an alternative to terminating the Subcontract and without prejudice to any other right or remedy, if a payment owed to Subcontractor is more than 30 days past due, then Subcontractor may, 7 days after written notice to Contractor, stop the Subcontract Work until payment is made of all such amounts due Subcontractor, including interest thereon at an annual rate of five percent per annum, or if applicable at the rate prescribed by law, without penalty.
- C. If the Contractor suspends the Subcontractor's work for more than 120 days, the Subcontractor may upon 7 days' written notice terminate the Subcontract and recover the amounts due the Subcontractor for Subcontract Work completed as of the date of termination, including retainage withheld from the Subcontractor to date and interest thereon at an annual rate of five percent per annum, or if applicable at the rate prescribed by law, without penalty.

ARTICLE 12—CLAIMS AND DISPUTE RESOLUTION

12.01 *Claims*

- A. As a condition precedent to any consideration, pursuit, or recovery by Subcontractor of any change proposal, request, demand, or claim (collectively referred to as "Claim") seeking an increase in Subcontract Price, Subcontract Time, or both, Subcontractor shall provide notice of any such Claim to Contractor no less than 30 days after the event giving rise to the Claim, and for Claims related in any way to the Owner or Prime Contract, within five days.
- B. Subcontractor's recovery of additional cost, time, or both cost and time for any Claim attributable to the Owner will be limited to the proportionate recovery by Contractor against Owner for such Claim. Subcontractor will cooperate and assist Contractor in pursuing any Claim by Contractor against Owner on behalf of Subcontractor, including the timely preparation and delivery of supporting documentation.
- C. If the pursuit of any Claim by Contractor against Owner on Subcontractor's behalf requires the expenditure by Contractor of legal or consulting fees, or results in litigation, arbitration, or any dispute resolution procedures, Subcontractor agrees to pay for a proportionate share of attorneys' fees, consultant fees, and litigation, arbitration, and other resolution costs incurred by Contractor in pursuing the claim on behalf of Subcontractor, based upon the amount claimed by Subcontractor as compared to the total value of the claim pursued by the Contractor.
- D. Except as provided by applicable lien, bond, or prompt payment laws, Subcontractor shall not make any direct claims against Owner for compensation or additional compensation for performance of the Subcontract Work.

12.02 *Dispute Resolution*

- A. Either Contractor or Subcontractor may request mediation of any dispute between Contractor and Subcontractor in connection with this Subcontract that has not been settled to their mutual satisfaction within the applicable notice or cure periods provided in this Subcontract, or that Contractor has not pursued against Owner as described above. The mediation will be

governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect as of the Subcontract Date. The request for mediation must be submitted in writing to the American Arbitration Association and the other party to this Subcontract.

- B. Contractor and Subcontractor shall participate in the mediation process in good faith. The process must be concluded within 60 days of filing of the request. The date of termination of the mediation must be determined by application of the mediation rules referenced above.
- C. If the dispute is not resolved by mediation, each party to this Subcontract shall be barred from further action to assert its claim after 30 days after termination of the mediation unless, within that time period, Contractor or Subcontractor:
 - 1. elects in writing to invoke any dispute resolution procedure expressly provided for in a Subcontract exhibit or elsewhere in the Subcontract Documents; or
 - 2. agrees with the other party to submit the dispute to another dispute resolution process; or
 - 3. gives written notice to the other party of the intent to submit the claim to a court of competent jurisdiction.
- D. If Contractor is engaged in an arbitration with Owner that relates, in whole or in part, to a dispute between Contractor and Subcontractor, then Contractor shall have the sole and exclusive discretion to join Subcontractor as a party to the Contractor-Owner arbitration. Subcontractor consents to the jurisdiction of any such arbitration proceeding to which it is joined pursuant to this provision.

ARTICLE 13—SUBCONTRACT DOCUMENTS

13.01 Subcontract Contents

- A. The Subcontract Documents consist of the following:
 - 1. This Subcontract.
 - 2. Prime Contract, with the exception of confidential terms. The following portions of the Prime Contract are attached as Exhibit A:
 - a. General Conditions.
 - b. Supplementary Conditions.
 - c. Specifications, Division 01.
 - d. **[Other Specification sections].**
 - e. **[Drawings; incorporate by reference if not attached].**
 - f. **[Other Prime Contract items].**
 - 3. **[Subcontract scope of Subcontract Work exhibit].**
 - 4. **[Requirements for Subcontractor's insurance—limits, deductibles, special endorsements, etc.]**
 - 5. Subcontract performance bond. **[Delete if not required].**
 - 6. Subcontract payment bond. **[Delete if not required].**

7. Subcontractor's bid or proposal. **[Include as Subcontract Document only if necessary to avoid substantial rekeying of critical price or other information].**
8. Subcontract dispute resolution procedures, if any. **[Delete if not required].**
9. Other exhibits to this Subcontract (enumerated as follows): **[Identify such other exhibits].**
10. The following which may be delivered or issued on or after the Subcontract Date and are not attached hereto:
 - a. Notice to Proceed.
 - b. Work Change Directives.
 - c. Change Orders.
 - d. Field Orders.
 - e. Warranty Bond, if any.

Notes to User—Revise or supplement the list above to suit the specific needs of this Subcontract.

- B. The documents listed in the paragraph above are attached to this Subcontract (except as expressly noted otherwise above).
- C. There are no Subcontract Documents other than those listed above in this Article 14. The Subcontract supersedes prior negotiations, representations, and agreements regarding the Subcontract Work, whether written or oral.
- D. The Subcontract Documents may only be amended, modified, or supplemented by written agreement of Contractor and Subcontractor.

ARTICLE 14—MISCELLANEOUS

14.01 Terms

Terms used in this Subcontract will have the meanings stated here, or in the Prime Contract's General Conditions and Supplementary Conditions.

14.02 Assignment of Subcontract

No assignment by Subcontractor of any rights under or interests in the Subcontract will be binding on Contractor without Contractor's written consent; and, specifically but without limitation, payments that may become due and money that is due may not be assigned by Subcontractor 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 Subcontract Documents.

14.03 Successors and Assigns

Contractor and Subcontractor 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 Subcontract Documents.

14.04 *Severability*

Any provision or part of the Subcontract Documents held to be void or unenforceable under any law or regulation will be deemed stricken, and all remaining provisions must continue to be valid and binding upon Contractor and Subcontractor, which agree that the Subcontract 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.

ARTICLE 15—SUBCONTRACTOR'S REPRESENTATIONS AND CERTIFICATIONS

15.01 *Subcontractor's Representations*

- A. In order to induce Contractor to enter into this Subcontract, Subcontractor makes the following representations:
1. Subcontractor has examined and carefully studied the Subcontract Documents, and any data and reference items identified in the Subcontract Documents, including but not limited to initial schedules identified by Contractor.
 2. Subcontractor 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 Subcontract Work.
 3. Subcontractor is familiar with and is satisfied as to all laws and regulations that may affect cost, progress, and performance of the Subcontract Work.
 4. Subcontractor has carefully studied the reports of explorations and tests of subsurface conditions at or adjacent to the site and drawings of physical conditions relating to existing surface or subsurface structures at the site that have been identified by the Prime Contract or Subcontract, especially with respect to technical data in such reports and drawings.
 5. Subcontractor has carefully studied reports and drawings of hazardous environmental conditions, if any, at or adjacent to the site that have been identified in the Prime Contract or Subcontract, especially with respect to technical data in such reports and drawings.
 6. Subcontractor has considered the information known to Subcontractor itself; information commonly known to contractors and subcontractors doing business in the locality of the site; information and observations obtained from visits to the site; the Subcontract Documents; and the site-related reports and drawings, if any, identified in the Prime Contract or Subcontract, with respect to the effect of such information, observations, and documents on (a) the cost, progress, and performance of the Subcontract Work; (b) the means, methods, techniques, sequences, and procedures of construction to be employed by Subcontractor; and (c) Subcontractor's safety precautions and programs.
 7. Based on the information and observations referred to in the preceding paragraphs, Subcontractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Subcontract Work at the Subcontract Price, within the Subcontract Times, and in accordance with the other terms and conditions of the Subcontract.

8. Subcontractor is aware of the general nature of work to be performed by Owner, Contractor, other subcontractors, and others at the site that relates to the Subcontract Work as indicated in the Subcontract Documents.
9. Subcontractor has given Contractor written notice of all conflicts, errors, ambiguities, or discrepancies that Subcontractor has discovered in the Subcontract Documents, and of discrepancies between Site conditions and the Contract Documents, and the written resolution thereof by Contractor is acceptable to Subcontractor.
10. The Subcontract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Subcontract Work.
11. Subcontractor's entry into this Subcontract constitutes an incontrovertible representation by Subcontractor that without exception all prices in the Subcontract are premised upon performing and furnishing the Subcontract Work required by the Subcontract Documents.

15.02 Subcontractor's Certifications

- A. Subcontractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Subcontract. For the purposes of this paragraph:
 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 Subcontract execution;
 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Subcontract to the detriment of Owner or Contractor, (b) to establish bid or Subcontract prices at artificial non-competitive levels, or (c) to deprive Owner or Contractor 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 or Contractor, 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 Subcontract.

IN WITNESS WHEREOF, Contractor and Subcontractor have signed this Subcontract.

Notes to User—The Subcontract Date and the dates of any Subcontract performance bond and Subcontract payment bond should be the same, if possible. In no case should the date of any performance or payment bond be earlier than the Subcontract Date.

The Effective Date of the Subcontract is **[date to be inserted at the time of execution]**.

Contractor:

(typed or printed name of organization)

By: _____
(individual's signature)

Name: _____
(typed or printed)

Title: _____
(typed or printed)

Date: _____
(date signed)

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: _____

(If Contractor or Subcontractor is a corporation, attach evidence of authority to sign.)

Subcontractor:

(typed or printed name of organization)

By: _____
(individual's signature)

Name: _____
(typed or printed)

Title: _____
(typed or printed)

Date: _____
(date signed)

(If Subcontractor 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: _____

License No.: _____
(where applicable)

State: _____

NOTICE 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

PERFORMANCE BOND

Contractor Name: [Full formal name of Contractor] Address (principal place of business): [Address of Contractor's principal place of business]	Surety Name: [Full formal name of Surety] Address (principal place of business): [Address of Surety's principal place of business]
Owner Name: [Full formal name of Owner] Mailing address (principal place of business): [Address of Owner's principal place of business]	Contract Description (name and location): [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 16	
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.	
Contractor as Principal	Surety
<i>(Full formal name of Contractor)</i>	<i>(Full formal name of Surety) (corporate seal)</i>
By: _____ <div style="text-align: center;"><i>(Signature)</i></div>	By: _____ <div style="text-align: center;"><i>(Signature)(Attach Power of Attorney)</i></div>
Name: _____ <div style="text-align: center;"><i>(Printed or typed)</i></div>	Name: _____ <div style="text-align: center;"><i>(Printed or typed)</i></div>
Title: _____	Title: _____
Attest: _____ <div style="text-align: center;"><i>(Signature)</i></div>	Attest: _____ <div style="text-align: center;"><i>(Signature)</i></div>
Name: _____ <div style="text-align: center;"><i>(Printed or typed)</i></div>	Name: _____ <div style="text-align: center;"><i>(Printed or typed)</i></div>
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 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"]**

WARRANTY 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> : [Insert address of Surety's principal place of business]
Owner Name: [Full formal name of Owner] Address <i>(principal place of business)</i> : [Address of Owner's principal place of business]	Construction 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] Contract's Date of Substantial Completion: [Date from Contract]
Bond Bond Amount: [Amount] Date of Bond: [Date] Modifications to this Bond form: <input type="checkbox"/> None <input type="checkbox"/> See Paragraph 9	
Bond Period: Commencing 364 days after Substantial Completion of the Work under the Construction Contract, and continuing until [insert number of years, typically either two or three] years after such Substantial Completion.	
Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth herein, do each cause this Warranty Bond to be duly executed by an authorized officer, agent, or representative.	
Contractor as Principal	Surety
<i>(Full formal name of Contractor)</i> By: _____ <div style="text-align: center;"><i>(Signature)</i></div>	<i>(Full formal name of Surety) (corporate seal)</i> By: _____ <div style="text-align: center;"><i>(Signature) (Attach Power of Attorney)</i></div>
Name: _____ <div style="text-align: center;"><i>(Printed or typed)</i></div>	Name: _____ <div style="text-align: center;"><i>(Printed or typed)</i></div>
Title: _____	Title: _____
Attest: _____ <div style="text-align: center;"><i>(Signature)</i></div>	Attest: _____ <div style="text-align: center;"><i>(Signature)</i></div>
Name: _____ <div style="text-align: center;"><i>(Printed or typed)</i></div>	Name: _____ <div style="text-align: center;"><i>(Printed or typed)</i></div>
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 for the performance of the Construction Contract's Correction Period Obligations. The Construction Contract is incorporated herein by reference.
2. If the Contractor performs the Correction Period Obligations, the Surety and the Contractor shall have no obligation under this Warranty Bond.
3. If Owner gives written notice to Contractor and Surety during the Bond Period of Contractor's obligation under the Correction Period Obligations, and Contractor does not fulfill such obligation, then Surety shall be responsible for fulfillment of such Correction Period Obligations. Surety shall either fulfill the Correction Period Obligations itself, through its agents or contractors, or, in the alternative, Surety may waive the right to fulfill the Correction Period Obligations itself, and reimburse the Owner for all resulting costs incurred by Owner in performing Contractor's Correction Period Obligations, including but not limited to correction, removal, replacement, and repair costs.
4. The Surety's liability is limited to the amount of this Warranty Bond. Renewal or continuation of the Warranty Bond will not modify such amount, unless expressly agreed to by Surety in writing.
5. The Surety shall have no liability under this Warranty Bond for obligations of the Contractor that are unrelated to the Construction Contract. No right of action will accrue on this Warranty Bond to any person or entity other than the Owner or its heirs, executors, administrators, successors, and assigns.
6. Any proceeding, legal or equitable, under this Warranty Bond may 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 the Surety refuses or fails to perform its obligations under this Warranty Bond.
7. Written notice to the Surety, the Owner, or the Contractor must be mailed or delivered to the address shown in this Warranty Bond.
8. Definitions
 - 8.1. *Construction Contract*—The agreement between the Owner and Contractor identified on the cover page of this Warranty Bond, including all Contract Documents and changes made to the agreement and the Contract Documents.
 - 8.2. *Contract Documents*—All the documents that comprise the agreement between the Owner and Contractor.
 - 8.3. *Correction Period Obligations*—The duties, responsibilities, commitments, and obligations of the Contractor with respect to correction or replacement of defective Work, as set forth in the Construction Contract's Correction Period clause, EJCDC® C-700, Standard General Conditions of the Construction Contract (2018), Paragraph 15.08, as duly modified.
 - 8.4. *Substantial Completion*—As defined in the Construction Contract.
 - 8.5. *Work*—As defined in the Construction Contract.
9. Modifications to this Bond are as follows: **[Describe modification or enter "None"]**

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) (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: _____
<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"]**

CERTIFICATE OF SUBSTANTIAL COMPLETION

Owner:
Engineer:
Contractor:
Project:
Contract Name:

Owner's Project No.:
Engineer's Project No.:
Contractor's Project No.:

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:

STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

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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

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.

SUPPLEMENTARY CONDITIONS OF THE CONSTRUCTION CONTRACT

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SUPPLEMENTARY CONDITIONS OF THE CONSTRUCTION CONTRACT

Guidance Note—Introductory Statement—The following is a suggestion for use at the beginning of the Supplementary Conditions for a specific project:

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."

ARTICLE 1—DEFINITIONS AND TERMINOLOGY

No suggested Supplementary Conditions in this Article.

ARTICLE 2—PRELIMINARY MATTERS

2.01 *Delivery of Bonds and Evidence of Insurance*

Guidance Notes—Furnishing Copies of Insurance Policies— Paragraph 2.01.B of the General Conditions requires that Contractor furnish certificates of insurance and copies of endorsements. Paragraph 6.02.D states that upon request by Owner or other additional insureds, Contractor must provide evidence of insurance such as copies of required policies, and documentation of applicable self-insured retentions and deductibles, such as a copy of the portion of the insurance policy establishing the retention or deductible amount. Parallel provisions (GC-2.01.C; GC-6.02.E) apply to Owner and the insurance that Owner is required to provide. Rather than relying on this two-step process (delivery of certificates of insurance and endorsements at the outset; subsequent requests for additional evidence of insurance), some contract drafters may elect to require from the outset that copies of the insurance policies, rather than certificates of insurance, be delivered to the other party. If exchange of copies of insurance policies is required, the following should be used:

SC-2.01 Delete Paragraphs 2.01.B. and C. in their entirety and insert the following in their place:

- B. *Evidence of Contractor's Insurance:* When Contractor delivers the signed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner copies of the policies (including all endorsements, and identification of applicable self-insured retentions and deductibles) of insurance required to be provided by Contractor in this Contract. Contractor may block out (redact) any confidential premium or pricing information contained in any policy or endorsement furnished under this provision.
- C. *Evidence of Owner's Insurance:* After receipt from Contractor of the signed counterparts of the Agreement and all required bonds and insurance documentation, Owner shall promptly deliver to Contractor copies of the policies of insurance to be provided by Owner in this

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

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Contract (if any). Owner may block out (redact) any confidential premium or pricing information contained in any policy or endorsement furnished under this provision.

2.02 *Copies of Documents*

Guidance Notes—Furnishing Contract Documents to Contractor—GC-2.02.A indicates that Owner will furnish four printed (hard) copies of the Contract Documents, and one PDF copy.

If Owner is not furnishing PDF or other electronic files of the Contract Documents, then (1) revise GC-2.02.A to indicate that Owner is not providing the PDF files, and (2) include a Supplementary Condition that deletes Paragraph 3.01.C in its entirety (see SC-3.01 below). SC-2.02 below is used to accomplish item (1), and may also be used to change the number of printed copies of the Contract Documents to be provided, if the number is not four.

SC-2.02 Amend the first sentence of Paragraph 2.02.A. to read as follows:

Owner shall furnish to Contractor **[number]** printed copies of the Contract Documents (including one fully signed counterpart of the Agreement), and **[one copy]** **[none]** in electronic portable document format (PDF).

Guidance Notes—Conformed Contract Documents—On some projects it may be useful to produce conformed Contract Documents, in which the content of Addenda and negotiated changes are merged into the appropriate Specifications, Drawings, General Conditions, and other Contract Documents. This may be especially true on private construction projects where the terms and scope are negotiated and modified significantly after the initial release of proposed Contract Documents. Conformed documents may be considerably more convenient to use during the performance of the Work and the administration of the Contract.

EJCDC advises that if conformed documents are to be prepared and made available to Contractor, sufficient time and budget must be allocated to ensure the quality and full coordination of the conformed documents, and Owner and Engineer must recognize that Contractor, Subcontractors, and Suppliers will likely rely on the conformed version of the Contract Documents rather than the source components. If conformed documents are prepared without the level of commitment necessary to allow them to be accorded the full status of “Contract Documents,” and are merely for reference or convenience, they should be accompanied by clear disclaimers of their content and a warning to consult the actual source Contract Documents.

A Supplementary Condition regarding conformed documents is necessary only if the Owner intends to provide the Contractor with conformed documents that will serve as binding Contract Documents. The following may be used for that purpose:

SC-2.02 Delete Paragraph 2.02.A in its entirety and insert the following new paragraph in its place:

- A. Owner shall furnish to Contractor **[number]** printed copies of conformed Contract Documents incorporating and integrating all Addenda and any amendments negotiated prior to the Effective Date of the Contract (including one fully signed counterpart of the Agreement), and one copy in electronic portable document format (PDF). Additional printed copies of the conformed Contract Documents will be furnished upon request at the cost of reproduction.

Guidance Notes—Electronic Documents Protocol (EDP)—GC-2.06.A authorizes the electronic transmittal of Electronic Documents (commencing with the 2018 edition of the C-Series, Electronic Documents is a defined term in the General Conditions), and GC-2.06.B indicates that if the Contract does not establish protocols for such transmittals, then Owner, Engineer, and Contractor will jointly develop such protocols. The following Supplementary Conditions may be used to contractually establish transmittal protocols, eliminating the need for joint development after the Contract is underway.

The Supplementary Conditions establishing the Electronic Documents Protocol (“EDP” or “Protocol”) define the relationships between the parties relative to responsibilities and limitations governing use of Electronic Documents on the Project. The drafter of the Protocol, with assistance of Owner and Engineer, will need to customize for Project-specific management, system, data, and technical needs.

Software and data formats for exchange of Electronic Documents will vary depending on the preferences of the Owner and the needs of the Project. A sample set of basic software and data formats, commonly seen for exchanging information on many horizontal construction projects, has been included in Exhibit A, Software Requirements for Electronic Document Exchange, as a starting point for Project information exchange standards. **[Exhibit A is located at the end of C-800, with other exhibits.]** No representation is made that these standards will be applicable to any particular project, and each user must review and modify Exhibit A as needed.

The Protocol addresses the limited data exchange functions intended by the basic software and data formats described in Exhibit A, but the Protocol does not directly address the exchange of “native” design files between the parties for more robust uses beyond such data exchange, nor does it address special issues associated with use of “native” design files, not the least of which is suitability for uses not necessarily intended or anticipated by the file author. While nothing precludes the exchange of “native” files under this Protocol, it is up to the Parties to define how such “native” files may be used and modify the Protocol for criteria of use and any limitations to such use.

Many entities have developed their own data organization standards for “native” files, including such criteria as data model element organization, drawing layer conventions, Building Information Modeling (BIM) and Civil Integrated Management Model protocols, Geographic Information System schema, and integrated and cross-referenced data sets. Additionally, several institutions and design/construction industry organizations have developed and published more comprehensive technical criteria, schemas and plans for use as guides to data organization standards.

Here again, where the data standards require a broader and, generally more collaborative, review and definition of the obligations of the parties, it is up to the parties to significantly modify this Protocol considering such matters as: 1) party responsible for managing models or system; 2) maintaining integrity of the models or system; 3) ownership of the model or system; 4) enhanced system infrastructure, software, access and security standards; 5) responsibility and liability of respective parties in the role of adding or using elements of common models; 6) additional protocols for quality control and quality assurance; and many other factors.

Some projects feature a Project Website as a part of the EDP. The EDP below includes a clause that may be used to set standards for such a website:

1. *Project Website Established by Owner:* If Owner, either directly or through the Engineer or a third party, elects to establish and operate a Project Website or other electronic information management system during the Project, with or without the project document archive described in SC-2.06.B.2.e,

then include and modify Paragraph SC-2.06.B.2.h as appropriate to set forth any standards applicable to use of the website.

2. *Project Website Established by Contractor:* Under the less common condition in which the operation of the Project Website is delegated by Owner to the Contractor, Paragraph SC-2.06.B.2.h will need to be modified significantly and include the method of compensation, if any, to be paid to Contractor for Project Website services.

To include an Electronic Documents Protocol (EDP), use the following Supplementary Condition:

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 [number] 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.
- h. The Owner will operate a Project information management system (also referred to in this EDP as "Project Website") for use of Owner, Engineer and Contractor during the Project for exchange and storage of Project-related communications and information. Except as otherwise provided in this EDP or the General Conditions, use of the Project Website by the parties as described in this Paragraph will be mandatory for exchange of Project documents, communications, submittals, and other Project-related information. The following conditions and standards will govern use of the Project Website:
 - 1) **[Describe the period of time during which the Project Website will be operated and be available for reliance by the parties];**
 - 2) **[Provide any minimum system infrastructure, software licensing and security standards for access to and use of the Project Website];**
 - 3) **[Describe the types and extent of services to be provided at the Project Website (such as large file transfer, email, communication and document archives, etc.)]; and**
 - 4) **[Include any other Project Website attributes that may be pertinent to Contractor's use of the facility and pricing of such use].**

C. *Software Requirements for Electronic Document Exchange; Limitations*

- 1. Each party will acquire the software and software licenses necessary to create and transmit Electronic Documents and to read and to use any Electronic Documents received from the other party (and if relevant from third parties), using the software formats required in this section of the EDP.
 - a. Prior to using any updated version of the software required in this section for sending Electronic Documents to the other party, the originating party will first notify and receive concurrence from the other party for use of the updated version or adjust its transmission to comply with this EDP.
- 2. The parties agree not to intentionally edit, reverse engineer, decrypt, remove security or encryption features, or convert to another format for modification purposes any Electronic Document or information contained therein that was transmitted in a software data format, including Portable Document Format (PDF), intended by sender not to be modified, unless the receiving party obtains the permission of the sending party or is citing or quoting excerpts of the Electronic Document for Project purposes.

3. Software and data formats for exchange of Electronic Documents will conform to the requirements set forth in Exhibit A to this EDP, including software versions, if listed.

Guidance Notes—Requests by Contractor for Electronic Documents in Other Formats: SC-2.06.B and SC-2.06.C above constitute an Electronics Document Protocol for transmittal of Electronic Documents. When the Owner desires to retain the option to allow certain documents to be made available to Contractor in formats other than those described in SC-2.06.C of the Protocol, the Owner should add the following Supplementary Condition and release language:

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.

3. In the event that Owner elects to provide or directs the Engineer to provide to Contractor any Contractor-requested Electronic Document versions of Project information that is not explicitly identified in the Contract Documents as being available to Contractor, the Owner shall be reimbursed by Contractor on an hourly basis (at \$[number] per hour) for any engineering costs necessary to create or otherwise prepare the data in a manner deemed appropriate by Engineer.

ARTICLE 3—CONTRACT DOCUMENTS: INTENT, REQUIREMENTS, REUSE

3.01 *Intent*

Guidance Notes—Furnishing Contract Documents to Contractor—GC-2.02.A indicates that Owner will furnish four printed (hard) copies of the Contract Documents, and one PDF copy. (See Guidance Note for Paragraph 2.02.) GC-3.01.C states that if there is a discrepancy between the electronic version of the Contract Documents and the printed (hard copy) version, then the printed version controls. If Owner is not furnishing PDF or other electronic files of the Contract Documents, then GC-3.01.C becomes superfluous, and the following may be used:

SC-3.01 Delete Paragraph 3.01.C in its entirety.

ARTICLE 4—COMMENCEMENT AND PROGRESS OF THE WORK

4.05 *Delays in Contractor's Progress*

Guidance Notes—Defining Weather-related Delays—GC-4.05 is arguably one of the most important provisions in the General Conditions because it allocates the risk of delays in the Work. Delays may be costly to the Contractor and Owner, and detrimental to the success of the Project. Delays beyond the Contract Times have the potential to result in the imposition of liquidated and special damages included in the Contract. When there is any change in the allocation of risks for delays from what is included in GC-4.05, a corresponding SC-4.05 is required.

Particular attention should be paid to the provisions of GC-4.05.C, which is the Contract's force majeure clause governing allocation of risks for delays that are beyond the control of both the Contractor and the Owner. Because weather-related delays are so common, the drafter of the Supplementary Conditions may want to consider including a more specific provision regarding weather-related delays, particularly in cases where adherence to the Contract Times is extremely important and where the Work will be of such a nature as to be susceptible to weather-related delays. Sample contract language is presented below as SC-4.05.C. As the following commentary indicates, other approaches are possible and should be considered.

The General Conditions indicate at GC-4.05.C.2 that the Contractor will be entitled to an equitable adjustment in Contract Times if the Work is delayed by "abnormal weather conditions." This standard will be sufficient in most situations, and is applicable to the full range of possible bad weather events. However, the drafter of the specific Contract may wish to define "abnormal weather" by reference to

objective, measurable weather factors. To draft a supplemental weather-delay provision that defines abnormal weather, the drafter must consider the threshold level of severity of weather that may affect the progress of the Work—the Contractor must anticipate and cope with the weather up to the defined threshold, and if the threshold is reached or exceeded, the Contractor will be entitled to additional time to complete the Work. One such threshold level of severity could be specified to apply to the entire construction (this is the approach taken in the sample SC-4.05.C), or separate levels could be specified for different elements of the Work. As an example of the second alternative, and while it is acknowledged that the parties may not know specific construction activities at the time the initial Contract Documents are prepared, presumed weather severities could be tailored to the materials or type of construction involved. For example, if the Work involves reinforced concrete, the weather conditions that could delay concrete pouring might not reasonably delay erection of formwork or placement of reinforcing steel. The possibility of lingering effects should be considered when drafting such provisions.

In some localities there may be well established and widely accepted procedures for monitoring and evaluating the weather impacts on a construction project, such as the procedures set forth in municipal or state department of transportation standard specifications. The drafter of the Contract Documents may wish to adopt such procedures if relevant to the specific project, as an alternative to the sample procedures set out in the optional SC-4.05.C.

SC-4.05.C, if adopted, ties the definition of “abnormal weather” to two factors, precipitation and temperature. The drafter must establish a threshold amount of daily precipitation that is tolerable in the specific location—any day that incurs an amount at or above the threshold is a bad weather day. Similarly, the drafter must define acceptable temperature thresholds—dropping below the minimum or rising above the maximum will result in categorization as a bad weather day. Finally, the drafter must define how many bad weather days in each category (precipitation, excessively cold weather, excessively hot weather) are foreseeable (essentially “normal” or tolerable) in each month. In most locations, the normal expectation for bad weather in a month will vary with the seasons.

Even if the parties anticipate a short project duration, the table (Exhibit B—Foreseeable Bad Weather Days) that is incorporated in SC-4.05.C should encompass the entire calendar year to ensure that, regardless of postponements, suspensions, or delays, the Work as actually performed is contractually covered by SC-4.05.C. **[SC-4.05.C includes and incorporates the table identified as Exhibit B—Foreseeable Bad Weather Days (located with other exhibits at the end of C-800)].**

An important step in drafting a supplemental clause regarding weather delays is establishing the source for actual weather records and site conditions (for lingering effects) and the required content of such records. A variety of sources may be viable options for weather records, but in general it is better when the weather monitoring site is relatively close to the Site. Sources may include the National Weather Service, media outlets that maintain weather-monitoring networks, certain schools and universities, and possibly wastewater conveyance utilities. Before specifying the source of data, verify that the data is available, and the type of data collected.

The text of SC-4.05.C, defining “abnormal weather” based on precipitation and temperature extremes, is indicated below. If the drafter elects to use this optional Supplementary Condition, edit the example language to suit the Project, and provide the weather thresholds required in the text and in the Exhibit B table.

A few specific Guidance points for SC-4.05.C:

1. Edit Paragraphs SC-4.05.C.5.b “1).i)” and “1).ii)”, to suit the Project; the times specified in Paragraph “1).i)” are presumed times for wet weather to render the Site inoperable for the following workday.
2. Based on recorded weather data available from the weather station indicated in Paragraph SC-4.05.C.5.b “2)”, insert in SC-4.05.C.5.b “1).i)” and “1).ii)” the threshold one-day precipitation quantity and the threshold temperatures (minimum and maximum).
3. Insert in the appropriate blanks in Paragraph SC-4.05.C.5.b “2)” below the entity operating and maintaining the weather station, and the location of the weather station; for example, “National Weather Service weather monitoring station at the Buffalo-Niagara International Airport.” For the selected entity and site, verify the data types and frequency available for the particular weather monitoring station.
4. Based on data from the weather monitoring station indicated in Paragraph SC-4.05.C.5.b “2)”, fill in all the cells in the table identified as Exhibit B—Foreseeable Bad Weather Days. Optimally, data indicated should be averaged over a period of not less than five years although other durations may be appropriate. Edit the sample language when other foreseeable weather factors can affect the construction, such as high winds or other factors.

SC-4.05 Amend Paragraph 4.05.C by adding the following subparagraphs:

5. *Weather-Related Delays*

- a. If “abnormal weather conditions” as set forth in Paragraph 4.05.C.2 of the General Conditions are the basis for a request for an equitable adjustment in the Contract Times, such request must be documented by data substantiating each of the following: 1) that weather conditions were abnormal for the period of time in which the delay occurred, 2) that such weather conditions could not have been reasonably anticipated, and 3) that such weather conditions had an adverse effect on the Work as scheduled.
- b. The existence of abnormal weather conditions will be determined on a month-by-month basis in accordance with the following:
 - 1) Every workday on which one or more of the following conditions exist will be considered a “bad weather day”:
 - i) Total precipitation (as rain equivalent) occurring between 7:00 p.m. on the preceding day (regardless of whether such preceding day is a workday) through 7:00 p.m. on the workday in question equals or exceeds **[threshold precipitation quantity]** of precipitation (as rain equivalent, based on the snow/rain conversion indicated in the table entitled Foreseeable Bad Weather Days; such table is hereby incorporated in this SC-4.05.C by reference.
 - ii) Ambient outdoor air temperature at 11:00 a.m. is equal to or less than the following low temperature threshold: **[temperature]** degrees Fahrenheit; or, at 3:00 p.m. the ambient outdoor temperature is equal to or greater than the following high temperature threshold: **[temperature]** degrees Fahrenheit.

- 2) Determination of actual bad weather days during performance of the Work will be based on the weather records measured and recorded by **[name of the entity operating the weather station]** weather monitoring station at **[location of the weather monitoring station]**.
- 3) Contractor shall anticipate the number of foreseeable bad weather days per month indicated in the table in Exhibit **[exhibit number]**—Foreseeable Bad Weather Days.
- 4) In each month, every bad weather day exceeding the number of foreseeable bad weather days established in the table in Exhibit **[exhibit number]**—Foreseeable Bad Weather Days will be considered as “abnormal weather conditions.” The existence of abnormal weather conditions will not relieve Contractor of the obligation to demonstrate and document that delays caused by abnormal weather are specific to the planned work activities or that such activities thus delayed were on Contractor’s then-current Progress Schedule’s critical path for the Project.

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

5.03 *Subsurface and Physical Conditions*

Guidance Notes—Reports and Drawings Containing Technical Data (Subsurface; Physical Conditions)

1. This is a mandatory Supplementary Condition. Paragraph 5.03, Subsurface and Physical Conditions, of the General Conditions requires the identification of reports and drawings that contain Technical Data regarding subsurface and physical conditions at or adjacent to the Site. See GC-5.03.A.1 and 2. This will typically include current and recent geotechnical reports, drawings of existing subsurface and surface conditions (including structures such as buildings and foundations), and any other documents that Owner or Engineer has determined to contain reliable Site information. GC-5.03.A.3 requires the identification of the specific Technical Data in the reports and drawings. This is an important task because only the Technical Data is entitled to reliance by Contractor—the remainder of the contents of the reports and drawings does not receive this elevated status.
2. Typical examples of the contents of Site-related reports and drawings that might be categorized by Owner or Engineer as Technical Data for contractual purposes are:
 - a. boring logs;
 - b. recorded measurements of subsurface water levels;
 - c. assessments of the condition of subsurface facilities;
 - d. laboratory test results; and
 - e. mapping based on remote sensing.
3. Use SC-5.03, presented immediately below, for the purpose of identifying the Site condition documents that contain Technical Data, and the specific Technical Data contained in each report and drawing.

4. In a change from the two previous editions of the EJCDC Construction Series documents (2013 and 2007), the user should not list all archival and other documents concerning the Site here in the Supplementary Conditions—as of 2018, for GC/SC-5.03 list in the Supplementary Conditions only those documents determined by Owner or Engineer to contain Technical Data.
5. *Filling in the tables:* SC-5.03.E contains a table for listing reports that contain Technical Data, and identifying that data; and SC-5.03.F contains a table for listing drawings that contain Technical Data. Examples of a completed row from each table follow, for illustrative purposes only:

- E. The following table lists the reports of explorations and tests of subsurface conditions at or adjacent to the Site that contain Technical Data, and specifically identifies the Technical Data in the report upon which Contractor may rely:

Report Title	Date of Report	Technical Data
Results of Investigation of Subsoil Conditions and Geotechnical Recommendations—Riverside Wastewater Treatment Plant	August 8, 2018	Boring Log, Test Site 1, at page 32 of Report.

- F. The following table lists the 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 specifically identifies the Technical Data upon which Contractor may rely:

Drawings Title	Date of Drawings	Technical Data
Record Drawings: Route 24 Overpass Abutment Project	November 30, 2012	All information in drawings, with the exception of the contents of Drawings 001 and 005.

6. In addition to requiring the identification of Technical Data in SC-5.03, EJCDC also requires that Owner identify and disclose to Bidders archival and other Site-related documents known to Owner (but that do not contain Technical Data and therefore are not listed here in the Supplementary Conditions), in a list distributed with the Instructions to Bidders. See Instructions to Bidders, Article 5. The Bidders may then review documents of interest, and perhaps glean information useful to them in fashioning a bid and planning the Work. There is no requirement, however, that Bidders or the Contractor review the documents disclosed in the Instructions to Bidders, nor are they held accountable for any data or information in such documents; similarly, Owner has not verified the data or information in these documents, and is not responsible for their accuracy. The requirement that Contractor review and take responsibility for Site information is limited to information in (1) the Contract Documents and (2) the Technical Data.
7. If the Supplementary Conditions neglect to expressly identify the Technical Data entitled to reliance, then certain data in documents such as a geotechnical report, environmental report, or similar investigative report prepared for the current Project are, by default definition, Technical Data upon whose accuracy Contractor may rely. See the default definition of Technical Data, GC-1.01.A.46.b.
8. Paragraph GC-5.03.B clarifies that Underground Facilities are shown or indicated in the Drawings. Requirements with respect to Underground Facilities are set forth in Paragraph GC-5.05.
9. Paragraph GC-5.06 requires disclosure of documents relating to Hazardous Environmental Conditions at the Site. Note that these requirements differ from the requirements regarding disclosure of documents relating to subsurface and physical conditions in GC-5.03, and here in SC-5.03.

10. If Owner elects to furnish a Geotechnical Baseline Report (GBR), use the alternate SC/GBR-5.03 and SC/GBR-5.04 presented in Exhibit C to this document, rather than the SC-5.03 version immediately following. **[Exhibit C is located at the end of C-800.]**

SC-5.03 Add the following new paragraphs immediately after Paragraph 5.03.D:

- E. The following table lists the reports of explorations and tests of subsurface conditions at or adjacent to the Site that contain Technical Data, and specifically identifies the Technical Data in the report upon which Contractor may rely: **[If there are no such reports, so indicate in the table.]**

Report Title	Date of Report	Technical Data
		[Identify Technical Data]

- F. The following table lists the 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 specifically identifies the Technical Data upon which Contractor may rely: **[If there are no such drawings, so indicate in the table.]**

Drawings Title	Date of Drawings	Technical Data
		[Identify Technical Data]

- G. Contractor may examine copies of reports and drawings identified in SC-5.03.E and SC-5.03.F that were not included with the Bidding Documents at **[location]** during regular business hours, or may request copies from Engineer.

5.06 *Hazardous Environmental Conditions*

Guidance Notes—Reports and Drawings Regarding Hazardous Environmental Conditions—This is a mandatory Supplementary Condition. Paragraph 5.06 of the General Conditions contemplates that Owner will identify all known documents regarding Hazardous Environmental Conditions (HEC) that have been identified at or adjacent to the Site. It also requires the identification of Technical Data (upon whose accuracy Contractor may rely) contained in such documents. Use SC-5.06, presented immediately below, to identify the known HEC documents. Refer to Guidance Note 5 preceding SC-5.03 for examples of completed rows of tables similar to the tables in SC-5.06. Also note that if either a geotechnical report or environmental report has been prepared for the Project, and the Supplementary Conditions neglect to expressly identify reports or drawings or reports' or drawings' Technical Data upon whose accuracy Contractor may rely, then the default definition of Technical Data in Paragraph GC-1.01.A.46.b of the General Conditions will apply.

SC-5.06 Add the following new paragraphs immediately after Paragraph 5.06.A.3:

4. The following table lists the reports known to Owner relating to Hazardous Environmental Conditions at or adjacent to the Site, and the Technical Data (if any) upon which Contractor may rely: **[If there are no such reports, so indicate in the table]**

Report Title	Date of Report	Technical Data
		[Identify Technical Data]

5. The following table lists the drawings known to Owner relating to Hazardous Environmental Conditions at or adjacent to the Site, and Technical Data (if any) contained in such Drawings upon which Contractor may rely: **[If there are no such drawings, so indicate in the table]**

Drawings Title	Date of Drawings	Technical Data
		[Identify Technical Data]

ARTICLE 6—BONDS AND INSURANCE

6.01 *Performance, Payment, and Other Bonds*

Guidance Notes—Performance and Payment Bonds

1. *Deletion of Performance/Payment Bond Requirement:* Paragraph 6.01.A of the General Conditions requires that Contractor furnish a performance bond and a payment bond. If performance and payment bonds are not required for a specific Contract, include a Supplementary Condition that deletes the GC-6.01.A requirement.
2. *Performance/Payment Bond Forms:* Paragraph 6.01.C requires that all bonds be “in the form included in the Bidding Documents or otherwise specified by Owner prior to execution of the Contract....” Some Owners may have in-house bond forms that must be used, or in some instances state or local law may mandate a specific bond form. In all other cases, EJCDC recommends that its standard performance and payment bond forms, EJCDC® C-610, Performance Bond (2018), and EJCDC® C-615, Payment Bond (2018), be included or specified. These bond forms were developed in collaboration by EJCDC with other principal design, construction, and surety organizations, and as a result contain industry-standard wording, organization, and terminology. (The 2010, 2013, and 2018 editions of these two bonds are essentially identical, and interchangeable.) Most sureties and bond producers have templates of the EJCDC bonds and can issue them readily.
3. If the EJCDC performance and payment bonds are required, EJCDC recommends that prospective Bidders or contractors be given sample copies of the two bond forms (typically as a part of the Bidding Documents), and buttress the requirement with an express Supplementary Condition specifying the use of the standard EJCDC bonds. The Supplementary Condition for that purpose follows.

SC-6.01 Add the following paragraphs immediately after Paragraph 6.01.A:

1. *Required Performance Bond Form:* The performance bond that Contractor furnishes will be in the form of EJCDC® C-610, Performance Bond (2010, 2013, or 2018 edition).
2. *Required Payment Bond Form:* The payment bond that Contractor furnishes will be in the form of EJCDC® C-615, Payment Bond (2010, 2013, or 2018 edition).

Guidance Notes—“Other Bonds,” Warranty Bond

1. Other Bonds

Paragraph 6.01.B states that if Contractor is required to provide a bond other than a performance or payment bond, the requirement will be set forth in the Supplementary Conditions. This statement is not relevant or related to a requirement that a Bidder must furnish a Bid Bond: such a requirement (if any) is part of the bidding process that occurs before entry into the construction contract, and the bid bond requirement would be included in the Instructions to Bidders. See Instructions to Bidders, Article 8. Rather, the reference is to any special purpose bond that is required.

2. Warranty Bond

Perhaps the most common “other” or special purpose bond that might be required is the warranty bond (also called a maintenance bond). A warranty bond provides assurance that Contractor (or if necessary the surety) will meet the contractual correction period obligations during a specified period of time after construction has been completed.

SC-6.01.B.1 presents model wording for requiring that Contractor furnish a warranty bond. EJCDC’s standard form for such a bond is EJCDC® C-612, Warranty Bond (2018); if SC-6.01.B.1 is used, the Warranty Bond form should be provided to bidders or prospective contractors with the Supplementary Conditions (typically as a part of the Bidding Documents).

The C-612 Warranty Bond is intended to be used to provide bonding for a period of time greater than one year after Substantial Completion. EJCDC® C-610, Performance Bond (2018) already obligates the surety with respect to the correction of defective Work (C-610, Paragraph 7.1), and has a duration sufficient to allow bond claims based on defects discovered during the standard one-year correction period (GC-6.01.A; C-610, Paragraph 11); and the purchase price charged for the performance bond is based on that bond remaining in effect during the one-year correction period. Thus, a warranty bond is not needed if the correction period remains the standard one year, and indeed would be redundant with the performance bond if used solely to cover that one-year correction period.

To avoid possible conflicts regarding responsibilities between the surety that issues the performance bond and the surety that issues the warranty bond, EJCDC recommends a requirement that the two bonds be issued by the same surety. See SC-6.01.B.3.

Although in theory a warranty bond could be furnished for a very lengthy duration (four or more years beyond Substantial Completion), such a lengthy bond would probably be commercially difficult to obtain and very expensive. EJCDC recommends an endpoint for the warranty bond of either two years after Substantial Completion (essentially extending the bonded coverage by one additional year) or three years after Substantial Completion (extending the bonded coverage by two additional years). These two recommended options are embedded in the C-612 Warranty Bond form.

By its terms the EJCDC warranty bond applies to the contractual correction obligation at GC-15.08. SC-6.01.B.2 extends that contractual correction period beyond its standard one-year duration—the

contractual extension should match the Warranty Bond duration. For the sake of clarity, EJCDC recommends a cross-reference to Supplementary Condition SC-15.08.A—see Article 15 below.

Because correction period work is, in total, likely to cost only a modest fraction of the Contract Price, warranty bonds typically have a bond amount that is 10 or 15 percent of the Contract Price. The precise percentage required should be clearly indicated in the Supplementary Condition.

The suggested wording to extend the correction period and require that Contractor furnish a warranty bond follows:

SC-6.01 Add the following paragraphs immediately after Paragraph 6.01.B:

1. The correction period specified as one year after the date of Substantial Completion in Paragraph 15.08.A of the General Conditions is hereby revised to be **[number—either 2, 3, or other]** years after Substantial Completion.
2. After Substantial Completion, Contractor shall furnish a warranty bond issued in the form of EJCDC® C-612, Warranty Bond (2018). The warranty bond must be in a bond amount of **[number—either 10, 15, or other]** percent of the final Contract Price. The warranty bond period will extend to a date **[number—either 2, 3, or other]** years after Substantial Completion of the Work. Contractor shall deliver the fully executed warranty bond to Owner prior to or with the final application for payment, and in any event no later than 11 months after Substantial Completion.
3. The warranty bond must be issued by the same surety that issues the performance bond required under Paragraph 6.01.A of the General Conditions.

6.02 Insurance—General Provisions

Guidance Notes—Modifying Insurance Company Ratings Requirements—Paragraph 6.02.B of the General Conditions requires that all companies that provide insurance policies required under this Contract must have an A.M. Best rating of A-VII or better, unless a different standard is indicated in the Supplementary Conditions. The A.M. Best ratings are based on the financial strength and size of the insurance company, with A-VII representing a commonly used standard. SC-6.02 is the location for noting any different standard, whether narrower or broader.

In some states, not all worker's compensation insurers obtain A.M. Best ratings. The Owner may wish to include the following optional exception (modified to meet applicable provisions in the state) to the requirement in Paragraph 6.02.B:

SC-6.02 Add the following paragraph immediately after Paragraph 6.02.B:

1. Contractor may obtain worker's compensation insurance from an insurance company that has not been rated by A.M. Best, provided that such company (a) is domiciled in the state in which the Project is located, (b) is certified or authorized as a worker's compensation insurance provider by the appropriate state agency, and (c) has been accepted to provide worker's compensation insurance for similar projects by the state within the last 12 months.

Guidance Notes—Specifying Insurance to be carried by Subcontractors and Suppliers—GC-6.02.H indicates that Contractor must require its Subcontractors and Suppliers to purchase and maintain

insurance that is appropriate for their participation in the Project. This provision intentionally gives Contractor considerable latitude in risk management with respect to its Subcontractors and Suppliers. In most cases the Contractor will have more familiarity than Owner with the risks associated with particular types of subcontracted work, with the Subcontractors and Suppliers selected, and with the insurance coverage requirements that should be imposed. Occasionally, however, the Owner will choose to establish insurance requirements that apply to some or all Subcontractors or Suppliers. SC-6.02.H.3 may be used for that purpose.

SC-6.02 Add the following paragraph immediately after Paragraph 6.02.H.2 of the General Conditions:

3. For the following Subcontractors, Suppliers, or categories of Subcontractor or Supplier, Contractor shall require the following specified insurance, with policy limits as stated:
[Identify Subcontractors, Suppliers, or categories of same, and insert specific insurance requirements and policy limits]

6.03 Contractor's Insurance

Guidance Notes—Specifying Contractor's Insurance, Including Coverage Limits—This is a mandatory Supplementary Condition, because it is the location for specifying the insurance policies, coverages, and endorsements to be maintained by Contractor (other than builder's risk and other property insurance, which are addressed in SC-6.04), and the minimum coverage limits. However, not all components of SC-6.03 will be used for the specific Contract that is being drafted, and many parts may need to be modified or revised to meet specific insurance requirement objectives. Consultation with risk managers, insurance specialists, and legal counsel is a necessity.

The information set forth in this Supplementary Condition (and in all other contractual provisions regarding bonds and insurance) is typically provided by Owner, either directly or through written instructions given to Engineer (see EJCDC® C-051, Engineer's Letter to Owner Requesting Instructions Concerning Bonds and Insurance (2018), and EJCDC® C-052, Owner's Instructions to Engineer Concerning Bonds and Insurance (2018)).

The user should refer to the following Guidance points with respect to specific features of SC-6.03, including categories of insurance with unique features (such as Umbrella or Excess Liability insurance, SC-6.03.K), or that are required only under specific circumstances (such as Railroad Protective Liability insurance, SC-6.03.O):

1. *Deciding Whether to Require Umbrella/Excess Insurance:* SC-6.03.K, Umbrella or Excess Liability, is a standard insurance provision that requires Contractor to carry an Umbrella or Excess Liability policy. Some Owners do not require that Contractor carry Umbrella/Excess insurance, perhaps viewing the decision to obtain and maintain Umbrella/Excess, and the specific amount of Umbrella/Excess coverage, as risk management choices best left to the Contractor; and presumably in such cases the Owner accepts that the primary policies (most importantly Commercial General Liability), as specified, provide adequate protection.

If Owner revises the standard terms by deleting the requirement that Contractor provide Excess or Umbrella liability insurance, then Owner may wish to consider requiring (in SC-6.03.G, Commercial General Liability—Form and Content) that "The general aggregate limits under SC-6.03.I (Commercial General Liability—Minimum Policy Limits) be maintained fully available for this Contract by obtaining

and maintaining a Designated Construction Project General Aggregate Limit endorsement, or equivalent.”

2. *Allowing the Umbrella/Excess Insurance to Satisfy Underlying Coverage Requirements*

- a. The optional Supplementary Condition SC-6.03.L, Using Umbrella or Excess Liability to Meet CGL and Other Policy Limit Requirements, is used to contractually authorize the common practice in which an Owner allows Contractor to meet the required minimum policy limits for commercial general liability and other primary liability policies by attributing a portion of Umbrella/Excess coverage to the underlying policy or policies. For example, if the Contract requires \$5 million in CGL coverage; SC-6.03.L specifies (in the brackets in the last sentence) that a minimum of \$3 million of the Umbrella must remain unattributed to any underlying policy; and Contractor has a CGL policy of \$3 million and a \$10 million Umbrella policy, then \$2 million of the Umbrella could be attributed to the CGL, to meet the \$5 million CGL minimum. Under that example, such attribution would still leave a “balance” of \$8 million under the Umbrella, thus satisfying the requirement that a minimum of \$3 million of the Umbrella remain unattributed to any underlying policy.
- b. In those cases in which SC-6.03.L, Using Umbrella or Excess Liability Insurance to Meet CGL and Other Policy Limit Requirements, is used, it is important fill in the brackets in the last sentence, specifying the unattributed balance that is the appropriate amount for the specific Contract.
- c. Not all Owners will choose to allow an Umbrella/Excess policy to provide partial satisfaction of a primary liability policy coverage requirement, preferring the simpler approach of Contractor providing an underlying policy (most notably, CGL) in the full amount required. When this is the preference, do not include SC-6.03.L, Using Umbrella or Excess Liability Insurance to Meet CGL and Other Policy Limit Requirements.

3. *Combining Contractor’s Pollution and Professional Liability Policies:* Contractor’s Pollution Liability Insurance (SC-6.03.M) and Contractor’s Professional Liability Insurance (SC-6.03.N) are presented as two distinct required policies. However, Contractor’s Pollution Liability and Contractor’s Professional Liability policies are sometimes sold as a hybrid or combined policy. After consulting with its risk managers, Owner may wish to supplement the two provisions with a statement indicating that Contractor may provide such a combination policy, as an acceptable alternative to providing two separate policies, at a stated policy limit for the combination policy.

4. *Railroad Protective Liability Policy:* If any portion of the Work will take place within 50 feet of railroad-owned or controlled property, the railroad company will likely require that the Contractor obtain a railroad protective liability policy. Use Paragraph SC-6.03.O below if such a policy is required.

A railroad protective liability policy is for the benefit of the railroad company (not the Contractor or Owner), providing the railroad with protection from both liability and property damage it incurs because of the Contractor’s construction activities. The railroad protective policy is site-specific, and applies only when work is in progress—it does not include completed operations coverage.

The standard coverage includes bodily injury or property damage that arises out of the acts or omissions of railroad employees, to the extent the acts or omissions are related to or in connection with the Contractor’s activities. The coverage of physical damage to property should apply to real and personal property that is owned or leased by the railroad, including rolling stock, tracks, trestles, buildings, and structures.

The railroad will usually have specific requirements for the railroad protective policy, including per-claim and aggregate policy limits, coverages, and the formal names of the railroad and other related

insureds. In most cases the railroad will require an indemnification from Contractor, in addition to the insurance policy. The Owner or other drafter should include all known railroad requirements here or elsewhere in the Contract, if the requirements are known at the time the Contract is drafted.

5. *Unmanned Aerial Vehicle Liability Insurance:* The use of aerial drones on construction projects is increasingly common. If there is a possibility that Contractor will use drones on the specific Project, Owner may wish to include SC-6.03.P, Unmanned Aerial Vehicle Liability Insurance.
6. *Other Required Insurance:* If Owner or its insurance advisors or risk managers have identified other insurance policies that Contractor should obtain and maintain, based on the Owner's or Project's specific needs, identify the required policies and minimum policy limits at SC-6.03.Q. Note that Builder's Risk insurance is separately addressed in GC/SC-6.04.

SC-6.03 Supplement Paragraph 6.03 with the following provisions after Paragraph 6.03.C:

- D. *Other Additional Insureds:* As a supplement to the provisions of Paragraph 6.03.C of the General Conditions, the commercial general liability, automobile liability, umbrella or excess, pollution liability, and unmanned aerial vehicle liability policies must include as additional insureds (in addition to Owner and Engineer) the following: **[Here list by legal name (not category, role, or classification) other persons or entities to be included as additional insureds. See GC-6.03.C.]**
- E. *Workers' Compensation and Employer's Liability:* Contractor shall purchase and maintain workers' compensation and employer's liability insurance, including, as applicable, United States Longshoreman and Harbor Workers' Compensation Act, Jones Act, stop-gap employer's liability coverage for monopolistic states, and foreign voluntary workers' compensation (from available sources, notwithstanding the jurisdictional requirement of Paragraph 6.02.B of the General Conditions).

Workers' Compensation and Related Policies	Policy limits of not less than:
Workers' Compensation	
State	Statutory
Applicable Federal (e.g., Longshoreman's)	Statutory
Foreign voluntary workers' compensation (employer's responsibility coverage), if applicable	Statutory
Jones Act (if applicable)	
Bodily injury by accident—each accident	\$
Bodily injury by disease—aggregate	\$
Employer's Liability	
Each accident	\$
Each employee	\$
Policy limit	\$
Stop-gap Liability Coverage	
For work performed in monopolistic states, stop-gap liability coverage must be endorsed to either the worker's compensation or commercial general liability policy with a minimum limit of:	\$

- F. *Commercial General Liability—Claims Covered:* Contractor shall purchase and maintain commercial general liability insurance, covering all operations by or on behalf of Contractor, on an occurrence basis, against claims for:
1. damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees,
 2. damages insured by reasonably available personal injury liability coverage, and
 3. damages because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom.
- G. *Commercial General Liability—Form and Content:* Contractor's commercial liability policy must be written on a 1996 (or later) Insurance Services Organization, Inc. (ISO) commercial general liability form (occurrence form) and include the following coverages and endorsements:
1. Products and completed operations coverage.
 - a. Such insurance must be maintained for three years after final payment.
 - b. Contractor shall furnish Owner and each other additional insured (as identified in the Supplementary Conditions or elsewhere in the Contract) evidence of continuation of such insurance at final payment and three years thereafter.
 2. Blanket contractual liability coverage, including but not limited to coverage of Contractor's contractual indemnity obligations in Paragraph 7.18.
 3. Severability of interests and no insured-versus-insured or cross-liability exclusions.
 4. Underground, explosion, and collapse coverage.
 5. Personal injury coverage.
 6. Additional insured endorsements that include both ongoing operations and products and completed operations coverage through ISO Endorsements CG 20 10 10 01 and CG 20 37 10 01 (together). If Contractor demonstrates to Owner that the specified ISO endorsements are not commercially available, then Contractor may satisfy this requirement by providing equivalent endorsements.
 7. For design professional additional insureds, ISO Endorsement CG 20 32 07 04 "Additional Insured—Engineers, Architects or Surveyors Not Engaged by the Named Insured" or its equivalent.
- H. *Commercial General Liability—Excluded Content:* The commercial general liability insurance policy, including its coverages, endorsements, and incorporated provisions, must not include any of the following:
1. Any modification of the standard definition of "insured contract" (except to delete the railroad protective liability exclusion if Contractor is required to indemnify a railroad or others with respect to Work within 50 feet of railroad property).
 2. Any exclusion for water intrusion or water damage.
 3. Any provisions resulting in the erosion of insurance limits by defense costs other than those already incorporated in ISO form CG 00 01.
 4. Any exclusion of coverage relating to earth subsidence or movement.

5. Any exclusion for the insured's vicarious liability, strict liability, or statutory liability (other than worker's compensation).
6. Any limitation or exclusion based on the nature of Contractor's work.
7. Any professional liability exclusion broader in effect than the most recent edition of ISO form CG 22 79.

I. *Commercial General Liability—Minimum Policy Limits*

Commercial General Liability	Policy limits of not less than:
General Aggregate	\$
Products—Completed Operations Aggregate	\$
Personal and Advertising Injury	\$
Bodily Injury and Property Damage—Each Occurrence	\$

- J. *Automobile Liability*: Contractor shall purchase and maintain automobile liability insurance for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance, or use of any motor vehicle. The automobile liability policy must be written on an occurrence basis.

Automobile Liability	Policy limits of not less than:
Bodily Injury	
Each Person	\$
Each Accident	\$
Property Damage	
Each Accident	\$
[or]	
Combined Single Limit	
Combined Single Limit (Bodily Injury and Property Damage)	\$

- K. *Umbrella or Excess Liability*: Contractor shall purchase and maintain umbrella or excess liability insurance written over the underlying employer's liability, commercial general liability, and automobile liability insurance described in the Paragraphs above. The coverage afforded must be at least as broad as that of each and every one of the underlying policies.

Excess or Umbrella Liability	Policy limits of not less than:
Each Occurrence	\$
General Aggregate	\$

- L. *Using Umbrella or Excess Liability Insurance to Meet CGL and Other Policy Limit Requirements*: Contractor may meet the policy limits specified for employer's liability, commercial general liability, and automobile liability through the primary policies alone, or through combinations of the primary insurance policy's policy limits and partial attribution of the policy limits of an umbrella or excess liability policy that is at least as broad in coverage as that of the underlying policy, as specified herein. If such umbrella or excess liability policy

was required under this Contract, at a specified minimum policy limit, such umbrella or excess policy must retain a minimum limit of \$[specify amount] after accounting for partial attribution of its limits to underlying policies, as allowed above.

- M. *Contractor's Pollution Liability Insurance:* Contractor shall purchase and maintain a policy covering third-party injury and property damage, including cleanup costs, as a result of pollution conditions arising from Contractor's operations and completed operations. This insurance must be maintained for no less than three years after final completion.

Contractor's Pollution Liability	Policy limits of not less than:
Each Occurrence/Claim	\$
General Aggregate	\$

- N. *Contractor's Professional Liability Insurance:* If Contractor will provide or furnish professional services under this Contract, through a delegation of professional design services or otherwise, then Contractor shall be responsible for purchasing and maintaining applicable professional liability insurance. This insurance must cover negligent acts, errors, or omissions in the performance of professional design or related services by the insured or others for whom the insured is legally liable. The insurance must be maintained throughout the duration of the Contract and for a minimum of two years after Substantial Completion. The retroactive date on the policy must pre-date the commencement of furnishing services on the Project.

Contractor's Professional Liability	Policy limits of not less than:
Each Claim	\$
Annual Aggregate	\$

- O. *Railroad Protective Liability Insurance:* Prior to commencing any Work within 50 feet of railroad-owned and controlled property, Contractor shall (1) endorse its commercial general liability policy with ISO CG 24 17, removing the contractual liability exclusion for work within 50 feet of a railroad, (2) purchase and maintain railroad protective liability insurance meeting the following requirements, (3) furnish a copy of the endorsement to Owner, and (4) submit a copy of the railroad protective policy and other railroad-required documentation to the railroad, and notify Owner of such submittal.

[Insert additional specific requirements, commonly set by the railroad, here.]

Railroad Protective Liability Insurance	Policy limits of not less than:
Each Claim	\$
Aggregate	\$

- P. *Unmanned Aerial Vehicle Liability Insurance:* If Contractor uses unmanned aerial vehicles (UAV—commonly referred to as drones) at the Site or in support of any aspect of the Work, Contractor shall obtain UAV liability insurance in the amounts stated; name Owner, Engineer, and all individuals and entities identified in the Supplementary Conditions as additional

insureds; and provide a certificate to Owner confirming Contractor's compliance with this requirement. Such insurance will provide coverage for property damage, bodily injury or death, and invasion of privacy.

Unmanned Aerial Vehicle Liability Insurance	Policy limits of not less than:
Each Claim	\$
General Aggregate	\$

- Q. *Other Required Insurance:* [Here list additional types and amounts of insurance that Contractor is required to carry.]

6.04 *Builder's Risk and Other Property Insurance*

Guidance Notes—Owner Purchase of Builder's Risk Insurance—The General Conditions require the Contractor to purchase and maintain builder's risk insurance. GC-6.04.A. The detailed requirements for the builder's risk insurance are set forth here in the Supplementary Conditions, in provisions such as SC-6.04.F, G, and H. (The option of requiring the Contractor to purchase an installation floater, as an alternative to builder's risk insurance, is presented in the alternate SC-6.04.A that follows the more commonly used builder's risk clauses.)

In the event that the builder's risk purchase requirement will be flipped, such that the Owner, rather than the Contractor, will purchase the builder's risk insurance, use the following SC-6.04.A:

SC-6.04 Delete Paragraph 6.04.A and insert the following in its place:

- A. Owner 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.

Guidance Notes—Builder's Risk Insurance Requirements—The standard builder's risk requirements in this Supplementary Condition may include some items that are not applicable to the specific Project. The user should revise the requirements based on knowledge of the Project, risk management analysis, and consultation with Owner's insurance advisors and legal counsel. The requirements are intended to be used regardless of whether the Contractor purchases the builder's risk insurance (the default assumption, as stated in GC-6.04.A), or the purchase responsibility is flipped to the Owner (see SC-6.04.A immediately above).

Some coverages, such as coverage of property in temporary storage, or coverage of property in transit, are commonly subject to sublimits—specific monetary caps on the amount of coverage. Although a sublimit may be appropriate (or at least tolerable) for some risk categories, the drafter should consult with an insurance advisor and specify a minimum for each sublimit, to avoid underinsuring the risk of a loss in such a coverage category. The provisions of SC-6.04.F indicate when a coverage category is likely to be subject to a sublimit, and provide a place for specifying an acceptable minimum. See SC-6.04.F.4, 5, and 12. SC-6.04.F.13 provides a location for specifying other sublimits.

SC-6.04.F.5 requires coverage of construction materials "in transit." Specific policies may define this as being limited to domestic, overland transit, such as rail or truck transit. Because the risk of loss in transit will ultimately be borne by Contractor, a risk that is not within the scope of the specific builder's risk insurance policy (a loss during shipment from overseas, for example) could be managed separately by Contractor in its purchase agreement with the vendor.

SC-6.04 Supplement Paragraph 6.04 of the General Conditions with the following provisions:

F. *Builder's Risk Requirements:* The builder's risk insurance must:

1. be written on a builder's risk "all risk" policy form that at a minimum includes insurance for physical loss or damage to the Work, temporary buildings, falsework, and materials and equipment stored and in transit, and must not exclude the coverage of the following risks: fire; windstorm; hail; flood; earthquake, volcanic activity, and other earth movement; lightning; riot; civil commotion; terrorism; vehicle impact; aircraft; smoke; theft; vandalism and malicious mischief; mechanical breakdown, boiler explosion, and artificially generated electric current; collapse; explosion; debris removal; demolition occasioned by enforcement of Laws and Regulations; and water damage (other than that caused by flood).
 - a. Such policy will include an exception that results in coverage for ensuing losses from physical damage or loss with respect to any defective workmanship, methods, design, or materials exclusions.
 - b. If insurance against mechanical breakdown, boiler explosion, and artificially generated electric current; earthquake, volcanic activity, and other earth movement; or flood, are not commercially available under builder's risk policies, by endorsement or otherwise, such insurance will be provided through other insurance policies acceptable to Owner and Contractor.
2. cover, as insured property, at least the following: (a) the Work and all materials, supplies, machinery, apparatus, equipment, fixtures, and other property of a similar nature that are to be incorporated into or used in the preparation, fabrication, construction, erection, or completion of the Work, including Owner-furnished or assigned property; (b) spare parts inventory required within the scope of the Contract; and (c) temporary works which are not intended to form part of the permanent constructed Work but which are intended to provide working access to the Site, or to the Work under construction, or which are intended to provide temporary support for the Work under construction, including scaffolding, form work, fences, shoring, falsework, and temporary structures.
3. cover expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of contractors, engineers, and architects).
4. extend to cover damage or loss to insured property while in temporary storage at the Site or in a storage location outside the Site (but not including property stored at the premises of a manufacturer or Supplier). If this coverage is subject to a sublimit, such sublimit will be a minimum of \$[amount].
5. extend to cover damage or loss to insured property while in transit. If this coverage is subject to a sublimit, such sublimit will be a minimum of \$[amount].

6. allow for the waiver of the insurer's subrogation rights, as set forth in this Contract.
7. allow for partial occupancy or use by Owner by endorsement, and without cancellation or lapse of coverage.
8. include performance/hot testing and start-up, if applicable.
9. be maintained in effect until the Work is complete, as set forth in Paragraph 15.06.D of the General Conditions, or until written confirmation of Owner's procurement of property insurance following Substantial Completion, whichever occurs first.
10. include as named insureds the Owner, Contractor, Subcontractors (of every tier), and any other individuals or entities required by this Contract to be insured under such builder's risk policy. For purposes of Paragraphs 6.04, 6.05, and 6.06 of the General Conditions, and this and all other corresponding Supplementary Conditions, the parties required to be insured will be referred to collectively as "insureds." In addition to Owner, Contractor, and Subcontractors of every tier, include as insureds the following:
 - a. **[Here list by legal name (not category, role, or classification) other persons or entities to be included on the builder's risk policy as named insureds. It is generally recommended to list the insured's full legal/contractual name, address, contact person, telephone, and e-mail address. Include only persons or entities that have property at the Site that is to be insured by the builder's risk insurance. If applicable, separately identify any mortgagee or lender required to be named as a loss payee.]**
11. include, in addition to the Contract Price amount, the value of the following equipment and materials to be installed by the Contractor but furnished by the Owner or third parties:
 - a. **[Here list or provide cross-reference to specific items of Owner-furnished (or third-party furnished) equipment, and purchase value; do not list items whose value is already included in the Contract Price.]**
12. If debris removal in connection with repair or replacement of insured property is subject to a coverage sublimit, such sublimit will be a minimum of \$[amount].
13. In addition to the coverage sublimits stated above, the following coverages are also subject to sublimits, as follows:
 - a. **[Here list a specific coverage, or cause of loss, that has been determined to be likely to be subject to a sublimit. If not applicable, then delete Paragraph SC-6.04.F.13 in its entirety.]** If this coverage is subject to a sublimit, such sublimit will be a minimum of \$[amount].

Guidance Notes—Loss of Revenue and "Soft Cost" Coverage—The basic coverage of a builder's risk policy provides compensation for direct physical loss or damage to the Work. Such loss or damage often has secondary impacts associated with delays in completion of the Work. One significant secondary impact is loss of revenue. Another broad category of secondary impacts is often referred to as "soft costs"—extended financing costs, management and engineering expenses, tax and permit costs, and insurance.

It is usually possible to expand the basic builder's risk coverage to insure against loss of revenue and soft cost losses. SC-6.04.G provides a starting point for doing so. This clause should be reviewed carefully and

supplemented as needed to obtain the coverage needed for the specific Project. Substantial input from Owner, working in conjunction with an insurance broker or consultant, is necessary to identify specific soft cost exposures, and to quantify the scope of possible losses. Without such input, it would be impossible for the builder's risk underwriters to assess risks and develop an appropriate premium.

For example, if soft cost coverage will extend to loss of revenue of a processing facility if it is completed late (as the result of physical damage from a covered risk, such as a fire), then it will be essential for the builder's risk insurers or brokers who price out the insurance to have a reasonable estimate of anticipated daily revenue and other financial factors. In a competitive bidding setting, and assuming that the Contractor will procure the builder's risk insurance (and include or account for the premium in the bid price), this means that such information will need to be furnished to bidders, who can then communicate it to brokers, who will furnish quotes for premiums.

As an alternative, Owner may prefer to solicit bids based on a generic requirement (such as that stated in SC-6.04.G), and then work with the selected Contractor and its insurer to refine the scope of loss of revenue and soft cost coverage and the related premiums, and issue a Change Order to document the precise coverage and any resulting change in Contract Price.

SC-6.04 Supplement Paragraph 6.04 of the General Conditions with the following provision:

- G. *Coverage for Completion Delays:* The builder's risk policy will include, for the benefit of Owner, loss of revenue and soft cost coverage for losses arising from delays in completion that result from covered physical losses or damage. Such coverage will include, without limitation, fixed expenses and debt service for a minimum of 12 months with a maximum deductible of 30 days, compensation for loss of net revenues, rental costs, and attorneys' fees and engineering or other consultants' fees, if not otherwise covered.

Guidance Notes—Builder's Risk Deductibles—Paragraph 6.04.A of the General Conditions requires builder's risk insurance on a completed value basis, subject to such deductible amounts as are provided by the Supplementary Conditions. SC-6.04.H provides a means of identifying a primary deductible; other specific deductibles may also be added. It is common for builder's risk policies to feature several different deductibles, typically including a primary deductible and specific deductibles applicable to specific types of loss, such as flood and earth movement.

In some cases, the Owner (as the party directing or specifying the content of the insurance-related Supplementary Conditions) will choose not to specify any deductibles, leaving establishment of the deductible amounts to the discretion of the purchasing party, which is responsible for payment of the deductibles. Even when a deductible is stipulated, it is typically a maximum amount; the purchaser may choose to purchase a policy with a lower deductible.

The builder's risk policies available for projects in coastal and other high-risk areas may have special deductible provisions for wind and flood damage (hurricanes), earthquakes, and other specific risks. Such deductibles are determined based on a percentage of the property value at the time of loss, rather than being stated as a specific dollar amount. SC-6.04.H should be revised to reflect coastal or other local conditions that change the approach to deductibles.

SC-6.04 Supplement Paragraph 6.04 of the General Conditions with the following provisions:

- H. *Builder's Risk and Other Property Insurance Deductibles:* The purchaser of any required builder's risk, installation floater, or other property insurance will be responsible for costs not covered because of the application of a policy deductible.
1. The builder's risk policy (or if applicable the installation floater) will be subject to a deductible amount of no more than \$[number] for direct physical loss in any one occurrence.

Guidance Notes—Installation Floater—An installation floater is insurance carried by a specific contractor, covering only the materials and equipment to be incorporated in the contractor's work. It typically does not insure against losses that occur after installation. In most cases, builder's risk insurance offers broader coverage, covers the Owner, Contractor, and Subcontractors, and is the preferred risk management instrument. On some projects, an installation floater may be an acceptable alternative to a builder's risk policy. For example, on a pipeline project it may be sufficient from a risk management standpoint to insure against loss or damage to the piping until installation, at which time there is little further risk from standard insurable perils such as fire or windstorm. Because the Owner will typically not be an insured, the use of an installation floater also assumes a risk management decision that protecting the Contractor's interest in the materials and equipment is sufficient to assure the best interests of the project. See EJCDC® C-001, Commentary on the 2018 EJCDC Construction Documents (2018).

If, after consultation with its risk managers, Owner elects to allow purchase of an installation floater rather than a builder's risk policy, the following SC-6.04.A should be included as a Supplementary Condition; GC-6.04.B, GC-6.04.C, GC-6.04.D, and GC-6.04.E should be retained; SC-6.04.F, Builder's Risk Requirements, should not be included; and SC-6.04.H, Builder's Risk and other Property Insurance Deductibles, should be included. Owner should determine whether soft cost and related coverage is available and warranted, and if so modify the contents of SC-6.04.G, Coverage for Completion Delays, for the installation floater requirement.

SC-6.04 Delete Paragraph 6.04.A of the General Conditions and substitute the following in its place:

A. *Installation Floater*

1. Contractor shall provide and maintain installation floater insurance on a broad form or "all risk" policy providing coverage for materials, supplies, machinery, fixtures, and equipment that will be incorporated into the Work ("Covered Property"). Coverage under the Contractor's installation floater will include loss from covered "all risk" causes (perils) to Covered Property:
 - a. of the Contractor, and Covered Property of others that is in Contractor's care, custody, and control;
 - b. while in transit to the Site, including while at temporary storage sites;
 - c. while at the Site awaiting and during installation, erection, and testing;
 - d. continuing at least until the installation or erection of the Covered Property is completed, and the Work into which it is incorporated is accepted by Owner.
2. The installation floater coverage cannot be contingent on an external cause or risk, or limited to property for which the Contractor is legally liable.

3. The installation floater coverage will be in an amount sufficient to protect Contractor's interest in the Covered Property. The Contractor will be solely responsible for any deductible carried under this coverage.
4. This policy will include a waiver of subrogation applicable to Owner, Contractor, Engineer, all Subcontractors, and the officers, directors, partners, employees, agents and other consultants and subcontractors of any of them.

ARTICLE 7—CONTRACTOR'S RESPONSIBILITIES

7.03 *Labor; Working Hours*

Guidance Notes—Defining “Regular Hours” and “Legal Holidays”—Paragraph 7.03.C of the General Conditions restricts Contractor to working during “regular hours” Monday through Friday, and no work is permitted on “legal holidays.” To provide details regarding the meaning of the terms “regular hours” and “legal holidays,” consider specifically defining them by adding the following:

SC-7.03 Add the following new subparagraphs immediately after Paragraph 7.03.C:

1. Regular working hours will be **[Here insert schedule of regular working hours]**.
2. Owner's legal holidays are **[Here insert list of legal holidays]**.

Guidance Notes—Days of the Week That May be Worked—To modify the days of the week that Contractor may work, use the following:

SC-7.03 Amend the first and second sentences of Paragraph 7.03.C to state “...all Work at the Site must be performed during regular working hours, **[day of the week]** through **[day of the week]**. Contractor will not perform Work on a **[day of the week]**, **[day of the week]**, or any legal holiday.”

Guidance Notes—Unlimited Work Schedule—If the Owner has no objections to the Contractor working multiple shifts, weekends, and legal holidays, use the following:

SC-7.03 Delete Paragraph 7.03.C in its entirety, and insert the following:

- C. In the absence of any Laws or Regulations to the contrary, Contractor may perform the Work on holidays, during any or all hours of the day, and on any or all days of the week, at Contractor's sole discretion.

Guidance Notes—Responsibility for Overtime Costs—If Contractor is permitted to Work outside regular hours and on weekends and holidays, whether by a contractual provision or by Owner's consent during the course of the Project, then it is good practice to address the issue of whether Owner may charge Contractor for engineering expenses associated with the non-regular schedule. Some Owners may prefer to absorb these costs to incentivize (or at least facilitate) an aggressive schedule and timely completion; and in many cases the net additional expense may be modest. Other Owners may prefer to establish and

collect a charge for the engineering services. Add the following as SC-7.03.D, making a policy choice regarding responsibility in the beginning of the sentence:

SC-7.03 Add the following new paragraph immediately after Paragraph 7.03.C:

- D. **[Contractor] [Owner] [choose one and delete the other]** shall be responsible for the cost of any overtime pay or other expense incurred by the Owner for Engineer's services (including those of the Resident Project Representative, if any), Owner's representative, and construction observation services, occasioned by the performance of Work on Saturday, Sunday, any legal holiday, or as overtime on any regular work day. If Contractor is responsible but does not pay, or if the parties are unable to agree as to the amount owed, then Owner may impose a reasonable set-off against payments due under Article 15.

Guidance Notes—Defining Overtime Costs—If responsibility for costs in SC-7.03.D will be allocated to Contractor, Owner may wish to provide some specificity regarding the potential costs, through the addition of the following:

SC-7.03 Add the following new subparagraph immediately after Paragraph SC-7.03.D:

1. For purposes of administering the foregoing requirement, additional overtime costs are defined as **[Here insert parameters for compensated overtime hours]**.

7.10 *Taxes*

Guidance Notes—Sales and Use Tax Exemptions—If Owner qualifies for a state or local sales or use tax exemption in the purchase of certain materials and equipment, add the following Supplementary Condition, with any revisions necessary to meet the specific applicable exemption rules.

If instructions to bidders or proposers are used, confirm that the provisions here are consistent with the corresponding provisions in such instructions. See EJCDC® C-200, Instructions to Bidders for Construction Contracts (2018), Article 21.

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 **[name of state where Project is located]** 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.

7.13 *Safety and Protection*

Guidance Notes—Owner's Safety Programs—Some Owners have written safety programs with which construction contractors must comply. If such is the case, Paragraph 7.13.G of the General Conditions

states that the safety program will be identified or included in the Supplementary Conditions or Specifications (and Paragraph 9.12.B requires Owner to provide a copy of such programs to Contractor).

If the identification of the Owner's safety programs will occur in the Supplementary Conditions, use the following SC-7.13. If there is a Specification section (typically in Division 01) that addresses the Owner's safety programs, then SC-7.13 is unnecessary, though it could be retained as a means of providing a cross-reference to the specific location in the Specifications.

SC-7.13 Insert the following after the second sentence of Paragraph 7.13.G:

The following Owner safety programs are applicable to the Work: **[Here expressly identify by title and/or date, any such Owner safety programs. If Owner's safety programs are included in or addressed in the Specifications, SC-7.13 may be used to provide a cross-reference to the Specification section].**

ARTICLE 8—OTHER WORK AT THE SITE

8.02 *Coordination*

Guidance Notes—Coordinating Other Work at Site—Paragraph 8.02 of the General Conditions requires that if in addition to retaining Contractor, Owner will arrange to have others perform work at the Site, Owner must provide to Contractor specified information regarding coordination of construction activities. (Note that Owner should provide specific information about the other work—nature of the work, scope, schedule, exact location—elsewhere in the Contract Documents or in other documentation.) When applicable, add the following to provide such information:

SC-8.02 Add the following new Paragraph 8.02.C immediately after Paragraph 8.02.B:

- C. Owner intends to contract with others for the performance of other work at or adjacent to the Site.
 - 1. **[Here identify individual or entirety]** shall have authority and responsibility for coordination of the various contractors and work forces at the Site;
 - 2. The following specific matters are to be covered by such authority and responsibility: **[Here itemize such matters];**
 - 3. The extent of such authority and responsibilities is: **[Here provide the extent].**

ARTICLE 9—OWNER'S RESPONSIBILITIES

9.13 *Owner's Site Representative*

Guidance Notes—Owner's Site Representative—The EJCDC Construction series documents assume that the Engineer will be Owner's representative during construction. See EJCDC® C-520, Agreement Between Owner and Contractor for Construction Contract (Stipulated Price) (2018), Paragraph 3.01, and GC-10.01. On many projects the Engineer will carry out duties at the Site through a Resident Project Representative (RPR), as addressed in GC-10.03. When that is the case, SC-10.03.C and SC-10.03.D should be included, as modified for the specific Project.

Paragraph 10.03.B of the General Conditions indicates that the Owner may designate a representative or agent who is not Engineer's consultant, agent, or employee, to represent Owner at the Site ("Owner's Site Representative"). In such case the Owner typically would not have the Engineer furnish a Resident Project Representative, and hence SC-10.03.B below would be used to indicate there is no Engineer's Resident Project Representative; and typically SC-9.13 would be used for the identification of the Owner's Site Representative.

Note that the following SC-9.13, if used, must be supplemented by customized text that explains the responsibilities of the Owner's Site Representative, so far as such are relevant to Contractor. The content of Paragraphs SC-10.03.C below may be a helpful starting point in drafting such supplemental text. In addition, if Owner's retention of an Owner's Site Representative will affect other aspects of Engineer's status during construction, other portions of Article 10 and many other parts of the General Conditions will need to be revised. In such cases it is typical for (and Laws and Regulations may require) the design engineer (as engineer of record) to at least retain a role with respect to design intent reviews of submittals and similar aspects of the Work.

SC-9.13 Add the following new paragraph immediately after Paragraph 9.12 of the General Conditions:

9.13 *Owner's Site Representative*

- A. Owner will furnish an "Owner's Site Representative" to represent Owner at the Site and assist Owner in observing the progress and quality of the Work. The Owner's Site Representative is not Engineer's consultant, agent, or employee. Owner's Site Representative will be **[here identify individual or entity]**. The authority and responsibilities of Owner's Site Representative follow: **[Here describe the duties and activities of the Owner's Site Representative.]**

ARTICLE 10—ENGINEER'S STATUS DURING CONSTRUCTION

10.03 *Resident Project Representative*

Guidance Notes—Engineer's Resident Project Representative (RPR)—As indicated in Paragraph 10.03 of the General Conditions, in those cases in which the Engineer will provide a Resident Project Representative (RPR) during construction, the authority and responsibilities of the RPR with respect to the Contractor must be specified in the Supplementary Conditions. SC-10.03.C and SC-10.03.D, below, provide a mechanism for doing so.

In the alternative, in some cases Engineer will not provide RPR services, either because there will not be an RPR, or because a party other than Engineer will provide the site services. When such is the case, SC-10.03.A.1 below should be used.

As indicated in Paragraph 10.03 of the General Conditions, the Owner may designate a representative or agent who is not Engineer's consultant, agent, or employee, to represent Owner at the Site. In such case, in addition to using SC-10.03.A.1, below, refer to the Guidance Note in Article 9 and use SC-9.13 above.

SC-10.03 Add the following new subparagraph immediately after Paragraph 10.03.A:

1. On this Project, by agreement with the Owner, the Engineer will not furnish a Resident Project Representative to represent Engineer at the Site or assist Engineer in observing the progress and quality of the Work.

Guidance Notes—RPR Services—As discussed, the most typical case is that the site representative is Engineer's consultant, agent, or employee, in which case SC-10.03.C and SC-10.03.D are mandatory. SC-10.03.C and SC-10.03.D focus on the role of the Resident Project Representative with respect to the Contractor. The RPR's scope of services and obligations to Owner are typically more extensive than the provisions here in the construction contract; they are spelled out in detail in Exhibit D to EJCDC® E-500, Agreement Between Owner and Engineer for Professional Services. The following should be edited to indicate the specific RPR authority and responsibilities that apply to this Contract.

SC-10.03 Add the following new paragraphs immediately after Paragraph 10.03.B:

- C. The Resident Project Representative (RPR) will be Engineer's representative at the Site. RPR's dealings in matters pertaining to the Work in general will be with Engineer and Contractor. RPR's dealings with Subcontractors will only be through or with the full knowledge or approval of Contractor. The RPR will:
 1. *Conferences and Meetings*: Attend meetings with Contractor, such as preconstruction conferences, progress meetings, job conferences, and other Project-related meetings (but not including Contractor's safety meetings), and as appropriate prepare and circulate copies of minutes thereof.
 2. *Safety Compliance*: Comply with Site safety programs, as they apply to RPR, and if required to do so by such safety programs, receive safety training specifically related to RPR's own personal safety while at the Site.
 3. *Liaison*
 - a. Serve as Engineer's liaison with Contractor. Working principally through Contractor's authorized representative or designee, assist in providing information regarding the provisions and intent of the Contract Documents.
 - b. Assist Engineer in serving as Owner's liaison with Contractor when Contractor's operations affect Owner's on-Site operations.
 - c. Assist in obtaining from Owner additional details or information, when required for Contractor's proper execution of the Work.
 4. *Review of Work; Defective Work*
 - a. Conduct on-Site observations of the Work to assist Engineer in determining, to the extent set forth in Paragraph 10.02, if the Work is in general proceeding in accordance with the Contract Documents.
 - b. Observe whether any Work in place appears to be defective.
 - c. Observe whether any Work in place should be uncovered for observation, or requires special testing, inspection or approval.
 5. *Inspections and Tests*

- a. Observe Contractor-arranged inspections required by Laws and Regulations, including but not limited to those performed by public or other agencies having jurisdiction over the Work.
 - b. Accompany visiting inspectors representing public or other agencies having jurisdiction over the Work.
- 6. *Payment Requests:* Review Applications for Payment with Contractor.
- 7. *Completion*
 - a. Participate in Engineer's visits regarding Substantial Completion.
 - b. Assist in the preparation of a punch list of items to be completed or corrected.
 - c. Participate in Engineer's visit to the Site in the company of Owner and Contractor regarding completion of the Work, and prepare a final punch list of items to be completed or corrected by Contractor.
 - d. Observe whether items on the final punch list have been completed or corrected.
- D. The RPR will not:
 - 1. Authorize any deviation from the Contract Documents or substitution of materials or equipment (including "or-equal" items).
 - 2. Exceed limitations of Engineer's authority as set forth in the Contract Documents.
 - 3. Undertake any of the responsibilities of Contractor, Subcontractors, or Suppliers.
 - 4. Advise on, issue directions relative to, or assume control over any aspect of the means, methods, techniques, sequences or procedures of construction.
 - 5. Advise on, issue directions regarding, or assume control over security or safety practices, precautions, and programs in connection with the activities or operations of Owner or Contractor.
 - 6. Participate in specialized field or laboratory tests or inspections conducted off-site by others except as specifically authorized by Engineer.
 - 7. Authorize Owner to occupy the Project in whole or in part.

ARTICLE 11—CHANGES TO THE CONTRACT

No suggested Supplementary Conditions in this Article.

ARTICLE 12—CLAIMS

No suggested Supplementary Conditions in this Article.

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

13.01 *Cost of the Work*

Guidance Notes—Equipment Rental Costs—When Contractor’s compensation is determined in whole or in part on the basis of Cost of the Work, equipment rental charges, particularly with respect to Contractor-owned equipment, can sometimes lead to disagreements. GC-13.01.B.5.c.(2) addresses Contractor owned equipment rental costs, indicating that such costs will be governed by a rental rate book specified in the Supplementary Conditions. The following Supplementary Condition is the location to specify the governing rental rate book. As of 2018, commonly used rental rate books include the Rental Rate Blue Book for Construction Equipment, and the AED Green Book: Rental Rates & Specifications for Construction Equipment.

SC-13.01 Supplement Paragraph 13.01.B.5.c.(2) by adding the following sentence:

The equipment rental rate book that governs the included costs for the rental of machinery and equipment owned by Contractor (or a related entity) under the Cost of the Work provisions of this Contract is the most current edition of **[name of equipment rental rate book]**.

Guidance Notes—Defining “Small Tools and Hand Tools”—GC-13.01.C.2 excludes the cost of “small tools and hand tools” from Cost of the Work. Providing more definition of what that term means in a Supplementary Condition may eliminate or reduce arguments about this aspect of Cost of the Work. One common approach is to define small tools and hand tools based on a price threshold, as follows:

SC-13.01 Supplement Paragraph 13.01.C.2 by adding the following definition of small tools and hand tools:

- a. For purposes of this paragraph, “small tools and hand tools” means any tool or equipment whose current price if it were purchased new at retail would be less than \$500. **[or insert other threshold price.]**

13.03 *Unit Price Work*

Guidance Notes—Variations from Estimated Quantities, Unit Price Work—GC-13.03.E is a “variation in estimated quantities (VEQ)” clause that applies when the actual quantity of a unit price item varies “materially and significantly” from the estimated quantity. The following Supplementary Condition is a more specific and detailed VEQ clause. By providing a specific threshold for eligible categories of unit prices, and specifically defining the degree by which an actual quantity must vary from the estimated quantity, the Supplementary Condition is intended to simplify and facilitate the administrative resolution of situations where actual quantities of unit price items differ materially and significantly from estimated quantities. When such a VEQ clause is used, a common number for the first blank is 5 percent of the Contract Price (based on estimated quantities), and a common number for the second blank is typically 15, 20, or 25 percent; however, other numbers may be appropriate in both locations.

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 **[number]** 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 **[number]** percent 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

No suggested Supplementary Conditions in this Article.

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

15.01 Progress Payments

Guidance Notes—Coordinating Payments with Actual Progress of the Work—Paragraph GC-15.01.A states that progress payments for “cost-based Work will be based on Cost of the Work completed by Contractor during the pay period.” This contractual provision generally will be sufficient to result in a fair and orderly payment process on cost-plus contracts. However, on some projects the cost-based progress payments may outpace the actual progress of the Work, or may become substantially out of step with respect to the ultimate limits created by a Guaranteed Maximum Price. The following clause may be added to Paragraph 15.01 to allow Owner to require Contractor to adjust its progress payment requests to bring the payment flow back into balance.

SC-15.01 Add the following new Paragraph 15.01.F:

- F. For contracts in which the Contract Price is based on the Cost of Work, if Owner determines that progress payments made to date substantially exceed the actual progress of the Work (as measured by reference to the Schedule of Values), or present a potential conflict with the Guaranteed Maximum Price, then Owner may require that Contractor prepare and submit a plan for the remaining anticipated Applications for Payment that will bring payments and progress into closer alignment and take into account the Guaranteed Maximum Price (if any), through reductions in billings, increases in retainage, or other equitable measures. Owner will review the plan, discuss any necessary modifications, and implement the plan as modified for all remaining Applications for Payment.

Guidance Notes—Modifying the Standard Time in Which Owner Must Make Payments—Paragraph GC-15.01.D states that Owner will pay Contractor within 10 days after receipt of Engineer’s recommendation of payment of a progress payment; GC-15.06.E requires Owner to make the final payment within 30 days of the final Application for Payment. The user should confirm that these payment deadlines are acceptable to Owner. See EJCDC® C-050, Bidding Procedures and Construction Contract Documents (2018), Paragraph 5.06. If changes are appropriate, prepare Supplementary Conditions here in Article SC-15 to modify the number of days in which payments are due.

15.03 *Substantial Completion*

Guidance Notes—Owner Recovery of Re-inspection Costs—Paragraph 15.03.A of the General Conditions requires Contractor to give notice that the Work is substantially complete; Paragraph 15.03.B requires an inspection of the Work to determine whether Engineer agrees that the Work is substantially complete. If the Work is not substantially complete, and must be inspected again at a later point, then the following Supplementary Condition, if included in the Contract, would allow Owner to recover the cost of the re-inspection.

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.

15.08 *Correction Period*

Guidance Notes—Lengthening the Correction Period—Paragraph 15.08.A of the General Conditions refers to a one-year correction period following Substantial Completion. During that one-year time period, Contractor is obligated to return to the Site to correct defective Work. If a longer correction period is to be imposed, use SC-15.08.G. Note that often the lengthening of the correction period will be tied to the use of a warranty bond. See SC-6.01.B. The extension of the correction period set forth in SC-6.01.B is confirmed in the following Supplementary Condition by reference. In that case the sentence may be terminated after “...years set forth in SC-6.01.B.1.”

If the extension of the correction period is independent of a warranty bond or similar provision, then the user should accomplish the extension by filling in the number where indicated at the end SC-15.08.G.

If SC-15.08.G is not used, the correction period will retain the standard one year duration.

SC-15.08 Add the following new Paragraph 15.08.G:

- G. The correction period specified as one year after the date of Substantial Completion in Paragraph 15.08.A of the General Conditions is hereby revised to be the number of years set forth in SC-6.01.B.1; or if no such revision has been made in SC-6.01.B, then the correction period is hereby specified to be **[number]** years after Substantial Completion.

ARTICLE 16—SUSPENSION OF WORK AND TERMINATION

No suggested Supplementary Conditions in this Article.

ARTICLE 17—FINAL RESOLUTIONS OF DISPUTES

17.02 *Arbitration*

Guidance Notes—Alternatives to Litigation as Final Dispute Resolution Method; Arbitration— Paragraph 17.01.B of the General Conditions provides that for any dispute subject to final resolution under Article 17, Owner or Contractor may invoke the dispute resolution procedure called for in the Supplementary Conditions. Paragraph SC-17.02 is the location to identify any such primary dispute resolution procedure. If no procedure is identified here in the Supplementary Conditions, and the parties do not agree to a specific procedure, then the default resolution procedure will be litigation—the pursuit of rights in a court of competent jurisdiction. Note that before reaching the point of final resolution of disputes, in most cases the Owner and Contractor will already have engaged in the Claim process described in Article 12 of the General Conditions. That process allows for mediation of the dispute.

As an alternative to litigation, there are many other possible dispute resolution procedures, or combinations of procedures. One of the most common procedures for resolving construction disputes is arbitration; wording for an arbitration clause follows. A discussion of the pros and cons of the arbitration process (and there are many advocates on both sides) is beyond the scope of this Guide. Owner should consult with its legal counsel when considering the inclusion of an arbitration clause, or of any other dispute resolution procedure or combination of procedures.

The EJCDC arbitration clause is drafted to use the rules and administration of the American Arbitration Association. The user is free to substitute the rules and services of other dispute resolution organizations, and to customize the arbitration process to suit the needs of the specific Contract.

The arbitration option is as follows:

SC-17.02 Add the following new paragraph immediately after Paragraph 17.01.

17.02 *Arbitration*

- A. All matters subject to final resolution under this Article will be settled by arbitration administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules (subject to the conditions and limitations of this Paragraph SC-17.02). Any controversy or claim in the amount of \$100,000 or less will be settled in accordance with the American Arbitration Association's supplemental rules for Fixed Time and Cost Construction Arbitration. This agreement to arbitrate will be specifically enforceable under the prevailing law of any court having jurisdiction.
- B. The demand for arbitration will be filed in writing with the other party to the Contract and with the selected arbitration administrator, and a copy will be sent to Engineer for information. The demand for arbitration will be made within the specific time required in Article 17, or if no specified time is applicable within a reasonable time after the matter in question has arisen, and in no event will any such demand be made after the date when institution of legal or equitable proceedings based on such matter in question would be barred by the applicable statute of limitations.

- C. The arbitrator(s) must be licensed engineers, contractors, attorneys, or construction managers. Hearings will take place pursuant to the standard procedures of the Construction Arbitration Rules that contemplate in-person hearings. The arbitrators will have no authority to award punitive or other damages not measured by the prevailing party's actual damages, except as may be required by statute or the Contract. Any award in an arbitration initiated under this clause will be limited to monetary damages and include no injunction or direction to any party other than the direction to pay a monetary amount.
- D. The Arbitrators will have the authority to allocate the costs of the arbitration process among the parties, but will only have the authority to allocate attorneys' fees if a specific Law or Regulation or this Contract permits them to do so.
- E. The award of the arbitrators must be accompanied by a reasoned written opinion and a concise breakdown of the award. The written opinion will cite the Contract provisions deemed applicable and relied on in making the award.
- F. The parties agree that failure or refusal of a party to pay its required share of the deposits for arbitrator compensation or administrative charges will constitute a waiver by that party to present evidence or cross-examine witness. In such event, the other party shall be required to present evidence and legal argument as the arbitrator(s) may require for the making of an award. Such waiver will not allow for a default judgment against the non-paying party in the absence of evidence presented as provided for above.
- G. No arbitration arising out of or relating to the Contract will include by consolidation, joinder, or in any other manner any other individual or entity (including Engineer, and Engineer's consultants and the officers, directors, partners, agents, employees or consultants of any of them) who is not a party to this Contract unless:
 - 1. the inclusion of such other individual or entity will allow complete relief to be afforded among those who are already parties to the arbitration;
 - 2. such other individual or entity is substantially involved in a question of law or fact which is common to those who are already parties to the arbitration, and which will arise in such proceedings;
 - 3. such other individual or entity is subject to arbitration under a contract with either Owner or Contractor, or consents to being joined in the arbitration; and
 - 4. the consolidation or joinder is in compliance with the arbitration administrator's procedural rules.
- H. The award will be final. Judgment may be entered upon it in any court having jurisdiction thereof, and it will not be subject to modification or appeal, subject to provisions of the Laws and Regulations relating to vacating or modifying an arbitral award.
- I. Except as may be required by Laws or Regulations, neither party nor an arbitrator may disclose the existence, content, or results of any arbitration hereunder without the prior written consent of both parties, with the exception of any disclosure required by Laws and Regulations or the Contract. To the extent any disclosure is allowed pursuant to the exception, the disclosure must be strictly and narrowly limited to maintain confidentiality to the extent possible.

17.03 Attorneys' Fees

Guidance Notes—Prevailing Party Attorneys' Fees Clause—In most jurisdictions in the United States, as a general matter each party to a dispute is responsible for its own attorneys' fees, unless an express agreement provides to the contrary. Some legal authorities believe that this general rule encourages claims and disputes, because under the general rule claimants have little concern that they will be forced to pay for the opposing party's fees if the claim fails. Other authorities take the opposite view—that if a prevailing-party attorneys' fee rule is used instead of the general rule, then the enticing prospect of not only prevailing but also of having one's own fees paid by the opponent would encourage overly aggressive pursuit of claims (or overzealous defense against valid claims).

If an exception to the general United States rule is preferred for disputes subject to final resolution under Article 17, then add the following express agreement:

SC-17.03 Add the following new paragraph immediately after Paragraph 17.02. [Note: If there is no Paragraph 17.02, because neither arbitration nor any other dispute resolution process has been specified here in the Supplementary Conditions, then revise this to state "Add the following new Paragraph immediately after Paragraph 17.01" and revise the numbering accordingly].

17.03 Attorneys' Fees

- A. For any matter subject to final resolution under this Article, the prevailing party shall be entitled to an award of its attorneys' fees incurred in the final resolution proceedings, in an equitable amount to be determined in the discretion of the court, arbitrator, arbitration panel, or other arbiter of the matter subject to final resolution, taking into account the parties' initial demand or defense positions in comparison with the final result.

ARTICLE 18—MISCELLANEOUS

18.08 Assignment of Contract

Guidance Notes—Assignment—GC-18.08 restricts the assignment of the Contract by both Owner and Contractor. From the Contractor's perspective, it has elected to work for a specific project Owner, based on an evaluation of the Owner's ability to meet its obligations (especially payment of Contractor), and on Owner's reputation for how it administers construction contracts. From Owner's perspective, it has awarded the Contract to a specific Contractor based in part on that Contractor's eligibility to perform the work with requisite competence, safety, and schedule compliance. GC-18.08 places some limitations on the ability of either party to transfer its duties without the consent of the other party.

If the parties anticipate during the drafting process that an assignment will occur (for example, a local sewer district that knows it soon will be transferring its infrastructure projects to a metropolitan authority), then a Supplementary Condition should be drafted to confirm the anticipated assignment and establish the parties' advance consent to the assignment, thereby avoiding possible disputes about granting consent.

Another possibility is an assignment of a contract or purchase order to the Contractor. This typically happens in the context of Owner's procurement of engineered equipment; if the procurement is in progress when the Contractor is selected, it may make sense to assign the procurement contract to the

Contractor. SC-18.08.B may be used to implement such an assignment, and to establish the assignment's basic terms. SC-18.08.B is intended to be coordinated with the EJCDC Procurement Series (P-Series) documents.

The form to be attached as an exhibit to the Contract (meaning the construction contract of which these Supplementary Conditions are a part), as referred to in SC-18.08.B, is the Assignment of Contract; Consent to Assignment; and Acceptance of Assignment form that is attached to EJCDC® P-520, Agreement Between Buyer and Seller (2018).

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

- B. The contract dated **[date]** between Owner as "buyer" and **[identify seller]** as "seller" for procurement of goods and special services ("procurement contract") **[is hereby] [will be]** assigned to Contractor by Owner, and Contractor **[accepts] [will accept]** such assignment. A form documenting the assignment is attached as an exhibit to this Contract.
1. This assignment will occur on the **[Effective Date of the Contract]**, and will relieve the Owner as "buyer" from all further obligations and liabilities under the procurement contract.
 2. Upon assignment, the "seller" will be a Subcontractor or Supplier of the Contractor, and Contractor will be responsible for seller's performance, acts, and omissions, as set forth in Paragraph 7.07 of the General Conditions just as Contractor is responsible for all other Subcontractors and Suppliers.
 3. Notwithstanding this assignment, all performance guarantees and warranties required by the procurement contract will continue to run for the benefit of the Owner and, in addition, for the benefit of the Contractor.
 4. Except as noted in the procurement contract, all rights, duties and obligations of Engineer to "buyer" and "seller" under the procurement contract will cease **[upon the assignment to Contractor]**.

EXHIBIT A—SOFTWARE REQUIREMENTS FOR ELECTRONIC DOCUMENT EXCHANGE

Guidance Notes—Exhibit A—This exhibit is used with the Electronic Documents Protocol (EDP) presented in SC-2.06. If the Project-specific Supplementary Conditions do not include SC-2.06, then do not include Exhibit A. If Exhibit A is included, modify it to conform to Project-specific requirements.

Item	Electronic Documents	Transmittal Means	Data Format	Note (1)
a.1	General communications, transmittal covers, meeting notices and responses to general information requests for which there is no specific prescribed form.	Email	Email	
a.2	Meeting agendas, meeting minutes, RFI's and responses to RFI's, and Contract forms.	Email w/ Attachment	PDF	(2)
a.3	Contractors Submittals (Shop Drawings, "or equal" requests, substitution requests, documentation accompanying Sample submittals and other submittals) to Owner and Engineer, and Owner's and Engineer's responses to Contractor's Submittals, Shop Drawings, correspondence, and Applications for Payment.	Email w/ Attachment	PDF	
a.4	Correspondence; milestone and final version Submittals of reports, layouts, Drawings, maps, calculations and spreadsheets, Specifications, Drawings and other Submittals from Contractor to Owner or Engineer and for responses from Engineer and Owner to Contractor regarding Submittals.	Email w/ Attachment or LFE	PDF	
a.5	Layouts and drawings to be submitted to Owner for future use and modification.	Email w/ Attachment or LFE	DWG	
a.6	Correspondence, reports and Specifications to be submitted to Owner for future word processing use and modification.	Email w/ Attachment or LFE	DOC	
a.7	Spreadsheets and data to be submitted to Owner for future data processing use and modification.	Email w/ Attachment or LFE	EXC	
a.8	Database files and data to be submitted to Owner for future data processing use and modification.	Email w/ Attachment or LFE	DB	
Notes				
(1)	All exchanges and uses of transmitted data are subject to the appropriate provisions of Contract Documents.			
(2)	Transmittal of written notices is governed by Paragraph 18.01 of the General Conditions.			
Key				
Email	Standard Email formats (.htm, .rtf, or .txt). Do not use stationery formatting or other features that impair legibility of content on screen or in printed copies			
LFE	Agreed upon Large File Exchange method (FTP, CD, DVD, hard drive)			
PDF	Portable Document Format readable by Adobe® Acrobat Reader Version [number] or later			
DWG	Autodesk® AutoCAD .dwg format Version [number]			
DOC	Microsoft® Word .docx format Version [number]			
EXC	Microsoft® Excel .xls or .xml format Version [number]			
DB	Microsoft® Access .mdb format Version [number]			

EXHIBIT B—FORESEEABLE BAD WEATHER DAYS

Guidance Notes—Exhibit B—This exhibit is used with SC-4.05.C, which provides a definition of those “abnormal weather conditions” that result from excessive precipitation or extreme temperatures. If the Project-specific Supplementary Conditions do not include SC-4.05.C, then do not include Exhibit B. If Exhibit B is included, fill in the information in the table to establish the Project-specific number of foreseeable Bad Weather Days with respect to precipitation and temperature.

Month	Number of Foreseeable Bad Weather Days in Month Based on Precipitation as Rain Equivalent (inches) (1)	Ambient Outdoor Air Temperature (degrees F)	
		Number of Foreseeable Bad Weather Days in Month Based on Low Temperature (at 11:00 a.m.)	Number of Foreseeable Bad Weather Days in Month Based on High Temperature (at 3:00 p.m.)
January			
February			
March			
April			
May			
June			
July			
August			
September			
October			
November			
December			
Notes:			
1. Two inches of sleet equal one inch of rain. Five inches of wet, heavy snow equal one inch of rain. Fifteen inches of “dry” powder snow equals one inch of rain.			

EXHIBIT C—GEOTECHNICAL BASELINE REPORT SUPPLEMENT TO THE SUPPLEMENTARY CONDITIONS

Guidance Notes—Geotechnical Baseline Reports—This supplement presents optional Supplementary Conditions that are used if Owner elects to issue a Geotechnical Baseline Report (GBR) for a specific Project. Do not include this supplement with a project's Supplementary Conditions unless the GBR system is used.

Some project owners use a Geotechnical Baseline Report (GBR) for projects (or portions of a project) in which the subsurface conditions will play a significant role. Providing a GBR may result in bids with lower contingencies for subsurface conditions, and simplify the application of the differing site conditions provisions in Article 5 of the General Conditions. Commentary on Geotechnical Baseline Reports is presented in C-001. See also *Geotechnical Baseline Reports for Construction—Suggested Guidelines*, by Randall J. Essex, P.E., ASCE 2007. In many cases it may be advantageous for Owner, Engineer, or the geotechnical engineer to engage a consultant with GBR experience to assist in preparation of the GBR and related documents.

On projects in which a Geotechnical Baseline Report is used, it is typical to also assemble and provide a Geotechnical Data Report (GDR), as a separate, single source of factual geotechnical information regarding the Site. The content of the GDR is in essence what the EJCDC documents define as "Technical Data"—reliable factual information, such as boring logs and laboratory test results. (See the definition of Technical Data in Article 1 of the General Conditions, and the definition of a GDR in Article 1 of these Supplementary Conditions). Some Owners may elect to issue a GBR without compiling a GDR, but regardless of the format it is essential to identify and make all geotechnical data available. Note that a typical general-purpose geotechnical report, usually prepared primarily to assist in the design of the project, often contains not only factual data but also opinions, interpretations, and even speculation regarding the Site's subsurface conditions. Such a geotechnical report is not suitable to be adopted or identified as a GDR.

Although it is preferable that a GBR be comprehensive with respect to subsurface conditions, in some cases a GBR will establish baselines for a portion of a project, but will not address all subsurface issues. For example, the GBR may establish baseline subsurface conditions along the route of a pipeline, but be silent with respect to conditions underlying an associated pump building. Also, in some cases a project will involve both subsurface construction as well as building modifications or other tasks unrelated to geotechnical investigations, analysis, or interpretations. The SC/GBR provisions that follow retain certain differing site condition provisions of the General Conditions, in part because these may be needed for situations that are outside the scope of the GBR. As noted previously, these SC/GBR provisions contain locations for (1) identifying known reports and drawings regarding the subsurface conditions (a mandatory obligation), and (2) identifying Technical Data upon whose accuracy Contractor may rely (necessary in some but not all GBR projects, depending on the scope of the GBR and GDR documents).

If a GBR is used, it remains important to disclose known reports and tests regarding subsurface conditions; a place for doing so is provided in SC/GBR 5.03. If some Site conditions are outside the scope of the Geotechnical Baseline Report it will continue to be necessary to identify reliable Technical Data contained in such reports and drawings; however, if the Geotechnical Baseline Report or a related Geotechnical Data Report already establish the data that is worthy of reliance, it will not be necessary to make a redundant identification in SC/GBR 5.03.

If a GBR is used, then include the following GBR Supplementary Conditions, and do not use the Paragraph SC-5.03 in the main body of C-800:

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

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

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1.01 Definitions

SC-1.01 Add to the list of definitions in Paragraph 1.01.A by inserting the following as numbered items in their proper alphabetical positions:

1. *Geotechnical Baseline Report (GBR)*—The interpretive report prepared by or for Owner regarding subsurface conditions at the Site, and containing specific baseline geotechnical conditions that may be anticipated or relied upon for bidding and contract administration purposes, subject to the controlling provisions of the Contract, including the GBR's own terms. The GBR is a Contract Document.
2. *Geotechnical Data Report (GDR)*—The factual report that collects and presents data regarding actual subsurface conditions at or adjacent to the Site, including Technical Data and other geotechnical data, prepared by or for Owner in support of the Geotechnical Baseline Report. The GDR's content may include logs of borings, trenches, and other site investigations, recorded measurements of subsurface water levels, the results of field and laboratory testing, and descriptions of the investigative and testing programs. The GDR does not include an interpretation of the data. If opinions, or interpretive or speculative non-factual comments or statements appear in a document that is labeled a GDR, such opinions, comments, or statements are not operative parts of the GDR and do not have contractual standing. Subject to that exception, the GDR is a Contract Document.

5.03 Subsurface and Physical Conditions

SC-5.03 Delete Paragraph 5.03 in its entirety and replace with the following:

5.03 Subsurface and Physical Conditions

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

1. those reports of explorations and tests of subsurface conditions at or adjacent to the Site (other than any Geotechnical Data Report or Geotechnical Baseline Report) that contain Technical Data. Such reports are as follows:
 - a. *Report Title*: **[Exact title of the document]**
 - b. *Date of Report*: **[Date report was issued]**
 - c. *Technical Data in report upon which Contractor may rely*: **[Identify Technical Data (for example, "Boring Log, Test Site 3") and specify page number or other reference where Technical Data is located within the report. List multiple Technical Data line items per entry when appropriate.]**
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. Such drawings are as follows:
 - a. *Drawings Title*: **[Exact title of the drawings]**
 - b. *Date of Drawings*: **[Date drawings were issued]**
 - c. *Technical Data in drawings upon which Contractor may rely*: **[Identify Technical Data (for example, "Plan View of Rock Outcroppings") in drawings, or state "All**

information in drawing” if entire content is Technical Data entitled to reliance; and specify drawing number, page number, or other reference where the Technical Data is located. List multiple Technical Data line items per entry when appropriate.]

3. Contractor may examine copies of reports and drawings identified immediately above that were not included with the Bidding Documents at **[location]** during regular business hours, or may request copies from Engineer, at the cost of reproduction.
- 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 SC-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 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 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; or
 2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or
 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.
- E. *Geotechnical Baseline Report*
 1. This Contract contains a Geotechnical Baseline Report (“GBR”), identified as follows: **[Example: Geotechnical Baseline Report for Northwest Interceptor, dated February 12, 2013, prepared by ABC Geotechnical Engineers, Inc., Sacramento, California]**. This Contract also contains a Geotechnical Data Report (GDR), identified as follows: **[Example: Geotechnical Data Report for Northwest Interceptor, dated June 15, 2012, prepared by ABC Geotechnical Engineers, Inc., Sacramento, California]**.
 2. The GBR and GDR are incorporated as Contract Documents. The GBR and GDR are to be used in conjunction with other Contract Documents, including the Drawings and Specifications. If there is a conflict between the terms of the GBR and the GDR, the GBR’s terms prevail.

3. The GBR describes certain select subsurface conditions that are anticipated to be encountered by Contractor during construction in specified locations (referred to here in the Supplementary Conditions as "Baseline Conditions"). These may include ground, geological, groundwater, and other subsurface geotechnical conditions, and baselines of anticipated Underground Facilities or subsurface structures.
4. The Baseline Conditions will be used to assist in the administration of the Contract's differing site conditions clause at locations where subsurface conditions have been baselined. If a condition is baselined in the GBR, then only the pertinent Baseline Conditions will be used to determine whether there is a differing site condition; and no other indication of that condition in the Contract Documents or Technical Data, or of a condition that describes, quantifies, or measures a similar characteristic of the subsurface, will be used for the differing site condition determination.
5. The Baseline Conditions will not be used to make differing site conditions determinations at locations that have not been baselined in the GBR, or at any location with respect to subsurface conditions that the Baseline Conditions do not address. If Underground Facilities or Hazardous Environmental Conditions are expressly addressed in the Baseline Conditions, then comparison to such Baseline Conditions will be the primary means of determining (a) whether an Underground Facility was shown or indicated with reasonable accuracy, as provided in Paragraph 5.05 of the General Conditions, or (b) whether a Hazardous Environmental Condition was shown or indicated in the Contract Documents as indicated in Paragraph 5.06.H of the General Conditions. As indicated in Paragraph SC-5.04 below, the GDR will be the primary resource for differing site conditions determinations in cases in which the GBR is inapplicable.
6. The descriptions of subsurface conditions provided in the GBR are based on geotechnical investigations, laboratory tests, interpretation, interpolation, extrapolation, and analyses. Neither Owner, Engineer, nor any geotechnical or other consultant warrants or guarantees that actual subsurface conditions will be as described in the GBR, nor is the GBR intended to warrant or guarantee the use of specific means or methods of construction.
7. The behavior of the ground during construction depends substantially upon the Contractor's selected means, methods, techniques, sequences, and procedures of construction. If ground behavior conditions are baselined in the GBR, they are based on stated assumptions regarding construction means and methods.
8. The GBR will not reduce or relieve Contractor of its responsibility for the planning, selection, and implementation of safety precautions and programs incident to Contractor's means, methods, techniques, sequences, and procedures of construction, or to the Work.

5.04 *Differing Subsurface or Physical Conditions*

SC-5.04 Delete Paragraph 5.04 in its entirety and replace with the following:

5.04 *Differing Subsurface or Physical Conditions*

- A. *Notice:* If Contractor believes that any subsurface condition that is uncovered or revealed at the Site:
1. differs materially from conditions shown or indicated in the GBR; or
 2. differs materially from conditions shown or indicated in the GDR, to the extent the GBR is inapplicable; or
 3. differs materially from conditions shown or indicated in Contract Documents other than the GBR or GDR, to the extent the GBR and GDR are inapplicable; or
 4. to the extent the GBR and GDR are inapplicable, 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; or
 5. to the extent the GBR and GDR are inapplicable, is of such a nature as to require a change in the Drawings or Specifications; or
 6. to the extent the GBR and GDR are inapplicable, 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 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 the necessity of Owner's obtaining 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 SC-5.04.A above; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the Contractor's resumption or continuation 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 or continuation 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 SC-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 of the General Conditions; 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; or
 - 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 as required by Paragraph SC-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 must 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 of the General Conditions governs rights and responsibilities regarding the presence or location of Underground Facilities. Paragraph 5.06 of the General Conditions governs rights and responsibilities regarding Hazardous Environmental Conditions. The provisions of

Paragraphs SC-5.03 and SC-5.04 are not applicable to the presence or location of Underground Facilities, or to Hazardous Environmental Conditions.