



ROOF REPLACEMENT AT 1451 NW 31ST AVENUE

BID #: 2026-016

**CONTRACT DOCUMENTS
AND TECHNICAL SPECIFICATIONS**

December 2025

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NOTICE TO BIDDERS

NOTICE IS HEREBY GIVEN that the **Lauderhill Community Redevelopment Agency (CRA)** is seeking sealed bids for the following project:

**ROOF REPLACEMENT AT 1451 NW 31ST AVENUE
BID NUMBER: 2026-016
Lauderhill Community Redevelopment Agency (CRA)**

The CRA will accept sealed bids until **3:45 P.M. (EST) on December 30, 2025**. All bids must be submitted electronically via IonWave at <https://laudherhill.ionwave.net>. Bids will be opened at **4:00 P.M. (EST)** on the same day. **Bids received after 3:45 P.M. (EST) will not be considered.**

The purpose of this solicitation is to obtain bids from qualified General Contractors to complete **Roof Replacement Works at 1451 NW 31st Avenue, Lauderhill, FL 33311**, in a professional and timely manner.

All bidders are required to **register online with the City of Lauderhill** prior to submitting a bid. The registration link is: <http://www.lauderhill-fl.gov>.

The **Statement of Work (SOW)** may be obtained on or after **December 04, 2025**, via IonWave at <https://laudherhill.ionwave.net>. Vendors who obtain solicitation documents from sources other than IonWave are cautioned that such packages may be incomplete. All addenda will be posted exclusively on IonWave by the CRA's Finance/Purchasing Department.

Questions regarding the technical requirements of this Bid must be submitted through IonWave **no later than ten (10) days prior to the closing date.**

A **non-mandatory pre-bid conference** is scheduled for **December 18, 2025, at 10:30 A.M. (EST)**, at **5581 W. Oakland Park Blvd., Lauderhill, FL 33313**, which may be followed by a site visit.

This bid is **reserved for Small Business Enterprise (SBE) participation**, in compliance with **City Code of Ordinance Chapter 2, Article III, Section 2-139(f)(3) – Local Vendors.**

Bid security in the form of a **Bid Bond or certified check** made payable to the **Lauderhill Community Redevelopment Agency**, in an amount equal to **five percent (5%) of the bid amount**, must be submitted with the bid. Bidders

must use the Bid Bond form provided. **No bidder may withdraw their bid within ninety (90) days after the bid opening date.**

Upon award of the contract, the successful bidder will be required to provide:

- **100% Construction Performance Bond**
- **100% Construction Payment Bond**

Additionally, the following affidavits must be submitted with the Bid:

- **Public Entity Crimes Affidavit**
- **Anti-Human Trafficking Affidavit**

The CRA reserves the right to **reject any or all Bids**, waive any informalities or irregularities, make direct purchases as deemed appropriate, and accept or reject all or part of any proposal in the **best interest of the CRA**. The successful bidder will be required to enter into a contract with the CRA.

Lauderhill Community Redevelopment Agency

CITY OF LAUDERHILL, FLORIDA



Kentrea L. Dykes
Purchasing and Contracts Manager

Advertising Dates: December 04, 2025 and December 11, 2025

SCOPE OF WORK

**ROOF REPLACEMENT AT 1451 NW 31ST AVENUE
BID NUMBER: 2026-016**

General Roof Replacement Conditions

- Provide protective equipment for property features (driveways, AC units, landscaping, pools, etc.).
 - Remove all roofing debris, dispose legally, and keep site clear.
 - Tear off existing roof down to wood substrate.
 - Remove and discard all existing gutters.
 - Replace compromised wood members at contractor's discretion.
 - Re-nail decking per FBC standards.
 - Cut and restucco walls along roof-to-wall connections with new "L" flashing including painting
 - 5-year contractor leak warranty provided
-

Metal Roof Replacement

- Install one ply of Polyglass XFR self-adhered fire & water barrier.
 - Install new plumbing boots and color-matched vents.
 - Install Drexel 1.5" mechanical seam Galvalume 24-gauge standing seam panels with mill finish
 - Use Galvalume clips and hardware.
 - Install 24-ga mill finish flashing at existing roof vents.
 - Install zipper-style electrical boots for vent electrical supply lines.
-

Flat Roof System

- Apply plywood seam tape.
- Install Polyglass Elasobase sheet, nailed per FBC.

- Install Polyglass SAV interply self-adhered layer.
- Install 26-ga drip edge (white, brown, or color-matched).
- Install roof flashing between slope and flat roofs.
- Install new lead plumbing boots/gooseneck vents with asphalt primer and rodent guards.
- Install Polyglass SAP granulated modified bitumen cap sheet.

INSTRUCTIONS TO BIDDERS

SECTION 1 – DEFINITIONS

Whenever the following terms appear in the Bid, the intent and meaning shall be interpreted as follows:

1.1 Agency: The **Lauderhill Community Redevelopment Agency (CRA), Florida.**

1.2 Contract: The written agreement for performance of the Scope of Work entered into between the CRA and the Successful Proposer.

1.3 Contract Administrator: The CRA Purchasing and Contracts Manager, or another employee expressly designated in writing by the CRA Executive Director, who is the representative of the CRA concerning the Contract Documents.

1.4 Evaluation/Selection Committee: CRA staff and/or outside consultants assigned to evaluate the submitted proposals.

1.5 Proposer: Any individual, firm, or corporation submitting a bid for this project, acting directly or through a duly authorized representative. For the purpose of this Agreement, "Proposer" shall mean the same as "Bidder."

1.6 Proposal: Any offer submitted in response to this request for bids. Terms "Proposal" and "Bid" may be used interchangeably while retaining the same meaning.

1.7 Purchasing Office: The Purchasing Division of the Lauderhill Community Redevelopment Agency.

1.8 Provider, Bidder, Contractor, Successful Proposer, or Consultant: The Proposer receiving an award as a result of this request for Bids. These terms may be used interchangeably while retaining the same meaning.

1.9 Subcontractor/Subconsultant: Any person, firm, or organization, other than the employees of the Successful Proposer, who contracts with the Successful Proposer to furnish labor, or labor and materials, in connection with the Work or Services.

1.10 Work, Services, Program, Project, or Engagement: All matters required to be completed by the Successful Proposer in accordance with the Scope of Work and the Terms and Conditions of this request for bids.

1.11 **Piggybacking**: An agreement which allows the CRA to utilize the contract of another governmental entity with a specific vendor, ensuring that the CRA's contractual requirements are incorporated.

1.12 **Local Vendor Bids**: In accordance with CRA procurement policy, certain procurements may be reserved for participation by businesses located within the City of Lauderhill. Eligibility is subject to CRA policy and local preference requirements.

BID CHECKLIST

**ROOF REPLACEMENT AT 1451 NW 31ST AVENUE
BID NUMBER: 2026-016**

COMPANY NAME: _____
PHONE: _____ **EMAIL:** _____

BEFORE SUBMITTING YOUR BID, PLEASE ENSURE THE FOLLOWING:

A check mark indicates compliance.

- 1. The Bid Package was read in its entirety
- 2. Bid Form **00300** completed
- 3. Price Bid Sheet **00300A** completed
- 4. Bid Bond obtained and **00401** completed
- 5. Public Entity Crimes Affidavit **00402** completed and notarized
- 6. Trench Safety Form **00403** completed (*if applicable*)
- 7. Bidder's Qualification Form **00420** completed, with evidence of insurance and copies of applicable licenses attached
- 8. Subcontractor List **00421** completed
- 9. Litigation History Form **00450** completed
- 10. Non-Collusive Affidavit **00480** completed
- 11. Debarment Certification **00490** completed
- 12. Certified Resolution **00495** completed
- 13. Contract Cover Sheet **00500** provided
- 14. Payment Bond **00600** provided
- 15. Performance Bond **00601** provided
- 16. OSHA Standards Acknowledgment **00650** signed
- 17. Proposal submitted electronically via **IonWave**
(<https://lauderhill.ionwave.net/>)

DOCUMENT 00300

SIGNATURE PAGE

ROOF REPLACEMENT AT 1451 NW 31ST AVENUE

BID NUMBER: 2026-016

Date: _____

BID TO:

Lauderhill Community Redevelopment Agency (CRA)
1803 NW 38th Avenue
Lauderhill, FL 33313

SUBMITTED BY:

Company Name: _____

Street Address: _____

City, State, Zip Code: _____

The undersigned, as Proposer, hereby declares that they are acquainted with the site of the construction as shown on the drawings and specifications, and has fully familiarized themselves with the work to be performed. The Proposer has thoroughly examined the Drawings, Specifications, and all Contract Documents pertaining thereto and has read all related documents as designated under the CRA's BID 2026-016.

The Proposer agrees, if this proposal is accepted, to furnish all necessary materials, equipment, tools, transportation, labor, and supervision to complete the construction as described in the Contract Documents.

It is understood that all proposal items must be submitted and that omissions may be cause for rejection. The CRA reserves the right to delete certain portions of the bid documents from the awarded contract at its discretion.

The Proposer further agrees, if awarded the Contract, to fully execute the Contract Documents within fifteen (15) calendar days of the Notice of Award and to substantially complete the work within two hundred ten (210) calendar days from the Notice to Proceed.

SIGNATURE PAGE

The undersigned attests to their authority to submit this proposal and bind the firm herein named to perform as agreed.

By signing below, the Proposer certifies and affirms the following:

1. The Proposer is financially solvent, experienced, and competent to perform the work.
2. All facts stated in this proposal are true and correct.

3. The Proposer has read, understands, and accepts all requirements, terms, and conditions of the RFP.
4. All materials supplied will be free of liens or encumbrances and lawfully owned.
5. Only evaluated team members will participate in oral presentations, if required.
6. The Proposer will negotiate in good faith if selected.
7. The CRA is authorized to verify all information provided, and the Proposer indemnifies the CRA and its representatives for doing so.

Submitted this ____ day of _____, **20**__.

(If an Individual, Partnership, or Non-Incorporated Organization)

Witness: _____

Firm/Company: _____

By: _____

Title: _____

(If a Corporation – Affix Corporate Seal)

Company: _____

By: _____

Title: _____

Attested by Secretary: _____

Printed Name/Title: _____

Incorporated under the laws of the State of _____.

CERTIFICATE (For Partnership)

I HEREBY CERTIFY that a meeting of the partners of _____, a Partnership under the laws of the State of _____, held on _____, **20**__, the following resolution was duly adopted:

“RESOLVED, that _____ as _____ of the Partnership, is hereby authorized to execute the Bid Form dated _____, 20__, between the Lauderdale Community Redevelopment Agency and this Partnership, and that the execution thereof shall be the official act and deed of this Partnership.”

I further certify that said resolution is now in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand this ____ day of _____, **20**__.

Signature: _____

Title: _____

STATE OF FLORIDA
COUNTY OF _____

Sworn to and subscribed before me on this ____ day of _____, 20__ by _____, who is ♦ personally known to me OR ♦ produced identification _____.

Signature of Notary Public, State of Florida
[Notary Seal]
Printed Name/Commission No. _____

CERTIFICATE (For Corporation)

I HEREBY CERTIFY that a meeting of the Board of Directors of _____, a corporation under the laws of the State of _____, held on _____, 20__, the following resolution was duly adopted:

“RESOLVED, that _____, as _____ of the Corporation, is hereby authorized to execute the Bid Form dated _____, 20__, between the Lauderhill Community Redevelopment Agency and this Corporation, and that the execution thereof, attested by the Secretary and with corporate seal affixed, shall be the official act and deed of this Corporation.”

I further certify that said resolution is now in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand this ____ day of _____, 20__.

Secretary: _____

STATE OF FLORIDA
COUNTY OF _____

Sworn to and subscribed before me on this ____ day of _____, 20__ by _____, who is ♦ personally known to me OR ♦ produced identification _____.

Signature of Notary Public, State of Florida
[Notary Seal]
Printed Name/Commission No. _____

END OF DOCUMENT

Cost Schedule

Project: Metal & Flat Roof Replacement
Location: 1451 NW 31 Ave, Lauderhill, FL
Owner: City of Lauderhill CRA
Bid Number: 2026-016
Contractor: _____

1. Base Contract Value

Item	Description	Unit	Estimated Quantity	Unit Price	Extended Price
1.1	General Roof Replacement (demolition, disposal, protection, re-nailing, wood replacement allowance, fascia allowance, rafter allowance, flashing, restucco, etc.)	Lump Sum	1	\$_____	\$_____
1.2	Metal Roof System (fire/water barrier, Drexel 24ga standing seam panels, clips, vents, flashings, boots, hardware)	Lump Sum	1	\$_____	\$_____
1.3	Flat Roof System (plywood seam tape, Polyglass layers, drip edge, flashing, boots/vents, cap sheet)	Lump Sum	1	\$_____	\$_____

Base Contract Total: \$_____

2. Optional Upgrades (Bidder to Provide Unit Pricing)

Item	Description	Unit	Quantity	Unit Price	Extended Price
U1	Polyglass MTS 2-ply system (30-year warranty)	Lump Sum	1	\$_____	\$_____
U2	Plywood seam tape (all joints)	Lump Sum	1	\$_____	\$_____

Item	Description	Unit	Quantity	Unit Price	Extended Price
U3	½" CDX plywood full overlay	SF	_____	\$_____	\$_____
U4	Roof-to-wall wind mitigation upgrade (includes report)	Lump Sum	1	\$_____	\$_____
U5	Seamless K-style gutters with downspouts	LF	_____	\$_____	\$_____
U6	Stainless steel clips/hardware	Lump Sum	1	\$_____	\$_____
U7	Aluminum roof system substitution	Lump Sum	1	\$_____	\$_____
U8	Standard color metal panels substitution	Lump Sum	1	\$_____	\$_____
U9	Premium color metal panels substitution	Lump Sum	1	\$_____	\$_____
U10	Tapered insulation (flat roof drainage)	SF	_____	\$_____	\$_____
U11	Flat insulation (energy efficiency)	SF	_____	\$_____	\$_____
U12	Solar attic vent	EA	_____	\$_____	\$_____
U13	Flat roof substitution (GAF TPO)	Lump Sum	1	\$_____	\$_____
U14	Fascia replacement (pre-primed spruce)	LF	_____	\$_____	\$_____

DOCUMENT 00300

BID FORM

**ROOF REPLACEMENT AT 1451 NW 31ST AVENUE
BID NUMBER: 2026-016**

Date: _____

BID TO:

Honorable Mayor & City Commission
City of Lauderhill

SUBMITTED BY:

Company Name

Street Address

City, State, Zip Code

DECLARATION

The undersigned, as Bidder, hereby declares that they are fully acquainted with the project site, drawings, and specifications, and have thoroughly examined all Contract Documents pertaining to this Bid. The Bidder further certifies that they:

- Have reviewed all related documents under BID 2026-016.
 - Will furnish all necessary materials, labor, supervision, equipment, tools, and transportation required to complete the construction as specified.
 - Understand that bid quantities are provided for comparison only.
 - Acknowledge that failure to include all bid item amounts may render the bid non-responsive.
 - Accept that the Owner reserves the right to delete portions of the bid documents from the awarded contract.
 - Agree, if awarded the Contract, to execute the Contract Documents within **15 calendar days** of the Notice of Award, and to fully complete the work within **10 months** of the Notice to Proceed.
-

BIDDER INFORMATION & SIGNATURE

IF BIDDER IS AN INDIVIDUAL

By: _____ (SEAL)
(Individual's Name)

Doing Business As: _____

Business Address: _____

Phone: _____

IF BIDDER IS A PARTNERSHIP

By: _____ (SEAL)
(Firm Name)

By: _____
(General Partner)

Business Address: _____

Phone: _____

IF BIDDER IS A JOINT VENTURE

By: _____
(Name / Address)

By: _____
(Name / Address)

(Each joint venture partner must sign. Signing should follow the format for individual, partnership, or corporation, as applicable.)

IF BIDDER IS A CORPORATION

By: _____
(Corporation Name)

State of Incorporation: _____

By: _____
(Authorized Signatory)

Title: _____

Phone: _____

(Corporate Seal)

Attest: _____
(Secretary)

Business Address: _____

Phone: _____

END OF DOCUMENT

DOCUMENT 00401

BID BOND

**ROOF REPLACEMENT AT 1451 NW 31ST AVENUE
BID NUMBER: 2026-016**

BIDDER: (Name and Address):

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

OWNER (Name and Address):

Lauderhill Community Redevelopment Agency
1803 NW 38th Avenue
Lauderhill, FL 33313

BID:

Bid Due Date: _____

Project Title: Roof Replacement at 1451 NW 31st Avenue

Bid Number: 2026-016

BOND:

Bond Number: _____

Date: (Not later than Bid Due Date): _____

Penal Sum: 5% of Bid Amount _____

IN WITNESS WHEREOF, Surety and Bidder, intending to be legally bound hereby, subject to the terms printed on the reverse side hereof, do each cause this Bid Bond to be duly executed on its behalf by its authorized officer, agent, or representative.

BIDDER (Seal)

Bidder's Name and Corporate Seal

By: _____

Signature and Title

Attest: _____

Signature and Title

SURETY (Seal)

Surety's Name and Corporate Seal

By: _____
Signature and Title (Attach Power of Attorney)

Attest: _____
Signature and Title

NOTES:

1. Above addresses are to be used for giving required notice.
 2. Any singular reference to Bidder, Surety, Owner, or other party shall be considered plural where applicable.
-

TERMS

1. Bidder and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to pay to Owner upon default of Bidder any difference between the total amount of Bidder's bid and the total amount of the bid of the next lowest, responsible and responsive bidder as determined by Owner for the Work required by the Contract Documents, provided that:
 - 1.1. If there is no such next lowest, responsible and responsive bidder, and Owner does not abandon the Project, then Bidder and Surety shall pay to Owner the penal sum set forth on the face of this Bond; and
 - 1.2. In no event shall Bidder's and Surety's obligation hereunder exceed the penal sum set forth on the face of this Bond.
2. Default of Bidder shall occur upon the failure of Bidder to deliver within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents and Contract Documents.
3. This obligation shall be null and void if:
 - 3.1. Owner accepts Bidder's bid and Bidder delivers within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents and Contract Documents, or
 - 3.2. All bids are rejected by Owner, or
 - 3.3. Owner fails to issue a notice of award to Bidder within the time specified in the Bidding Documents (or any extension thereof agreed to in writing by Bidder and, if applicable, consented to by Surety when required by paragraph 5 hereof).
4. Payment under this Bond will be due and payable upon default by Bidder and within 30 calendar days after receipt by Bidder and Surety of written notice of default from Owner, which notice will be given with reasonable promptness, identifying this Bond and the Project and including a statement of the amount due.

5. Surety waives notice of and any and all defenses based on or arising out of any time extension to issue notice of award agreed to in writing by Owner and Bidder, provided that the total time for issuing notice of award including extensions shall not in the aggregate exceed 120 days from Bid Due Date without Surety's written consent.
6. No suit or action shall be commenced under this Bond prior to 30 calendar days after the notice of default required in paragraph 4 above is received by Bidder and Surety and in no case later than one year after Bid Due Date.
7. Any suit or action under this Bond shall be commenced only in a court of competent jurisdiction located in the state in which the Project is located.
8. Notices required hereunder shall be in writing and sent to Bidder and Surety at their respective addresses shown on the face of this Bond. Such notices may be sent by personal delivery, commercial courier, or by United States Registered or Certified Mail, return receipt requested, postage pre-paid, and shall be deemed effective upon receipt by the party concerned.
9. Surety shall cause to be attached to this Bond a current and effective Power of Attorney evidencing the authority of the officer, agent or representative who executed this Bond on behalf of Surety to execute, seal and deliver such Bond and bind the Surety thereby.
10. This Bond is intended to conform to all applicable statutory requirements. Any applicable requirement of any applicable statute that has been omitted from this Bond shall be deemed included herein as if set forth at length. If any provision of this Bond conflicts with any applicable provision of statute, then the provision of said statute shall govern and the remainder of this Bond shall continue in full force and effect.
11. The term "bid" as used herein includes a bid, offer, or proposal as applicable.

**SWORN STATEMENT PURSUANT TO SECTION 287.133(3)(a),
FLORIDA STATUTES, ON PUBLIC ENTITY CRIMES**

THIS FORM MUST BE SIGNED AND SWORN TO IN THE PRESENCE OF A NOTARY PUBLIC OR OTHER OFFICIAL AUTHORIZED TO ADMINISTER OATHS.

1. This sworn statement is submitted to: **Lauderhill Community Redevelopment Agency**

by _____
[print individual's name and title]

for _____
[print name of entity submitting sworn statement]

whose business address is _____

and (if applicable) its Federal Employer Identification Number (FEIN) is
_____.

(If the entity has no FEIN, include the Social Security Number of the individual signing this sworn statement: _____.)

2. I understand that a "public entity crime" as defined in Paragraph 287.133(1)(g), Florida Statutes, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or of the United States, including, but not limited to, any bid or contract for goods or services to be provided to any public entity or an agency or political subdivision of any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.
3. I understand that "convicted" or "conviction" as defined in Paragraph 287.133(1)(b), Florida Statutes, means a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, non-jury trial, or entry of a plea of guilty or nolo contendere.
4. I understand that an "affiliate" as defined in Paragraph 287.133(1)(a), Florida Statutes, means:
1. A predecessor or successor of a person convicted of a public entity crime; or
 2. An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime.

The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in another person, or a pooling of equipment or income among persons when not for fair market value under an arm's length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.

5. I understand that a "person" as defined in Paragraph 287.133(1)(e), Florida Statutes, means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bid on contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an entity.
6. Based on information and belief, the statement which I have marked below is true in relation to the entity submitting this sworn statement. **[Indicate which statement applies]**

Neither the entity submitting this sworn statement, nor any of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, nor any affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, nor any affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, nor any affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989. However, there has been a subsequent proceeding before a Hearing Officer of the State of Florida, Division of Administrative Hearings and the Final Order entered by the Hearing Officer determined that it was not in the public interest to place the entity submitting this sworn statement on the convicted vendor list. [Attach a copy of the final order.]

I UNDERSTAND THAT THE SUBMISSION OF THIS FORM TO THE CONTRACTING OFFICER FOR THE PUBLIC ENTITY IDENTIFIED IN PARAGRAPH 1 ABOVE IS FOR THAT PUBLIC ENTITY ONLY AND, THAT THIS FORM IS VALID THROUGH DECEMBER 31 OF THE CALENDAR YEAR IN WHICH IT IS FILED. I ALSO UNDERSTAND THAT I AM REQUIRED TO INFORM THE PUBLIC ENTITY PRIOR TO ENTERING INTO A CONTRACT IN EXCESS OF THE THRESHOLD AMOUNT PROVIDED IN SECTION 287.017, FLORIDA STATUTES FOR CATEGORY TWO OF ANY CHANGE IN THE INFORMATION CONTAINED IN THIS FORM.

Signature: _____

Sworn to and subscribed before me this _____ day of _____, 20____.

Personally known

OR Produced identification _____ (Type of identification)

Notary Public – State of _____

My commission expires: _____

(Printed, typed, or stamped commissioned name of notary public)

END OF DOCUMENT

DOCUMENT 00403

TRENCH SAFETY FORM

This form must be completed and signed by the Bidder. Failure to complete this form may result in the Bid being declared **non-responsive**.

The undersigned Bidder acknowledges that the **Florida Trench Safety Act (Section 553.60 et. seq., Florida Statutes)**, effective October 1, 1990, shall apply and remain in effect during the construction period of this project.

By signing and submitting this Bid, the Bidder affirms that all trench excavations will be performed in full compliance with applicable trench safety standards.

METHOD OF COMPLIANCE:

ITEMIZED COST OF COMPLIANCE:

Amount (Total): \$ _____

Bidder acknowledges that this amount is included in the applicable items of the Proposal and in the Grand Total RFP Price. Failure to complete the above will result in the RFP being declared non-responsive.

IMPORTANT NOTE:

The Bidder is solely responsible for determining and implementing all applicable safety standards and precautions as required by the **Trench Safety Act**. The Owner and Engineer will not review or assess safety programs, precautions, or costs. Responsibility for safety compliance—including but not limited to methods, techniques, adequacy, reasonableness of costs, sequences, and procedures—rests entirely with the Bidder.

SIGNATURES

Witness Signature: _____

Witness Printed Name: _____

Witness Address: _____

Date: _____

Bidder Signature: _____

Bidder Printed Name: _____

Title: _____

Date: _____

END OF DOCUMENT

DOCUMENT 00420

BIDDERS QUALIFICATION FORM

**ROOF REPLACEMENT AT 1451 NW 31ST AVENUE
BID NUMBER: 2026-016**

Please answer all questions as completely as possible. Use attachments as necessary or as required.

1. Organization History

How many years has your organization been in business as a Contractor?
Attach all certifications, licenses, endorsements, etc. (**Attachment No. 1**).

2. Relevant Experience

Describe the last project of this nature you have completed:

3. Work Completion History

Have you ever failed to complete work awarded to you? If yes, where and why?

4. References

Provide three references (individuals or corporations) for which you have performed work, including contact person(s) and phone numbers:

1. _____
2. _____
3. _____

5. Current Contracts

List all contracts on hand as of the date of this submission (include co-ventures, if applicable).

Name of Project / Owner Total Contract Value Date of Completion % Completed to Date

(Continue list on attached sheet if necessary – **Attachment No. 2**)

6. Site Review

Have you personally inspected the proposed work, and do you have a complete plan for its performance?

Yes No

7. Subcontracting

Will you sublet any part of this work?

Yes No

(If yes, please list subcontractors in **Document 00421 – List of Subcontractors**).

8. Owned Equipment

List the equipment you own that will be available for this project:

9. Purchased Equipment

List the equipment you plan to purchase for this project:

10. Rented Equipment

List the equipment you plan to rent for this project:

11. Financial Statement

Attach a current Financial Statement of the undersigned. Provide the name and telephone number of the individual best qualified to answer questions regarding this statement:

Name: _____

Phone: _____

(Attachment No. 3)

12. Business Information

State the true, exact, correct, and complete name of the partnership, corporation, or trade name under which you do business, and the address of the principal place of business.

Correct Name of Bidder: _____

(a) The business is a: Sole Proprietorship Partnership Corporation

(b) Address of principal place of business:

(c) Corporate officers, partners, or individuals doing business under a trade name:

13. Insurance Experience Risk Modifier (ERM)

14. Bonding Capacity

15. Current Bonding Obligations

16. Current Bonding Rate (%)

CERTIFICATION

The undersigned guarantees the truth and accuracy of all statements and answers contained herein.

Signature of Bidder

Printed Name and Title

Date

SUBCONTRACTORS LIST

**ROOF REPLACEMENT AT 1451 NW 31ST AVENUE
BID NUMBER: 2026-016**

List the company name, trade, license number (if applicable), and the approximate value of their involvement in the project. Additional information may be required upon submission of the Bid, as described in **Document 00100 – Instructions to Bidders**.

Subcontractor Information

1. **Company Name:** _____
Trade/Scope of Work: _____
License No. (if applicable): _____
Approximate Contract Value (% or \$): _____

2. **Company Name:** _____
Trade/Scope of Work: _____
License No. (if applicable): _____
Approximate Contract Value (% or \$): _____

3. **Company Name:** _____
Trade/Scope of Work: _____
License No. (if applicable): _____
Approximate Contract Value (% or \$): _____

4. **Company Name:** _____
Trade/Scope of Work: _____
License No. (if applicable): _____
Approximate Contract Value (% or \$): _____

5. **Company Name:** _____
Trade/Scope of Work: _____
License No. (if applicable): _____
Approximate Contract Value (% or \$): _____

END OF DOCUMENT

DOCUMENT 00450

LITIGATION HISTORY FORM

**REPLACEMENT ROOF AT 1451 NW 31ST AVEBNU
BID NUMBER: 2026-016**

Please answer all questions as completely as possible. Attach additional sheets and documentation as necessary or required.

1. Organization History

How many years has your organization been in business as a Contractor?

2. Litigation Record

List all litigation in which your organization has been a **plaintiff** or **defendant** within the last ten (10) years.

Bidders should be aware that prior litigation history **may disqualify your BID.**

#	Plaintiff / Defendant	Brief Description of Case	Status / Outcome
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			

(Attach additional pages if more space is required.)

Certification

The undersigned certifies that the information provided herein is true, accurate, and complete to the best of their knowledge and belief.

Signature of Bidder: _____

Printed Name & Title: _____

Date: _____

END OF DOCUMENT

NON-COLLUSIVE AFFIDAVIT

ROOF REPLACEMENT AT 1451 NW 31ST AVENUE
BID NUMBER: 2026-016

STATE OF _____)
COUNTY OF _____) ss.:

I, _____, being first duly sworn,
depose and say that:

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

BY: _____
(Signature)

ITS: _____
(Title)

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

NOTARY PUBLIC: _____

My commission expires: _____

CONFIRMATION OF DRUG-FREE WORKPLACE

**ROOF REPLACEMENT AT 1451 NW 31ST AVENUE
BID NUMBER: 2016-016**

In order to establish and maintain a drug-free workplace program, a business shall:

1. **Publish a statement** notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibitions.
2. **Inform employees** about:
 - o The dangers of drug abuse in the workplace,
 - o The business’s policy of maintaining a drug-free workplace,
 - o Any available drug counseling, rehabilitation, and employee assistance programs, and
 - o The penalties that may be imposed upon employees for drug abuse violations.
3. **Provide each employee** engaged in providing the commodities or contractual services under bid with a copy of the statement specified in subsection (1).
4. **Include in the statement** specified in subsection (1) a notice that, as a condition of working on the commodities or contractual services under bid, the employee will:
 - o Abide by the terms of the statement, and
 - o Notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of Chapter 893, Florida Statutes, or any controlled substance law of the United States or any State, for a violation occurring in the workplace no later than five (5) days after the conviction.
5. **Impose a sanction on**, or require satisfactory participation in a drug abuse assistance or rehabilitation program (if such is available in the employee’s community), by any employee who is so convicted.
6. **Make a good faith effort** to continue to maintain a drug-free workplace through implementation of this section.

A signed copy of your Drug-Free Workplace Policy must be attached to this form and submitted with the Bid Documents.

CERTIFICATION

As the person authorized to sign this statement, I certify that this firm complies fully with the above requirements.

Vendor/Company Name: _____

Authorized Signature: _____

Printed Name & Title: _____

Date: _____

DEBARMENT CERTIFICATION

49 CFR Part 29 – Appendix B Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to whom this proposal is submitted if at any time the participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms *covered transaction*, *debarred*, *suspended*, *ineligible*, *lower tier covered transaction*, *participant*, *person*, *primary covered transaction*, *principal*, *proposal*, and *voluntarily excluded*, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to whom this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees, by submitting this proposal, that should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is:
 - proposed for debarment under 48 CFR Part 9, Subpart 9.4,
 - debarred, suspended, declared ineligible, or
 - voluntarily excluded from participation in this transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees, by submitting this proposal, that it will include this clause titled "*Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transaction*" without modification, in all lower tier covered transactions and solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment, suspended, debarred, ineligible, or voluntarily excluded, unless it knows that the certification is erroneous. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-Procurement Programs.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions: if a participant knowingly enters into a lower tier covered transaction with a person who is debarred, suspended, ineligible, or voluntarily excluded, then in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently:
 - o debarred,
 - o suspended,
 - o proposed for debarment,
 - o declared ineligible, or
 - o voluntarily excluded from participation in this transaction by any Federal department or agency.
2. Where the prospective lower tier participant is unable to certify to any of the statements above, such participant shall attach an explanation to this proposal.

Signature/Authorized Certifying Official: _____

Typed Name and Title: _____

Applicant/Organization: _____

Date Signed: _____

CERTIFIED RESOLUTION

I, _____, the duly elected Secretary

(Person's Name)

of _____, a corporation
organized and

(Business Name)

existing under the laws of the State of _____,
do hereby certify that the following Resolution was unanimously adopted and
passed by a quorum of the Board of Directors of the said corporation at a meeting
held in accordance with law and the by-laws of the said corporation:

RESOLUTION

"IT IS HEREBY RESOLVED THAT

_____,
(Person's Name)

the duly elected _____ of

(Title of Officer)
(Business Name)

is hereby authorized to execute and submit a Bid and Bid Bond, if such bond is required, to the **Lauderhill Community Redevelopment Agency** and such other instruments in writing as may be necessary on behalf of the said corporation; and that the Bid, Bid Bond, and other such instruments signed by him/her shall be binding upon the said corporation as its own acts and deeds.

The Secretary shall certify the names and signatures of those authorized to act by the foregoing resolution.

The **Lauderhill Community Redevelopment Agency** shall be duly protected in relying upon such certification of the Secretary and shall be indemnified and saved harmless from any and all claims, demands, expenses, loss or damage resulting from or growing out of honoring the signature of any person so certified or for refusing to honor any signature not so certified.

I further certify that the above resolution is in force and effect and has not been revised, revoked, or rescinded.

Authorized Signatories

The following are the names, titles, and official signatures of those persons authorized to act by the foregoing resolution:

NAME	TITLE	SIGNATURE
------	-------	-----------

Given under my hand and the Seal of the said corporation this _____ day of _____, 20____.

By: _____
Secretary

(Corporate Seal)

Corporate Title

NOTE:

The above is a suggested form of the type of Corporate Resolution desired. Such form need not be followed explicitly, but the Certified Resolution submitted must clearly show to the satisfaction of the **Lauderhill Community Redevelopment Agency** that the person signing the Bid and Bid Bond for the corporation has been properly empowered by the corporation to do so on its behalf.

CONSTRUCTION PAYMENT BOND

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

CONTRACTOR (Name and Address):

SURETY (Name and Principal Place of Business):

OWNER (Name and Address):

Lauderhill Community Redevelopment Agency
1803 NW 38th Avenue
Lauderhill, FL 33313

CONSTRUCTION CONTRACT

Date: _____

Amount: _____

Description (Name and Location):

ROOF REPLACEMENT AT 1451 NW 31ST AVENUE

BID NUMBER: 2026-016

BOND

Date (Not earlier than Construction Contract Date): _____

Amount: _____

Modifications to this Bond Form: _____

CONTRACTOR AS PRINCIPAL

Company: _____ (Corp. Seal)

Signature: _____

Name and Title: _____

SURETY

Lauderhill Community Redevelopment Agency

Company: _____ (Corp. Seal)

Signature: _____

Name and Title: _____

CONTRACTOR AS PRINCIPAL

Company: _____ (Corp. Seal)

Signature: _____

Name and Title: _____

SURETY

Company: _____ (Corp. Seal)

Signature: _____

Name and Title: _____

CONDITIONS

1. The Contractor and the 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. With respect to the Owner, this obligation shall be null and void if the Contractor:
 - 2.1. Promptly makes payment, directly or indirectly, for all sums due Claimants, and
 - 2.2. Defends, indemnifies, and holds harmless the Owner from all claims, demands, liens, or suits by any person or entity furnishing labor, materials, or equipment for use in the performance of the Construction Contract, provided the Owner has promptly notified the Contractor and the Surety (at the address described in Paragraph 12) of any such claims and tendered defense of same to the Contractor and the Surety, and provided there is no Owner Default.
3. With respect to Claimants, this obligation shall be null and void if the Contractor promptly makes payment, directly or indirectly, for all sums due.
4. The Surety shall have no obligation to Claimants under this Bond until:
 - 4.1. Claimants with a direct contract with the Contractor have given notice to the Surety (with a copy to the Owner) stating that a claim is being made under this Bond and, with substantial accuracy, the amount of the claim.
 - 4.2. Claimants without a direct contract with the Contractor have furnished written notice to the Contractor and sent a copy to the Owner within 90 days after last furnishing labor, materials, or equipment included in the claim, and have complied with conditions 4.2.1-4.2.3 as outlined in the standard EJCDC form.
5. If a notice required by Paragraph 4 is given by the Owner to the Contractor or to the Surety, that is sufficient compliance.
6. When the Claimant has satisfied the conditions of Paragraph 4, the Surety shall promptly and at the Surety's expense:
 - 6.1. Send an answer to the Claimant, with a copy to the Owner, within 45 days after

receipt of the claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed.

6.2. Pay or arrange for payment of any undisputed amounts.

7. The Surety's total obligation shall not exceed the amount of this Bond.
8. Funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations under this Bond, subject to the Owner's priority to use funds for completion of the work.
9. The Surety shall not be liable for obligations of the Contractor unrelated to the Construction Contract. The Owner shall have no obligation to Claimants under this Bond.
10. The Surety waives notice of any change, including changes of time, to the Construction Contract.
11. No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction where the work is located, and not after one year from the later of the notice required or last performance of labor/materials.
12. Notice shall be mailed or delivered to the addresses on the signature page. Actual receipt of notice constitutes compliance.
13. If furnished to comply with a statutory or legal requirement, this Bond shall be deemed a statutory bond.
14. Upon request by a potential beneficiary, the Contractor shall promptly furnish a copy of this Bond.
15. **Definitions** (abbreviated for clarity):
 - *Claimant*: Party with contract rights for labor, materials, or equipment for the work.
 - *Construction Contract*: Agreement between Owner and Contractor identified herein.
 - *Owner Default*: Failure of Owner to pay or perform as required.

(FOR INFORMATION ONLY)

Agent or Broker: _____

Owner's Representative (Architect/Engineer): _____

CONSTRUCTION PERFORMANCE BOND

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

CONTRACTOR (Name and Address):

SURETY (Name and Principal Place of Business):

OWNER (Name and Address):

Lauderhill Community Redevelopment Agency
1803 NW 38th Avenue
Lauderhill, FL 33313

CONSTRUCTION CONTRACT

Date: _____
Amount: \$ _____
Description (Name and Location):

ROOF REPLACEMENT AT 1451 NW 31ST AVENUE
BID NUMBER: 2026-016

BOND

Date (Not earlier than Construction Contract Date): _____
Amount: _____
Modifications to this Bond Form: _____

CONTRACTOR AS PRINCIPAL

Company: _____ (Corp. Seal)
Signature: _____
Name and Title: _____

SURETY

Company: _____ (Corp. Seal)

Signature: _____

Name and Title: _____

CONTRACTOR AS PRINCIPAL

Company: _____ (Corp. Seal)

Signature: _____

Name and Title: _____

SURETY

Company: _____ (Corp. Seal)

Signature: _____

Name and Title: _____

CONDITIONS

1. The Contractor and the 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 to participate in conferences as provided in Subparagraph 3.1.
3. If there is no Owner Default, the Surety’s obligation under this Bond shall arise after:
 - 3.1. The Owner notifies the Contractor and the Surety that it is considering declaring a Contractor Default and requests a conference within fifteen (15) days to discuss performance methods.
 - 3.2. The Owner has declared a Contractor Default and formally terminated the Contractor’s right to complete the contract, not earlier than twenty (20) days after such notice.
 - 3.3. The Owner has agreed to pay the Balance of the Contract Price to the Surety or to a replacement contractor selected with the Owner’s concurrence.
4. When the Owner has satisfied the conditions of Paragraph 3, the Surety shall promptly and at its expense take one of the following actions:
 - 4.1. Arrange for the Contractor, with Owner’s consent, to complete the Contract; or
 - 4.2. Undertake performance and completion itself through agents or independent contractors; or

- 4.3. Obtain bids or negotiated proposals from qualified contractors, arrange for execution of a replacement contract secured with equivalent bonds, and pay the Owner the damages described in Paragraph 6; or
- 4.4. Waive its right to complete and, with reasonable promptness:
 - 4.4.1. After investigation, determine liability and tender payment; or
 - 4.4.2. Deny liability in whole or in part and notify the Owner.
5. If the Surety fails to act with reasonable promptness, it shall be deemed in default fifteen (15) days after the Owner provides additional notice, and the Owner may enforce any remedy available.
6. After termination of the Contractor, and if the Surety elects 4.1, 4.2, or 4.3, the Surety's responsibilities shall not exceed those of the Contractor under the Contract. To the limit of this Bond, but subject to Owner's commitment of the Balance of the Contract Price, the Surety is obligated for:
 - 6.1. Correction of defective work and completion of the Contract;
 - 6.2. Additional legal, design professional, and delay costs arising from Contractor Default or Surety's actions;
 - 6.3. Liquidated damages (or actual damages if not specified).
7. The Surety shall not be liable for obligations of the Contractor unrelated to the Contract.
8. The Surety waives notice of any change, including extensions of time, to the Construction Contract or related obligations.
9. Any legal or equitable proceeding must be instituted in a court of competent jurisdiction where the work is located and within two (2) years of Contractor Default, cessation of work, or Surety's refusal to perform.
10. Notice to Surety, Owner, or Contractor shall be mailed or delivered to the addresses on the signature page.
11. If furnished to comply with statutory requirements, this Bond shall be deemed a statutory bond.
12. **Definitions**
 - 12.1. *Balance of the Contract Price*: Total amount payable by Owner to Contractor after proper adjustments, reduced by payments already made.
 - 12.2. *Construction Contract*: Agreement between Owner and Contractor identified herein, including modifications.
 - 12.3. *Contractor Default*: Failure of Contractor to perform or comply with Contract terms.
 - 12.4. *Owner Default*: Failure of Owner to pay Contractor or comply with terms.

(FOR INFORMATION ONLY)

Agent or Broker: _____

Owner's Representative (Architect/Engineer): _____

**ACKNOWLEDGEMENT OF CONFORMANCE
WITH O.S.H.A. STANDARDS**

TO: **Lauderhill Community Redevelopment Agency**

We, _____,

hereby acknowledge and agree that if chosen as Contractors for:

**ROOF REPLACEMENT AT 1451 NW 31ST AVENUE
BID NUMBER: 2026-016**

that we have the sole responsibility for compliance with all the requirements of the **Federal Occupational Safety and Health Act of 1970 (OSHA)**, along with all applicable State and Local Safety and Health regulations.

We further agree to **indemnify and hold harmless the Lauderhill Community Redevelopment Agency (CRA) and its consultants** against any and all legal liability or loss the CRA or its representatives may incur due to our failure to comply with such laws and regulations.

ATTEST: CONTRACTOR:

By: _____
(Authorized Representative Signature)

Title: _____

Date: _____

Attest: _____
(Seal if applicable)

END OF DOCUMENT

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.

SECTION 00800

SUPPLEMENTARY CONDITIONS

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Section 00800

Supplementary Conditions

Part I- Amendments to general conditions, section 00700

These supplementary conditions (SC) amend or supplement the standard General Conditions (GC) of the construction contract (EJCDC Document No. 1910-8, 1996 edition) and other provisions of the Contract Documents as indicated below. All provisions which are not amended or supplemented remain in full force and effect.

ARTICLE 1 – DEFINITIONS AND TERMINOLOGY

SC- 1.01.A.19

Add the following sentence to paragraph GC- 1.01.A.19

“Specifically, the ENGINEER is the “CITY ENGINEER for the City of Lauderhill”

SC- 1.01.A.20

Add the following sentence to paragraph GC- 1.01.A.20

“Specifically, the ENGINEER’S CONSULTANT is the consultant assigned by the City Engineer”

SC- 1.01.A.30

Add the following sentence to paragraph GC- 1.01.A.30:

“Specifically, the OWNER shall be the City of Lauderhill (CITY).”

SC- 1.01.A.37

Add the following sentence to paragraph GC- 1.01.A.37:

“Specifically, the Resident Project Representatives shall be the Capital Projects Manager and Engineering Inspector.”

SC-1.01.A.41

Delete paragraph GC-1.01.A.41 in its entirety and replace with the following:

“41. Specifications – Sections included under Division 1 through Division 16 of the Project Manual.”

SC-1.01.A.43

Insert the following at the beginning of the definition after the words “Substantial Completion”.

“The time at which the entire scope of work required by the contract that has been completed except for remedial, repair or punch list work having a Contract Price of less than one percent of the adjusted total contract price. On projects requiring permit(s), this date shall be the date that the last of the required Certificates, inspections or clearances is issued.

ARTICLE 2 – PRELIMINARY MATTERS

SC-2.02

Delete “ten” in the first line and replace with “five”. Insert after the first sentence the following: “One of which shall be kept on-site as the official Record Document drawings discussed in paragraph GC-6.12 and three shall be returned to the OWNER for obtaining the Permit (s) or for record purposes.

SC-2.03

Delete Paragraph GC-2.03.A in its entirety and insert the following in its place:

“A. A notice to proceed may be given at any time within thirty (30) days after the Effective Date of the agreement. The Contract Time will commence at the time specified in such notice or, if no notice is given, thirty (30) days following the Effective Date of Agreement, provided that the Notice to Proceed may not specify a time of commencement later than ninety (90) days after the Effective Date of the Agreement.”

SC-2.05

Delete paragraph GC-2.05.A in its entirety and insert the following in its place:

“C. Evidence of insurance: Before any work at the site is started, CONTRACTOR shall deliver to OWNER, with copies to ENGINEER and each additional insured identified in SC-1.01A.20 or Article 5 of the supplementary conditions, certificates of insurance (and other evidence requested by OWNER) which CONTRACTOR is required to purchase and maintain in accordance with the requirements of Article 5.”

SC-2.06

Revise the first line of the paragraph GC-2.06.A to read as follows:

“A. Within 30 days after the effective date of the agreement, but before any Work...”

Article 3 – Contract Documents: Intent, amending, reuse

ARTICLE 3 CONTRACT DOCUMENTS: INTENT, AMENDING AND REUSE

SC-3.01

Add a new paragraph immediately after paragraph GC-3.01.C which is to read as follows:

“D. Each and every provision of law and clause required by law to be inserted in these Contract Document shall be deemed to be inserted herein, and they shall be read and enforced as though it were included herein, and if through mistake or otherwise, any such provision is not inserted, or if not correctly inserted, then upon the application of either party, the Contrast Documents shall forthwith be physically amended to make such insertion.”

SC-3.03

Add the following paragraph:

“C. Apparent inconsistencies between two or more sections of the Contract Documents shall be reported to the ENGINEER immediately, for resolution. Where possible, precedence shall be given in the following order:

1. Contract
2. Supplementary Conditions
3. Instructions to bidders
4. General Conditions
5. Specifications
6. Drawings
 - a. Detail Drawing
 - b. General Drawings
 - c. Figure Dimensions
 - d. Scale Dimensions

ARTICLE 4 – AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; REFERENCE POINTS

SC-4.02

Add a new paragraph immediately after GC-4.02.A.2, which is to read as follows:

“3. In the preparation of Drawings and Specifications, the ENGINEER may have relied upon certain existing drawings, specification, reports and tests of subsurface conditions at the site. Copies of these documents may be examined by appointment at the ENGINEER’S office during regular business hours. Such reports are not part of the Contract Documents.

- a. Refer to section 00101, Supporting Information, for a listing of available documents.”

SC-4.05

Add a new paragraph immediately after paragraph GC-4.05.A, which is to read as follows:

“B. ENGINEER may check the lines, elevations, reference marks, batter boards, etc.; set by CONTRACTOR, and CONTRACTOR shall correct any errors disclosed by such check. Such a check shall not be considered as approval of CONTRACTOR’S work and shall not relieve CONTRACTOR of the responsibility for accurate construction of the entire work. CONTRACTOR shall furnish personnel to assist ENGINEER in checking lines and grades.”

ARTICLE 5 – BONDS AND INSURANCE

SC-5.01

Delete paragraph A in its entirety and replace with the following:

“A. Within fifteen (15) calendar days from the Notice of Award, CONTRACTOR shall execute and furnish to OWNER a performance and a payment bond, each written by a corporate surety, having a resident agent in the State of Florida and having been in business with a record of successful continuous operation of at least five (5) years. Two separate bonds are required and both must be approved by the OWNER. The form of the Bonds shall be included in Section 00600. The penal sum stated in each bond shall be the Contract Price. Such bonds shall continue in effect for one (1) year after final payment becomes due except as otherwise provided by law or regulation or the Contract Documents. The final sum of said bonds may be reduced after final payment to an amount equal to the fifty percent (25%) of the final Contract Price plus the total installed cost of any material, equipment or system whose warranty exceeds the initial one-year warranty period. A separate warranty bond may be posted by the CONTRACTOR for those items whose warranty exceeds the initial one (1) year warranty conditioned that the CONTRACTOR shall correct any defective or faulty Work or material which appears within the warranty period. The Terms and Conditions of such warranty bonds shall be approved by the OWNER prior to execution by the CONTRACTOR.”

SC- 5.01

Add the following paragraph immediately after paragraph GC-5.01.C, which is to read as follows:

“D. The CONTRACTOR shall be responsible for ensuring that the performance and payment bonds are updated to reflect the current Contract Price upon the OWNER’S execution of any Change Orders.”

SC- 5.01

Add the following paragraph immediately after paragraph GC-5.01.D, which is to read as follows:

“Pursuant to the requirements of Section 255.05(2)(a), Florida Statutes, it shall be the duty of the CONTRACTOR to record the aforesaid payment and performance bonds in the public records of Broward County, with the CONTRACTOR to pay all recording costs”.

SC-5.02

Add the following paragraph immediately after paragraph GC-5.02.A, which is to read as follows:
“B. If the amount of the Bond exceeds the underwriting limitation set forth in the circular, in order to qualify, the net retention of the surety company shall not exceed the underwriting limitation in circular and the excess risks must be protected by coinsurance, reinsurance, or other methods, in accordance with treasury circular 297, revised September 1, 1978 (31 DFR, Section 223.10, Section 223.11). Further, the surety company shall provide OWNER with evidence, satisfactory to OWNER, that such excess risk has been protected in an acceptable manner. The surety company shall have at least the following minimum qualifications in accordance with the latest edition of A.M. Best’s Insurance Guide, published by Alfred M. Best Company Inc., Ambest Road, Oldwick, New Jersey, 08858:

- Financial Stability – A
- Financial Size – VIII”

SC-504

In the first line of paragraph 5.04.A, following the word “...maintain...” insert the words, “...in a company or companies licensed to do business in the state of Florida...”

In the last line of paragraph 5.04.A.6, following the word “...vehicle.” insert the words “...or arising out of operation of laws and regulations for damages because of bodily injury or death to any person or for damage to property.”

Add the following after paragraph 5.04.B7:

- “8. Include all majors divisions of coverage and be on a comprehensive basis including:
- i. Premises Operations (including X, C, and U coverage as applicable)
 - ii. Independent Contractor’s protective.
 - iii. Products and completed operations.
 - iv. Personal injury liability with employment exclusion deleted.
 - v. Contractual liability.
 - vi. Owned, non-owned and hired motor vehicles.
 - vii. Broad form property damage including completed operations”

SC-504-B

“9. Provide coverage for not less than the following amounts.

- a. **Worker’s compensation**, etc. under paragraphs 5.4.1 and 5.4.2:
 - i. State.....Statutory
 - ii. Applicable Federal.....Statutory
 - iii. Employer’s Liability..... \$ 100,000.00
- b. **CONTRACTOR’S liability** insurance under article 5.4, which shall also include completed operations and product liability coverage and eliminate the exclusion with respect to property under the care custody and control of CONTRACTOR:

- | | |
|--|------------------------|
| i. General Aggregate(except product-
Completed operations)..... | <u>\$ 1,000,000.00</u> |
| ii. Products- completed operations aggregate..... | <u>\$ 1,000,000.00</u> |
| iii. Personal and advertising injury
(Per person/ Organization)..... | <u>\$ 1,000,000.00</u> |
| iv. Each occurrence
(bodily injury and property damage)..... | <u>\$ 1,000,000.00</u> |
| <u>Note:</u> Property damage liability insurance will provide explosion, collapse and
underground coverage (X, C and U) where applicable. | |
| v. Excess liability
General Aggregate..... | <u>\$ 1,000,000.00</u> |
| Each occurrence..... | <u>\$ 1,000,000.00</u> |
- c. **Automobile liability** under paragraph 5.4.6:
- | | |
|----------------------|------------------------|
| i. Bodily injury: | |
| Each person..... | <u>\$ 1,000,000.00</u> |
| Each accident..... | <u>\$ 1,000,000.00</u> |
| ii. Property damage: | |
| Each occurrence..... | <u>\$ 1,000,000.00</u> |
- OR--
- | | |
|--|------------------------|
| Bodily injury and Property Damage combined single limit: | |
| Each occurrence..... | <u>\$ 1,000,000.00</u> |
| Aggregate..... | <u>\$ 1,000,000.00</u> |
- d. The contractual liability coverage required by paragraph 5.4.10 shall provide coverage for not less than the following amounts:
- | | |
|--|------------------------|
| General aggregate | <u>\$ 3,000,000.00</u> |
| Bodily injury and property damage combined each occurrence | <u>\$ 3,000,000.00</u> |
- e. **Builder's Risk Insurance** in the amount not less than the replacement cost for the contraction of the Work. Coverage shall be "All Risk" coverage for one hundred percent (100%) of the completed value with a deductible of not more than Five Thousand Dollars (\$5,000.00) per claim.
- f. Additional liability coverage for OWNER and ENGINEER shall be provided by endorsement as additional insured's in CONTRACTOR'S general liability policy. Add the following names:
- OWNER- City of Lauderhill
 5581 W. Oakland Park Blvd.
 Lauderhill, Fl 33319
- ENGINEER'S CONSULTANT- _____
- g. CONTRACTOR shall maintain the Products/ Completed Operations Liability Insurance for a period of three (3) years after final payment for the Work and furnish OWNER with evidence of continuation of such insurance at final payment.
- h. All required insurance policies shall preclude any underwriter's rights of recovery or subrogation against OWNER with the express intention of the parties being that the required insurance

coverage protects both parties as the primary coverage for any and all losses covered by the above described insurance.

- i. The CONTRACTOR shall ensure that any company using insurance to cover the requirements contained in this Contract agrees that they shall have no recourse against OWNER for payment or assessments in any form on any policy of insurance.
- j. The clauses “other Insurance Provisions” and Insurers Duties in the Event of an Occurrence, Claim or Suit” as it appears in any policy of insurance in which the OWNER is named as an additional insured shall not apply to OWNER. OWNER shall provide written notice of occurrence within fifteen (15) working days of OWNER’S actual notice of such an event.
- k. The CONTRACTOR agrees to perform the Work as an independent contractor and not as a sub-contractor, agent or employee of the OWNER.
- l. CONTRACTOR shall require or provide each of its subcontractors to maintain the insurance required herein for each category, and CONTRACTOR shall provide verification thereof to OWNER upon request by OWNER.
- m. Violation of the terms of this ARTICLE and its subparts shall constitute a breach of Contract and the OWNER, at its sole discretion, may cancel the Contract and all rights, title and interest of the CONTRACTOR shall thereupon cease and terminate.’

SC-504-B

“10. In conformance with the requirements of section 725.06, Florida Statutes, the specific considerations for CONTRACTOR’S promises are:

- a. One dollar (\$1.00) in hand paid by OWNER, ENGINEER’S CONSULTANT, and ENGINEER’S CONSULTANT employees to CONTRACTOR, receipt whereof is hereby acknowledged and the adequacy of which CONTRACTOR accepts as completely fulfilling the obligations of OWNER, ENGINEER CONSULTANT, and ENGINEER’S CONSULTANT employees under the requirements of section 725.06, Florida statutes, and;
- b. The entry of OWNER and CONTRACTOR into the construction contract because, but for CONTRACTOR’S promises as contained in the general conditions, OWNER would not have entered into the construction contract with CONTRACTOR. The insurance required by paragraphs 5.04. A.3 through 5.04.A.6 shall include the ENGINEER’S CONSULTANT as additionally insured.”

SC-5.04 B

“11. CONTRACTOR may purchase and maintain excess liability insurance in the umbrella form in order to satisfy the limits of liability required for the insurance to be purchased and maintain in accordance with paragraph GC-5.04. Evidence of such excess liability shall be delivered to OWNER in accordance with paragraph GC-2.05 in the form of a certificate indicating the policy numbers limits of liability of all underlying insurance. The umbrella liability insurance shall have a combined single limit of not less than \$5,000,000.”

SC-5.06.A

Delete the first sentence of paragraph GC-5.06.A and replace with the following.

“CONTRACTOR shall purchase and maintain property insurance upon the work at the site, written on the completed value form, in an amount equal to the total bid price for the completed construction.”

SC-5.06.B

Delete paragraph GC-5.06.B in its entirety.

SC-5.06.C

Delete paragraph GC-5.06.C in its entirety and insert the following in its place:

“All the policies of insurance (or the certificates or other evidence thereof) required to be purchased and maintained by CONTRACTOR in accordance with Paragraph GC-5.06.A shall contain a provision or endorsement that the coverage afforded will not be canceled or materially changed or renewal refused until at least thirty days prior written notice has been given to OWNER, ENGINEER’S CONSULTANT and each other additional insured by certified mail with return receipt.”

SC-5.06.D

Delete paragraph Gc-5.06.D in its entirety.

SC-5.06.E

Delete paragraph GC-5.06.E in its entirety.

SC-5.07

Delete paragraph GC-5.07.A in its entirety.

SC-5.08

Delete paragraph GC-5.08.A in its entirety.

Delete paragraph GC-5.08.B in its entirety.

SC-5.09

Delete paragraph GC-5.09.A in its entirety and insert the following in its place.

- A. “If OWNER has objection to the coverage afforded by or other provisions of the Bonds and insurance required to be purchased and maintained by CONTRACTOR in accordance with this Article 5 on the basis of its not complying with Contract Documents, OWNER will notify CONTRACTOR in writing thereof within ten days of the date of delivery of such certificates to OWNER in accordance with Paragraph GC- 2.05. CONTRACTOR will provide such additional information with respect to the Bonds or insurance by CONTRACTOR as OWNER may reasonably request.
- B. Failure by the CONTRACTOR to provide the Bonds or insurance coverage required by this Article 5 prior to execution of the Agreement shall be considered cause for rejection of the CONTRACTOR’S bid as non-responsive.
- C. If, during the course of the Work, any changes are made as to the type, level or coverage of the Bonds and insurance required by this Article 5, to which the OWNER objects, OWNER will notify CONTRACTOR in writing thereof within thirty (30) days of the date of delivery of notification to OWNER. CONTRACTOR will provide such additional information with respect to the insurance by CONTRACTOR as OWNER may reasonably request.
- D. Failure by the CONTRACTOR to maintain the Bonds or insurance coverage required, and agreed to, by this Article 5 shall be considered a substantial breach of the Contract Documents and shall be considered cause for termination per GC-15.02.”

ARTICLE 6- CONTRACTOR’S RESPONSIBILITIES

SC- 6.02

Add new paragraphs immediately after paragraph GC-6.02.B which is to read as follows:

- “1. Regular work hours are defined by City of Lauderhill Ordinance as Monday through Friday between the hours of 7:00 AM and 6:00 PM. A written request for exception to this is required to be approved by the City Manager and must therefore be submitted 48 hours prior to the occurrence of such overtime.
2. Regular work day, as defined for the purposes of this Article shall be eight (8) hours per day, Monday through Friday. Occasional, unscheduled overtime required due to unusual circumstances (material delivery, late inspections etc.) may be permitted provided two hours prior notice is given to the ENGINEER. Unscheduled overtime will only be warranted due to emergencies beyond the CONTRACTOR’S control.
3. CONTRACTOR shall reimburse the OWNER for additional engineering, inspection or supervision costs incurred by OWNER as a result of overtime work which is for the convenience of the CONTRACTOR or which is mandated per GC-6.04.”

SC-6.02

Add new paragraphs immediately after paragraph GC-6.02.B:

- “C. This agreement is subject to the applicable provisions of the Contract Work Hours and Safety Standards Act, Public Law 87-581, 87th Congress. No CONTRACTOR or subcontractor contracting for any part of the work shall require or permit any laborer or mechanic to be employed on the Work in excess of forty hours in any work week unless such laborer or mechanic receives compensation at a rate not less than one and one-half times that person’s basic rate of pay for all hours worked in excess of forty hours in such work week.
- D. CONTRACTOR shall employ only competent persons to do the Work and whenever OWNER shall notify CONTRACTOR, in writing that any persons on the work appears to be incompetent, disorderly, or otherwise unsatisfactory, such person shall be removed from the project and shall not again be employed on it except with the consent of OWNER.

SC-6.05

Add the following to paragraph 6.05.F:

“The use of asbestos or asbestos-based fiber materials is prohibited in this project”.

SC-6.05

Add the following after paragraph 6.05.F:

- “G. *Routing of shipments*: In the event the contract includes the furnishing of the equipment and/or materials, the OWNER shall have the option of specifying the routing of shipments. If such specified routing increases CONTRACTOR’S shipping cost, it shall immediately so notify the OWNER or the OWNER’S designed representatives, and if the OWNER still specifies the more expensive routing, the OWNER shall reimburse CONTRACTOR for the increased cost actually occasioned thereby. Any failure to notify the OWNER prior to shipping shall be deemed as a waiver by CONTRACTOR of any claim for such increased cost.
- H. *CONTRACTOR’S responsibility for routing limitations*: The CONTRACTOR acknowledges that it has made investigation of the transportation facilities and the conditions existing within the location of the project and the jobsite. The CONTRACTOR acknowledges that it has made full allowance in

its bid for all conditions of clearances, restrictions, bridge load limits and other limitations or factors affecting transportation and access to and egress from the project and the jobsite.

- I. *Shipping Notice*: CONTRACTOR shall make no shipments in advance of the required shipping date, unless there is adequate storage area at the jobsite, or unless CONTRACTOR provides such area. Any such advance shipment shall not entitle CONTRACTOR to any payment prior to the time when such payment would otherwise be due if the shipment was made on the scheduled shipping date. All shipments shall be received, inspected protected, stored, maintained, and accounted for by the CONTRACTOR until such time that is incorporated into the work and accepted by the OWNER. The CONTRACTOR shall clearly label all shipments to ensure delivery to the CONTRACTOR and not to the OWNER. ***No material or equipment will be received by the OWNER.***”

SC-6.06

Delete Paragraph GC-6.06.A and GC-6.06.B in their entirety and insert therefore the following:

- “A. CONTRACTOR shall not employ any subcontractor, supplier or other person or organization, (including those who are to furnish the principal items of materials or equipment), whether initially or as a substitute, against whom OWNER may have a reasonable objection. Acceptance of any subcontractor, supplier or other organization or person shall not constitute a waiver of any right of OWNER to reject defective work. CONTRACTOR shall not be made to employ any subcontractor, supplier or other organization or person against whom CONTRACTOR has reasonable objection.

B. Not used”

SC-6.06

Add a new sentence at the end of paragraph Gc-6.06.E to read as follows:

“OWNER or ENGINEER may furnish to any such subcontractor, supplier or other person or organization, to extent practicable, information about amounts paid on their behalf to CONTRACTOR in accordance with CONTRACTOR’S Applications for Payment”.

SC-6.08

Add two new paragraphs immediately after paragraph GC-6.08.A, which are to read as follows:

B. Pursuant to Public Bid Disclosure Act, the permits and fees which the CONTRACTOR must obtain and pay prior to or during this project are as follows:

1. The OWNER will will not require building department permits for the project. The associated processing fee shall equal \$0.075 per square foot with a maximum processing fee of \$960.00 this fee shall be waived required. The associated permit fee shall equal 2 percent of the construction costs this fee shall be waived required. Under all circumstances, the CONTRACTOR is required to pay for re-inspection fees.
2. Broward County will not require a permit for the project.
3. The OWNER will will not require Engineering Permit(s) for the project. The application fee is \$25, this fee will will not be required. The administrative fee is \$250 this fee will will not be required. The permit fee is 4 percent of the construction costs, this fee will will not be required.
4. Other permit may also be required. CONTRACTOR shall be responsible for determination of all permits required. All associate permit fees shall be included in the applicable bid items.

SC- 6.12

Delete the last sentence of paragraph 6.12.A. and substitute the following:

“these shall be routinely updated and available to ENGINEER for examination during construction and shall be delivered to ENGINEER for OWNER upon substantial completion of the work”.

SC-6.12

Add a new paragraph immediately after paragraph GC-6.12.A, which is to read as follows:

“B. Should the CONTRACTOR fail to perform in accordance with these provisions the first time, the CONTRACTOR will be notified of such for correction. Should the CONTRACTOR fail to perform in accordance with these provisions on subsequent occasions, OWNER may that such action as appropriate to ensure the provisions of paragraph 6.12.B. above are performed correctly and in a timely fashion”.

SC-6.13

At the end of paragraph 6.13.B, add the following sentences:

“Special attention is hereby called to the occupational safety and health administration excavation safety standards, 29 CFR 1926.650 subpart P trench safety standards. In compliance with current state of Florida statutes, the CONTRACTOR or subcontractor performing trench excavation work on the project shall comply with applicable trench safety standards”.

SC-6.17

Add a new paragraph immediately after paragraph GC-6.17.F, which is to read as follows:

“Should the CONTRACTOR fail to submit shop drawings in accordance with these specifications on subsequent re-submittals, the cost of the ENGINEER’S CONSULTANT time to review subsequent re-submittals will be deducted from the contract amount through the issuance of a change order”.

SC-6.20

Add two new sentences at the end of Paragraph GC-6.20.A.2 to read as follows:

“If through the acts of negligence on the part of CONTRACTOR, any other contractor, subcontractor shall suffer loss or damage on account of the Work, CONTRACTOR shall settle with such other contractor, subcontractor, if such party will so settle. If such other contractor subcontractor shall assert any claim against OWNER on account of any damage alleged to have been sustained, OWNER shall notify CONTRACTOR, who shall indemnify and save harmless OWNER against any such claims.

ARTICLE 7 - OTHER WORK

SC-7.02

Add a new paragraph immediately after paragraph GC-7.02B which is to read as follows:

“7.03 *Adjacent Property owners:*

A. Should CONTRACTOR cause damage to the property of property adjacent the site, or should any claim arising out of CONTRACTOR’S performance of the work at the site be made by any property owner against CONTRACTOR, OWNER, ENGINEER, ENGINEER’S CONSULTANT, the Resident Project representative or other persons associated with the Work, CONTRACTOR shall promptly attempt to settle with such other property owner by agreement, or to otherwise resolve the dispute by arbitration or at law. CONTRACTOR shall, to the fullest extent permitted by laws and regulation, indemnify and hold harmless OWNER, ENGINEER, ENGINEER’S CONSULTANT and the Resident

Project Representative from and against all claims, damages, losses and expenses (including, but not limited to, fees of engineers, architects, attorneys and other professionals, and court and arbitration or mediation costs) arising directly, indirectly or consequentially out of any action, legal or equitable, brought by any separate property owner against OWNER, ENGINEER, ENGINEER'S CONSULTANTS or the Resident Project Representative to the extent based on a claim arising out of CONTRACTOR'S performance of the work. Should a separate property owner cause damage to the work or property of CONTRACTOR or should the performance of work by any separate property owner at the site give rise to any other claim, CONTRACTOR shall not institute any action, legal or equitable, against OWNER, ENGINEER, ENGINEER'S CONSULTANTS or the Resident Project representative or permit any action against any of them to be maintained and continued in its name or for its benefit in any court or before any arbiter which seeks to impose liability on or to recover damages from OWNER, ENGINEER, ENGINEER'S CONSULTANTS or the Resident Project Representative on account of any such damage or claim. If CONTRACTOR is delayed at any time in performance or furnishing work by any act or neglect of a separate property owner and OWNER and CONTRACTOR are unable to agree as to the extent of any adjustment in contract times attributable thereto, CONTRACTOR may make a claim for an extension of times in accordance with Article 12. An extension of the contract times shall be CONTRACTOR'S exclusive remedy with respect to OWNER, ENGINEER, ENGINEER'S CONSULTANTS and Resident Project Representative for any delay, disruption, interference or hindrance caused by any separate property owner. This paragraph does not prevent recovery from OWNER, ENGINEER, ENGINEER'S CONSULTANT or Resident Project Representative for activities that are their respective responsibilities".

ARTICLE 8- OWNER'S RESPONSIBILITIES

SC-8.06

Delete paragraph 8.06 of the general conditions in its entirety.

ARTICLE 9- ENGINEER'S STATUS DURING CONSTRUCTION

SC-9.03

Add a new paragraph immediately after paragraph GC-9.03A, which is to read as follows:

"ENGINEER'S CONSULTANT may conduct periodic visits to observe the performance of work. ENGINEER will furnish the Resident Project Representative. This individual will be identified at the pre-construction conference".

ARTICLE 11- COST OF THE WORK; CASH ALLOWANCES; UNIT PRICE WORK

SC-11.01

Delete the second paragraph GC-11.01.A.1 in its entirety and replace with the following:

"Such employees shall include superintendents, foremen and other personnel directly involved in the performance of the specific work in question.

SC-11.01

Add the following section immediately after 11.01.D:

"1. In the event that the CONTRACTOR is authorized to execute additional work on a time and material basis, as herein set forth, it agree to and shall furnish to the OWNER each day (by not later than 12:00 noon of the next regular scheduled work day following the work) daily time sheets on forms provided by

the OWNER. The daily time sheets shall list by name all hourly rated employees on the extra work and hours worked by each, material used, and equipment used with the hours of operation as well as any third-party invoices for the labor, material and/or equipment as well as a description of the work and be signed by the OWNER of Lauderhill Resident Project Representative. A copy thereof shall accompany all bills and invoices presented for payment for such additional work. In addition, the change order or work change directive number will appear on every time sheet. A separate time sheet will be used for each separate change order or work change directive”.

In paragraph GC-11.01.B.1 add “Project Managers” after all word “Architects”

SC-11.03

Add the following section immediately after 11.03.C.3:

“4. Without invalidating the agreement, OWNER may, at any time execute appropriate change orders for addition and/or deletions in the work of up to 25% of the total Contract Price, without a change in the Contract unit prices bid”.

ARTICLE 13- TESTS AND INSPECTION, CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK

SC 13.03

Delete Paragraph 13.03.B in its entirety and replace with the following:

“B. The CONTRACTOR shall be responsible for scheduling, coordinating, and paying for all test and inspections required by the Specifications outside of routine Building Department inspections and Engineering Department inspections required by code and provided by the City of Lauderhill”.

SC-13.05

Add a new paragraph immediately GC-13.05.A read as follow:

“If OWNER stops work under paragraph GC-13.05.A, CONTRACTOR shall be entitled to no extension of Contract Time or increases in Contract Price”.

SC - 13.07

Add the following sentence to paragraph 13.07.A:

“Specific and special warranties specified in the Contract Documents are in addition to, and not in lieu of, the CONTRACTOR general warranty. CONTRACTOR shall not be relieved of general warranty obligations by the specification of specific products or procedures”.

SC – 13.09

In the first line of paragraph 13.09.A replace the words “reasonable time” to the words “ten (10) days”.

ARTICLE 14- PAYMENTS TO CONTRACTOR AND COMPLETION

SC – 14.02

In the first sentence of paragraph 14.02.A.1, change the phrase “At least 20 days before the date established for each progress payment” to “On the day established for the monthly progress meeting”...

SC-14.02

Add a new sentence immediately after paragraph GC-14.02A.2 which is to read as follows:

“Each application for payment will include a “consent of surety to “partial payment” form or equivalent letter verifying the surety’s acknowledgement of the amount of the progress payment.”.

SC-14.02

Add five new paragraphs immediately after paragraph GC-14.02.D.1, which are to read as follow:

- “2. Should CONTRACTOR neglect to pay any undisputed claims, made in writing to OWNER or surety and continuing unsatisfied for a period of ninety (90)days, OWNER may pay such claim and deduct the amount thereof from the balance due CONTRACTOR after thirty(30) days written to CONTRACTOR.
3. OWNER may also, upon written notice from surety, withhold monies retained, due, or to become due under this contract for the purposes of paying for either labor or materials claims arising for the Work.
4. Security is provided both by the payment bond and the power of OWNER to retain any monies for claims, but payment by one shall in no way impair or discharge the liability of the other.
5. Any and all surety claims for work and materials and may be paid off by OWNER with the consent of the surety, within a reasonable time after filing a notice of such claims for record in accordance with State and local laws, except where the claims are being litigated by CONTRACTOR In such case OWNER may pay the amount of any final judgment or decree or any such claim within a reasonable time after such final judgment or decree shall be rendered.
6. All monies paid by OWNER in settlement of claims as aforesaid, with the costs and expenses incurred by OWNER in connection therewith:
shall be charged to CONTRACTOR and,
shall bear interest at the rate of three percentage points above the rediscount rate then charged by the Federal Reserve Bank and,
shall be deducted from the next payment due CONTRACTOR under the terms of this contract”.

SC-14.03

Add two new paragraphs immediately after paragraph GC-14.03.A, which are to read as follows:

- “B. No materials or supplies for the Work shall be purchased by CONTRACTOR or subcontractor subject to any chattel mortgage or under a conditional sale contract or other agreement by which an interest is retained by the seller. CONTRACTOR warrants that CONTRACTOR has good title to all materials and supplies used by CONTRACTOR in the Work, free from all liens, claims or encumbrances.
- C. CONTRACTOR shall indemnify and save OWNER harmless from all claims growing out of the lawful demands of subcontractors, laborers, workmen, mechanics, material men, and furnishers of machinery and parts thereof, equipment, power tools, and all supplies, including commissary, incurred in the furtherance of the performance of this contract. CONTRACTOR shall at OWNER’S request, furnish satisfactory evidence that all obligations of the nature herein above designated have been paid, discharged, or waived. If CONTRACTOR fails to do so then OWNER may, after having served written notice on the said CONTRACTOR either pay unpaid bills, for which OWNER has written notice, or withhold from the CONTRACTOR’S unpaid compensation a sum of money deemed reasonably sufficient to pay any and all such lawful claims until satisfactory evidence is furnished that all liabilities have been fully discharged whereupon payment to CONTRACTOR shall be resumed, in accordance with the terms of this contract, but in no event shall the provisions of this sentence be

construed to impose any obligations upon OWNER to either CONTRACTOR or CONTRACTOR'S surety. In paying any unpaid bills of the CONTRACTOR, OWNER shall be deemed the agent of CONTRACTOR and any payment so made by OWNER shall be considered as payment made under the contract and OWNER shall not be liable to contractor for any such payment made in good faith".

SC-14.07

Delete paragraph GC-14.07.B.1 in its entirety and insert the following in its place:

"1. 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 along with accompanying documentation as required by the Contract Documents, ENGINEER is satisfied that the Work has been completed, ENGINEER will give written notice to CONTRACTOR that the work is acceptable subject to the provisions of paragraph GC-14.09. 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 take the necessary actions and resubmit the Application".

ARTICLE 15- SUSPENSION OF WORK AND TERMINATION

SC-15.02

Add a new paragraph immediately after paragraph GC-15.02.A.4, which is to read as follows:

"5. If CONTRACTOR abandons the work, or sublets this contract or any part thereof, without the previous written consent of OWNER, or if the contract or any claim there under shall be assigned by CONTRACTOR otherwise than as herein specified".

ARTICLE-16- DISPUTE RESOLUTION

SC-16.01

Add a new sentence at the end of paragraph GC-16.01.A, which is to read as follows:

CONTRACTOR shall carry on the work and maintain the progress schedule during the dispute resolution proceedings, unless otherwise agreed by CONTRACTOR and OWNER in writing.

SC-16.01.B

Any claim, objection, or dispute arising out of the terms of this agreement is to be held in Broward County, Florida. Broward County shall be the venue for any proceedings and Florida law will apply. Each party will bear its own attorney's fee.

ARTICLE 17- MISCELLANEOUS

SC-17.05

Add new paragraphs immediately after paragraph GC-17.05, which is to read as follows:

"17.06. *Addresses*

Both the address given in the bid form upon which this agreement is founded, and CONTRACTOR'S office at or near the site of the work are hereby designated as places to either of which notices, letters, and other communications to CONTRACTOR shall be certified, mailed, or delivered. The delivering at the above named place, or depositing in a postpaid wrapper directed to the first-named place, in any Post

Office or regularly maintained by the U.S. Postal Service, of any notice, letter or other communication to CONTRACTOR shall be deemed sufficient service thereof upon CONTRACTOR; the date of said service shall be the date of the Postal Service cancellation or other postmark. The first-named address may be changed at any time by an instrument in writing, executed and acknowledged by CONTRACTOR, and delivered to OWNER and ENGINEER. Notice herein contained shall be deemed to preclude or render inoperative the service of any notice, letter, or other, communication upon CONTRACTOR personally”.

“SC-17.07 *Forms*

The forms of submittals, notices, change orders and other documents permitted or required to be used or transmitted under the Contract Documents shall be determined by the ENGINEER. The forms for notice of award, notice to proceed, field order, work directive, change order, application for payment, certificate of substantial completion and final receipt with the ENGINEER expects to use are contained in Attachment 1 of the Special Conditions”.

END OF SECTION

DOCUMENT 00900

ADDENDUM

ROOF REPLACEMENT AT 1451 NW 31ST AVENUE

BID NUMBER: 2026-016

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PART III. SMALL BUSINESS ENTERPRISE PROGRAM.

Sec. 1. Objectives and Definitions.

(1)

Lauderhill small business development program or program means the city's initiatives to aid and assist the interests of small businesses in the City of Lauderhill to ensure that small businesses have a fair opportunity to participate in city contracts, preserve free competitive enterprise, and maintain and strengthen the overall economy of the City of Lauderhill.

(2)

Continuous operating presence means an entity with a current business tax receipt issued by the City of Lauderhill; that has a physical address located within the geographical limits of the City of Lauderhill (not a P.O. Box or address provided by a business service center); a business entity that has maintained a permanent place of business with full-time employees within the city limits prior to the date of issuance of this bid. The permanent place of business must be the primary place of business of the entity and may not be a post office box or a personal residence. A business occupying a co-working space, shall be deemed a permanent place of business if all other conditions are met. The business must actually distribute goods, supplies, materials, equipment or services from the permanent place of business. The business must have a current valid certificate of use from the City of Lauderhill and must not be publicly traded.

(3)

Good faith efforts means that the bidder, without an intent to defraud or to seek an unfair advantage, took all necessary steps to secure and maximize **SBE** participation to meet or exceed the established **SBE** goal for the project. The determination of good faith efforts shall be made by the purchasing director upon evaluation of the bidder's response to the solicitation.

(4)

Personal net worth means the value of the assets of an individual after total liabilities (not including contingent liabilities) are deducted. For purposes of **SBE** certification, an individual's personal net worth shall not include either the individual's ownership interest in any **SBE** applying for certification or certified by the city, or the individual's equity in his or her primary place of residence.

(5)

Prime contractor means an entity awarded a city contract.

(6)

Small business enterprise or **SBE** means an entity certified as an **SBE** by the city as provided herein.

(7)

Subcontractor means an entity that enters into a contract with a prime contractor to perform work required by a city contract.

Sec. 2. Certification Standards.

(a)

SBE Eligibility Requirements. An entity is eligible for certification as an **SBE** if it meets the following criteria:

(1)

The entity shall employ fifteen (15) or fewer permanent full-time employees. In addition, eligibility is subject to the following gross revenue limitations: Professional consultants, when combined with any and all affiliates, shall have less than five hundred thousand dollars (\$500,000.00) in average annual gross revenue, calculated over the previous three (3) calendar years, unless that entity is a professional consultant providing architectural or engineering services. For professional consultants providing architectural or engineering services, the entity shall, when combined with any and all affiliates, have an average annual gross revenue less than five hundred thousand dollars (\$500,000.00), calculated over the previous three (3) calendar years; however, the gross revenue calculation shall exclude amounts paid for work under an architectural or engineering services agreement with the city that the **SBE** professional consultant subcontracts to a nonaffiliated architectural or engineering firm and where no fee or other compensation for such subcontracted work is retained by the **SBE** professional consultant. Entities providing construction services shall, when combined with any and all affiliates, have less than three million dollars (\$3,000,000.00) in average annual gross revenue calculated over the previous three (3) calendar years. Entities providing services other than professional consulting or construction shall, when combined with any and all affiliates, have less than one million dollars (\$1,000,000.00) in average annual gross revenue calculated over the previous three (3) calendar years. Entities offering to sell commodities to the city shall be subject to the employee limitation above but are not subject to any gross revenue limitation with regard to certification as a commodities firm;

(2)

No person with a legal or beneficial ownership interest, direct or indirect, in the entity or any affiliate of the entity shall have a personal net worth exceeding one million three hundred twenty thousand dollars (\$1,320,000.00);

(3)

The entity shall have a continuous operating presence in the City of Lauderhill and may only operate in areas zoned to permit its operations. The entity must allow the city to conduct site visits of its primary place of business and any other place of operation by the entity at any time during normal operating hours. The entity's obligation to allow site visits shall continue throughout its certification as an **SBE**, and its failure to allow such site visitation may constitute grounds for decertification; and

(4)

The entity must not be a joint venture, as joint ventures are not eligible for certification. However, an entity otherwise eligible for certification is not disqualified from certification by its participation in a joint venture.

(b)

Required disclosure and notification. During the application process, an applicant must disclose all of its affiliates and other entities that employ or share principals, management, or key personnel with the applicant entity. Once the applicant entity has become certified as a **SBE**, that entity must notify the city within thirty (30) calendar days after any changes in the ownership, affiliation, management, or key personnel. Failure to provide timely notice of any such changes shall constitute grounds for decertification.

(c)

Discriminatory actions forbidden. No person or entity shall be denied **SBE** certification on the basis of race, color, sex, religion, national origin, disability, age, marital status, political affiliation, sexual orientation, pregnancy, or gender identity or expression.

(d)

Application for certification.

(1)

An entity seeking certification as a **SBE** shall submit an application demonstrating that the entity meets the eligibility requirements of paragraphs (b) or (c) above, as applicable. In addition, the entity must identify the general type(s) of goods or services it provides or sells in the ordinary course of its business to customers. An entity will only be certified to provide goods or services to the city that the entity also provides to other customers in the ordinary course of its business. Brokers are not eligible for certification.

(2)

Applications for certification must be submitted on the form provided by City of Lauderdale Division of Purchasing (DOP). Applications must be completed in their entirety, and entities applying for certification must supply all of the information requested therein, agree to supply any additional information requested by the DOP, and agree to be bound by the provisions and regulations of the program governing the certification and decertification process, as applicable.

(3)

The burden of establishing certification eligibility is on the entity seeking certification as a **SBE**. All required documentation must be provided before a certification decision will be rendered by DOP.

(4)

Entities seeking certification as a **SBE** must maintain compliance with the certification standards under the program throughout the duration of certification with the city. Failure to do so shall constitute grounds for decertification.

(e)

Continuing certification. In order to maintain its certification, a certified **SBE** shall submit a form affidavit of continuing eligibility, on an annual basis, on or before the anniversary date on which the entity was first certified as a **SBE**, and shall participate in periodic DOP certification eligibility reviews. Failure to fully complete the form affidavit on or before the anniversary date of the entity's **SBE** certification may result in suspension of certification or decertification, as applicable.

Sec. 3. **SBE** Goals and Reserves.

(a)

When the city issues a solicitation a goal of up to twenty-five (25) percent participation by **SBEs** is hereby established for contracts with a value of more than one hundred fifty thousand dollars (\$150,000.00), except those contracts that are otherwise ineligible pursuant to state or federal law. A contract may be reserved for **SBEs** when the city commission, after consulting with the purchasing official, determines that establishing such reserves is appropriate to create opportunities for **SBEs** to gain experience as a prime contractor. However, no contract shall be reserved for **SBEs** if the purchasing department determines that there are fewer than two (2) certified **SBEs** available to perform the work required under the contract.

SBE contract requirements will be as follows:

\$150,000—499,999 - 10%

\$500,000—750,000 - 15%

\$751,000—999,999 - 20%

\$1,000,00—over - 25%

(b)

If an **SBE** reserve is established, only **SBEs** will be eligible to bid on the solicitation. In the event that no **SBE** responds or no **SBE** is responsive, the purchasing director shall cancel the solicitation.

(c)

Notwithstanding anything to the contrary in paragraphs (a) and (b) above, in the event that none of the responses to an **SBE** reserve solicitation would result in a contract with a value of less than one hundred thousand dollars (\$100,000.00), the purchasing official may elect to either accept the response(s) and proceed to the award stage, or reject the response(s) and request that DOP determine whether a **SBE** reserve should be established for any new solicitation.

(d)

Prior to making any determination that an otherwise eligible contract shall not, under this section, be reserved for **SBEs** due to there being fewer than two (2) certified **SBEs** available to perform the applicable work under the contract, the purchasing official shall engage in all appropriate additional outreach efforts designed to increase the number of certified, available firms. The purchasing official, in consultation with the city attorney, may extend, by up to thirty (30) days, any procurement deadlines and any other applicable deadlines to provide sufficient time for these additional outreach efforts to be completed. If additional firms eligible for certification are identified through these outreach efforts, the purchasing director shall, to the greatest extent practicable, expedite the certification of those firms so as to minimize procurement delays.

Sec. 4. Participation Requirements and Enforcement.

(a)

Participation requirements. Entities may not participate in a city contract as a **SBE** unless they are certified as a **SBE** prior to bid submittal to perform the type of work required by the contract. However, if it becomes necessary to substitute a **SBE** in order to meet the contract's participation requirements, a **SBE** may be substituted, upon the approval of the purchasing director, provided that such **SBE** is certified at the time of the substitution.

(1)

Only the work actually performed by a **SBE** (whether as a prime contractor or subcontractor) shall be counted toward satisfaction of the applicable goal.

(2)

Contractors that use **SBEs** as subcontractors on a city contract must pay those subcontractors directly for all goods or services provided by the subcontractors within fifteen (15) days after receipt of payment from the city.

(b)

Fair dealing. It is the city's policy that all business activities related to this act shall be conducted in a fair and reasonable manner, free of fraud, coercion, collusion, intimidation, or bad faith. Violation of this policy by any prime contractor, subcontractor, bidder, or other individual or entity that seeks to engage in business with the city may result in a written determination by the director of purchasing, after consulting with the purchasing director and the office of the city attorney, that the city should consider termination of any or all business relationships between the violating individual(s) or entity(ies) and the city, including cancellation of solicitations, cessation of negotiations, revocation of **SBE** certification, and suspension or debarment for cause from consideration for award of future contracts. Such written determination shall state the reasons for the action taken and inform the individual(s) and entity(ies) involved of their right to administrative review in accordance with the procurement code. Any determination made by the director of purchasing pursuant to this paragraph may be appealed in accordance with the procurement code.

(c)

SBEs may participate in a city contract only if they are performing a commercially useful function in the contract and are not acting as brokers.

(d)

Enforcement. The provisions of this act, unless noted otherwise, are primarily enforced through the issuance of notices to cure and notices of violation by DOP. The DOP may issue such notices for any infraction of the SBE programs. Failure to respond timely and completely to such notices will place the alleged violator in a state of noncompliance.

(1)

Notice to cure. A notice to cure is formal notification to a SBE of an alleged violation of the act. A notice to cure may be issued if the entity fails to timely provide requested information or documentation, or if the entity:

- a. Engages in a practice that contravenes the SBE program;
- b. Fails to meet certified subcontractor participation;
- c. Fails to meet prompt payment requirements;
- d. Fails to supply required utilization reports;
- e. Fails to utilize certified subcontractors as agreed or, without approval from the purchasing director, substitutes, deletes, or otherwise adjusts the certified subcontracting team; or
- f. Fails to comply with any other program requirement, as determined by the purchasing director.

(2)

Notice of violation. A notice of violation results from a substantiated violation of the act. DOP may issue a notice of violation if a SBE fails to comply with a notice to cure after being given opportunity to do so through the notice to cure process. However, for willful or egregious violations of the act, as determined by the DOP, a notice of violation may issue without the prior issuance of a notice to cure.

(e) *Penalties for violations of the act.* The purchasing director may determine, upon reasonable notice to the person or entity involved and reasonable opportunity for that person or entity to be heard, that a person or entity has violated the act. Upon such a determination, the purchasing director may suspend or debar such entity for cause from consideration for award of future contracts for a period of up to three (3) years.

(1)

The city will maintain a public list of entities suspended or debarred from contracting with the city. The list will detail actions taken in response to the purchasing director's recommendations.

(2)

For all recommendations from the purchasing director for suspension or debarment due to violations of the act, the purchasing director will review the allegations and determine what action(s), if any, shall be taken against the alleged violator.

(3)

Any person or entity having a substantial interest in the alleged violation of the act who is dissatisfied or aggrieved with the purchasing director's determination regarding such violation may appeal said determination in accordance with the procedures contained in the procurement code.

(f) The administrative procedures adopted pursuant to this act shall include procedures by which the DOP will monitor **SBE** participation on city contracts for which **SBE** goals or reserves are set.

(g) Each contract setting a **SBE** goal shall provide that, prior to a prime contractor terminating its contract with a **SBE** subcontractor for any reason, including for cause, the prime contractor shall provide the Purchasing director with written notice of the proposed termination. Thereafter, when a **SBE** subcontractor is terminated by a prime contractor for any reason, including for cause, the prime contractor shall, with notice to and the concurrence of the purchasing director, substitute another **SBE** in order to meet the level of **SBE** participation provided in the prime contractor's contract with the city. The contract shall also provide that such substitution shall not be required in the event the termination results from the city changing the scope of work under the contract and there is no available **SBE** to perform the new scope of work.

(h) All entities that bid on or participate in city contracts subject to this act are responsible for meeting the requirements of this act and the requirements of any administrative procedures adopted pursuant to this act. If an entity fails to comply with these requirements, the city may exercise any administrative remedies it has under the city's procurement code, administrative procedures adopted pursuant to this act, or any other right or remedy provided in the contract or under applicable law, with all of such rights and remedies being cumulative.

Sec. 5. Administrative Requirements and Other Remedies.

(a)

Required contract language. The city shall require that each solicitation and contract that contains **SBE** requirements, and each subcontract a prime contractor executes with a **SBE** in connection with that city contract, shall include the following requirements:

(1)

The contractor (prime or **SBE**) shall comply with all applicable requirements of the City of Lauderhill Small Business Program in the award and administration of this contract. Failure by the prime contractor to carry out any of these requirements shall constitute a material breach of contract, which shall permit the city to terminate its contract with the prime contractor or to exercise any other remedy provided under the contract, under the City of Lauderhill Code of Ordinances or Administrative Code, or under applicable law, with all of such remedies being cumulative.

(2)

For solicitations and contracts where the prime contractor is required to satisfy a **SBE** goal or **SBE** reserve, as applicable, substantially the following language shall be included in the contract: "The parties stipulate that if the prime contractor fails to meet the **SBE** commitment, as applicable (the "commitment"), the damages to the city arising from such failure are not readily ascertainable at the time of contracting. Therefore, if the prime contractor fails to meet the

commitment and the city determines, in the sole discretion of the purchasing director, that the prime contractor failed to make good faith efforts to meet the commitment, the prime contractor shall pay the city liquidated damages in an amount equal to fifty (50) percent of the actual dollar amount by which the prime contractor failed to achieve the commitment, up to a maximum amount of ten (10) percent of the total contract amount (excluding costs and reimbursable). For example, if the contract amount (excluding costs and reimbursable) is one million dollars (\$1,000,000.00), there is a twenty-five (25) percent SBE goal, and SBEs receive only twenty (20) percent of the amounts paid by the city (excluding costs and reimbursable), then the prime contractor would have fallen short of the commitment by fifty thousand dollars (\$50,000.00), and the liquidated damages due the city would equal twenty-five thousand dollars (\$25,000.00). Such liquidated damages amount shall be either credited against any amounts due from the city or paid to the city within thirty (30) days after written demand, as elected by the city. These liquidated damages shall be the city's sole contractual remedy for the prime contractor's breach of the commitment, but shall not affect the availability of administrative remedies under this act. Any failure to meet the commitment attributable solely due to force majeure, changes to the scope of work by the city, or inability to substitute a subcontractor under the act where the purchasing director has determined that such inability is due to no fault of the prime contractor, shall not be deemed a failure by the prime contractor to meet the commitment."

(b)

Establishment of SBE directory. The purchasing director shall maintain a directory listing all SBEs. The listing shall include each entity's address, phone number, and the type(s) of work the entity has been certified to perform as a SBE on a city contract. The directory shall be revised monthly, and shall be made available to contractors and the public through the city website. The purchasing director shall manage directory listings for the U.S. Department of Transportation certification programs in accordance with the requirements of those programs and the State of Florida Unified Certification Program.

Sec. 6. Small Business Development.

(a)

Program graduation. A SBE that exceeds the SBE gross revenue or personal net worth eligibility requirements of this act, as applicable, will be designated by the purchasing director as a graduate of the program. Program graduates may complete their work under all current city projects under their previous SBE status provided that the bid submission date of those projects occurred prior to the SBE's date of program graduation. SBEs decertified for cause shall not be considered program graduates under this ordinance.

(4)

Award to other than low price bidder. When the award is not given to the bidder who bids the lowest price, a full and complete written statement of the reasons for placing the other elsewhere shall be prepared and submitted with the other papers relating to the transaction.

(5)

Tie bids.

a.

Local vendors. If all bids received are for the same total amount or unit price, quality and service being equal, the contract shall be awarded to a local bidder, and in the event of a tie bid by local vendors, the contract may be split when it is to the city's advantage.

b.

Outside vendors. Where subsection (f)(5)a is not in effect, the city commission may award the contract to any one (1) tie bidder or divide the contract between tie bidders when it is in the city's best interest.

(6)

Payment and performance bond. The purchasing officer shall have the authority to require a performance bond, before entering into a contract, in such amount as he/she shall find reasonably necessary to protect the best interest of the city.

(7)

Minimum compensation. In order to be eligible to contract to conduct business with the city, all contractors and subcontractors must comply with the minimum compensation requirement that all persons hired by, working for, or on behalf of them, must be paid a minimum wage compensation of ten dollars and ten cents (\$10.10) per hour. This minimum compensation requirement applies for all procurement activities issued or posted by the city after October 1, 2014.

(g)

Prohibition against subdivision. No contract of purchase shall be subdivided to intentionally avoid the requirements of this section or of [section 2-140](#).

(h)

Bidders list. The purchasing officer shall also solicit sealed bids from all reasonable prospective suppliers who have requested their names to be added to a "bidders list" which the purchasing officer shall maintain, by sending them a copy of such newspaper notice or such other notice as will acquaint them with the proposed purchase. In any case, invitations sent to the vendors on the bidders list shall be limited to commodities that are similar in character and ordinarily handled by the trade group to which the invitations are sent.

(i)

No bids received. If no bids for contractual services or supplies are received, the mayor or any employee designated by him/her may negotiate with any companies or firms which provide the services or supplies sought.

Affidavit of Compliance with Anti-Human Trafficking Laws

Pursuant to Section 787.06(13) of the Florida Statutes, the undersigned, on behalf of Entity, hereby affirms under penalty of perjury the following:

1. Entity does not engage in the use of coercion for labor or services as defined in Section 787.06, Florida Statutes, relating to "Human Trafficking."
2. The undersigned is duly authorized to execute this affidavit on behalf of the Entity, and affirms that the statements made herein are true and correct under penalty of perjury.

Dated this ____ day of _____, **20**____

Signed: _____
Name: _____
Title: _____
Entity: _____