

CITY OF LAUDERHILL



LIFT STATION #5 (RE-BID)

BID# 2025-042

CONTRACT DOCUMENTS AND TECHNICAL SPECIFICATIONS

April 2025

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BID NUMBER: 2025-042
CITY OF LAUDERHILL, FLORIDA

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DOCUMENT 00020
NOTICE TO BIDDERS

NOTICE IS HEREBY GIVEN that the **CITY OF LAUDERHILL** is seeking sealed bids for the following work as specified:

LIFT STATION #5 (RE-BID)
BID NUMBER: 2025-042
CITY OF LAUDERHILL, FLORIDA

The City of Lauderhill will be accepting sealed proposals until **4:45 P.M. on May 30, 2025**. All proposals must be submitted via IonWave at <https://lauderhill.ionwave.net/>. Proposals received after **4:45 P.M. EST** will not be considered and will be returned unopened.

The City of Lauderhill Utilities Department is seeking proposals from a General Contractor for the rehabilitation of Lift Station No. 5. The rehabilitation consists of converting the current dry/wet well configuration into a submersible pump station.

This upgrade includes:

- Converting the existing 6-foot diameter wet well into a new receiving manhole.
- Partially demolishing the existing dry well.
- Installing a new valve vault with 6-inch discharge piping.
- Installing a new 8-foot ID wet well.
- Installing a new control panel and electrical equipment.

This upgrade will improve the **reliability, operability, efficiency, and safety** of Lift Station No. 5 and will extend the useful life of the station.

The Lift Station No. 5 is located on the **north side of NW 16th Street**, approximately 430 linear feet east from the **NW 38th Avenue**.

All bidders must register online with the City of Lauderhill. The direct link for registration is:

<http://www.lauderhill-fl.gov>.

Responsible inquiries regarding this RFQ may be submitted via IonWave. The deadline for submitting questions is **ten days prior to the due date**, and any questions received after this time will not be answered.

Bid security in the form of a **Bid Bond** or **certified check** made payable to the "City of Lauderhill", in an amount equal to **five percent (5%) of the bid**, must be submitted with the bid. Bidder must use the **Bid Bond form** provided.

No Bidder may withdraw his bid within **90 days after the actual date of the opening. Guaranty Bonds** in the form of a **100% Construction Performance Bond** and a **100% Construction Payment Bond** will be required upon award of bid.

The **Public Entity Crimes Affidavit, Foreign Entity Laws Affidavit,** and the **Anti-Human Trafficking Affidavit** must be completed and submitted as part of the proposal.

The **City Commission of the City of Lauderhill** reserves the right to reject any and all proposals, to waive any and all informalities or irregularities, and to accept or reject all or any part of any proposal as they may deem to be in the interest of the citizens of the City of Lauderhill. **The winning participant is required to enter into a contract with the City of Lauderhill.**

CITY OF LAUDERHILL, FLORIDA

A handwritten signature in black ink, appearing to read "Kentrea L. Dykes".

Kentrea Dykes
Purchasing and Contracts Manager

Advertising Dates: April 30, 2025 and May 7, 2025

DOCUMENT 00030
SCOPE OF WORK

LIFT STATION #5
BID NUMBER: 2025-042 (RE-BID)
CITY OF LAUDERHILL, FLORIDA

SCOPE OF WORK

The project is located on City of Lauderhill-owned land on the **north side of NW 16th Street**, between **3771** and **3759 NW 16th Street**, Lauderhill, FL 33311 (Parcel ID: 494231240030). The construction limits are confined to the property boundary of this land and within the right-of-way limits of NW 16th Street fronting this property.

The scope of work for this project is generally described as follows:

-
- 1.** Furnish and install a bypass pumping system as per the specifications.
 - 2.** Demolish and remove existing concrete structures as detailed in the plans, including the concrete slab and hatches, demolition of the existing dry well and wet well, vent system, piping inside the wet well, piping, valves, pumps, and appurtenances inside the dry well, removal of approximately 37 LF of 6-inch DIP force main, demolishing existing electrical equipment as indicated on electrical drawings, and any other appurtenant and miscellaneous work necessary for a complete, satisfactory, and functional demolition.
 - 3.** Remove and relocate the existing fire hydrant as shown on the plans.
 - 4.** Convert the existing 6-foot wet well into the new receiving manhole.
 - 5.** Furnish and install a new 8-foot ID wet well to house two (2) new submersible pumps.
 - 6.** Furnish and install the wet well top slab and hatches.
 - 7.** Furnish and install two (2) new submersible pumps, **Flygt NP3153 HT-3 (463)** with unclog impeller diameter 263 mm and 20 horsepower motors at 1,755 rpm, or an approved equal.
 - 8.** Furnish and install a new valve vault with 6-inch piping.
 - 9.** Furnish and install the valve vault top slab and hatches.
 - 10.** Furnish and install 6-inch discharge piping in the wet well to connect to the proposed valve vault.

- 11.** Furnish and install approximately 30 LF of 6-inch DIP force main.
 - 12.** Construct the proposed asphalt driveway and concrete slabs as shown on the plans.
 - 13.** Restore asphalt pavement as shown on the plans.
 - 14.** Furnish and install a proposed picket fence around the station property.
 - 15.** Remove existing electrical service, electrical distribution, station controls, and low-voltage systems.
 - 16.** Abandon all above-ground infrastructure in place; remove all underground conduits.
 - 17.** Furnish and install all new electrical equipment as indicated on the plans.
 - 18.** The contractor shall apply for and obtain all permits required for construction of the project.
 - 19.** Preparation of the NPDES plan and permit is required, and it must be maintained throughout the entire construction period.
 - 20.** A Maintenance of Traffic (MOT) plan and its implementation are required to provide 24-hour access for all traffic along NW 16th Street.
 - 21.** All permitting and approvals are with the City of Lauderhill.
-

LIST OF DRAWINGS

- **C0.0** - Cover Sheet
- **C1.0** - General Notes & Specifications
- **C1.1** - Civil Legend, Abbreviations, & Symbols
- **V-01** - Sketch of Boundary & Topographic Survey
- **C2.0** - Site Demolition Plan
- **C2.1** - Lift Station Demolition Plan
- **C3.0** - Site Utility Plan
- **C3.1** - Lift Station Improvement Details
- **C3.2** - Lift Station Structural Details
- **C3.3** - Utility Details

- **C3.4** - Utility Details
 - **C4.0** - Stormwater Pollution Prevention Plan
 - **C4.1** - Stormwater Pollution Prevention Details
 - **C5.0** - MOT (Maintenance of Traffic)
 - **E0.1** - Electrical Symbols & General Notes
 - **E0.2** - Electrical Specifications
 - **ED1.0** - Electrical Demo Site Plan
 - **E1.1** - Electrical Reno Site Plan
 - **E5.1** - Electrical One-Line Diagrams
 - **E8.1 - E8.6** - Electrical Details
-

DOCUMENT 00100 INSTRUCTIONS TO BIDDERS

1. SUBMITTAL

1.1 Proposal Submission Deadline

Sealed proposals will be received until the time and date specified in the Notice to Bidders, Document 00020.

1.2 Proposal Submission Method

Proposals shall be submitted via IonWave.

Proposal for:

City of Lauderhill, Florida

BID NUMBER: 2025-042 (RE-BID)

Submitted By:

[Company Name]

[Street Address]

[City, State, Zip Code]

2. PROPOSALS

2.1 Quantities and Deletions

Bidders understand that the quantities provided in the proposal are for bid comparison only. Portions or all of the bid document may be deleted from the awarded contract.

2.2 Required Bid Forms

Proposals must be submitted on the forms provided in DOCUMENTS 00100, 00300, 00300A, 00401, 00402, 00420, 00421, 00450, 00480, 00490, 00495, and 00650. Any erasures or alterations must be explained or noted by the bidder. Each bidder shall submit one original, two copies, and one electronic copy of the proposal along with the accompanying bid forms. All forms must be properly completed with no blanks.

3. IRREGULAR PROPOSALS

3.1 Rejection of Irregular Proposals

Proposals that are incomplete, conditional, contain unrequested additions, alterations, or any irregularities may be rejected.

4. SIGNATURES ON PROPOSALS

4.1 Required Signatures

The proposal must be signed by the bidder with their full name, company name, and address. If a firm or corporation submits a proposal, it must be signed by the authorized officer(s) and include the firm's official seal.

5. EXAMINATION OF CONTRACT DOCUMENTS

5.1 Thorough Examination Required

Bidders must thoroughly examine all Contract Documents and Specifications, which include the Notice to Bidders, Instructions to Bidders, Bid Forms, General Conditions, Supplementary Conditions, Technical Specifications, Drawings, and any issued addenda.

5.2 Document Purchase Requirement

Bid documents must be purchased no later than ten (10) days prior to the bid closing date in the Notice to Bidders (Document 00020). Upon payment, the bidder's name and contact information will be entered into the "Plan Holders List," making the bidder eligible to submit a bid.

6. EXAMINATION OF SITE

6.1 Site Visit Required

Bidders must visit the site of the proposed work before submitting a proposal. The bidder should fully familiarize themselves with construction and labor conditions, restrictions, and facilities so they can accurately base their bid on the actual conditions.

6.2 Responsibility for Site Conditions

Failure to inspect the site will not relieve the bidder from any obligations related to the work. Submitting a bid will be considered as evidence that the bidder has examined the site.

6.3 No Claims for Additional Compensation

Bidders may not claim extra compensation or extensions of time based on ignorance of site conditions.

6.4 Investigation of Site Conditions

Each bidder must investigate the current site conditions before submitting a proposal and assume all risks for variations in these conditions.

7. DISCREPANCIES

7.1 Notification of Discrepancies

If discrepancies, ambiguities, or omissions are found in the Drawings and Specifications, the bidder must immediately notify the Owner and/or Engineer.

8. INTERPRETATION OF PLANS

8.1 Dimensions vs. Scale

In the case of discrepancies between scales and figures, the figured dimensions will govern. The Contractor must not take advantage of any errors or omissions in the Drawings or Specifications. The Architect or Engineer will make necessary interpretations to fulfill the intent of the documents, and their decision will be final.

9. INTERPRETATION PRIOR TO BID OPENING

9.1 Request for Clarification

If there is doubt about the meaning of any part of the Contract Documents, a written request for interpretation must be submitted to the Owner or Architect/Engineer. Responses will be issued via addenda. Requests for clarification must be submitted at least ten (10) days before the bid opening as indicated in Document 00020.

10. TIME OF COMPLETION

10.1 Completion Deadline

The project must be completed within the number of calendar days specified in the Bid Proposal (Document 00300).

10.2 Contract Completion

Project completion means full possession by the Owner and the fulfillment of all contractual obligations by the Contractor.

11. LABOR REGULATIONS

11.1 Compliance with Labor Laws

The Contractor must comply with all relevant labor laws and regulations regarding work hours, wages, and labor conditions.

12. BID SECURITY

12.1 Security Requirements

Bid security must be in the form of a certified check, bank draft, cashier's check, money order, or bid bond, for no less than five percent (5%) of the bid amount. This will serve as liquidated damages if the bidder fails to execute the contract or provide the required bond within fifteen (15) calendar days after award.

13. RETURN OF BID SECURITY

13.1 Return Timeline

The certified checks and bid bonds of unsuccessful bidders will be returned within fifteen (15) days after the contract is executed. If all bids are rejected, all checks will be returned within fifteen (15) calendar days of rejection.

14. CONTRACT BONDS

14.1 Performance and Payment Bonds

The successful bidder must furnish a Performance Bond and Payment Bond, each for no less than 100% of the contract price. The bonds must be issued by an authorized surety company acceptable to the Owner.

15. QUALIFICATION OF BIDDER

15.1 Bidder Qualifications

Bidders must demonstrate that they have the necessary licenses, equipment, financial resources, and experience to complete the project satisfactorily and within the specified timeframe. No contract will be awarded to a bidder who does not meet these requirements. The bidder must submit the Qualification Form (Document 00420) with the proposal.

15.2 Procurement Process Milestones

- Receive Bid Proposals
- Bid Opening
- Evaluation and Ranking
- Recommendation for Award
- Award of Contract

15.3 Bid Evaluation

Bids will be evaluated and ranked based on the criteria in Section 30.

16. DISQUALIFICATION OF BIDDERS

16.1 Collusion

Any proposal may be rejected if collusion is suspected. Participants in such collusion will be disqualified from future proposals to the extent allowed by law.

16.2 Incomplete Bid Forms

Failure to completely and truthfully fill out all forms in the bid package may result in disqualification.

17. WITHDRAWAL OF PROPOSALS

17.1 Withdrawal Procedure

Bidders may withdraw their proposal in writing at least one hour before the bid opening. No bid may be withdrawn after the closing time for 90 days.

18. OWNER'S RIGHTS RESERVED

18.1 Owner's Discretion

The Owner reserves the right to accept any bid deemed in the best interest of the City. The Owner also reserves the right to reject any or all bids.

18.2 Additional Rights

The City may:

- Accept questions from bidders and issue responses.
 - Amend the bid through addenda.
 - Reject any or all proposals for any reason.
 - Seek additional information from bidders.
 - Cancel the bid process if it serves the City's best interests.
-

19. OWNER REPRESENTATIVE AND CONSULTANT

19.1 Project Agent

The City of Lauderdale's Capital Projects Manager will act as the representative for the Owner in all matters related to this project.

20. QUALIFICATION OF SURETY

20.1 Surety Requirements

The Contractor must provide a cash bond, irrevocable letter of credit, or surety bond from an authorized company. The bond must be in place before any work permits are issued and remain valid until the ownership transfer of any improvements is complete.

21. SUBCONTRACTORS

21.1 Subcontractor List

The Contractor must submit a list of proposed subcontractors with the bid. Subcontractors must be listed in Document 00421.

21.2 Subcontractor Details

Upon request, provide additional details for each subcontractor, including contact information and references.

21.3 Owner's Objection to Subcontractors

The Owner may object to any subcontractor on the list. If no objections are raised by the Notice to Proceed, the subcontractor is accepted.

22. INSURANCE

22.1 Insurance Requirements

The successful bidder must provide proof of required insurance prior to contract execution. The insurance policy must name the Owner and its agents as additional insured parties.

23. POWER OF ATTORNEY

23.1 Bond Signing

Attorneys-in-fact signing contract bonds must provide a certified copy of their Power of Attorney, dated the same day or later than the contract.

24. AWARD OF CONTRACT

24.1 Award Criteria

The contract will be awarded to the lowest responsible and responsive bidder, whose bid demonstrates the necessary skill, ability, and integrity to fulfill the work.

24.2 Re-Bidding

The Owner may reject all bids and re-bid the project or a portion of it if deemed necessary.

25. ACCEPTANCE PERIOD

25.1 Bid Validity

Bidders must hold their bids valid for 90 days following the bid opening.

26. AWARD PROTESTS

26.1 Protest Procedure

Bidders may file protests against award recommendations following the City of Lauderdale's formal protest procedure.

27. EQUAL OPPORTUNITY REQUIREMENTS

27.1 Non-Discrimination

The bidder agrees to comply with all equal opportunity regulations, ensuring that no discrimination occurs based on race, color, religion, sex, national origin, age, handicap, or marital status.

28. PERMITS AND FEES

28.1 Permit Responsibility

The successful bidder must apply for all required permits, with fees waived by the City of Lauderhill.

29. SALES TAX

29.1 Tax Exemption Procedures

The bidder must be familiar with the procedures related to sales tax exemptions for materials purchased under the contract.

30. EVALUATION AND RANKING OF BID PROPOSALS

30.1 Evaluation Process

Bids will be evaluated for conformance, completeness, and responsiveness. The lowest price bid that meets all criteria will be awarded the contract.

**DOCUMENT 00101
BID CHECKLIST**

City of Lauderdale, Florida
BID NUMBER: 2025-042 (RE-BID)

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

BEFORE SUBMITTING YOUR BID, PLEASE ENSURE THE FOLLOWING:
(Check each box to indicate compliance)

- ☐ 1. The Bid Package has been read in its entirety.
- ☐ 2. Bid Form 00300 has been completed.
- ☐ 3. Price Bid Sheet 00300A has been completed.
- ☐ 4. Bid Bond has been obtained and Sheet 00401 has been completed.
- ☐ 5. Public Entity Crimes Affidavit Sheet 00402 has been completed and notarized.
- ☐ 6. Bidder's Qualification Form 00420 has been completed. Evidence of Insurance and copies of applicable licenses are attached.
- ☐ 7. Subcontractor List 00421 has been completed.
- ☐ 8. Litigation History Form 00450 has been completed.
- ☐ 9. Non-Collusive Affidavit 00480 has been completed.
- ☐ 10. Debarment Certification 00490 has been completed.
- ☐ 11. Certified Resolution 00495 has been completed.
- ☐ 12. All Addenda have been received and acknowledged.
- ☐ 13. Proposal has been uploaded via IonWave.

**FAILURE TO PROVIDE THE REQUESTED DOCUMENTS MAY RESULT IN
YOUR BID BEING DEEMED NON-RESPONSIVE.**

THIS PAGE SHOULD BE THE FIRST PAGE OF YOUR BID.

BID FORM

City of Lauderdale, Florida

BID NUMBER: 2025-042 (RE-BID)

Date: _____

BID TO:

Honorable Mayor & City Commission
City of Lauderdale

SUBMITTED BY:

Company Name

Street Address

City, State, Zip Code

The undersigned, as Bidder, hereby declares that they are familiar with the site of the construction as shown on the drawings and specifications and have fully acquainted themselves with the work to be done; that they have thoroughly examined the Drawings, Specifications, and all Contract Documents pertaining thereto; and have read any related documents, all as designated under the City's Bid Number 2025-042 (RE-BID).

The Bidder proposes and agrees, if this proposal is accepted, to furnish all necessary materials, tools, construction equipment, necessary transportation, labor, and supervision to complete the construction as shown, detailed, and described in the Specifications and on the drawings.

It is understood by the Bidder that the quantities in the following quotation form are given for the purpose of bid comparison only.

It is understood by the Bidder that all bid item amounts shall be submitted. In the event any item is not included, the Owner may reject the bid. It is further understood that certain portions of the bid document may be deleted from the awarded contract at the Owner's discretion.

The Bidder agrees that, if awarded the Contract, they will fully ratify the Contract Documents within 15 calendar days of the Notice of Award and shall be completely finished within 120 days from the date of the Notice to Proceed.

IF BIDDER IS AN INDIVIDUAL

By: (SEAL)
(Individual's Name)

Doing business as: _____

Business address: _____

Phone No.: _____

IF BIDDER IS A PARTNERSHIP

By: (SEAL)
(Firm Name)

(General Partner)

Business address: _____

Phone No.: _____

IF BIDDER IS A JOINT VENTURE

By: (Name)
(Address)

By: (Name)
(Address)

(Each joint venture partner must sign. The manner of signing for each individual, partnership, and corporation that is a party to the joint venture should be in the manner indicated above.)

IF BIDDER IS A CORPORATION

By: (Corporation Name)

(State of Incorporation)

By: (Name of Person Authorized to Sign)

(Title)

Phone No.: _____

(Corporate Seal)

Attest: (Secretary)

Business address: _____

Phone No.: _____

END OF DOCUMENT

00300-A1
BID PRICE SHEET
Owner: **City of Lauderhill**
Bid Number: **2025-042**
Lift Station #5 (RE-BID)
Unit Price Bid Schedule

All bid items shall include costs for all materials, equipment, labor, supervision, permit fees, taxes, insurance, bonds, miscellaneous costs, and contractor's overhead and profit. Costs for materials and equipment shall be included where applicable.

Item No.	Description	Estimated Quantity	Unit	Unit Price	Estimated Amount
PREPARATORY WORK					
1	Mobilization, Demobilization	1	L.S.		
2	Clear & Grub Site, Debris Disposal, Site Prep	1	L.S.		
3	(MOT) Plans, Traffic Control and Maintenance of Traffic	1	L.S.		
4	Stormwater Pollution Prevention	1	L.S.		
BY-PASS					
5	Install Temporary By-Pass Force Main & Connection	1	L.S.		
6	Install By-Pass Pumps and Operation	120	DAYS		
7	Power Consumption	1	L.S.		

Item No.	Description	Estimated Quantity	Unit	Unit Price	Estimated Amount
8	Emergency Power Generators	1	L.S.		
9	Temporary Facilities	120	DAYS		
DEMOLITION					
10	Provisional Installations	1	L.S.		
11	Removal of Existing Asphalt	67	S.Y.		
12	Removal of Existing Concrete Sidewalk	27	L.F.		
13	Removal of Existing Pipes	1	L.S.		
14	Partial Removal of Existing Dry Well	1	L.S.		
15	Existing Wet Well/Dry Well to be Filled with Flowable Fill	20	C.Y.		
16	Miscellaneous Demolition and Disposal (Mechanical)	1	L.S.		
17	Miscellaneous Demolition and Disposal (Electrical) & Testing	1	L.S.		
CIVIL - STRUCTURAL WORK					
18	Furnish & Install New Valve Vault Structure 8'x8'	1	E.A.		

Item No.	Description	Estimated Quantity	Unit	Unit Price	Estimated Amount
19	Furnish & Install New Concrete Wet Well, I.D. 8'-0"	1	E.A.		
20	Excavation and Backfilling	30	C.Y.		
21	Type "A" Sanitary Sewer Manhole Cover	1	E.A.		
22	Aluminum Hatches	2	E.A.		
23	Epoxy Grout and Sealing Material Paint	1	L.S.		
24	New Reinforced Concrete Slab	46	S.Y.		
25	New Concrete Sidewalk (6" Thick)	12	S.Y.		
26	New Asphalt Driveway	76	S.Y.		
27	Asphalt Pavement Restoration	58	S.Y.		
28	Utility Relocation (Backflow and WM)	1	L.S.		
29	Picket Fence & Gate	110	L.F.		
30	Re-Sod Disturbed Areas	1	L.S.		
31	Pavement Marking Restoration	1	L.S.		
32	As-Built Submittal and Close-Out Documentation	1	L.S.		

Item No.	Description	Estimated Quantity	Unit	Unit Price	Estimated Amount
MECHANICAL WORK					
33	Furnish & Deliver Pumps and Motors w/ 50 ft Cable & Lift Chains	2	E.A.		
34	Install Pumps and Motors & Lift Chains	2	E.A.		
35	Furnish & Install Discharge Base, 4"x6" Base Elbows, and Guide Rails	2	E.A.		
36	Furnish & Install 6" D.I. Pipe (Force Main)	62	L.F.		
37	Furnish & Install 6" Plug Valve, FLG, MJ REST	3	E.A.		
38	Furnish & Install 6" Gate Valve, FLG, MJ REST	1	E.A.		
39	Furnish & Install 6" Check Valve, FLG	2	E.A.		
40	Furnish & Install 6" x 6" Tee, FLG, MJ REST	1	E.A.		
41	Furnish & Install 6" x 6" Cross, FLG, MJ REST	1	E.A.		
42	Furnish & Install 6"x6" 90° Base Bend, FLG	2	E.A.		
43	Furnish & Install 6" 90° Bend Long Radius	4	E.A.		

Item No.	Description	Estimated Quantity	Unit	Unit Price	Estimated Amount
44	Furnish & Install 6" 90° Bend, FLG, MJ REST	1	E.A.		
45	Furnish & Install 6" Pump-Out Connection Assembly	1	E.A.		
46	Connect to Existing 6"-FM	1	E.A.		
47	Connect to Existing 16"-FM	1	E.A.		
48	Furnish & Install New Water Service with Backflow Preventer	1	E.A.		
49	Furnish & Install New Above Ground ARV Assembly	1	E.A.		
ELECTRICAL WORK					
50	Install Electrical Conduit, Transformer to Meter	80	L.F.		
51	Furnish & Install Control Panel	1	L.S.		
52	Furnish & Install Meter Can	1	E.A.		
53	Furnish & Install Unistrut Supports	1	L.S.		
54	Furnish & Install Main Fused Disconnect	1	E.A.		
55	Install SCADA RTU Panel and Antenna	1	E.A.		

Item No.	Description	Estimated Quantity	Unit	Unit Price	Estimated Amount
56	Furnish & Install Pressure Transducer	1	E.A.		
57	Furnish & Install Power & Signal Wiring	1	L.S.		
58	Furnish & Install Junction Boxes, Receptacle Floats	1	L.S.		
59	Floats and Gauges	1	L.S.		
60	Miscellaneous Electrical	1	L.S.		
61	Startup and Testing	1	L.S.		
Other					
63	Sheeting and Shoring	1	L.S.		
64	Dewatering System	1	L.S.		
65	Off-Duty Police Officers	1	L.S.	\$25,000.00	\$25,000.00
SUBTOTAL LUMP SUM FIXED PRICE ITEMS:					
66	Allowance	1	L.S.	\$90,000.00	\$90,000.00

GRAND TOTAL: _____

VENDOR: _____

**DOCUMENT 00401
CITY OF LAUDERHILL
BID BOND**

BIDDER: (Name and Address):

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

OWNER: (Name and Address):

CITY OF LAUDERHILL

5581 W. Oakland Park Blvd.

Lauderhill, FL 33313

BID: _____

BID DUE DATE: _____

PROJECT TITLE: Lift Station #5

BID NUMBER: 2025-042 (RE-BID)

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

TERMS AND CONDITIONS

1. **Bidder and Surety** bind themselves, their heirs, executors, administrators, successors, and assigns to pay to the 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 the 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 the 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.
 - 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.
 - 3.2. All bids are rejected by Owner.
 - 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 to be effective upon receipt by the party concerned.
9. **Surety shall cause to be attached** to this Bond a current and effective Power of Attorney evidencing the authority of the officer, agent, or representative who executed this Bond on behalf of Surety to execute, seal, and deliver such Bond and bind the Surety thereby.
10. This Bond is intended to conform to all applicable statutory requirements. Any applicable requirement of any statute that has been omitted from this Bond shall be deemed to be included herein as if set forth at length. If any provision of this Bond conflicts with any applicable provision of any statute, the provision of said statute shall govern, and the remainder of this Bond that is not in conflict therewith shall continue in full force and effect.
11. The term **"bid"** as used herein includes a bid, offer, or proposal as applicable.

END OF DOCUMENT

DOCUMENT 00402
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 the **City of Lauderhill, Florida**
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 no lo 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 the 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 of the State of Florida, Division of Administrative Hearings 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]

Signature of individual signing sworn statement

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.

Bidder acknowledges that the Florida Trench Safety Act, Section 553.60 et. seq., which became effective October 1, 1990, shall be in effect during the period of construction of the project. The Bidder, by signing and submitting the bid, assures that the Bidder will perform trench excavations in accordance with applicable trench safety standards. The Bidder further identifies the following separate item of cost for compliance with the applicable trench safety standards as well as the method of compliance:

Method of Compliance

[Provide details of method of compliance with trench safety standards]

Amount:

Total \$ [Insert cost]

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

The Bidder is, and the Owner and Engineer are not, responsible to review and assess all safety precautions, programs and costs, and the means, methods, techniques, or technique adequacy, reasonableness of cost, sequences, and procedures of any safety precaution, including, but not limited to, compliance with any and all requirements of Florida Statute Section 553.60 et. seq. cited as the "Trench Safety Act." The Bidder is responsible for determining any safety or safety-related standards that apply to the project.

Witness Signature:

Bidder Signature:

Witness Printed Name:

Printed Name:

Witness Address:

Title:

Date:

Date:

END OF DOCUMENT

DOCUMENT 00420
BIDDER'S QUALIFICATION FORM
City of Lauderdale, Florida
BID NUMBER: 2025-042 (RE-BID)

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

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

Please attach all certifications, licenses, endorsements, etc. (Attachment No. 1)

[Provide response here]

2. Describe the last project of this nature you have completed:

[Provide response here]

3. Have you ever failed to complete work awarded to you? If so, where and why?

[Provide response here]

4. Name three individuals or corporations for which you have performed work and that will attest to your company's performance (list contact person(s) and phone numbers):

1. [Name, contact person, phone number]

2. [Name, contact person, phone number]

3. [Name, contact person, phone number]

5. List the following information concerning all contracts on hand as of the date of submission of this proposal. (In case of co-venture, list the information for all co-ventures).

(Attachment No. 2)

NAME OF PROJECT	OWNER	TOTAL CONTRACT VALUE	DATE OF COMPLETION	% COMPLETED TO DATE
[Project Name]	[Owner]	[Total Contract Value]	[Completion Date]	[Percent Completed]
[Project	[Owner]	[Total Contract	[Completion	[Percent

NAME OF PROJECT	OWNER	TOTAL CONTRACT VALUE	DATE OF COMPLETION	% COMPLETED TO DATE
Name]		Value]	Date]	Completed]
[Project Name]	[Owner]	[Total Contract Value]	[Completion Date]	[Percent Completed]

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

[Provide response here]

7. Will you sublet any part of this work? If so, please list subcontractors in Document 00421.

[Provide response here]

8. What equipment do you own that is available for the work?

[Provide response here]

9. What equipment will you purchase for the proposed work?

[Provide response here]

10. What equipment will you rent for the proposed work?

[Provide response here]

11. Attach the Financial Statement of the undersigned to this document and furnish the name and telephone number of the individual who can best answer questions regarding this statement:

(Attachment No. 3)

[Provide details and contact information]

12. 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 place of business. (If a corporation, state the name of the President and Secretary. If a partnership, state the name of all the partners. If a trade name, state the names of the individuals who do business under the trade name. It is absolutely necessary that this information be furnished.)

- **Correct Name of Bidder:**

[Provide response here]

- **(a) The business is a (Sole Proprietorship, Partnership, Corporation):**
[Specify type of business]
- **(b) The address of the principal place of business is:**
[Provide address]
- **(c) The names of the corporate officers, or partners, or individuals doing business under a trade name, are as follows:**
[Provide names of officers, partners, or individuals]

13. State your current insurance Experience Risk Modifier (ERM):
[Provide response here]

14. State your current bonding capacity:
[Provide response here]

15. State your current bonding obligations:
[Provide response here]

16. State your current bonding rate (%):
[Provide response here]

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

Signature of Bidder

[Bidder's Signature]

END OF DOCUMENT

**DOCUMENT 00421
SUBCONTRACTORS LIST
BID NUMBER: 2025-042**

LIST THE COMPANY NAME ALONG WITH THE TRADE 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.

1. **Company Name:**
[Provide company name]
Trade:
[Provide trade]
Approximate Value of Involvement:
[Provide value]
-

2. **Company Name:**
[Provide company name]
Trade:
[Provide trade]
Approximate Value of Involvement:
[Provide value]
-

3. **Company Name:**
[Provide company name]
Trade:
[Provide trade]
Approximate Value of Involvement:
[Provide value]
-

4. **Company Name:**
[Provide company name]
Trade:
[Provide trade]
Approximate Value of Involvement:
[Provide value]
-

5. **Company Name:**
[Provide company name]
Trade:
[Provide trade]
Approximate Value of Involvement:
[Provide value]

**DOCUMENT 00450
LITIGATION HISTORY FORM
LAUDERHILL LIFT STATION #5
City of Lauderdale, Florida
BID NUMBER: 2025-042 (RE-BID)**

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

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

[Provide number of years]

2. 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 could disqualify your bid. Attach additional pages if necessary.

PLAINTIFF	DEFENDANT	Brief Description
1. [Insert name]	[Insert name]	[Provide brief description of the litigation]
2. [Insert name]	[Insert name]	[Provide brief description of the litigation]
3. [Insert name]	[Insert name]	[Provide brief description of the litigation]
4. [Insert name]	[Insert name]	[Provide brief description of the litigation]
5. [Insert name]	[Insert name]	[Provide brief description of the litigation]
6. [Insert name]	[Insert name]	[Provide brief description of the litigation]
7. [Insert name]	[Insert name]	[Provide brief description of the litigation]
8. [Insert name]	[Insert name]	[Provide brief description of the litigation]
9. [Insert name]	[Insert name]	[Provide brief description of the litigation]
10. [Insert name]	[Insert name]	[Provide brief description of the litigation]

Signature of Bidder:

[Bidder's signature]

END OF DOCUMENT

DOCUMENT 00480
NON-COLLUSIVE AFFIDAVIT
BID NUMBER: 2025-042

STATE OF _____)
COUNTY OF _____)

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

(1) He/She is the _____ of,
(Owner, Partner, Officer, Representative or Agent)

_____ the Bidder that has submitted the attached bid:

(2) He/She is fully informed respecting the preparation and contents of the attached Bid and of all pertinent circumstances respecting such Bid:

(3) Such Bid is genuine and is not a collusive or sham Bid:

(4) Neither the said Bidder nor any of its officers, partners, owners, agents, representatives, employees, 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, or 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 (Recipient), 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 other of its agents, representatives, owners, employees, or parties in interest, including this affidavit.

BY: _____

ITS: _____

Subscribed and sworn to before me this _____ day of _____, 2025.

My commission expires _____

DOCUMENT 00490
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 which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had 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 which 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 covered 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 in all 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 under 48 CFR Part 9, Subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. 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 in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, 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 REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION-LOWER TIER COVERED TRANSACTIONS

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or 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 in this certification, such prospective participant shall attach an explanation to this proposal.

Signature/Authorized Certifying Official

Typed Name and Title _____

Applicant/Organization _____
Date Signed _____

END OF DOCUMENT

DOCUMENT 00495
CERTIFIED RESOLUTION

I, _____, the duly elected Secretary of _____, a corporation organized and 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.

“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 City of Lauderhill 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 City of Lauderhill 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.

I further certify that the following are the name, titles, and official signatures of those persons authorized to act by the foregoing resolution:

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

NAME

TITLE

SIGNATURE

Given under my hand and the Seal of the said corporation this _____ day
of _____, 2025.

By: _____
Secretary

(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 City of Lauderhill 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 AGREEMENT BETWEEN THE CITY OF LAUDERHILL AND

THIS AGREEMENT is made and entered into this ____ day of _____, 20____, by and between the City of Lauderhill, a municipal corporation existing under the laws of the State of Florida, (the "City") and _____, with principal offices located at _____ (the "Contractor").

SECTION 1. CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Bid Document No. _____ for "_____", issued by the City of Lauderhill on _____ including all conditions therein ("Bid"), (General Terms and Conditions, Special Conditions and/or Special Provisions, Instructions to Bidder's), drawings and/or schematic plans, Technical Specifications, all addenda, the Contractor's Bid response dated _____, and all modifications issued after execution of this Agreement. These contract documents form the Agreement, and all are as fully a part of the Agreement as if attached to this Agreement or repeated therein. In the event that there is a conflict between Bid as issued by City, and the contractor's bid response, the Bid as issued by City shall take precedence over the contractor's bid response. Furthermore, in the event of a conflict between this document and any other Contract Documents, this Agreement shall prevail.

SECTION 2. THE WORK

- 2.1.** The Contractor shall perform all work for the City required by the contract documents as set forth below:
 - 2.1.1** Contractor shall furnish all labor, materials, and equipment necessary to complete the scope of work, as outlined in the contract documents including all Addendums, Exhibits, Attachments and Appendices.
 - 2.1.2** Contractor shall supervise the work force to ensure that all workers conduct themselves and perform their work in a safe and professional manner. Contractor shall comply with all OSHA safety rules and regulations in the operation of equipment and in the performance of the work. Contractor shall at all times have a competent English speaking field supervisor on the job site to enforce these policies and procedures at the Contractor's expense.
 - 2.1.3** Contractor shall provide the City with seventy-two (72) hours written notice prior to the beginning of work under this Agreement and prior to any schedule change with the exception of changes caused by inclement weather.
 - 2.1.4** Contractor shall comply with any and all Federal, State, and local laws and regulations now in effect, or hereinafter enacted during the term of this Agreement, which are applicable to the Contractor, its employees, agents or subcontractors, if any, with respect to the work and services described herein.

- 2.1.5** Contractor shall apply for and obtain such permits and regulatory approvals as may be required by the local municipal/county government. Permit fees by the City of Lauderhill shall be waived, all other fees shall be included as part of the Project price.

SECTION 3. TIME OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

- 3.1** The work to be performed under this Agreement shall be commenced after City execution of the Agreement and not later than ten (10) days after the date that Contractor receives the City's Notice to Proceed. The work shall be completed within _____ Calendar days for Final Completion from issuance of City's Notice to Proceed, subject to any permitted extensions of time under the Contract Documents. The work under this Agreement shall be substantially complete (i.e. Substantial Completion) within _____ calendar days from issuance of City's Notice to Proceed.
- 3.2** During the pre-construction portion of the work hereunder, the parties agree to work diligently and in good faith in performing their obligations hereunder, so that all required permits for the construction portion of the work may be obtained in accordance with the Schedule included in the Contract Documents. In the event that any delays in the pre-construction or construction portion of the work occur, despite the diligent efforts of the parties hereto, and such delays are the result of force majeure or are otherwise outside of the control of either party hereto, then the parties shall agree on an equitable extension of the time for substantial completion hereunder and any resulting increase in general condition costs.
- 3.3** The term "Substantial Completion", as used herein, shall mean that point at which the Project is at a level of completion in strict compliance with this Agreement such that the City can enjoy beneficial use or occupancy and can use or operate it in all respects, for its intended purpose. Partial use or occupancy of the Project shall not result in the Project being deemed substantially complete, and such partial use or occupancy shall not be evidence of Substantial Completion.

SECTION 4. CONTRACT PRICE

- 4.1** The parties expressly agree that the Contract Price, which shall not exceed the amount of \$_____, constitutes the total maximum compensation payable to the Contractor for performing the Work, plus any Work done pursuant to a Change Order. The Contract Price is in accordance with the line item unit prices listed in the Bid. Line items are based on a unit price cost multiplied by a defined quantity. Any additional duties, responsibilities and obligations assigned to or undertaken by Contractor shall be at Contractor's expense without change to the Contract Price.
- 4.2** The Contract Price constitutes the compensation payable to Contractor for performing the Work plus any Work done pursuant to a Change Order. All duties, responsibilities and obligations assigned to or undertaken by Contractor shall be at Contractor's expense without change in the Contract Price.

SECTION 5. PAYMENT PROCEDURES

Payment, upon City approval, will be made monthly for work that has been completed, inspected and properly invoiced. A retainage of five percent (5%) will be deducted from each monthly payment through project completion, upon City review and approval. Retainage monies will be released upon satisfactory completion, final inspection and acceptance of the specific work order. Invoices must bear the bid number, project name, project number, and purchase order number. The City has up to twenty-five (25) business days to review, approve and pay all invoices after receipt of an approved application for payment. The Contractor shall invoice the City and provide a written request to the City to commence the one-year warranty period, following the completion of all work, certificates of approval, punch lists, etc., in accordance with the Contract Documents. All necessary Release of Liens and Affidavits shall be processed before the warranty period begins. All payments shall be governed by the Florida Prompt Payment Act, F.S., Part VII, Chapter 218.

SECTION 6. INSURANCE

6.1 Contractor shall obtain at Contractor's expense all necessary insurance in such form and amount as specified in the original bid document or as required by the City's Risk and Safety Manager before beginning work under this Agreement including, but not limited to, Workers' Compensation, Commercial General Liability, and all other insurance as required by the City, including Professional Liability when appropriate. Contractor shall maintain such insurance in full force and effect during the life of this Agreement. Contractor shall provide to the City's Risk and Safety Manager certificates of all insurances required under this section prior to beginning any work under this Agreement. The Contractor will ensure that all subcontractors comply with the above guidelines and will retain all necessary insurance in force throughout the term of this agreement.

6.2 Contractor shall indemnify and hold the City harmless for any damages resulting from failure of the Contractor to take out and maintain such insurance. Contractor's Liability Insurance policies shall be endorsed to add the City as an additional insured. The Contractor shall be responsible for payment of all deductibles and self-insurance retentions on Contractor's Liability Insurance policies. The following are required types and minimum limits of insurance coverage, which the Contractor agrees to maintain during the term of this Agreement:

- General Liability - \$1M/\$2M
- Automobile – \$1M/\$1M
- Workers Comp – Statutory

SECTION 7. PERFORMANCE, PAYMENT AND WARRANTY BONDS

7.1 Within fifteen (15) calendar days after contract award, but in any event prior to commencing work, the Contractor shall execute and furnish the City a Performance Bond and 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 for at least five (5) years. The surety shall hold a current certificate of authority from the Secretary of Treasury of the United States as an acceptable surety on federal bonds in accordance with United States Department of Treasury Circular No. 570.

- 7.2 The Contractor shall be required to provide acceptable, separate Performance and Payment Bonds in the amount of one hundred 100% of the bid award amount as security for the faithful project performance and payment of all the Contractor's obligations under the contract documents. The Performance Bond shall be conditioned that Contractor performs the contract in the time and manner prescribed in this Agreement. The Payment Bond shall be conditioned that the Contractor promptly make payments to all persons who supply the Contractor in the prosecution of the work provided for in this Agreement and shall provide that the surety shall pay the same in the amount not exceeding the sum provided in such bonds, together with interest at the maximum rate allowed by law and that they shall indemnify and hold harmless the City to the extent of any and all payments in connection with the carrying out of the Agreement which the City may be required to make under the law. At the completion and formal approval and acceptance of all work associated with the project, a one-year warranty period will begin. If the surety on any bond furnished by the Contractor is declared bankrupt or becomes insolvent, or its right to do business is terminated in Florida, the Contractor shall, within seven (7) calendar days thereafter, substitute another bond meeting the requirements outlined above, which must also be acceptable to the City.
- 7.3 A Warranty Bond shall be submitted to the City and come into effect for one (1) year after final payment becomes due except as otherwise provided by law or regulation or by the Contract Documents with the final sum of said Warranty bond equal to twenty five percent (25%) of the total value of the Contract price (including executed change orders), conditioned that the Contractor correct any defective or faulty work or material which appear within one (1) year after final completion of the Contract, upon notification by the City. The Warranty Bond shall cover the cost of labor as well as materials.
- 7.4 Pursuant to the requirements of Chapter 255.05(1)(b), Florida Statutes, the Contractor shall ensure that the Performance and Payment Bond or **Bonds referenced above shall be recorded in the Public records of Broward County at the Bidder's expense. Proof of recording must be submitted to the City prior to issuance of any purchase order or payment by the City.** One (1) set of original Performance and Payment Bond documents is required to be provided to the City prior to the issuance of any Notice to Proceed by the City.

SECTION 8. REMEDIES

- 8.1 Damages: The City reserves the right to recover any ascertainable actual damages incurred as a result of the failure of the Contractor to perform in accordance with the requirements of this Agreement, or for losses sustained by the City resultant from the Contractor's failure to perform in accordance with the requirements of this Agreement, including City's right to withhold payment and/or assessment of liquidated damages.
- 8.2 Correction of Work: If, in the judgment of the City, work provided by the Contractor does not conform to the requirements of this Agreement, or if the work exhibits poor workmanship, the City reserves the right to require that the Contractor correct all deficiencies in the work to bring the work into conformance without additional cost to the City, and / or replace any personnel who fail to perform in accordance with the requirements of this Agreement. Correction of all deficiencies shall not relieve the Contractor of its duties and obligations under this agreement, in meeting

all project requirements and objectives including but not limited to achieving project milestones (Substantial and Final Completion) in accordance with the Contract Documents. The City shall be the sole judge of non-conformance and the quality of workmanship.

SECTION 9. CHANGE ORDERS

- 9.1** All Change Orders shall include a maximum Overhead and Profit, not to exceed five percent (5%) and five percent (5%) respectively (not cumulative).
- 9.2** Without invalidating the contract, without any monetary compensation, and without notice to any surety, the City reserves and shall have the right to make increases, decreases or other changes to the work as may be considered necessary or desirable to complete the proposed construction in a satisfactory manner. The Contractor shall not start work pursuant to a change order until the change order setting forth the adjustments is approved by the City, and executed by the City and Contractor. Once the change order is so approved, the Contractor shall promptly proceed with the work.
- 9.3** The Contract Price constitutes the total compensation (subject to authorized adjustments, if applicable) payable to the Contractor for performing the work. All duties, responsibilities and obligations assigned to or undertaken by the Contractor shall be at Contractor's expense without change in the Contract Price or Time except as approved in writing by the City.
- 9.4** The Contract Price and/or Time may only be changed by a Change Order. A fully executed change order for any extra work must exist before such extra work is begun. Any claim for an increase or decrease in the Contract Price shall be based on written notice delivered by the party making the claim to the other party promptly (but in no event later than 15 calendar days) after the occurrence of the event giving rise to the claim and stating the general nature of the claim. The amount of the claim with supporting data shall be delivered (unless the City allows an additional period of time to ascertain more accurate data in support of the claim) and shall be accompanied by claimant's written statement that the amount claimed covers all known amounts to which the claimant is entitled as a result of the occurrence of said event. No claim for an adjustment in the Contract Price will be valid if not submitted in accordance with this Paragraph.
- 9.5** The Contract Time may only be changed by a Change Order. A fully executed change order must exist prior to extension of the contract time.
- 9.6** Any claim for an extension of the Contract Time shall be based on written notice delivered by the party making the claim to the other party no later than fifteen (15) calendar days after the occurrence of the event giving rise to the claim. Notice of the extent of the claim shall be delivered with supporting data and stating the general nature of the claim. Contractor hereby agrees to waive rights to recover any lost time or incurred costs from delays unless the Contractor has given the notice and the supporting data required by this Paragraph.
- 9.7** Extensions of time shall be considered and will be based solely upon the effect of delays to the work as a whole. Extensions of time shall not be granted for delays to the work, unless the Contractor can clearly demonstrate that such delays did or will, in fact, delay the progress of work as a whole. Time extensions shall not be allowed for delays to parts of the work that are not on the critical path of the project schedule. Time extensions shall not be granted until all float or contingency time,

at the time of delay, available to absorb specific delays and associated impacts is used. Extensions of time for delays due to Contractor's inability to perform work in a timely manner, failure to properly coordinate work that causes adverse impact on project schedule or negligence to properly sequence the work in a manner to meet all project obligations in accordance with the Contract Documents shall not be accepted.

- 9.8** In the event satisfactory adjustment cannot be reached by City and Contractor for any item requiring a change in the contract, and a change order has not been issued, City reserves the right at its sole option to terminate the contract as it applies to these items in question and make such arrangements as City deems necessary to complete the work. The cost borne by the City to complete the work shall be levied against the Contractor including applicable mark-up of ten (10%) for overhead and engineering costs. The cost of any work covered by a change order for an increase or decrease in contract price shall be determined by mutual acceptance of a Lump Sum Price by the City and the Contractor. If notice of any change in the contract or contract time is required to be given to a surety by the provisions of the bond, the giving of such notice shall be the Contractor's responsibility, and the amount of each applicable bond shall be adjusted accordingly. The Contractor shall furnish proof of such adjustment to the City. Failure of the Contractor to obtain such approval from the Surety may be a basis for termination of this Agreement by the City.

SECTION 10. LIQUIDATED DAMAGES

Because of the importance of this project being finished on time, upon failure of the Contractor to complete each individual requirement within the specified and mutually agreed upon time frame (plus approved extensions, if any) the Contractor shall pay to the City the sum of **Five Hundred Dollars (\$500.00)** for each calendar day after the time specified for Substantial Completion and the project is sufficiently complete for its intended use in accordance with the Contract Documents, void of any safety concerns. In the event of a delay in completion beyond the time frame set forth in the Contract Documents for Final Completion, after Substantial completion has been obtained, liquidated damages will be assessed against the Contractor in the amount of **One Hundred Seventy-Five Dollars and Zero Cents (\$175.00)** for each calendar day beyond the time frame set in the Contract Documents until such work is completed and ready for final payment. This amount is not a penalty but liquidated damages to the City. Liquidated damages are hereby fixed and agreed upon between the parties, recognizing the impossibility of precisely ascertaining the amount of damages that will be sustained by the City because of such delay, and both parties desiring to obviate any question of dispute concerning the amount of said damages and the cost and effect of the failure of the Contractor to complete the Contract on time. The City shall have the right to deduct from and retain out moneys which may be due, or which may become due and payable to Contractor. If the amount deducted and/or retained by the City is insufficient to pay in full such liquidated damages, the Contractor shall pay in full such liquidated damages. The Contractor shall also be responsible for reimbursing the City the total of all monies paid by the City to the engineer for additional engineering, inspection and administrative services until the work is complete.

SECTION 11. NO DAMAGES FOR DELAYS

ALL TIME LIMITS STATED IN THE CONTRACT DOCUMENTS ARE OF THE ESSENCE OF THE AGREEMENT. EXCEPT AS PROVIDED HEREIN, NO CLAIM FOR DAMAGES OR ANY CLAIM

OTHER THAN FOR AN EXTENSION OF TIME SHALL BE MADE OR ASSERTED AGAINST THE CITY BY REASON OF ANY DELAYS.

- 11.1** The Contractor shall not be entitled to an increase in the construction cost or payment or compensation of any kind from City for direct, indirect, consequential, impact or other costs, expenses or damages including, but not limited to, costs of acceleration or inefficiency, arising because of delay, disruption, interference or hindrance from any cause whatsoever, whether such delay, disruption, interference be reasonable or unreasonable, foreseeable or unforeseeable, or avoidable or unavoidable; provided, however, that this provision shall not preclude recovery of damages by the Contractor for hindrances or delays due solely to fraud, bad faith or active interference on the part of City or its agents.
- 11.2** If the Contractor is delayed at any time in the progress of the Work by an act or neglect of the City's employees, or separate contractors employed by the City, or by changes ordered in the Work, or by delay authorized by the City pending arbitration, then the Contract Time shall be reasonably extended by Change Order.
- 11.3** If the Contractor is delayed at any time in the progress of the Work by labor disputes, fire, unusual delay in deliveries, adverse weather conditions not reasonably anticipated, unavoidable casualties or other causes beyond the Contractor's control, or by other causes which the City and the Contractor agree may justify delay, then the Contract Time shall be reasonably extended by Change Order. Otherwise, Contractor shall be entitled only to extensions of the Contract Time as the sole and exclusive remedy for such resulting delay, in accordance with and to that extent specifically provided above. No extension of time shall be granted for delays resulting from normal weather conditions prevailing in the area. An extension of time will be considered for "Excusable Inclement Weather Delays" resulting in any weather condition, the duration of which varies in excess of the average conditions expected, which is unusual for the particular time and place where the Work is to be performed, or which could not have been reasonably anticipated by the Contractor, as determined by the U.S. Weather Bureau records for the preceding 3-year period. No extension of Contract Time will be allowed for any inclement weather that could be reasonably have been predicted from such weather records. Should the contractor prepare to begin work at the regular starting time at the beginning of any regular work shift on any day on which excusable inclement weather, or the conditions resulting from the weather, or the condition of the Work prevents work from beginning at the usual starting time, and the crew is dismissed as a result thereof, the Contractor will not be charged for a working day, whether or not conditions change thereafter during said day, and the major portion of the day could be considered to be suitable for such construction operations. The Contractor shall base its construction schedule upon the inclusion of the number of days of excusable inclement weather. No extension of the Contract Time due to excusable inclement weather will be considered until after the said number of days of excusable inclement weather has been reached. However, no reduction in Contract Time would be made if said number of days of excusable inclement weather is not reached.

SECTION 12. WARRANTY

The Contractor warrants the work against defect for a period of one (1) year from the date of City Final Acceptance of the project and approval of final payment, or later if a longer period is prescribed by law or by the terms of any applicable special guarantee required by the Contract Documents. In the event that defect occurs during the warranty period, the Contractor shall perform such steps as required to remedy the defects. The Contractor shall be responsible for

any damages caused by defect to affected area or to interior structure. The one (1) year warranty period does not begin until approval of final payment for the entire project, and the subsequent release of any Performance or Payment Bonds, which may be required by the original bid document.

SECTION 13. WAIVER OF LIENS

Prior to final payment of Contract Sum, a final waiver of lien shall be submitted to City by Contractor from all suppliers, subcontractors, and/or Contractors who submitted a "Notice to Owner" and a Consent of Surety on behalf of any and all other suppliers and subcontractors who worked on the project that is the subject of this Agreement. Payment of the invoice and acceptance of such payment by the Contractor shall release City from all claims of liability by Contractor in connection with the agreement.

SECTION 14. INDEMNIFICATION

- 14.1** The Contractor shall, at its sole cost and expense, indemnify and hold harmless the City, its representatives, employees and elected and appointed officials from or on account of all claims, damages, losses, liabilities and expenses, direct, indirect or consequential, including, but not limited to, fees and charges of engineers, architects, attorneys, consultants and other professionals and court costs arising out of or in consequence of the performance of this Agreement at all trial and appellate levels. Indemnification shall specifically include claims, damages, losses, liabilities and expenses arising out of or from (a) the negligent or defective design of the project and Work of this Agreement; (b) any act, omission or default of the Contractor, its subcontractors, agents, servants or employees; (c) any and all bodily injuries, sickness, disease or death; (d) injury to or destruction of tangible property, including any resulting loss of use; (e) other such damages, liabilities, or losses received or sustained by any person or persons during or on account of any operations connected with the construction of this Project including the warranty period; (f) the use of any improper materials; (g) any construction defect including both patent and latent defects; (h) failure to timely complete the work; (i) violation of any federal, state, county or City laws, ordinances or regulations by Contractor, its subcontractors, agents, servants, independent Contractors or employees; (j) the breach or alleged breach by Contractor of any term of the Agreement, including the breach or alleged breach of any warranty or guarantee.
- 14.2** The Contractor shall pay all claims, losses, liens, settlements or judgments of any nature in connection with the foregoing indemnifications including, but not limited to, reasonable attorney's fees and costs for trials and appeals.
- 14.3** Nothing contained herein is intended nor shall be construed to waive City's rights and immunities under the common law or Florida Statutes 768.28, as amended from time to time.

SECTION 15. INDEPENDENT CONTRACTOR

This Agreement does not create an employee/employer relationship between the Parties. It is the intent of the Parties that the Contractor is an independent contractor under this Agreement and not the City's employee for any purposes, including but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act,

the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, the State Worker's Compensation Act, and the State Unemployment Insurance law. The Contractor shall retain sole and absolute discretion in the judgment of the manner and means of carrying out Contractor's activities and responsibilities hereunder provided, further that administrative procedures applicable to services rendered under this Agreement shall be those of Contractor, which policies of Contractor shall not conflict with City, State, or United States policies, rules or regulations relating to the use of Contractor's funds provided for herein. The Contractor agrees that it is a separate and independent enterprise from the City, that it had full opportunity to find other business, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform the work. This Agreement shall not be construed as creating any joint employment relationship between the Contractor and the City and the City will not be liable for any obligation incurred by Contractor, including, but not limited to, unpaid minimum wages and/or overtime premiums.

SECTION 16. NOTICES

Whenever either party desires or is required under this Agreement to give notice to any other party, it must be given by written notice either delivered in person, sent by U.S. Certified Mail, U.S. Express Mail, air or ground courier services, or by messenger service, as follows:

City:

City of Lauderhill
5581 West Oakland Park Blvd.
Lauderhill, FL 33313
Attn: City Manager

With a copy to the City Attorney at the same address.

Contractor:

Name:
Address:
FIN/EIN:
Contract Licensee:
Contact:
Email:
Phone:
Fax:

SECTION 17. TERMINATION

17.1 Termination for Convenience: This Agreement may be terminated by City for convenience, upon seven (7) days of written notice by terminating party to the other party for such termination in which event Contractor shall be paid its compensation for services performed to termination date, including services reasonably related to termination. In the event that Contractor abandons this Agreement or causes it to be terminated, Contractor shall indemnify city against loss pertaining to this termination.

17.2 The City may also terminate this Agreement upon 15 days' notice upon the occurrence of any one or more of the following events:

17.2.1 If the Contractor commences a voluntary case or a petition is filed against the Contractor, under any chapter of the Bankruptcy Code, or if the Contractor takes any equivalent or similar action by filing a petition or otherwise under any other federal or state law in effect at such time relating to the bankruptcy or insolvency.

17.2.2 If the Contractor makes a general assignment for the benefit of creditors.

17.2.3 If a trustee, receiver, custodian, or agent of the Contractor is appointed under applicable law or under Contract, whose appointment or authority to take charge of property of the Contractor is for the purpose of enforcing a lien against such property or for the purpose of general administration of such property for the benefit of the Contractor's creditors.

17.3 Default by Contractor: In addition to all other remedies available to the City, this Agreement shall be subject to cancellation by the City for cause, should the Contractor neglect or fail to perform or observe any of the terms, provisions, conditions, or requirements herein contained, if such neglect or failure shall continue for a period of thirty (30) calendar days after receipt by the Contractor of written notice of such neglect or failure.

17.3.1 Written notice of cancellation of this Agreement shall state the date upon which the Contractor shall cease all Work under this Contract and vacate the Project(s) site(s). The Contractor shall, upon receipt of such notice, unless otherwise directed by the City: Stop all Work on the Project(s) on the date specified in the notice (the effective date); Take such action as may be necessary for the protection and preservation of the City's materials and property; Cancel all cancelable orders for materials and equipment; Assign to the City and deliver to the site, or any other location specified by the City, any non-cancelable orders for materials and equipment that can not otherwise be used except for Work under the Contract and have been specifically fabricated for the sole purpose of the Work and not incorporated in the Work; Take no action that shall increase the amounts payable by the City under the Contract Documents and take reasonable measures to mitigate the City's liability under the Contract Documents. All charts, drawings, reports, as-builts and other documents, including electronic documents, related to Work authorized under the Contract, whether finished or not, must be turned over to the City. Failure to timely deliver the documentation shall cause to withhold any payments due without recourse by the Contractor until all documentation is delivered to the City.

SECTION 18. AGREEMENT SUBJECT TO FUNDING

This Agreement shall remain in full force and effect only as long as the expenditures provided for in the Agreement have been appropriated by the City Commission of the City of Lauderhill in the

annual budget for each fiscal year of this Agreement and is subject to termination based on lack of funding.

SECTION 19. VENUE

This Agreement shall be governed by the laws of the State of Florida. The venue for actions arising out of this Agreement shall be in Broward County, Florida.

SECTION 20. SIGNATORY AUTHORITY

The Contractor shall provide the City with copies of requisite documentation evidencing that the signatory for Contractor has the authority to enter into this Agreement.

SECTION 21. SEVERABILITY; WAIVER OF PROVISIONS

Any provision in this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting validity or enforceability of such provisions in any other jurisdiction. The non-enforcement of any provision by either party shall not constitute a waiver of that provision nor shall it affect enforceability of that provision or of the remainder of this Agreement.

SECTION 22. UNCONTROLLABLE CURCUMSTANCES

- 22.1** Neither the City nor the Contractor shall be considered to be in default of this Agreement if delays in or failure of performance shall be due to Uncontrollable Forces, the effect of which, by the exercise of reasonable diligence, the nonperforming party could not avoid. The term "Uncontrollable Forces" shall mean any event which results in the prevention or delay of performance by a party of its obligations under this Agreement and which is beyond the reasonable control of the nonperforming party. It includes, but is not limited to fire, flood, earthquakes, storms, lightning, epidemic, war, riot, civil disturbance, sabotage, and governmental actions, such as delays in permitting due to outside agencies, which are beyond the Contractor's control.
- 22.2** Neither party shall, however, be excused from performance if nonperformance is due to forces, which are preventable, removable, or remediable, and which the nonperforming party could have, with the exercise of reasonable diligence, prevented, removed, or remedied with reasonable dispatch. The nonperforming party shall, within a reasonable time of being prevented or delayed from performance by an uncontrollable force, give written notice to the other party describing the circumstances and uncontrollable forces preventing continued performance of the obligations of this Agreement.

SECTION 23. MERGER; AMENDMENT

This Agreement constitutes the entire Agreement between the Contractor and the City, and negotiations and oral understandings between the parties are merged herein. This Agreement can be supplemented and/or amended only by a written document executed by both the Contractor and the City.

SECTION 24. NO CONSTRUCTION AGAINST DRAFTING PARTY

Each party to this Agreement expressly recognizes that this Agreement results from the negotiation process in which each party was represented by counsel and contributed to the drafting of this Agreement. Given this fact, no legal or other presumptions against the party drafting this Agreement concerning its construction, interpretation or otherwise accrue to the benefit of any party to the Agreement, and each party expressly waives the right to assert such a presumption in any proceedings or disputes connected with, arising out of, or involving this Agreement.

SECTION 25. CONTINGENT FEES

The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage, gift or any other consideration contingent upon or resulting from the award or making of this Agreement.

SECTION 26. AUDIT

The City reserves the right to audit the records of the Contractor relating in any way to the Work to be performed pursuant to this Agreement at any time during the performance and term of this Agreement and for a period of three (3) years after completion and acceptance by the City. If required by the City, the Contractor agrees to submit to an audit by an independent certified public accountant selected by the City. The Contractor shall allow the City to inspect, examine and review the records of the Contractor relating to the Project at any and all times during normal business hours during the term of this Agreement.

SECTION 27. ASSIGNMENT AND SUBCONTRACTING

The Contractor shall not transfer or assign the performance required by this Agreement without the prior consent of the City. This Agreement, or any portion thereof, shall not be subcontracted without the prior written consent of the City.

SECTION 28. E-VERIFY

Pursuant to Section 448.095(2), Florida Statutes, the Contractor must:

- A. Register with and use the E-Verify system to verify the work authorization status of all newly hired employees and require all subcontractors (providing services or receiving funding under this Agreement) to register with and use the E-Verify system to verify the work authorization status of all the subcontractors' newly hired employees;
- B. Secure an affidavit from all subcontractors (providing services or receiving funding under this Agreement) stating that the subcontractor does not employ, contract with, or subcontract with an "unauthorized alien" as defined in Section 448.095(1)(k), Florida Statutes;

C. Maintain copies of all subcontractor affidavits for the duration of this Agreement and provide the same to the CITY upon request;

D. Comply fully, and ensure all of its subcontractors comply fully, with Section 448.095, Florida Statutes;

E. Be aware that a violation of Section 448.09, Florida Statutes (Unauthorized aliens; employment prohibited) shall be grounds for termination of this Agreement; and,

F. Be aware that if the City terminates this Agreement under Section 448.095(2) (c), Florida Statutes, the Contractor may not be awarded a contract for at least one (1) year after the date on which the Agreement is terminated and will be liable for any additional costs incurred by the City as a result of the termination of the Agreement.

SECTION 29. PUBLIC RECORDS

29.1 The City is a public agency subject to Chapter 119, Florida Statutes. The Contractor shall comply with Florida's Public Records Law. Specifically, Contractor shall:

29.1.1 Keep and maintain public records required by the City in order to perform the service.

29.1.2 Upon request from the City, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at no cost to the City.

29.1.3 Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the Agreement and any renewals thereof if Contractor does not transfer the records to the City.

29.1.4 Upon completion of the Agreement, transfer, at no cost to the City, all public records in possession of Contractor, or keep and maintain public records required by the City to perform the service. If Contractor transfers all public records to the City upon completion of the Agreement, Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Contractor keeps and maintains public records upon completion of the Agreement, Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records in a format that is compatible with the information technology systems of the City.

29.2 During the term of this Agreement and any renewals, the Contractor shall maintain all books, reports and records in accordance with generally accepted accounting practices and standards for records directly related to this Agreement.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE

**CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS
RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF
PUBLIC RECORDS AT:**

**CITY CLERK
5581 W. Oakland Park Blvd.
Lauderhill, FL 33313
(954) 730-3010
AANDERSON@LAUDERHILL-FL.ORG**

SECTION 30. SCRUTINIZED COMPANIES

- 30.1** The Contractor certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List. Pursuant to Section 287.135, F.S., the City may immediately terminate this Agreement at its sole option if the Contractor or its subcontractors are found to have submitted a false certification; or if the Contractor, or its subcontractors are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of the Agreement.
- 30.2** If this Agreement is for more than one million dollars, the Contractor certifies that it and its subcontractors are also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria as identified in Section 287.135, F.S. Pursuant to Section 287.135, F.S., the City may immediately terminate this Agreement at its sole option if the Contractor, its affiliates, or its subcontractors are found to have submitted a false certification; or if the Contractor, its affiliates, or its subcontractors are placed on the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria during the term of the Agreement.
- 30.3** The Contractor agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Agreement. As provided in Subsection 287.135(8), Florida Statutes, if federal law ceases to authorize the above-stated contracting prohibitions then they shall become inoperative.

SECTION 31. ANTI-HUMAN TRAFFICKING

Effective July 1, 2024, Section 787.06(13), Florida Statutes, provides that "When a contract is executed, renewed, or extended between a nongovernmental entity and a governmental entity, the nongovernmental entity must provide the governmental entity with an affidavit signed by an officer or a representative of the nongovernmental entity under penalty of perjury attesting that the nongovernmental entity does not use coercion for labor or services as defined in this section." The Contractor hereby agrees to execute the affidavit, which shall be incorporated herein by reference.

SECITON 32. FOREIGN ENTITY LAWS

Section 287.138, Florida Statutes, requires governmental entities to ensure that contractors/consultants execute an affidavit regarding foreign entities. For purposes of this section, the term "governmental entity" has the same meaning as in section 287.138(1), Florida Statutes. The Contractor hereby agrees to execute the affidavit which shall be incorporated herein by reference.

The remainder of page left blank intentionally

Signature page to follow

IN WITNESS WHEREOF, the parties have made and executed this Agreement on the respective dates under each signature. City of Lauderhill, signing by and through its City Manager, and Contractor, signing by and through its President / Owner duly authorized to execute same.

CITY OF LAUDERHILL

Kennie Hobbs, Jr.,
Interim City Manager

Date

ATTEST:

Andrea Anderson, MMC,
City Clerk

Approved as to Form:

Hans Ottinot,
Interim City Attorney

INSERT COMPANY NAME

Signature

Print Name

Date _____

DOCUMENT 00600
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):

City of Lauderhill
5581 W. Oakland Park Blvd,
Lauderhill, FL 33313

CONSTRUCTION CONTRACT

Date: _____

Amount: _____

Description (Name and Location):

City of Lauderhill, Florida

BID NUMBER: 2025-042

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: _____

EJCDC No. 1910-28A (1984 Edition)

Prepared through the joint efforts of the Surety Association of America, Engineers' Joint Contract Documents Committee, The Associated General Contractors of America, American Institute of Architects, American Subcontractors Association, and the Associated Specialty Contractors

- 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 who furnished 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 claims, demands, liens, or suits and tendered defense of such claims, demands, liens, or suits 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 who are employed by or have a direct contract with the Contractor have given notice to the Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, 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 who do not have a direct contract with the Contractor:
 - **4.2.1.** Have furnished written notice to the Contractor and sent a copy, or notice thereof, to the Owner, within 90 days after having last performed labor or last furnished materials or equipment included in the claim stating, with substantial accuracy, the amount of the claim and the name of the party to whom the materials were furnished or supplied or for whom the labor was done or performed; and
 - **4.2.2.** Have either received a rejection in whole or in part from the Contractor, or not received within 30 days of furnishing the above notice any

communication from the Contractor by which the Contractor has indicated the claim will be paid directly or indirectly; and

- **4.2.3.** Not having been paid within the above 30 days, have sent a written notice to the Surety (at the address described in paragraph 12) and sent a copy, or notice thereof, to the Owner, stating that a claim is being made under this Bond and enclosing a copy of the previous written notice furnished to the Contractor.

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 take the following actions:

- **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, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.

8. Amounts owned by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any Construction Performance Bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and the Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.

9. The Surety shall not be liable to the Owner, Claimants, or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligations to make payments to, give notices on behalf of, or otherwise have obligations to Claimants under this Bond.

10. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders, and other obligations.

11. No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the location in which the work or part of the work is located or after the expiration of one year from the date:

- **11.1.** On which the Claimant gave the notice required by Subparagraph 4.1 or Clause 4.2 (iii), or
- **11.2.** On which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the construction Contract, whichever of (1) or (2) first occurs.

If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be acceptable.

12. Notice to the Surety, the Owner, or the Contractor shall be mailed or delivered to the address shown on the signature page. Actual receipt of notice by Surety, the Owner, or the Contractor, however accomplished, shall be sufficient compliance as of the date received at the address shown on the signature page.

13. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

14. Upon request by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor shall promptly furnish a copy of this Bond or shall permit a copy to be made.

DEFINITIONS

15.1. Claimant: An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials, or equipment for use in the performance of the Contract. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service, or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials, or equipment were furnished.

15.2. Construction Contract: The agreement between the Owner and the Contractor identified on the signature page, including all Contract Documents and changes thereto.

15.3. Owner Default: Failure of the Owner, which has neither been remedied nor waived, to pay the Contractor as required by the Construction Contract or to perform and complete or comply with the other terms thereof.

(FOR INFORMATION ONLY—Name, Address and Telephone)

AGENT or BROKER: _____

OWNER'S REPRESENTATIVE (Architect, Engineer, or other party):

CONSTRUCTION PERFORMANCE BOND

This Construction Performance Bond is entered into by the Contractor, Surety, and Owner, collectively binding them, their heirs, executors, administrators, successors, and assigns for the performance of the Construction Contract.

PARTIES:

- **Contractor (Principal):**
(Name and Address)
 - **Surety:**
(Name and Principal Place of Business)
 - **Owner:**
CITY OF LAUDERHILL
5581 W. Oakland Park Blvd,
Lauderhill, FL 33313
-

CONSTRUCTION CONTRACT:

- **Date of Contract:**
 - **Contract Amount:** \$
 - **Project Description:**
(Name and Location)
 - **Bid Number:** 2025-042
-

BOND:

- **Date (Effective from Construction Contract Date):**
 - **Bond Amount:**
 - **Modifications to the Bond Form:**
-

SIGNATURES:

- **Contractor as Principal** (with Corporate Seal)
 - **Surety** (with Corporate Seal)
-

TERMS OF THE BOND:

1. **Binding Agreement:**

The Contractor and Surety jointly and severally bind themselves to the Owner for the performance of the Construction Contract.

2. **Obligation Conditions:**

If the Contractor performs the Contract, the Surety and Contractor are released from obligations under this Bond, except to attend conferences outlined in Section 3.1.

3. **Activation of the Surety's Obligation:**

The Surety's responsibility arises after the following conditions are met: 3.1.

Notice of Default: The Owner must notify the Contractor and Surety, expressing intent to declare the Contractor in default and arrange a conference to discuss the performance of the Contract within 15 days of receiving notice.

3.2. **Declaration of Default:** The Owner must declare the Contractor in default and formally terminate the Contractor's right to complete the contract, ensuring this happens no sooner than 20 days after the notification.

3.3. **Balance of Contract Price:** The Owner agrees to pay the Balance of the Contract Price to the Surety or to another contractor selected to complete the work.

4. **Surety's Actions Upon Default:**

After meeting the conditions above, the Surety must take one of the following actions at their expense: 4.1. **Completion by Contractor:** Arrange for the Contractor, with the Owner's consent, to finish the work.

4.2. **Completion by Surety:** Take over and complete the contract directly, through agents or independent contractors.

4.3. **Contractor Replacement:** Secure bids for the work, prepare a contract with the selected contractor, and pay the Owner any damages that exceed the contract balance due to the Contractor's default.

4.4. **Waiving Right to Complete:** The Surety may choose not to complete the work and may offer payment to the Owner or deny liability. If the Surety determines the amount they owe, they must pay it to the Owner promptly.

5. **Failure of Surety to Act:**

If the Surety fails to act promptly as described in Paragraph 4, they will be considered in default after 15 days of receiving a written notice from the Owner. The Owner may then seek legal remedies.

6. **Surety's Limitations:**

If the Surety assumes responsibility, their obligations shall not exceed those of the Contractor under the Construction Contract. The Surety's obligations, limited to the bond amount, cover: 6.1. **Correction of Defective Work**

6.2. **Additional Legal and Delay Costs**

6.3. **Liquidated Damages or Actual Damages** if there is no specified liquidated damages clause.

7. **Exclusions of Surety's Liability:**

The Surety is not liable for the Contractor's non-construction obligations, and the Balance of the Contract Price cannot be reduced for any non-related obligations.

8. Notice of Changes:

The Surety waives notice of any changes to the Construction Contract, including changes in time, subcontracts, or purchase orders.

9. Limitation Period for Legal Action:

Legal actions under this Bond must be initiated within **two years** after the Contractor's default, cessation of work, or the Surety's failure to meet obligations.

10. Notice Requirements:

Notices to the Surety, Owner, or Contractor must be delivered or mailed to the address listed on the signature page.

11. Statutory Conflicts:

If this Bond is subject to statutory or legal requirements, any conflicting provisions will be deemed deleted, and applicable statutory provisions will be incorporated.

12. Definitions:

- **Balance of the Contract Price:** The amount due to the Contractor under the contract after all proper adjustments.
- **Construction Contract:** The agreement between the Owner and the Contractor, including all amendments.
- **Contractor Default:** Failure of the Contractor to perform the contract obligations.
- **Owner Default:** Failure of the Owner to pay the Contractor or fulfill their contractual obligations.

For Information Only:

- **Agent or Broker Name, Address, and Telephone**
- **Owner's Representative (Architect, Engineer, or Other Party):**

DOCUMENT 00650

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

TO:The City of Lauderhill

We, **[Contractor's Name]**, hereby acknowledge and agree that, if selected as the contractor for **Bid Number: 2025-042**, we assume full responsibility for ensuring compliance with all applicable Federal Occupational Safety and Health Act (OSHA) regulations of 1970, as well as any relevant State and Local Safety and Health regulations.

We further agree to indemnify and hold harmless the City of Lauderhill, its consultants, and engineers against any legal liability or loss incurred as a result of our failure to comply with these standards.

ATTEST:

CONTRACTOR

By: _____

Title: _____

Date: _____

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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5	BONDS AND INSURANCE
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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 Contract 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)..... \$ 1,000,000.00
 - ii. Products- completed operations aggregate..... \$ 1,000,000.00
 - iii. Personal and advertising injury (Per person/ Organization)..... \$ 1,000,000.00
 - iv. Each occurrence (bodily injury and property damage)..... \$ 1,000,000.00
 - Note: Property damage liability insurance will provide explosion, collapse and underground coverage (X, C and U) where applicable.
 - v. Excess liability
 - General Aggregate..... \$ 1,000,000.00
 - Each occurrence..... \$ 1,000,000.00

- c. **Automobile liability** under paragraph 5.4.6:
 - i. Bodily injury:
 - Each person..... \$ 1,000,000.00
 - Each accident..... \$ 1,000,000.00
 - ii. Property damage:
 - Each occurrence..... \$ 1,000,000.00

--OR--

 - Bodily injury and Property Damage combined single limit:
 - Each occurrence..... \$ 1,000,000.00
 - Aggregate..... \$ 1,000,000.00

- d. The contractual liability coverage required by paragraph 5.4.10 shall provide coverage for not less than the following amounts:
 - General aggregate \$ 3,000,000.00
 - Bodily injury and property damage combined each occurrence \$ 3,000,000.00

- 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 then 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

SECTION 00801
SPECIAL TERMS AND CONDITIONS

These Special Terms and Conditions provide the Bidder/Contractor with additional information regarding the administration of the Contract and the general policies of the City that apply to this Contract. They do not override the General Conditions or Supplementary Conditions, which take precedence over this document.

1. Signed Contract/Purchase Order

The Contractor must have a fully executed contract before commencing any Work and must receive a signed purchase order before submitting any bills for Work performed.

2. Communication & Administration

A project-specific communication plan will be developed and agreed upon by all relevant parties (City, Contractor, Engineer's Consultant) during the pre-construction conference. This plan will cover the routing, timeframes, and approval authorities for the following:

- Contractor Submittals and Shop Drawings
 - Contractor's Requests for Information (R.F.I.)
 - Written Amendments, Change Orders, and Work Change Directives
 - Engineer's design changes
 - Applications for Payment
 - Record Drawings – red-lines and digital as-builts
 - Inspection Reports
 - Schedule Updates
-

3. Field Contact

Day-to-day field communication between the Contractor and the City will be handled through the Engineer's Designate. This person, along with the Capital Projects Manager, will be the only individuals authorized to issue instructions to the contractor. Other parties, such as the City Engineer, Engineer of Record, Building Inspectors, City Electricians, or Mechanics, may provide advice but cannot issue directives that affect the Contract Price, Contract Time, or Schedule.

4. Formal Communications

- Written communication related to Contract Price or Time issues must be directed to the Capital Projects Manager with a copy to the Engineer.
 - Written communication concerning Design issues must be directed to the Engineer's Designate with a copy to the Capital Projects Manager.
-

5. Correspondence

- All correspondence must reference the full project name and the City's purchase order number.
 - Correspondence regarding Work Change Directives must include the City's Work Change Directive number, which will be issued by the City.
 - Time sheets must reference the City's Project, Purchase Order, Change Order, or Work Change Directive number.
 - Correspondence regarding changes to or interpretation of the Contract Documents should be addressed to the Capital Projects Manager with a copy to the Engineer.
 - Other correspondence may be addressed to the Engineer's Designate with a copy to the Engineer and other relevant parties.
-

6. Written/Verbal Communication

- The City will strive to issue all commitments and instructions to the Contractor in writing.
 - Any agreements made in the field must be confirmed no later than the next regular Progress Meeting.
 - Verbal instructions of significance must be confirmed in writing within three working days. If the City does not initiate written confirmation, the Contractor must initiate it.
-

7. Contractor's Supervision and Authority

- The Contractor must inform the City in writing (or at the pre-construction conference) of the assignment of the Superintendent or on-site representative.
- The Contractor's on-site representative must have the authority to make commitments on behalf of the Contractor. Any limitations on this authority must be documented in writing and agreed upon by the City.
- The on-site representative may not be reassigned without prior City approval.

- The Contractor must submit a list of emergency contacts to the City, with at least one contact available 24/7 during the course of the Work.
-

8. Construction Schedule

- The Contractor must provide the City with a detailed progress schedule showing how the Work will be completed.
 - A preliminary schedule must be submitted within ten days of the Notice to Proceed, including key dates such as:
 - Start date
 - Interface dates with other contractors or the City (optional)
 - Delivery dates of key equipment and materials
 - Submittal of documents, samples, shop drawings, etc. (optional)
 - Time duration for each activity
 - System start-up dates (if applicable)
 - Key milestone dates
 - Substantial and Final Completion dates
 - A critical path schedule must be submitted for projects with multiple paths.
 - The schedule will be reviewed at the first progress meeting.
 - This schedule must be approved by the City before any payments are made, with no exceptions.
-

9. Job Site Facilities

- **Job Site Trailers:** The Contractor will be provided with available space for job site trailers, with the final placement agreed upon at the pre-construction conference. The Contractor is responsible for securing the necessary permits.
- **Storage:** The City must approve the location and method of storing materials and equipment. This will be discussed at the pre-construction conference.
- **Sanitary Facilities:** The City must approve sanitary facilities, including permits, inspections, and limitations on the use of City-provided facilities, if applicable.

- **Fuel Storage:** On-site fuel storage is not permitted without prior City approval. Stationary fuel tanks require permits.
-

10. Subcontractors

- The Contractor is required to use the same Subcontractors submitted with their bid. Any changes must be approved in writing by the City before the Subcontractor begins work.
 - The Contractor must submit a list of proposed subcontractors to the City's Building Department. Once submitted, no deviations will be allowed.
-

11. Quality Control

- The Contractor must submit any contract-required Quality Control Program(s) at the pre-construction meeting for approval before starting the Work.
 - The Contractor cannot begin portions of the Work that require approved submittals (e.g., Traffic Maintenance Plans, shop drawings, etc.) until they are approved unless waived by the Capital Projects Manager after consultation with all parties.
 - If Quality Control programs or other submittals are not ready by the pre-construction meeting, a timetable for submission will be established.
 - The City's Building or Engineering Department will provide the primary quality control inspections. The Engineer may also utilize external Consultants for inspections.
 - Contractor-required inspection reports should be sent to the relevant department and the Engineer.
-

12. Progress Meetings

- The Contractor must attend monthly progress meetings, which will be held on the progress payment cutoff day.
- The day for progress meetings will be determined at the pre-construction conference.
- The Contractor should be prepared to discuss:
 - Work completed in the past 30 days
 - Work scheduled for the next 30 days
 - Any issues or conflicts hindering progress
- The Contractor should bring the following documents:

- Updated progress schedule
 - Draft copy of the pay application
-

13. Invoicing

- The City's invoicing procedure includes the following required documents:
 - AIA Document G702 - Application and Certificate for Payment
 - AIA Document G703 - Continuation Sheet
 - Bonding Company consent to release partial payment (with power of attorney if required)
 - Approved, updated progress schedule
 - Invoices must be submitted as soon as possible after the progress meeting, with progress calculated to that meeting's date.
 - Approval by the Engineer's Designate before submittal is encouraged to streamline the process.
 - Undisputed pay applications submitted by close of business Monday will typically be paid on Friday. Delayed applications will result in payment the following week.
 - Invoices will be mailed to the Contractor's address of record.
 - Final payment and release of retention are contingent upon the successful completion of the Work and timely submission of required documents.
-

14. Work Change Directives/Change Orders

- The City will make an effort to approve extra work in writing and in advance. If verbal approval is necessary, it will be given only by the Capital Projects Manager, typically in emergencies.
 - A Work Change Directive (WCD) will document and formalize all changes to the Contract Documents, regardless of cost.
 - Periodically, a Change Order will be written and presented to the City Commission for approval. A Change Order is required before the Contractor can bill for additional work.
 - A Work Change Directive authorizes the Contractor to perform additional work described in the WCD. A Change Order must be approved and signed before the cost can be included in the pay application.
-

15. Back Charges

- Back charges are discouraged, except in emergencies or when the Contractor is unresponsive.
 - The process outlined in Section 14 will be followed for back charges.
-

16. Record Documents

- Any changes made to the design drawings in the field must be noted as they occur, forming the basis for the Record Drawings.
 - Regular review of the as-built documents will be conducted by the Construction Supervisor or Engineering Inspector.
 - Record Documents are required for final payment, and no payment will be made until they are received. These documents include:
 - Red-line drawings (as-built)
 - Inspection reports
 - Product manuals and warranties (if required)
 - Revised shop drawings and product samples (if applicable)
 - Boundary surveys and other required surveys
 - An updated electronic copy of the revised design drawings (record drawings) delivered on a CD.
 - The Contractor may choose to have the Engineer of Record develop the record drawings at their own expense.
-

17. City of Lauderhill's Construction Equipment

- The City expects the Contractor to be self-sufficient throughout the project. In case of an emergency or for the City's convenience, the Contractor may be allowed to use certain equipment.
-

18. Materials

At the pre-construction conference, the Contractor must discuss the following:

- Are all material requirements identified?

- Are there any materials with long lead times that need to be incorporated into the schedule?
 - Status of material submittals.
-

19. Safety

- The Contractor is primarily responsible for the health and safety of their employees. The City will ensure compliance with OSHA regulations.
 - The Contractor must provide their safety regulations at the pre-construction conference.
 - The Contractor must identify the assigned safety representative, both on-site and at the home office.
 - The Contractor will inform the City of the time and location of safety meetings.
 - A hurricane preparation plan will be required if the contract extends through hurricane season.
-

20. Security and Access

- The Contractor should explain their security measures for the project at the pre-construction conference.
 - Access to the worksite should be discussed in detail. If issues are complex, a special meeting should be scheduled at the pre-construction conference.
-

21. Job Site Rules

- Copies of the "Work Site Job Rules" will be provided to the Contractor when working at a City facility. A copy should be given to each employee and subcontractor.

Work Hours:

Regular work hours are Monday through Friday from 7 AM to 6 PM. Any deviation requires prior approval from the Capital Projects Manager.

Labor Relations:

Labor relations are the responsibility of the Contractor. Labor disputes must not interfere with the project or City operations.

Coordination Meetings:

Coordination meetings will be scheduled if necessary to align work with other contractors.

22. Coordination and Cooperation

The Engineer's Designate is available to assist the Contractor within the constraints of the contract, ensuring smooth project progression. The Contractor and Engineer's Designate must coordinate and cooperate closely.

23. Permits

- All required permits and their status will be discussed at the pre-construction conference.
 - The list of permits includes:
 - Engineering Permit
 - Building Permit
 - SFWMD Permit
 - BC DPEP Permit
 - BC Health Department Permit
 - Other permits
-

END OF SECTION

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: _____

**LIFT STATION #5
City of Lauderdale, Florida
BID NUMBER: 2025-042 (RE-BID)**

DOCUMENT 00900

ADDENDUM

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