BID DOCUMENTS for ITB #19-05
US 27 North
Water Main and Force Main Utility Extension

THE CITY OF AVON PARK, FLORIDA

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INVITATION TO BID #19-05

Sealed bids will be received by the Director of Infrastructure, City of Avon Park Public Works, 2301 US 27 South, Avon Park, FL 33825 until August 28, 2019 no later than 2:00 p.m., at which time and place, bids received will be publicly opened in the conference room of the Director of Infrastructure and read aloud for the following: US Highway 27 North Water Main and Force Main Utility Extension.

MANDATORY PRE-BID CONFERENCE Due to the complexity of this utility project and the involvement of FDOT and CSX Rail Road a mandatory pre-bid meeting is scheduled for 2:00 P.M., August 09, 2019. LOCATION: Avon Park Department of Public Works Conference Room 2301 US 27 South Avon Park, FL 33825. Contact Person: Ronnie Jones 863-452-4400 rjones@avonpark.cc

The City of Avon Park will not accept bids from bidders who arrive after 2:00 P.M. or do not attend the entire meeting. A site review by potential bidders prior to the pre-bid meeting is highly recommended.

BID DOCUMENTS Bid Documents may be requested by visiting the City of Avon Park website at: http://www.avonpark.cc/services/bids.php or by contacting the City of Avon Park, Director of Infrastructure, Ronnie Jones, City of Avon Park Public Works Office 2301 U S 27 South, Avon Park, FL 33825, rjones@avonpark.cc 863-452-4400, ext. 406. Bid Documents are required for bid submittal.

ADDENDA It is the Bidders responsibility to check the Website at http://www.avonpark.cc/services/bids.php or contact the City of Avon Park Director of Infrastructure – Ronnie Jones, 863-452-4400 ext. 406 prior to submitting a bid to ascertain if any addenda have been issued, to obtain all such addenda and acknowledge the addenda with the submitted bid. All questions shall be directed to the Director of Infrastructure in writing and will be accepted for addenda until Wednesday, August 14, 2019 at 4PM in order to provide sufficient time for City to respond appropriately to addenda. The failure of a Bidder to submit acknowledgement of any addenda that affects the bid price(s) may be considered an irregularity and may be cause for rejection of the bid.

INSURANCE & SAFETY REQUIREMENTS All insurance shall be secured from or countersigned by an agent or Surety Company recognized in good standing and authorized to do business in the State of Florida. The Contractor shall, within ten (10) days of notification of award and prior to commencement of work, take out and maintain in full force and effect minimum insurance coverage as stated in the specifications. This insurance shall remain in effect throughout the duration of the contract. A certificate of existing insurance coverage should be submitted with the bid as proof of insurability; if the current coverage does not meet the bid requirements, then the Bidder should request an affidavit of insurability from the Bidder’s insurance agent that certifies the requirements can and will be met. Failure to provide adequate insurance coverage may be cause for disqualification as non-responsive to the bid requirements. All insurance policies shall be issued by responsible companies authorized to do business under the laws of the state, have at least an "A" policyholder's rating, have a financial rating of at least class VIII in accordance with the most current Best's Key Rating Guide, and shall be satisfactory to the city.

BONDS A (5%) five percent bid bond or security will be required as well as a (100%) one hundred percent payment and performance bond(s).
EMPLOYMENT ELIGIBILITY VERIFICATION:

The Contractor shall utilize the U.S. Department of Homeland Security’s E-Verify system (https://www.e-verify.gov/) to verify the employment eligibility of all new employees the Contractor hired during the term of this Agreement. The Contractor shall include in all subcontracts under this Agreement, the requirement that subcontractors performing work or providing services pursuant to this Agreement utilize the E-Verify system to verify the employment eligibility of all new employees subcontractor hired during the term of the subcontract.

The Contractor agrees that unauthorized aliens shall not be employed nor utilized in the performance of the requirements of this solicitation. The City shall consider the employment or utilization of unauthorized aliens a violation of Section 274 A (e) of the Immigration and Naturalization Act (8U.S.C. 1324a). Such violation shall be cause for unilateral termination of this Agreement by the City. As part of the response to this solicitation (bid), the successful contractor will complete and submit the attached form “Affidavit Certification Immigration laws”.

Employers may avail themselves of a program by the U.S. Immigration and Customs Enforcement called E-Verify. E-Verify is an Internet based system operated by the U.S. Citizenship and Immigration Services (USCIS), part of the Department of Homeland Security (DHS), in partnership with the Social Security Administration (SSA). E-Verify is currently free to employers. E-Verify provides an automatic link to Federal databases to help employers verify employment eligibility of new hires, existing employees and the validity of their Social Security numbers.

If your company wishes to avail itself of this program, you can register online for E-Verify at https://e-verify.uscis.gov/enroll/StartPage.aspx?JS=YES Which provides instructions for completing the registration process. At the end of the registration process you will be required to sign a Memorandum of Understanding (MOU) that provides the terms of agreement between you as employer, the SSA and the DHS. An employee who has signatory authority for the employer can sign the MOU. Employers can use their discretion in identifying the best methods by which to sign up their locations for E-Verify. To find out more about E-Verify, please visit www.dhs.gov/e-verify or contact the USCIS at 1-888-464-4218
AFFIDAVIT CERTIFICATION
IMMIGRATION LAWS

BID NO.: #19-05 PROJECT NAME: US 27 North Water Main and Force Main Utility Extension

The CITY OF AVON PARK will not intentionally award city contracts to any contractor who knowingly employs unauthorized alien workers constituting a violation of the employment provisions contained in Section 274A (e) of the Immigration and Naturalization Act (INA) (8 U.S.C. 1324a).

The City of Avon Park may consider the employment by any Contractor of Unauthorized Aliens a violation of section 274A(e) of the INA. Such violation by the recipient of the employment provisions contained in Section 274A(e) of the INA shall be grounds for the unilateral cancellation of the contract by the City of Avon Park.

The bidder attests that they are fully compliant with all applicable immigration laws (Specifically to the 1986 Immigration Act and subsequent amendments).

Company Name: ____________________________________________
Signature: ___________________________ Title: __________________ Date: ______
State of: ____________________________ County of: __________________
The forgoing instrument was signed and acknowledged before me this _________day of _____________, 20 ______, by ______________________________ who has produced ____________________________________________ as identification Type of Identification and Number

Notary Public Signature: _________________________________________
Printed name of Notary Public: _______________________________
Notary Commission Number/Expiration: __________________________
DRUG-FREE WORKPLACE FORM

The undersigned bidder in accordance with section 287.087, Florida Statutes, hereby certifies

that ___________________________________________ does:

(Name of Business)

1. Publish a statement (“Published Statement”) notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.

2. Inform employees about the dangers of drug abuse in the workplace, the business’s policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violation.

3. Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the Published Statement specified in section 1, above.

4. In the Published Statement, notify the employees that, as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five days after such conviction.

5. Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee’s community, by any employee who is convicted.

6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

As the person authorized to sign the statement, I certify that this firm complies fully with the requirements of section 287.087, Florida Statutes, including the above requirements.

_______________________________________
Bidder’s Signature

_______________________________________
Date
1. This sworn statement is submitted to________________________________________
   [print name of the public entity]
   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,
nonjury trial, or entry of a plea of guilty or nolo contendere.

4. I understand that an “affiliate” as defined in Paragraph 287.133(1) (a), Florida Statutes,
   means:
   1. A predecessor or successor of a person convicted of a public entity crime; or
   2. An entity under the control of any natural person who is active in the management of the
      entity and who has been convicted of a public entity crime. The term “affiliate” includes
      those officers, directors, executives, partners, shareholders, employees, members, and agents
      who are active in the management of an affiliate. The ownership by one person of shares
      constituting a controlling interest in another person, or a pooling of equipment or income
      among persons when not for fair market value under an arm’s length agreement, shall be a
      prima facie case that one person controls another person. A person who knowingly enters
into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.

5. I understand that a “person” as defined in Paragraph 287.133(1) (e), Florida Statutes, means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bid on contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term “person” includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an entity.

6. Based on information and belief, the statement which I have marked below is true in relation to the entity submitting this sworn statement. [Indicate which statement applies]

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

   _____ The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity or an 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 or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989. However, there has been a subsequent proceeding before a Hearing Officer of the State of Florida, Division of Administrative hearings and the Final Order entered by the Hearing Officer determined that it was not in the public interest to place the entity submitting this sworn statement on the convicted vendor list. (attach a copy of the final order)
I UNDERSTAND THAT THE SUBMISSION OF THE FORM TO THE CONTRACTING OFFICER FOR THE PUBLIC ENTITY IDENTIFIED IN PARAGRAPH 1 (ONE) ABOVE IS FOR THAT PUBLIC ENTITY ONLY AND, THAT THIS FORM IS VALID THROUGH DECEMBER 31 OF THE CALENDAR YEAR IN WHICH IT IS FILED. I ALSO UNDERSTAND THAT I AM REQUIRED TO INFORM THE PUBLIC ENTITY PRIOR TO ENTERING INTO A CONTRACT IN EXCESS OF THE THRESHOLD AMOUNT PROVIDED IN SECTION 287.017, FLORIDA STATUTES FOR CATEGORY TWO OF ANY CHANGE IN THE INFORMATION CONTAINED IN THIS FORM.

_________________________________________.

[signature]

Sworn to and subscribed before me this ______day of ____________________________, 20_____.

Personally known_______________________ Notary Public – State of ________________

Or Produced identification_________ My commission expires__________________

(Type of Identification)

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

Form PUR 7068 (Rev 6/11/92)
TRENCH SAFETY AFFIDAVIT

Trench excavations on this Project are expected to be in excess of 5 feet deep. The Occupational Safety and Health Administration Excavation Safety Standards, 29 CFR 1926.650 Subpart P, Trench Safety Standards, will be in effect during the period of construction of the Project.

Bidder acknowledges that included in the various items of the Bid and in the Total Bid Price, are costs complying with the Florida Trench Safety Act (90-96, Laws of Florida) effective October 1, 1990, and hereby gives assurance that, if awarded the Contract, the Contractor of Subcontractor performing trench excavation work on the Project, will comply with the applicable trench safety standards. The Bidder further identifies the costs as follows:

BID ITEMS:

<table>
<thead>
<tr>
<th>Trench Safety Item (Description)</th>
<th>Units</th>
<th>Quantity</th>
<th>Units Measure (LF, SY)</th>
<th>Unit Cost</th>
<th>Extended Cost</th>
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TOTAL: $________________________

Failure to complete the above shall results in the bid being declared non-responsive. The costs indicated above are provided to comply with the Act and shall not constitute grounds for any additional compensation to the listed for the separate line items of the Bid Form.

BIDDER

COMPANY NAME: ___________________________________________________________

BY: ______________________________ TITLE: ______________________________

DATE: ______________________________
INSTRUCTIONS TO BIDDERS FOR CONSTRUCTION CONTRACT

ARTICLE 1—DEFINED TERMS

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

A. Issuing Office—The office from which the Bidding Documents are to be issued, and which registers plan holders.

ARTICLE 2—BIDDING DOCUMENTS

2.01 Bidder shall obtain a complete set of Bidding Requirements and proposed Contract Documents (together, the Bidding Documents). See the Agreement for a list of the Contract Documents. It is Bidder’s responsibility to determine that it is using a complete set of documents in the preparation of a Bid. Bidder assumes sole responsibility for errors or misinterpretations resulting from the use of incomplete documents, by Bidder itself or by its prospective Subcontractors and Suppliers.

2.02 Bidding Documents are made available for the sole purpose of obtaining Bids for completion of the Project and permission to download or distribution of the Bidding Documents does not confer a license or grant permission or authorization for any other use. Authorization to download documents, or other distribution, includes the right for plan holders to print documents solely for their use, and the use of their prospective Subcontractors and Suppliers, provided the plan holder pays all costs associated with printing or reproduction. Printed documents may not be re-sold under any circumstances.

2.03 Owner has established a Bidding Documents Website as indicated in the Advertisement or invitation to bid. Owner recommends that bidders obtain a complete set of the Bidding Documents from such website. Bidders may rely that sets of Bidding Documents obtained from the Bidding Documents Website are complete, unless an omission is blatant. It is the bidders responsibility to check the website regularly for updates and addendums.

2.04 Electronic Documents

A. When the Bidding Requirements indicate that electronic (digital) copies of the Bidding Documents are available, such documents will be made available to the Bidders as Electronic Documents in the manner specified.

1. Bidding Documents will be provided in Adobe PDF (Portable Document Format) (.pdf) that is readable by Adobe Acrobat Reader Version 9.0 or later. It is the intent of the Engineer and Owner that such Electronic Documents are to be exactly representative of the paper copies of the documents. However, because the Owner and Engineer cannot totally control the transmission and receipt of Electronic Documents nor the Contractor’s means of reproduction of such documents, the Owner and Engineer cannot and do not guarantee that Electronic Documents and reproductions prepared from those versions are identical in every manner to the paper copies.

B. Unless otherwise stated in the Bidding Documents, the Bidder may use and rely upon complete sets of Electronic Documents of the Bidding Documents, described in Paragraph 2.04.A above. However, Bidder assumes all risks associated with differences.
arising from transmission/receipt of Electronic Documents versions of Bidding Documents and reproductions prepared from those versions and, further, assumes all risks, costs, and responsibility associated with use of the Electronic Documents versions to derive information that is not explicitly contained in printed paper versions of the documents, and for Bidder’s reliance upon such derived information.

ARTICLE 3—QUALIFICATIONS OF BIDDERS

3.01 Bidder is to submit the following information with its Bid to demonstrate Bidder’s qualifications to perform the Work:

A. Written evidence establishing its qualifications such as financial data, previous experience, and present commitments.

B. A written statement that Bidder is authorized to do business in the state where the Project is located, or a written certification that Bidder will obtain such authority prior to the Effective Date of the Contract.

C. Bidder’s state or other contractor license number, if applicable.

D. Subcontractor and Supplier qualification information.

E. Other required information regarding qualifications.

3.02 A Bidder’s failure to submit required qualification information within the times indicated may disqualify Bidder from receiving an award of the Contract.

3.03 No requirement in this Article 3 to submit information will prejudice the right of Owner to seek additional pertinent information regarding Bidder’s qualifications.

ARTICLE 4—PRE-BID CONFERENCE

4.01 A mandatory pre-bid conference will be held at the Avon Park Public Works Office located at 2301 US 27 South, Avon Park, Florida 33825; Representing the owner Ronnie Jones, City of Avon Park, Director of Infrastructure, 863-452-4400 extension 406, rjones@avonpark.cc, and Representatives of the Engineer will be present to discuss the Project. Proposals will not be accepted from Bidders who do not attend the conference. It is each Bidder’s responsibility to sign in at the pre-bid conference to verify its participation. Bidders must sign in using the name of the organization that will be submitting a Bid. A list of qualified Bidders that attended the pre-bid conference and are eligible to submit a Bid for this Project will be issued in an Addendum.

4.02 Information presented at the pre-Bid conference does not alter the Contract Documents. Owner will issue Addenda to make any changes to the Contract Documents that result from discussions at the pre-Bid conference. Information presented, and statements made at the pre-bid conference will not be binding or legally effective unless incorporated in an Addendum.

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

5.01 Site and Other Areas

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

5.02 Existing Site Conditions

A. Subsurface and Physical Conditions; Hazardous Environmental Conditions

1. There are other utilities in the right of way. The plans reflect the conditions to the best of the engineer's knowledge, but it is the responsibility of the contractor to examine the conditions prior to bidding the work and to call 811 for Sunshine State One Call of Florida, Inc. prior to digging for flagging of the utilities within the work area.

2. The only known Underground Facilities or improvement in the project area would be the existing utilities as noted above. The engineer has not done any subsurface testing of the work area. If the Supplementary Conditions do not identify Technical Data, the default definition of Technical Data set forth in Article 1 of the General Conditions will apply.

3. There are no known Hazardous Environmental Conditions.

5.03 Site Visit and Testing by Bidders

A. Bidder is required to visit the Site and conduct a thorough visual examination of the Site and adjacent areas. During the visit the Bidder must not disturb any ongoing operations at the Site.

B. Bidders visiting the Site are required to arrange their own transportation to the Site.

C. All access to the Site other than during a regularly scheduled Site visit must be coordinated through the following Owner or Engineer contact for visiting the Site: Ronnie Jones, City of Avon Park, Director of Infrastructure, Avon Park Public Works Office located at 2301 US 27 South, Avon Park, Florida 33825, 863-452-4400 extension 406, rjones@avonpark.cc. Bidder must conduct the required Site visit during normal working hours.

D. Bidder is not required to conduct any subsurface testing, or exhaustive investigations of Site conditions.

E. On request, and to the extent Owner has control over the Site, and schedule permitting, the Owner will provide Bidder general access to the Site to conduct such additional examinations, investigations, explorations, tests, and studies as Bidder deems necessary for preparing and submitting a successful Bid. Owner will not have any obligation to grant such access if doing so is not practical because of existing operations, security or safety concerns, or restraints on Owner’s authority regarding the Site. Bidder is responsible for establishing access needed to reach specific selected test sites.

F. Bidder must comply with all applicable Laws and Regulations regarding excavation and location of utilities, obtain all permits, and comply with all terms and conditions established by Owner or by property owners or other entities controlling the Site with respect to schedule, access, existing operations, security, liability insurance, and applicable safety programs.

G. Bidder must fill all holes and clean up and restore the Site to its former condition upon completion of such explorations, investigations, tests, and studies.
5.04 **Owner’s Safety Program**

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

5.05 **Other Work at the Site**

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

**ARTICLE 6—BIDDER’S REPRESENTATIONS AND CERTIFICATIONS**

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

A. The Bid Form that each Bidder will submit contains express representations regarding the Bidder’s examination of Project documentation, Site visit, and preparation of the Bid, and certifications regarding lack of collusion or fraud in connection with the Bid. Bidder should review these representations and certifications, and assure that Bidder can make the representations and certifications in good faith, before executing and submitting its Bid.

B. If Bidder is awarded the Contract, Bidder (as Contractor) will make similar express representations and certifications when it executes the Agreement.

**ARTICLE 7—INTERPRETATIONS AND ADDENDA**

7.01 Owner on its own initiative may issue Addenda to clarify, correct, supplement, or change the Bidding Documents.

7.02 Bidder shall submit all questions about the meaning or intent of the Bidding Documents to Owner in writing. Contact information and submittal procedures for such questions are as follows:

A. **Ronnie Jones, City of Avon Park, Director of Infrastructure, Avon Park Public Works Office located at 2301 US 27 South, Avon Park, Florida 33825, 863-452-4400 extension 406, rjones@avonpark.cc .**

7.03 Interpretations or clarifications considered necessary by Owner or Engineer in response to such questions will be issued by Addenda delivered to all registered plan holders. Questions received less than seven days prior to the date for opening of Bids may not be answered.

7.04 Only responses set forth in an Addendum will be binding. Oral and other interpretations or clarifications will be without legal effect. Responses to questions are not part of the Contract Documents unless set forth in an Addendum that expressly modifies or supplements the Contract Documents.

**ARTICLE 8—BID SECURITY**

8.01 A Bid must be accompanied by Bid security made payable to Owner in an amount of 5 (five) percent of Bidder’s maximum Bid price (determined by adding the base bid and all alternates) and
in the form of a Bid bond issued by a surety meeting the requirements of Paragraph 6.01 of the General Conditions. Such Bid bond will be issued in the form included in the Bidding Documents.

8.02 The Bid security of the apparent Successful Bidder will be retained until Owner awards the contract to such Bidder, and such Bidder has executed the Contract, furnished the required Contract security, and met the other conditions of the Notice of Award, whereupon the Bid security will be released. If the Successful Bidder fails to execute and deliver the Contract and furnish the required Contract security within 15 days after the Notice of Award, Owner may consider Bidder to be in default, annul the Notice of Award, and the Bid security of that Bidder will be forfeited, in whole in the case of a penal sum bid bond, and to the extent of Owner’s damages in the case of a damages-form bond. Such forfeiture will be Owner’s exclusive remedy if Bidder defaults.

8.03 The Bid security of other Bidders that Owner believes to have a reasonable chance of receiving the award may be retained by Owner until the earlier of 7 days after the Effective Date of the Contract or 61 days after the Bid opening, whereupon Bid security furnished by such Bidders will be released.

8.04 Bid security of other Bidders that Owner believes do not have a reasonable chance of receiving the award will be released within 7 days after the Bid opening.

ARTICLE 9—CONTRACT TIMES

9.01 The number of days within which, or the dates by which, the Work is to be (a) substantially completed and (b) ready for final payment, and (c) Milestones (if any) are to be achieved, are set forth in the Agreement.

9.02 Provisions for liquidated damages, if any, for failure to timely attain a Milestone, Substantial Completion, or completion of the Work in readiness for final payment, are set forth in the Agreement.

ARTICLE 10—SUBSTITUTE AND “OR EQUAL” ITEMS

10.01 The Contract for the Work, as awarded, will be on the basis of materials and equipment specified or described in the Bidding Documents, and those “or-equal” or substitute or materials and equipment subsequently approved by Engineer prior to the submittal of Bids and identified by Addendum. No item of material or equipment will be considered by Engineer as an “or-equal” or substitute unless written request for approval has been submitted by Bidder and has been received by Engineer within 10 days of the issuance of the Advertisement for Bids or invitation to Bidders. Each such request must comply with the requirements of Paragraphs 7.05 and 7.06 of the General Conditions, and the review of the request will be governed by the principles in those paragraphs. The burden of proof of the merit of the proposed item is upon Bidder. Engineer’s decision of approval or disapproval of a proposed item will be final. If Engineer approves any such proposed item, such approval will be set forth in an Addendum issued to all registered Bidders. Bidders cannot rely upon approvals made in any other manner.

10.02 All prices that Bidder sets forth in its Bid will be based on the presumption that the Contractor will furnish the materials and equipment specified or described in the Bidding Documents, as
supplemented by Addenda. Any assumptions regarding the possibility of post-Bid approvals of “or-equal” or substitution requests are made at Bidder’s sole risk.

ARTICLE 11—SUBCONTRACTORS, SUPPLIERS, AND OTHERS

11.01 The apparent Successful Bidder, and any other Bidder so requested, must submit to Owner a list of the Subcontractors or Suppliers proposed for the all portions of the Work within five days after Bid opening:

11.02 If requested by Owner, such list must be accompanied by an experience statement with pertinent information regarding similar projects and other evidence of qualification for each such Subcontractor or Supplier. If Owner or Engineer, after due investigation, has reasonable objection to any proposed Subcontractor or Supplier, Owner may, before the Notice of Award is given, request apparent Successful Bidder to submit an acceptable substitute, in which case apparent Successful Bidder will submit a substitute, Bidder’s Bid price will be increased (or decreased) by the difference in cost occasioned by such substitution, and Owner may consider such price adjustment in evaluating Bids and making the Contract award.

11.03 If apparent Successful Bidder declines to make any such substitution, Owner may award the Contract to the next lowest Bidder that proposes to use acceptable Subcontractors and Suppliers. Declining to make requested substitutions will constitute grounds for forfeiture of the Bid security of any Bidder. Any Subcontractor or Supplier, so listed and against which Owner or Engineer makes no written objection prior to the giving of the Notice of Award will be deemed acceptable to Owner and Engineer subject to subsequent revocation of such acceptance as provided in Paragraph 7.07 of the General Conditions.

ARTICLE 12—PREPARATION OF BID

12.01 The Bid Form is included with the Bidding Documents.

A. All blanks on the Bid Form must be completed in ink and the Bid Form signed in ink. Erasures or alterations must be initialed in ink by the person signing the Bid Form. A Bid price must be indicated for each section, Bid item, alternate, adjustment unit price item, and unit price item listed therein.

B. If the Bid Form expressly indicates that submitting pricing on a specific alternate item is optional, and Bidder elects to not furnish pricing for such optional alternate item, then Bidder may enter the words “No Bid” or “Not Applicable.”

12.02 If Bidder has obtained the Bidding Documents as Electronic Documents, then Bidder shall prepare its Bid on a paper copy of the Bid Form printed from the Electronic Documents version of the Bidding Documents. The printed copy of the Bid Form must be clearly legible, printed on 8½ inch by 11-inch paper and as closely identical in appearance to the Electronic Document version of the Bid Form as may be practical. The Owner reserves the right to accept Bid Forms which nominally vary in appearance from the original paper version of the Bid Form, providing that all required information and submittals are included with the Bid.

12.03 A Bid by a corporation must be executed in the corporate name by a corporate officer (whose title must appear under the signature), accompanied by evidence of authority to sign. The corporate address and state of incorporation must be shown.
12.04 A Bid by a partnership must be executed in the partnership name and signed by a partner (whose title must appear under the signature), accompanied by evidence of authority to sign. The official address of the partnership must be shown.

12.05 A Bid by a limited liability company must be executed in the name of the firm by a member or other authorized person and accompanied by evidence of authority to sign. The state of formation of the firm and the official address of the firm must be shown.

12.06 A Bid by an individual must show the Bidder’s name and official address.

12.07 A Bid by a joint venture must be executed by an authorized representative of each joint venturer in the manner indicated on the Bid Form. The joint venture must have been formally established prior to submittal of a Bid, and the official address of the joint venture must be shown.

12.08 All names must be printed in ink below the signatures.

12.09 The Bid must contain an acknowledgment of receipt of all Addenda, the numbers of which must be filled in on the Bid Form.

12.10 Postal and e-mail addresses and telephone number for communications regarding the Bid must be shown.

12.11 The Bid must contain evidence of Bidder’s authority to do business in the state where the Project is located, or Bidder must certify in writing that it will obtain such authority within the time for acceptance of Bids and attach such certification to the Bid.

12.12 If Bidder is required to be licensed to submit a Bid or perform the Work in the state where the Project is located, the Bid must contain evidence of Bidder’s licensure, or Bidder must certify in writing that it will obtain such licensure within the time for acceptance of Bids and attach such certification to the Bid. Bidder’s state contractor license number, if any, must also be shown on the Bid Form.

ARTICLE 13—BASIS OF BID

13.01 **Lump Sum**

A. Bidders must submit a Bid on a lump sum basis as set forth in the Bid Form.

B. All quantities shown in the bid documents are engineer estimates only and included only for reference. It is the responsibility of each bidder/contractor to verify the quantities, materials and lengths of each phase of the utility construction or installation. The quantities and unit prices are for reference only and are needed for bid review and pay approval purposes. This is to be considered basically a lump sum bid, payment will not be on unit price basis. Each bidder should bid on their own calculated or estimated quantities.

ARTICLE 14—SUBMITTAL OF BID

14.01 A copy of the Bid Form is to be completed and submitted with the Bid security and the other documents required to be submitted under the terms of Article 2 of the Bid Form.

14.02 A Bid must be received no later than the date and time prescribed and at the place indicated in the Advertisement or invitation to bid and must be enclosed in a plainly marked package with the Project title, and, if applicable, the designated portion of the Project for which the Bid is submitted, the name and address of Bidder, and must be accompanied by the Bid security and
other required documents. If a Bid is sent by mail or other delivery system, the sealed envelope
containing the Bid must be enclosed in a separate package plainly marked on the outside with the
notation “BID ENCLOSED.” A mailed Bid must be addressed to the location designated in the
Advertisement. Emailed bids are not acceptable, only bids physically delivered and marked as
described shall be considered.

14.03 Bids received after the date and time prescribed for the opening of bids, or not submitted at the
correct location or in the designated manner, will not be accepted and will be returned to the
Bidder unopened.

ARTICLE 15—MODIFICATION AND WITHDRAWAL OF BID

15.01 An unopened Bid may be withdrawn by an appropriate document duly executed in the same
manner that a Bid must be executed and delivered to the place where Bids are to be submitted
prior to the date and time for the opening of Bids. Upon receipt of such notice, the unopened Bid
will be returned to the Bidder.

15.02 If a Bidder wishes to modify its Bid prior to Bid opening, Bidder must withdraw its initial Bid in the
manner specified in Paragraph 15.01 and submit a new Bid prior to the date and time for the
opening of Bids.

15.03 If within 24 hours after Bids are opened any Bidder files a duly signed written notice with Owner
and promptly thereafter demonstrates to the reasonable satisfaction of Owner that there was a
material and substantial mistake in the preparation of its Bid, the Bidder may withdraw its Bid,
and the Bid security will be returned. Thereafter, if the Work is rebid, the Bidder will be
disqualified from further bidding on the Work.

ARTICLE 16—OPENING OF BIDS

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

ARTICLE 17—BIDS TO REMAIN SUBJECT TO ACCEPTANCE

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

ARTICLE 18—EVALUATION OF BIDS AND AWARD OF CONTRACT

18.01 Owner reserves the right to reject any or all Bids, including without limitation, nonconforming,
nonresponsive, unbalanced, or conditional Bids. Owner also reserves the right to waive all minor
Bid informalities not involving price, time, or changes in the Work.

18.02 Owner will reject the Bid of any Bidder that Owner finds, after reasonable inquiry and evaluation,
to not be responsible.

18.03 If Bidder purports to add terms or conditions to its Bid, takes exception to any provision of the
Bidding Documents, or attempts to alter the contents of the Contract Documents for purposes of
the Bid, whether in the Bid itself or in a separate communication to Owner or Engineer, then Owner will reject the Bid as nonresponsive.

18.04 If Owner awards the contract for the Work, such award will be to the responsible Bidder submitting the lowest responsive Bid.

18.05 Evaluation of Bids

A. In evaluating Bids, Owner will consider whether the Bids comply with the prescribed requirements, and such alternates, unit prices, and other data, as may be requested in the Bid Form or prior to the Notice of Award.

18.06 In evaluating whether a Bidder is responsible, Owner will consider the qualifications of the Bidder and may consider the qualifications and experience of Subcontractors and Suppliers proposed for those portions of the Work for which the identity of Subcontractors and Suppliers must be submitted as provided in the Bidding Documents.

18.07 Owner may conduct such investigations as Owner deems necessary to establish the responsibility, qualifications, and financial ability of Bidders and any proposed Subcontractors or Suppliers.

ARTICLE 19—BONDS AND INSURANCE

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

19.02 Article 8, Bid Security, of these Instructions, addresses any requirements for providing bid bonds as part of the bidding process.

ARTICLE 20—SIGNING OF AGREEMENT

20.01 When Owner issues a Notice of Award to the Successful Bidder, it will be accompanied by the unexecuted counterparts of the Agreement along with the other Contract Documents as identified in the Agreement. Within 5 (five) days thereafter, Successful Bidder must execute and deliver the required number of counterparts of the Agreement and any bonds and insurance documentation required to be delivered by the Contract Documents to Owner. Within 10 days thereafter, Owner will deliver one fully executed counterpart of the Agreement to Successful Bidder, together with printed and electronic copies of the Contract Documents as stated in Paragraph 2.02 of the General Conditions.
## BID BOND (PENAL SUM FORM)

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<thead>
<tr>
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<th>Surety</th>
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<tbody>
<tr>
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<td>Name:</td>
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<tr>
<td>Address (principal place of business):</td>
<td>Address (principal place of business):</td>
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<th>Bid</th>
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<tr>
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<td>Project (name and location):</td>
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<tbody>
<tr>
<td>Penal Sum:</td>
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<tr>
<td>Date of Bond:</td>
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</table>

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

<table>
<thead>
<tr>
<th>Bidder</th>
<th>Surety</th>
</tr>
</thead>
<tbody>
<tr>
<td>(Full formal name of Bidder)</td>
<td>(Full formal name of Surety) (corporate seal)</td>
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<tr>
<td>By:</td>
<td>By:</td>
</tr>
<tr>
<td>(Signature)</td>
<td>(Signature) (Attach Power of Attorney)</td>
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<td>Title:</td>
<td>Title:</td>
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Notes: (1) Note: Addresses are to be used for giving any required notice. (2) Provide execution by any additional parties, such as joint venturers, if necessary.
1. Bidder and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to pay to Owner upon default of Bidder the penal sum set forth on the face of this Bond. Payment of the penal sum is the extent of Bidder’s and Surety’s liability. Recovery of such penal sum under the terms of this Bond will be Owner’s sole and exclusive remedy upon default of Bidder.

2. Default of Bidder occurs upon the failure of Bidder to deliver within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents.

3. This obligation will be null and void if:
   3.1. Owner accepts Bidder’s Bid and Bidder delivers within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents, or
   3.2. All Bids are rejected by Owner, or
   3.3. Owner fails to issue a Notice of Award to Bidder within the time specified in the Bidding Documents (or any extension thereof agreed to in writing by Bidder and, if applicable, consented to by Surety when required by Paragraph 5 hereof).

4. Payment under this Bond will be due and payable upon default of Bidder and within 30 calendar days after receipt by Bidder and Surety of written notice of default from Owner, which notice will be given with reasonable promptness, identifying this Bond and the Project and including a statement of the amount due.

5. Surety waives notice of any and all defenses based on or arising out of any time extension to issue Notice of Award agreed to in writing by Owner and Bidder, provided that the total time for issuing Notice of Award including extensions does not in the aggregate exceed 120 days from the Bid due date without Surety’s written consent.

6. No suit or action will be commenced under this Bond prior to 30 calendar days after the notice of default required in Paragraph 4 above is received by Bidder and Surety, and in no case later than one year after the Bid due date.

7. Any suit or action under this Bond will be commenced only in a court of competent jurisdiction located in the state in which the Project is located.

8. Notices required hereunder must be in writing and sent to Bidder and Surety at their respective addresses shown on the face of this Bond. Such notices may be sent by personal delivery, commercial courier, or by United States Postal Service registered or certified mail, return receipt requested, postage pre-paid, and will be deemed to be effective upon receipt by the party concerned.

9. Surety shall cause to be attached to this Bond a current and effective Power of Attorney evidencing the authority of the officer, agent, or representative who executed this Bond on behalf of Surety to execute, seal, and deliver such Bond and bind the Surety thereby.

10. This Bond is intended to conform to all applicable statutory requirements. Any applicable requirement of any applicable statute that has been omitted from this Bond will be deemed to be included herein as if set forth at length. If any provision of this Bond conflicts with any applicable statute, then the provision of said statute governs and the remainder of this Bond that is not in conflict therewith continues in full force and effect.

11. The term “Bid” as used herein includes a Bid, offer, or proposal as applicable.
SCOPE OF WORK

&

OFFICIAL BID FORM

BID #19-05

US 27 North Water Main and Force Main Utility Extension

THE CITY OF AVON PARK, FLORIDA
SCOPE OF WORK

GENERAL DESCRIPTION OF THE WORK:

The City of Avon Park is seeking to procure the construction of:

An approximate 6,050-foot extension of an existing 8-inch force main along County and FDOT rights-of-ways from Lanier Blvd. to the intersection of West Sunpure Road and Lemon Street as shown on the plans, specifications and bid documents.

An approximate 7,800-foot extension of an existing 12-inch potable water distribution line along County and FDOT rights-of-ways from Stratford Road to the intersection of West Sunpure Road and Lemon Street as shown on the plans, specifications and bid documents.

A new lift station and associated work on an utility site located on the southerly side of the intersection of West Sunpure Road and Lemon Street as shown on the plans, specifications and bid documents.

All other associated work, including maintenance of the work area and restoration of the construction disturbed right of way.

The plans, specifications and bid documents are available at the City of Avon Park website www.avonpark.cc under “open bids”, and shall be adhered as part of the construction.

All quantities shown in the bid documents are engineer estimates only and included only for reference. It is the responsibility of each bidder/contractor to verify the quantities, materials and lengths of each phase of the utility construction or installation. The quantities and unit prices are for reference only and are needed for bid review and pay approval purposes, shown for reference. This is to be considered basically a lump sum bid, payment will not be on unit price basis. Each bidder should bid on their own calculated or estimated quantities.

All joints MJ Sleeves PVC to SDR 11 HDPE will require S.S. Stiffeners and EBAA mega lug restraints.

GENERAL SCOPE OF WORK / 12” & 14” WATER LINE:

1. The contractor will install approximately 7,800 feet of water main by means of open ditch, directional bore method and steel jack and bore under the CSX railroad. The contractor will furnish all materials including but not limited to: all water line, fire hydrant assemblies, valves, valve boxes, sample points/ blow offs/ manual air release valves, EBAA mega lug restraints, locator wire, warning tape, all fittings, tapping saddles, wet taps, steel jacking casing pipe, carrier pipe with all restraint / spacers, steel pipe end caps, equipment, labor, sub-contractors, pressure testing, bacteriological test including lab fees, etc.

2. The contractor will be responsible for all construction layout and as-builts by hiring a licensed professional land surveyor to also supply six (6) hard copies of a certified as-builts along with one (1) AutoCAD as-builts on disc.
3. The contractor will be required to furnish all safety equipment and signage including any needed detour routes (plans) submitted to Highlands County and or the State of Florida Department of Transportation.

4. All work must be coordinated with the engineer of record, the City of Avon Park and the Florida Department of Transportation prior to any construction.

5. All fittings will be mj & mega lug (EBAA) style as per the City of Avon Park requirements.

6. The contractor will refer to the City of Avon Park "Water Materials Specification" list for approved product brands and models.

7. All approvals and submissions shall be to the engineer and the City of Avon Park, with final authority resting with the City of Avon Park.

8. All disturbed areas will be completely restored to the original condition and sodded.

9. This project will be a turn key, 100% completed project.

10. Water main construction will be from Stratford Road (starting point) northerly to the intersection of West Sunpure Road and Lemon Street (end point). A steel jack and bore will be required under the CSX railroad as per plans. Project is located in Sections 4 & 9, Township 33S, Range 28E, Highlands County, Florida.

Please see materials bid sheet for additional information. All MJ fittings will require EBAA mega-lug restraints.

**GENERAL SCOPE OF WORK / 8" & 10" FORCE MAIN:**

Force Main Installation Scope of Work

1. The contractor will install approximately 6,050 feet of force main by means of open ditch, directional bore method and steel jack and bore under the CSX railroad. The contractor will furnish all materials including but not limited to: all force main pipe, valves, valve boxes, air release valves, EBAA mega lug restraints, locator wire, warning tape, all fittings, tapping saddles, wet taps, steel jacking casing pipe, carrier pipe with all restraint / spacers, steel pipe end caps, equipment, labor, sub-contractors, pressure testing, etc.

2. The contractor will be responsible for all construction layout and as-builts by hiring a licensed professional land surveyor to also supply six (6) hard copies of a certified as-builts along with one (1) AutoCAD as-builts on disc.

3. The contractor will be required to furnish all safety equipment and signage including any needed detour routes (plans) submitted to Highlands County and or the State of Florida Department of Transportation.

4. All work must be coordinated with the engineer of record, the City of Avon Park and the Florida Department of Transportation prior to any construction.

5. All fittings will be MJ & mega lug (EBAA) style as per the City of Avon Park requirements.

6. The contractor will refer to the City of Avon Park "Waste Water Materials Specification" list for approved product brands and models.
7. All approvals and submissions shall be to the engineer and the City of Avon Park, with final authority resting with the City of Avon Park.

8. All disturbed areas will be completely restored to the original condition and sodded.

9. This project will be a turn key, 100% completed project.

10. The force main construction will be from Lanier Blvd. (starting point) northerly to the intersection of West Sunpure Road and Lemon Street (end point). A steel jack and bore will be required under the CSX railroad as per plans. Project is located in Section 4, Township 33S, Range 28E, Highlands County, Florida.

**GENERAL SCOPE OF WORK / LIFT STATION:**

1. The contractor will construct the lift station. The contractor will supply the pumps, base flanges, discharge pipes, rails, lifting chain (if needed), control panel, electrical components, junction box, "dataflow" telemetry and antenna, valve box, piping, valves, flanges, floats, lift station wet well w/ Agru Sure-Grip HDPE liner, etc. The contractor will be required to supply all supplies, materials and equipment for a fully operational lift station, also including the lift station compound, including a water service with hose-bib with a back flow preventor, (to be coordinated with the Avon Park Utilities Dept.), crushed concrete area, drain field stone area, concrete pads, 6 foot high chain-link fence with gates, concrete driveway, landscaping/irrigation, manholes, gravity sewer, open cut road and patching road, etc. as per site plan.

2. The contractor will need the services of a licensed electrician. the engineer of record must be notified on any changes or modifications for approval.

3. All work must be coordinated with the engineer of record and the City of Avon Park prior to any construction.

4. The contractor will construct the proposed force main and connect it into the existing 8" force main within the northerly r/w of Lanier Blvd.

5. Test lift station for proper operation.

6. The contractor will restore the rights-of-ways to existing grade and all disturbed areas are to be sodded with the same type of grass.

7. All fittings will be MJ& mega lug (EBAA) style as per the City of Avon Park requirements.

8. The contractor will be required to contact and coordinate with Duke Energy to provide the appropriate power requirements into the site for this project.

9. The contractor will be responsible for purchasing, installation and connection of the generator to provide a complete functioning lift station powered by Duke Energy and the generator.

10. Junction box and control panel will be stainless steel.

11. Survey property lines and survey as-built of utility site consisting of six (6) certified hard copies and one (1) AutoCAD disc.


NOTES:
1. The site will be graded away from the lift station.

2. Refer to the City of Avon Park "Waste Water Materials Specification" list for approved product brands and models.

3. Concrete shall be 4000 psi concrete with Type II cement. Concrete surfaces shall receive a liner as stated.

4. All reinforced concrete structures shall be in accordance with ACI code 318. Steel yield strength shall be 60,000 psi (grade 60). Wet well wall shall conform to either:
   a. cast in place #5 re-bar@12" o.c.b.w. in the center 1/3
   b. pre cast sections: ASTM C478

5. Upper slabs shall be positively joined to wet well wall.

6. Cast iron saddle in the discharge piping shall support a tee w/ 1/2" S.S. lever valve and a 2.5" minimum size liquid filled pressure gauge installed where indicated.

7. By-pass connection to be brass quick-disconnect type, part "D" Female Coupler and Part "W" Plug.

8. Non-shrink grout shall seal around all pipe unless specified otherwise by the City of Avon Park.

9. Grounding shall be two 5/8" copper-clad grounding rods, minimum 8 feet long and 6 feet apart, connected 12" below ground level. Conductors shall be #4 solid copper and connectors shall be Cadweld, bolt clamp or split clamp.

10. Top of slab to be a minimum of 6" above finish grade, and drainage shall be away from the lift station.

11. Pump base anchor bolt location and size shall be per manufacturer's shop drawing.

12. Face and top of power panel and are to be flush.

13. Conduits (all 2") shall have a minimum 24" of cover, with the exception of power supply conduit, in which case the cover shall be minimum 42".

14. Conduit shall be as follows:
   above grade- rigid aluminum
   below grade- rigid aluminum or Sch 80 pvc

15. All anchors shall be Hilti type 316 SS or approved equal with type 316 SS fasteners.

16. All approvals and submissions shall be to the engineer and the City of Avon Park, with final authority resting with the City of Avon Park.

Please see materials bid sheet for additional information. All MJ fittings will require EBAA mega-lug restraints.

-ALL UTILITIES ARE TO BE LOCATED BY THE UNDERGROUND UTILITY CONTRACTOR AND THE CONTRACTOR IS TO COORDINATE ALL UTILITY RELOCATIONS REQUIRED TO CONSTRUCT THE IMPROVEMENTS.

-THE UNDERGROUND UTILITY CONTRACTOR IS RESPONSIBLE FOR REMOVAL/RELOCATION OF ANY LANDSCAPE OR PLANTINGS THAT CONFLICT WITH NEW CONSTRUCTION. UNLESS OTHERWISE NOTED BY THE CITY.
ALL DISTURBED AREAS IN THE RIGHT OF WAYS, BOTH COUNTY AND STATE ARE TO BE REPAIRED AND SODDED.
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<td>8&quot;</td>
<td>1 EA</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fire Hydrant Assembly</td>
<td>Includes 12&quot;x12&quot;x6&quot; meg-a-lug tee</td>
<td>18 EA</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Locator Tape</td>
<td>2&quot;</td>
<td>6500 FT</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Locator Wire</td>
<td>12 gauge</td>
<td>9200 FT</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Water Tees</td>
<td>12&quot; / meg-a-lug</td>
<td>6 EA</td>
<td></td>
<td></td>
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<tr>
<td>Manual Air Release Valve / Sample Point with fittings</td>
<td>12&quot; x 2&quot; Tapping Saddle</td>
<td>8 EA</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Water 90's</td>
<td>12&quot; / meg-a-lug</td>
<td>1 EA</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Water 45's</td>
<td>12&quot; / meg-a-lug</td>
<td>12 EA</td>
<td></td>
<td></td>
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<tr>
<td>Water 22.5's</td>
<td>12&quot; / meg-a-lug</td>
<td>4 EA</td>
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<td>Reducers</td>
<td>12&quot; -&gt; 8&quot;</td>
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<table>
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<tr>
<th>WATER LINE EXTENSION</th>
<th>SUB-TOTAL</th>
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<tr>
<th>FORCE ,MAIN EXTENSION</th>
<th>quantity</th>
<th>Unit</th>
<th>Unit Cost</th>
<th>Unit Cost Total</th>
</tr>
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<tr>
<td>Item Description</td>
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<td>Unit</td>
<td>Unit Cost</td>
<td>Total</td>
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<tr>
<td>------------------</td>
<td>----------</td>
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<td>-----------</td>
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</tr>
<tr>
<td>Force Main- DR 18 AWWA C-900</td>
<td>8&quot;</td>
<td>5100</td>
<td>FT</td>
<td></td>
</tr>
<tr>
<td>Directional Bores HDPE SDR 11</td>
<td>10&quot;</td>
<td>800</td>
<td>FT</td>
<td></td>
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<tr>
<td>Force Main Gate Valves</td>
<td>8&quot; / meg-a-lug</td>
<td>4</td>
<td></td>
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<tr>
<td>Tapping Saddle Assembly</td>
<td>8&quot; x 8&quot; x 8&quot;</td>
<td>1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Locator Tape</td>
<td>2&quot;</td>
<td>5100</td>
<td>FT</td>
<td></td>
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<td>Locator Wire</td>
<td>12 gauge</td>
<td>6700</td>
<td>FT</td>
<td></td>
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<tr>
<td>Manual Air Release Valve Assembly</td>
<td>8&quot; x 2&quot; Tapping Saddle</td>
<td>1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Force Main 45's</td>
<td>8&quot; / meg-a-lug</td>
<td>24</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Force Main 22.5's</td>
<td>8&quot; / meg-a-lug</td>
<td>2</td>
<td></td>
<td></td>
</tr>
<tr>
<td>CSX RR JACK &amp; BORES</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Water Line</td>
<td>12&quot; DR 18 C-900</td>
<td>Including 24&quot; Steel Casing</td>
<td>200</td>
<td>FT</td>
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<tr>
<td>Sewer Force Main</td>
<td>8&quot; DR 18 C-900</td>
<td>Including 16&quot; Steel Casing</td>
<td>200</td>
<td>FT</td>
</tr>
<tr>
<td>Excavation, storage of fill material, re-filling pit with compaction &amp; sodding for Jack &amp; Bore</td>
<td>Estimated</td>
<td>7600</td>
<td>CY</td>
<td></td>
</tr>
<tr>
<td>Excavation Shoring</td>
<td>Shoring</td>
<td>1</td>
<td>LS</td>
<td></td>
</tr>
<tr>
<td>Maintenance of Traffic</td>
<td></td>
<td>1</td>
<td>LS</td>
<td></td>
</tr>
<tr>
<td>Insurance</td>
<td></td>
<td>1</td>
<td>LS</td>
<td></td>
</tr>
<tr>
<td>Tree removal</td>
<td></td>
<td></td>
<td></td>
<td></td>
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**FOR FORCE MAIN EXTENSION**

<table>
<thead>
<tr>
<th>SUB-TOTAL</th>
</tr>
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**CSX RR JACK & BORES**

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Quantity</th>
<th>Unit</th>
<th>Unit Cost</th>
<th>Total</th>
</tr>
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<tbody>
<tr>
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<tr>
<td>Category</td>
<td>Description</td>
<td>Quantity</td>
<td>Unit</td>
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<tr>
<td>------------------------</td>
<td>------------------------------------------------------------------------------</td>
<td>----------</td>
<td>------</td>
<td></td>
</tr>
<tr>
<td>Lift Station</td>
<td>Wet well 8' Ø, 22' deep, Agru Sure-Grip HDPE lined / rails / chain / vent / lid / hooks</td>
<td>1</td>
<td>LS</td>
<td></td>
</tr>
<tr>
<td>Electronics</td>
<td>Control panel sized for future lift station</td>
<td>1</td>
<td>LS</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Junction box</td>
<td>1</td>
<td>LS</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Dual 35hp 460V, 3ph PUMPS</td>
<td>2</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Soft start</td>
<td>2</td>
<td>LS</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Floats</td>
<td>4</td>
<td>LS</td>
<td></td>
</tr>
<tr>
<td>Valves above ground</td>
<td>6&quot; gate valve</td>
<td>3</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>6&quot; weighted arm check valve</td>
<td>2</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>By-pass connection</td>
<td>1</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Pressure gauge &amp; air release valve</td>
<td>2</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>6&quot; manifold</td>
<td>1</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>8'x8'x6&quot; concrete slab</td>
<td>1</td>
<td>LS</td>
<td></td>
</tr>
<tr>
<td>Telemetry</td>
<td>Antenna / slab / controls</td>
<td>1</td>
<td>LS</td>
<td></td>
</tr>
<tr>
<td>Water</td>
<td>Potable/landscaping</td>
<td>1</td>
<td>LS</td>
<td></td>
</tr>
<tr>
<td>Generator</td>
<td>200kW - 48 hr runtime</td>
<td>1</td>
<td>LS</td>
<td></td>
</tr>
<tr>
<td></td>
<td>18'x6'x12&quot; concrete slab</td>
<td>1</td>
<td>LS</td>
<td></td>
</tr>
<tr>
<td>Interior yard area</td>
<td>47'x18'x12&quot; compacted crushed concrete</td>
<td>32</td>
<td>CU.YD.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>47'x19'x6&quot; clean drain field stone</td>
<td>17</td>
<td>CU.YD.</td>
<td></td>
</tr>
<tr>
<td>Perimeter fencing</td>
<td>180 lf of 6' chain link including 16' wide gate</td>
<td>1</td>
<td>LS</td>
<td></td>
</tr>
<tr>
<td>Landscaping</td>
<td>plants</td>
<td>40</td>
<td>SHRUB</td>
<td></td>
</tr>
<tr>
<td></td>
<td>mulch</td>
<td>4</td>
<td>YD</td>
<td></td>
</tr>
<tr>
<td></td>
<td>sod</td>
<td>3000</td>
<td>SQ.FT.</td>
<td></td>
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</table>

City of Avon Park, Florida

ITB #19-05 US 27 NORTH
UTILITIES WATER & SEWER MAIN EXTENSIONS
<table>
<thead>
<tr>
<th>Item</th>
<th>Quantity</th>
<th>Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Irrigation</td>
<td>1</td>
<td>LS</td>
</tr>
<tr>
<td>Manhole HDPE Lined</td>
<td>1</td>
<td>LS</td>
</tr>
<tr>
<td>6' dia. x ±8&quot; deep - Nucor surge</td>
<td>1</td>
<td>LS</td>
</tr>
<tr>
<td>6' dia. x ±8' deep - City of Avon Park Surge</td>
<td>1</td>
<td>LS</td>
</tr>
<tr>
<td>Gravity sewer</td>
<td></td>
<td></td>
</tr>
<tr>
<td>12&quot; SDR 35</td>
<td>82</td>
<td>LF</td>
</tr>
<tr>
<td>14&quot; SDR 11</td>
<td>60</td>
<td>LF</td>
</tr>
<tr>
<td>Steel Bollards</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>Paved access</td>
<td>Concrete driveway</td>
<td>600</td>
</tr>
<tr>
<td>Electricity/Electrician</td>
<td>1</td>
<td>LS</td>
</tr>
<tr>
<td>Misc</td>
<td>6'x6'x6&quot; concrete slab</td>
<td>1</td>
</tr>
</tbody>
</table>

Note: All fittings to be mechanical Joint type with EBAA Mega Lug. All HDPE connections will require stainless steel stiffeners. The Underground Contractor will verify all quantities and add any missing materials to his bid for a 100% complete project. All staking will be under the direct supervision of a Licensed Professional Land Surveyor. Force mains and water lines will need to be staked in the Florida Department of Transportation and County R/W's and verified by Florida Department of Transportation or Highlands County prior to installation, dependent of jurisdiction. The Licensed Professional Land Surveyor will issue 6 signed and sealed As-Built Survey's along with an AutoCAD format As-Built drawing on CD showing all utility improvements to the Engineer of Record after completion of the project.

This “Official Bid Form” MUST BE USED AND COMPLETED in submitting bids.

BID SUBMITTED BY: ____________________________ ____________________________
Name of Company Address
________________________ ______ ________________________
Signature Title City State Zip
________________________ ______ ________________________
Name as above printed or typed Date bid Submitted

The City reserves the right to accept or reject any or all bids or any parts thereof that may be considered to be in the best interest of the City of Avon Park.
REFERENCE FORM

INSTRUCTIONS: Please provide a minimum of five applicable projects which demonstrate the contractor’s ability and experience on projects of similar scope and size.

Project Owner: _______________________________________________________

Contact Person: _______________________________________________________ 

Phone: ______________________________________________________________

Cost of Project: _______________________________________________________ 

Project Scope of Services: _____________________________________________

Project Owner: _______________________________________________________ 

Contact Person: _______________________________________________________ 

Phone: ______________________________________________________________

Cost of Project: _______________________________________________________ 

Project Scope of Services: _____________________________________________
Project Owner: ________________________________

Contact Person: ________________________________

Phone: ________________________________

Cost of Project: ________________________________

Project Scope of Services: ________________________________

Project Owner: ________________________________

Contact Person: ________________________________

Phone: ________________________________

Cost of Project: ________________________________

Project Scope of Services: ________________________________
AGREEMENT BETWEEN OWNER AND CONTRACTOR
FOR CONSTRUCTION CONTRACT (STIPULATED PRICE)

This Agreement is by and between City of Avon Park, Florida (“Owner”) and
_______________________________________________________________________ (“Contractor”).

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

Owner and Contractor hereby agree as follows:
ARTICLE 1—WORK

1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

  City of Avon Park ITB#19-05 North Water Main and Force Main Utility Extension

ARTICLE 2—THE PROJECT

2.01 The Project, of which the Work under the Contract Documents is a part, is generally described as follows:

  An approximate 6,050-foot extension of an existing 8-inch force main along County and FDOT rights-of-ways from Lanier Blvd. to the intersection of West Sunpure Road and Lemon Street as shown on the plans, specifications and bid documents.

  An approximate 7,800-foot extension of an existing 12-inch potable water distribution line from force main along County and FDOT rights-of-ways from Stratford Road to the intersection of West Sunpure Road and Lemon Street as shown on the plans, specifications and bid documents.

  A new lift station and associated work on an easement located on the southerly side of the intersection of West Sunpure Road and Lemon Street as shown on the plans, specifications and bid documents.

  All other associated work, including maintenance of the work area and restoration of the construction disturbed right of way.

ARTICLE 3—ENGINEER

3.01 The Owner has retained

  Cool and Cobb Engineering Company
  James Mason Cobb, P.E., President, Carl E. Cool, P.E., Vice President
  203 W. Main Street
  Avon Park, FL 33825
  863-657-2323, fax 863-657-2324

  (“Engineer”) to act as Owner’s representative, assume all duties and responsibilities of Engineer, and have the rights and authority assigned to Engineer in the Contract.

3.02 The part of the Project that pertains to the Work has been designed by

  Polston Engineering Inc
  Roger Dale Polston, PE 33222, President
  2925 Kenilworth Blvd.
  Sebring, FL 33870
  863-385-5564, fax 863-385-2462, dale@polstonengineering.com
ARTICLE 4—CONTRACT TIMES

4.01 Time is of the Essence

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

4.02 Contract Times: Dates

A. The Work will begin no later than September 27, 2019 and be substantially complete on or before January 31, 2020, and completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions on or before February 29, 2020.

4.03 Liquidated Damages

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

1. Substantial Completion: Contractor shall pay Owner $500.00 for each day that expires after the time (as duly adjusted pursuant to the Contract) specified above for Substantial Completion, until the Work is substantially complete.

2. Completion of Remaining Work: After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Contractor shall pay Owner $500.00 for each day that expires after such time until the Work is completed and ready for final payment.

B. If Owner recovers liquidated damages for a delay in completion by Contractor, then such liquidated damages are Owner’s sole and exclusive remedy for such delay, and Owner is precluded from recovering any other damages, whether actual, direct, excess, or consequential, for such delay, except for special damages (if any) specified in this Agreement.

4.04 Special Damages

A. Contractor shall reimburse Owner (1) for any fines or penalties imposed on Owner as a direct result of the Contractor’s failure to attain Substantial Completion according to the Contract Times, and (2) for the actual costs reasonably incurred by Owner for engineering, construction observation, inspection, and administrative services needed after the time specified in Paragraph 4.02 for Substantial Completion (as duly adjusted pursuant to the Contract), until the Work is substantially complete.

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

ARTICLE 5—CONTRACT PRICE

5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents, the amounts that follow, subject to adjustment under the Contract:

A. For all Work, at the prices stated in Contractor’s Bid, attached hereto as an exhibit.

ARTICLE 6—PAYMENT PROCEDURES

6.01 Submit and Processing of Payments

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

6.02 Progress Payments; Retainage

A. Owner shall make progress payments on the basis of Contractor’s Applications for Payment on or about the [15th] day of each month during performance of the Work as provided in Paragraph 6.02.A.1 below, provided that such Applications for Payment have been submitted in a timely manner and otherwise meet the requirements of the Contract. All such payments will be measured by the Schedule of Values established as provided in the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no Schedule of Values, as provided elsewhere in the Contract.

1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Owner may withhold, including but not limited to liquidated damages, in accordance with the Contract.

a. 90 (ninety) percent of the value of the Work completed (with the balance being retainage).

1) If 50 percent or more of the Work has been completed, as determined by Engineer, and if the character and progress of the Work have been satisfactory to Owner and Engineer, then as long as the character and progress of the Work remain satisfactory to Owner and Engineer, there will be no additional retainage; and

b. 50 (fifty) percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).

B. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 100 (one hundred) percent of the Work completed, less such amounts set off by Owner pursuant to Paragraph 15.01.E of the General Conditions, and less 200 (two hundred) percent of Engineer’s estimate of the value of Work to be completed or corrected as shown on the punch list of items to be completed or corrected prior to final payment.
6.03 **Final Payment**
   A. Upon final completion and acceptance of the Work, Owner shall pay the remainder of the Contract Price in accordance with Paragraph 15.06 of the General Conditions.

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

6.05 **Interest**
   A. All amounts not paid when due will bear interest at the rate of 5.0 (five) percent per annum.

**ARTICLE 7—CONTRACT DOCUMENTS**

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

ARTICLE 8—REPRESENTATIONS, CERTIFICATIONS, AND STIPULATIONS

8.01 Contractor’s Representations

A. In order to induce Owner to enter into this Contract, Contractor makes the following representations:

1. Contractor has examined and carefully studied the Contract Documents, including Addenda.

2. Contractor has visited the Site, conducted a thorough visual examination of the Site and adjacent areas, and become familiar with the general, local, and Site conditions that may affect cost, progress, and performance of the Work.

3. Contractor is familiar with all Laws and Regulations that may affect cost, progress, and performance of the Work.

4. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Technical Data identified in the Supplementary Conditions or by definition, with respect to the effect of such information, observations, and Technical Data on (a) the cost, progress, and performance of the Work; (b) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (c) Contractor’s safety precautions and programs.

5. Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.

6. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.

7. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and of discrepancies between Site conditions and the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.

8. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

9. Contractor’s entry into this Contract constitutes an incontrovertible representation by Contractor that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.
8.02 Contractor's Certifications

A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 8.02:

1. “corrupt practice” means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process or in the Contract execution;

2. “fraudulent practice” means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;

3. “collusive practice” means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and

4. “coercive practice” means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.
IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement.

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

Owner: ____________________________

(typed or printed name of organization)

By: ____________________________

(individual’s signature)

Date: ____________________________

(date signed)

Name: ____________________________

(typed or printed)

Title: ____________________________

(typed or printed)

Attest: ____________________________

(individual’s signature)

Title: ____________________________

(typed or printed)

Address for giving notices: ____________________________

______________________________

______________________________

Designated Representative: ____________________________

Name: ____________________________

(typed or printed)

Title: ____________________________

(typed or printed)

Address: ____________________________

______________________________

______________________________

Phone: ____________________________

Email: ____________________________

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

Contractor: ____________________________

(typed or printed name of organization)

By: ____________________________

(individual’s signature)

Date: ____________________________

(date signed)

Name: ____________________________

(typed or printed)

Title: ____________________________

(typed or printed)

Attest: ____________________________

(individual’s signature)

Title: ____________________________

(typed or printed)

Address for giving notices: ____________________________

______________________________

______________________________

Designated Representative: ____________________________

Name: ____________________________

(typed or printed)

Title: ____________________________

(typed or printed)

Address: ____________________________

______________________________

______________________________

Phone: ____________________________

Email: ____________________________

License No.: ____________________________

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

State: ____________________________
# 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
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.

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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, then Contractor may file an Action and Request for Arbitration Notice, ITB 409, within 30 days after the date of receipt of the Change Proposal.
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, expediters, 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.
SUPPLEMENTAL
Terms and Conditions

A. All responses shall become the property of the City of Avon Park.

B. The City, at its discretion, reserves the right to waive minor informalities or irregularities in any responses, to reject any and all responses, in whole or in part, with or without cause, and to accept that response, if any, which in its judgment will be in its best interest.

C. The submitting firm will be required to comply with all applicable laws, regulations, rules and ordinances of local, state and federal authorities having jurisdiction, including, but not limited to: all provisions of the Federal Government Equal Employment Opportunity clauses issued by the Secretary of Labor on May 21, 1968 and published in the Federal Register (41 CFR Part 60-1, 33 F.2 7804); all provisions of the Public Entity Crimes (Fla. Stat. §287.133, et seq, as amended); shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable; shall comply with the Copeland “Anti-Kickback” Act (18 U.S.C. 874; 40 U.S.C. 3145) as supplemented in Department of Labor regulations (29 CFR Part 3); shall comply with section 6002 of the Solid Waste Disposal Act, Environmental Protection Agency (EPA) at 40 CFR part 247; and the provisions in Fla. Stat. §287.134, et seq, as amended, regarding discrimination.

D. STATEMENT OF INDEMNIFICATION

CITY OF AVON PARK – The Contractor hereby acknowledges and confirms that the contract price includes the consideration for this indemnification / hold harmless. The Contractor shall, in addition to any other obligation to indemnify the City of Avon Park and to the fullest extent permitted by law, protect, defend, indemnify and hold harmless the City, its elected officials, employees, agents, and volunteers from and against all claims, actions, liabilities, losses, (including economic losses), costs, including attorney fees and all costs of litigation, and judgments of every name and description arising out of, or incidental to the performance of this contract, unless caused by the sole negligence of the City, its elected officials, employees, agents, or volunteers. Any cost or expenses, including attorney fees (including appellate, bankruptcy, or patent council fees), incurred by the City to enforce this agreement shall be borne by the Contractor. This indemnification shall also cover all claims brought against the City, its elected officials, employees, agents, or volunteers by any employee of the Contractor, any subcontractor, or anyone directly or indirectly employed by any of them. The Contractor’s obligation under this article shall be limited to $10,000,000 and shall not be limited in any way to the agreed upon contract price as shown in this contract or the Contractor’s limit of all services, obligations, and duties provided for in this contract, or in the event of termination of this contract for any reason, the terms and conditions of this article shall survive indefinitely.
Florida Department of Economic Opportunity - The Contractor shall indemnify, defend, save and hold harmless the Florida Department of Economic Opportunity and all of its officers, agents or employees from all suits, actions, claims, demands, liability of any nature whatsoever arising out of, because of, or due to any negligent act or occurrence of omission or commission of the contractor/subcontractor/consultant/subconsultant, its officers, agents or employees.

E. Florida Statutes 287.087, on Drug Free Work Place, 287.133(3)(a) on Public Entity Crimes, and Section287.134, on Discrimination, as a whole and/or as shown below, will be complied with:

287.087, Preference to businesses with drug-free workplace programs:

In order to have a drug-free workplace program, a business shall:

1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.

2. Inform employees about the dangers of drug abuse in the workplace, the business’s policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.

3. Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in subsection (1).

4. In the statement specified in subsection (1), notify the employees that, as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or no contendere to, any violation of chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than 5 days after such conviction.

5. Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee’s community by, any employee who is so convicted.

6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

NOTE: PLEASE INCLUDE YOUR “DRUG FREE” STATUS AS PART OF THE GENERAL COMMENTS IN YOUR PROPOSAL OR WHERE INDICATED ON THE BID FORM.

287.133, Public entity crime; denial or revocation of the right to transact business with public entities:

(2)(a) A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount of $10,000 for a period of 36 months from the date of being placed on the convicted vendor list.
Discrimination; denial or revocation of the right to transact business with public entities:

(2)(a) An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid on a contract or provide goods and services to a public entity, may not submit a bid on a contract with a public entity for construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not award or perform work as a contractor, supplier, subcontractor, or consultant under contract with any public entity, and may not transact business with a public entity.

F. Responses are due and must be received in accordance with the instructions given in the announcement page.

G. The City will not reimburse respondent(s) for any costs associated with the preparation and submittal of any responses.

H. Respondents, their agents and associates shall refrain from contacting or soliciting any City Official and that contact may be made ONLY with the individual(s) listed in this document for additional information and clarification.

I. Due care and diligence have been exercised in the preparation of this document and all information contained herein is believed to be substantially correct; however, the responsibility for determining the full extent of the service required rests solely with those making response. Neither the City nor its representative shall be responsible for any error or omission in the responses submitted, nor for the failure on the part of the respondents to determine the full extent of the exposures.

J. All timely responses meeting the specifications set forth in this document will be considered. However, respondents are cautioned to clearly indicate any deviations from these specifications. The terms and conditions contained herein are those desired by the City and preference will be given to those responses in full or substantially full compliance with them.

K. Each respondent is responsible for full and complete compliance with all laws, rules and regulations including those of the Federal Government, the State of Florida and the City of Avon Park. Failure or inability on the part of the respondent to have complete knowledge and intent to comply with such laws, rules and regulations shall not relieve any respondent from its obligation to honor its response and to perform completely in accordance with its response.

L. The CITY, at its discretion, reserves the right to waive minor informalities or irregularities in any responses, to reject any and all responses in whole or in part, with or without cause, and to accept that response, if any, which in its judgment will be in its best interest.

M. Award will be made to the respondent whose submittal is determined to be the most advantageous to the City taking into consideration those responses in compliance with the requirements as set forth in this document. The City Council and Mayor reserves the right to reject any and all responses for any reason or make no award whatsoever or request clarification of information from the respondents.

N. Any interpretation, clarification, correction or change to this document will be made by written addendum issued by the Public Works Department. Any oral or other type of communication concerning this document shall not be binding.
O. Responses must be signed by an individual of the respondent’s organization legally authorized to commit the respondent’s organization to the performance of the product(s) and/or service(s) contemplated by this document.

P. **INSURANCE REQUIREMENTS**

Unless otherwise stated in the specifications, the following Insurance Requirements must be met before delivery of goods and services:

**Special Requirements / Evidence of Insurance:**

a. A copy of the Contractor’s / Vendor’s current certificate of insurance MUST be provided with the response to this BID. A formal certificate shall be provided upon announcement that a Contractor / Vendor has been awarded the work as called for in this document. The Certificate(s) shall be signed by a person authorized by that insurer to bind coverage on its behalf. All Certificates of Insurance must be on file with and approved by the City before commencement of any work activities. The formal insurance certificate shall also comply with the following:

“The City of Avon Park”, a Political Subdivision of the State of Florida and its Elected Officials, its Agents, Employees, and Volunteers” shall be named as an “Additional Insured” on all policies except Worker’s Compensation. The policy shall provide a 30-day notification clause in the event of cancellation or modification to the policy. The City will be given notice prior to cancellation or modification of any stipulated insurance.

In the event the insurance coverage expires prior to the completion of the project, a renewal certificate shall be issued 30-days prior to said expiration date. Such notification will be in writing by registered mail, return receipt to:

Avon Park City Hall, 110 East Main Street, Avon Park, FL33825.

b. It is the responsibility of the contractor to insure that all subcontractors comply with all insurance requirements.

c. It should be remembered that these are minimum requirements, which are subject to modification in response to high hazard operations.

**Workers’ Compensation Insurance:** Coverage is to apply for all employees for statutory limits in compliance with the law of the State of Florida and federal laws. The policy must include Employer Liability with a limit of $1,000,000 each accident, $1,000,000 each employee, $1,000,000 policy limit for disease.

If subletting any of the work, ensure that the subcontractor(s) have Workers’ Compensation Insurance for their employees in accordance with Florida’s Workers’ Compensation law. If using “leased employees” or employees obtained through professional employer organizations (“PEO’s”), ensure that such employees are covered by Workers’ Compensation insurance through the PEO’s or other leasing entities. Ensure that any equipment rental agreements that include operators or other personnel who are employees of independent Contractors, sole proprietorships or partners are covered by insurance required under Florida’s Workers' Compensation law.
**Commercial General Liability Insurance:** Carry Commercial General Liability insurance providing continuous coverage for all work or operations performed under the Contract. Such insurance shall be no more restrictive than that provided by the latest occurrence form edition of the standard Commercial General Liability Coverage Form (ISO Form CG 00 01) as filed for use in the State of Florida. Cause the Florida Department of Economic Opportunity and the City of Avon Park to be made an Additional Insured as to such insurance. Such coverage shall be on an “occurrence” basis and shall include Products/Completed Operations coverage. The coverage afforded to the Florida Department of Economic Opportunity and the City of Avon Park as an Additional Insured shall be primary as to any other available insurance and shall not be more restrictive than the coverage afforded to the Named Insured. The limits of coverage shall not be less than $1,000,000 for each occurrence and not less than a $5,000,000 annual general aggregate, inclusive of amounts provided by an umbrella or excess policy. The limits of coverage described herein shall apply fully to the work or operations performed under the Contract, and may not be shared with or diminished by claims unrelated to the contract. The policy/ies and coverage described herein may be subject to a deductible. Pay all deductibles as required by the policy. No policy/ies or coverage described herein may contain or be subject to a Retention or a Self-Insured Retention. Prior to the execution of the Contract, and at all renewal periods which occur prior to final acceptance of the work, the Florida Department of Economic Opportunity and the City of Avon Park shall be provided with an ACORD Certificate of Liability Insurance reflecting the coverage described herein. The Florida Department of Economic Opportunity and the City of Avon Park shall be notified in writing within ten days of any cancellation, notice of cancellation, lapse, renewal, or proposed change to any policy or coverage described herein. The Florida Department of Economic Opportunity or the City of Avon Park approval or failure to disapprove any policy/ies, coverage, or ACORD Certificates shall not relieve or excuse any obligation to procure and maintain the insurance required herein, nor serve as a waiver of any rights or defenses the Florida Department of Economic Opportunity and the City of Avon Park may have.
NOTICE OF AWARD

Date of Issuance:

Owner: Owner’s Project No.:

Engineer: Engineer’s Project No.:

Project:

Contract Name:

Bidder:

Bidder’s Address:

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

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

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

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

☐ Drawings will be delivered separately from the other Contract Documents.

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

1. Deliver to Owner [number of copies sent] counterparts of the Agreement, signed by Bidder (as Contractor).

2. Deliver with the signed Agreement(s) the Contract security (such as required performance and payment bonds) and insurance documentation, as specified in the Instructions to Bidders and in the General Conditions, Articles 2 and 6.

3. Other conditions precedent (if any): [Describe other conditions that require Successful Bidder’s compliance]

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

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

Owner: [Full formal name of Owner]

By (signature): _____________________________________________________________

Name (printed): ___________________________________________________________

Title: _____________________________________________________________________

Copy: Engineer
PERFORMANCE BOND

BY THIS BOND, We, ____________________________, a □ corporation □ limited liability company, whose address is ________________________, and whose phone number is ____________________, as Principal, and ____________________________, a corporation, whose address is ________________________ and whose phone number is ____________________, as Surety, are bound to City of Avon Park, herein called “Owner”, in the sum of $ ___________ (___________________ Dollars) regarding the Contract for the _________________________ located at ___________________, Avon Park, Highlands County, Florida, for the payment of which we bind ourselves, our heirs, personal representatives, successors and assigns, jointly and severally.

THE CONDITION OF THIS BOND is that if Principal:

1. Performs the contract dated ________________, 20__, between Principal and Owner for the _________________________ located at ___________________, Avon Park, Highlands County, Florida, the contract being made a part of this bond by reference, at the times and in the manner prescribed in the contract; and
2. Pays Owner all losses, damages, expenses, costs, and attorney’s fees, including appellate proceedings, that Owner sustains because of default by Principal under the contract; and
3. Performs the guarantee of all work and materials furnished under the contract for the time specified in the contract, then this bond is void; otherwise it remains in full force.

Any action instituted by claimant under this bond for payment must be in accordance with the notice and time limitation provisions in §255.05(1), Fla. Stat.

Any changes in or under the Contract Documents and compliance or non-compliance with formalities connected with contract or with the changes do not affect Surety’s obligation under this bond.

Dated __________________________, 20__.

Principal:                     Surety:

By: __________________________  By: __________________________

Title: ________________________  Title: ________________________

(corporate seal)               (corporate seal)
1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.

2. If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except when applicable to participate in a conference as provided in Paragraph 3.

3. If there is no Owner Default under the Construction Contract, the Surety’s obligation under this Bond will arise after:

   3.1. The Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice may indicate whether the Owner is requesting a conference among the Owner, Contractor, and Surety to discuss the Contractor’s performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner’s notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Paragraph 3.1 will be held within ten (10) business days of the Surety’s receipt of the Owner’s notice. If the Owner, the Contractor, and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement does not waive the Owner’s right, if any, subsequently to declare a Contractor Default;

   3.2. The Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and

   3.3. The Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.

4. Failure on the part of the Owner to comply with the notice requirement in Paragraph 3.1 does not constitute a failure to comply with a condition precedent to the Surety’s obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.

5. When the Owner has satisfied the conditions of Paragraph 3, the Surety shall promptly and at the Surety’s expense take one of the following actions:

   5.1. Arrange for the Contractor, with the consent of the Owner, to perform and complete the Construction Contract;

   5.2. Undertake to perform and complete the Construction Contract itself, through its agents or independent contractors;

   5.3. Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and a contractor selected with the Owners concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Paragraph 7 in excess of the Balance of the Contract Price incurred by the Owner as a result of the Contractor Default; or

   5.4. Waive its right to perform and complete, arrange for completion, or obtain a new contractor, and with reasonable promptness under the circumstances:
5.4.1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, make payment to the Owner; or

5.4.2 Deny liability in whole or in part and notify the Owner, citing the reasons for denial.

6. If the Surety does not proceed as provided in Paragraph 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Paragraph 5.4, and the Owner refuses the payment, or the Surety has denied liability, in whole or in part, without further notice, the Owner shall be entitled to enforce any remedy available to the Owner.

7. If the Surety elects to act under Paragraph 5.1, 5.2, or 5.3, then the responsibilities of the Surety to the Owner will not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety will not be greater than those of the Owner under the Construction Contract. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication for:

7.1. the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;

7.2. additional legal, design professional, and delay costs resulting from the Contractor’s Default, and resulting from the actions or failure to act of the Surety under Paragraph 5; and

7.3. liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.

8. If the Surety elects to act under Paragraph 5.1, 5.3, or 5.4, the Surety’s liability is limited to the amount of this Bond.

9. The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price will not be reduced or set off on account of any such unrelated obligations. No right of action will accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, successors, and assigns.

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

11. Any proceeding, legal or equitable, under this Bond must be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and must be instituted within two years after a declaration of Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this paragraph are void or prohibited by law, the minimum periods of limitations available to sureties as a defense in the jurisdiction of the suit will be applicable.

12. Notice to the Surety, the Owner, or the Contractor must be mailed or delivered to the address shown on the page on which their signature appears.

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

14. Definitions

14.1. *Balance of the Contract Price*—The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made including allowance for the Contractor for any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

14.2. *Construction Contract*—The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and changes made to the agreement and the Contract Documents.

14.3. *Contractor Default*—Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with a material term of the Construction Contract.

14.4. *Owner Default*—Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

14.5. *Contract Documents*—All the documents that comprise the agreement between the Owner and Contractor.

15. If this Bond is issued for an agreement between a contractor and subcontractor, the term Contractor in this Bond will be deemed to be Subcontractor and the term Owner will be deemed to be Contractor.

16. Modifications to this Bond are as follows: __________________________________________________________.

Describe modification or enter “None”
PAYMENT BOND

BY THIS BOND, We, __________________________, a □ corporation □ limited liability company, whose address is __________________________, and whose phone number is __________________________, as Principal, and __________________________, a corporation, whose address is __________________________ and whose phone number is __________________________, as Surety, are bound to City of Avon Park, herein called “Owner”, in the sum of $___________________ (___________________ Dollars) regarding the Contract for the __________________________ located at __________________________, Avon Park, Highlands County, Florida, for the payment of which we bind ourselves, our heirs, personal representatives, successors and assigns, jointly and severally.

THE CONDITION OF THIS BOND is that if Principal:

1. Performs the contract dated ________________, 20___, between Principal and Owner for construction of the __________________________ located at __________________________, Avon Park, Highlands County, Florida, the contract being made a part of this bond by reference, at the times and in the manner prescribed in the contract; and
2. Promptly makes payment to all claimants, as defined in §255.05(1), Fla. Stat., supplying labor, materials, or supplies used directly or indirectly by Principal in the prosecution of the work provided in the contract; and
3. Pays Owner all losses, damages, expenses, costs, and attorney’s fees, including appellate proceedings, that Owner sustains because of default by Principal under the contract, then this bond is void, otherwise it remains in full force.

Any action instituted by claimant under this bond for payment must be in accordance with the notice and time limitation provisions in §255.05(1), Fla. Stat.

Any changes in or under the Contract Documents and compliance or non-compliance with formalities connected with contract or with the changes do not affect Surety’s obligation under this bond.

Dated __________________________, 20___.

Principal: __________________________

By: __________________________

Title: __________________________

(corporate seal)

Surety: __________________________

By: __________________________

Title: __________________________

(corporate seal)
1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner to pay for labor, materials, and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference, subject to the following terms.

2. If the Contractor promptly makes payment of all sums due to Claimants, and defends, indemnifies, and holds harmless the Owner from claims, demands, liens, or suits by any person or entity seeking payment for labor, materials, or equipment furnished for use in the performance of the Construction Contract, then the Surety and the Contractor shall have no obligation under this Bond.

3. If there is no Owner Default under the Construction Contract, the Surety’s obligation to the Owner under this Bond will arise after the Owner has promptly notified the Contractor and the Surety (at the address described in Paragraph 13) of claims, demands, liens, or suits against the Owner or the Owner’s property by any person or entity seeking payment for labor, materials, or equipment furnished for use in the performance of the Construction Contract, and tendered defense of such claims, demands, liens, or suits to the Contractor and the Surety.

4. When the Owner has satisfied the conditions in Paragraph 3, the Surety shall promptly and at the Surety’s expense defend, indemnify, and hold harmless the Owner against a duly tendered claim, demand, lien, or suit.

5. The Surety’s obligations to a Claimant under this Bond will arise after the following:
   
   5.1. Claimants who do not have a direct contract with the Contractor
       
       5.1.1. have furnished a written notice of non-payment to the Contractor, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were, or equipment was, furnished or supplied or for whom the labor was done or performed, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the Claim; and
       
       5.1.2. have sent a Claim to the Surety (at the address described in Paragraph 13).

   5.2. Claimants who are employed by or have a direct contract with the Contractor have sent a Claim to the Surety (at the address described in Paragraph 13).

6. If a notice of non-payment required by Paragraph 5.1.1 is given by the Owner to the Contractor, that is sufficient to satisfy a Claimant’s obligation to furnish a written notice of non-payment under Paragraph 5.1.1.

7. When a Claimant has satisfied the conditions of Paragraph 5.1 or 5.2, whichever is applicable, the Surety shall promptly and at the Surety’s expense take the following actions:
   
   7.1. Send an answer to the Claimant, with a copy to the Owner, within sixty (60) days after receipt of the Claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed; and
   
   7.2. Pay or arrange for payment of any undisputed amounts.

   7.3. The Surety’s failure to discharge its obligations under Paragraph 7.1 or 7.2 will not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a Claim, except as to undisputed amounts for which the Surety and Claimant have reached agreement. If, however, the Surety fails to discharge its obligations under Paragraph 7.1 or 7.2, the Surety shall indemnify the Claimant for the reasonable attorney’s fees the Claimant incurs thereafter to recover any sums found to be due and owing to the Claimant.
8. The Surety’s total obligation will not exceed the amount of this Bond, plus the amount of reasonable attorney’s fees provided under Paragraph 7.3, and the amount of this Bond will be credited for any payments made in good faith by the Surety.

9. Amounts owed by the Owner to the Contractor under the Construction Contract will be used for the performance of the Construction Contract and to satisfy claims, if any, under any construction performance bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfying obligations of the Contractor and Surety under this Bond, subject to the Owner’s priority to use the funds for the completion of the work.

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

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

12. No suit or action will be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the state in which the project that is the subject of the Construction Contract is located or after the expiration of one year from the date (1) on which the Claimant sent a Claim to the Surety pursuant to Paragraph 5.1.2 or 5.2, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit will be applicable.

13. Notice and Claims to the Surety, the Owner, or the Contractor must be mailed or delivered to the address shown on the page on which their signature appears. Actual receipt of notice or Claims, however accomplished, will be sufficient compliance as of the date received.

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

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

16. Definitions

16.1. Claim—A written statement by the Claimant including at a minimum:

16.1.1. The name of the Claimant;

16.1.2. The name of the person for whom the labor was done, or materials or equipment furnished;

16.1.3. A copy of the agreement or purchase order pursuant to which labor, materials, or equipment was furnished for use in the performance of the Construction Contract;

16.1.4. A brief description of the labor, materials, or equipment furnished;
16.1.5. The date on which the Claimant last performed labor or last furnished materials or equipment for use in the performance of the Construction Contract;

16.1.6. The total amount earned by the Claimant for labor, materials, or equipment furnished as of the date of the Claim;

16.1.7. The total amount of previous payments received by the Claimant; and

16.1.8. The total amount due and unpaid to the Claimant for labor, materials, or equipment furnished as of the date of the Claim.

16.2. Claimant—An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials, or equipment for use in the performance of the Construction Contract. The term Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic’s lien or similar statute against the real property upon which the Project is located. The intent of this Bond is to include without limitation in the terms of “labor, materials, or equipment” that part of the water, gas, power, light, heat, oil, gasoline, telephone service, or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor’s subcontractors, and all other items for which a mechanic’s lien may be asserted in the jurisdiction where the labor, materials, or equipment were furnished.

16.3. Construction Contract—The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and all changes made to the agreement and the Contract Documents.

16.4. Owner Default—Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

16.5. Contract Documents—All the documents that comprise the agreement between the Owner and Contractor.

17. If this Bond is issued for an agreement between a contractor and subcontractor, the term Contractor in this Bond will be deemed to be Subcontractor and the term Owner will be deemed to be Contractor.

18. Modifications to this Bond are as follows:

Describe modification or enter None
NOTICE TO PROCEED

Owner: ___________________________ Owner’s Project No.: __________

Engineer: ________________________ Engineer’s Project No.: __________

Contractor: ______________________ Contractor’s Project No.: __________

Project: __________________________

Contract Name: ____________________

Effective Date of Contract: _____________________________

Owner hereby notifies Contractor that the Contract Times under the above Contract will commence to run on _____________________________ pursuant to Paragraph 4.01 of the General Conditions.

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

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

The date by which Substantial Completion must be achieved is ______________________, and the date by which readiness for final payment must be achieved is ______________________.

[or]

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

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

________________________________________

Owner:

By(signature): ___________________________

Name (printed): __________________________

Title: __________________________

Date Issued: __________________________

Copy: Engineer
CHANGE ORDER NO.: ______________________

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

Description:

Attachments: (List documents related to the change)

<table>
<thead>
<tr>
<th>Change in Contract Price</th>
<th>Change in Contract Times</th>
</tr>
</thead>
<tbody>
<tr>
<td>Original Contract Price:</td>
<td>Original Contract Times:</td>
</tr>
<tr>
<td>$ _________________</td>
<td>Substantial Completion:</td>
</tr>
<tr>
<td>[Increase] [Decrease]</td>
<td>Ready for final payment:</td>
</tr>
<tr>
<td>from previously approved</td>
<td>[Increase] [Decrease]:</td>
</tr>
<tr>
<td>Change Orders No. 1 to No.</td>
<td>from previously approved</td>
</tr>
<tr>
<td>______________________</td>
<td>Change Orders No.1 to No.</td>
</tr>
<tr>
<td>$ _________________</td>
<td>Substantial Completion:</td>
</tr>
<tr>
<td></td>
<td>Ready for final payment:</td>
</tr>
<tr>
<td>Contract Price prior to this Change Order:</td>
<td>Contract Times prior to this Change Order:</td>
</tr>
<tr>
<td>$ _________________</td>
<td>Substantial Completion:</td>
</tr>
<tr>
<td>[Increase] [Decrease]</td>
<td>Ready for final payment:</td>
</tr>
<tr>
<td>this Change Order:</td>
<td>[Increase] [Decrease]:</td>
</tr>
<tr>
<td>$ _________________</td>
<td>from this Change Order:</td>
</tr>
<tr>
<td>Contract Price incorporating this Change Order:</td>
<td>Contract Times with all approved Change Orders:</td>
</tr>
<tr>
<td>$ _________________</td>
<td>Substantial Completion:</td>
</tr>
<tr>
<td></td>
<td>Ready for final payment:</td>
</tr>
</tbody>
</table>

Recommended by Engineer (if required)  
Accepted by Contractor

By: ____________________________  
Title: ____________________________  
Date: ____________________________  

Authorized by Owner  
Approved by Funding Agency (if applicable)

By: ____________________________  
Title: ____________________________  
Date: ____________________________

Owner: ____________________________  
Owner’s Project No.: ________________  
Engineer: ____________________________  
Engineer’s Project No.: ________________  
Contractor: ____________________________  
Contractor’s Project No.: ________________

Recommended by Engineer (if required)

By: ____________________________  
Title: ____________________________  
Date: ____________________________  

Authorized by Owner  
Approved by Funding Agency (if applicable)

By: ____________________________  
Title: ____________________________  
Date: ____________________________
WORK CHANGE DIRECTIVE NO.: ____________________

Owner: ___________________________ Owner’s Project No.: ___________

Engineer: _________________________ Engineer’s Project No.: ___________

Contractor: ______________________ Contractor’s Project No.: ___________

Project: ___________________________

Contract Name: ____________________

Date Issued: _______________ Effective Date of Work Change Directive: ___________

Contractor is directed to proceed promptly with the following change(s):

Description:

________________________________________________________________________

Attachments:

________________________________________________________________________

Purpose for the Work Change Directive:

________________________________________________________________________

Directive to proceed promptly with the Work described herein, prior to agreeing to change in Contract Price and Contract Time, is issued due to:

(Check one or both of the following)

☐ Non-agreement on pricing of proposed change. ☐ Necessity to proceed for schedule or other reasons.

Estimated Change in Contract Price and Contract Times (non-binding, preliminary):

Contract Price: $ __________________________ [increase] [decrease] [not yet estimated].

Contract Time: _______ days [increase] [decrease] [not yet estimated].

Basis of estimated change in Contract Price:

☐ Lump Sum ☐ Unit Price ☐ Cost of the Work ☐ Other

________________________________________________________________________

Recommended by Engineer Authorized by Owner

By: _______________________________ _______________________________

Title: _______________________________ _______________________________

Date: _______________________________ _______________________________
Contractor’s Application For Payment No. ________

To (Owner):
From (Contractor):
Via (Engineer)

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

APPLICATION FOR PAYMENT

Change Order Summary

<table>
<thead>
<tr>
<th>Approved Change Orders</th>
<th></th>
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<tbody>
<tr>
<td>Number</td>
<td>Additions</td>
</tr>
<tr>
<td>----------------</td>
<td>----------------</td>
</tr>
<tr>
<td>1. ORIGINAL CONTRACT PRICE ........................................................... $</td>
<td></td>
</tr>
<tr>
<td>2. Net change by Change Orders ........................................................... $</td>
<td></td>
</tr>
<tr>
<td>3. CURRENT CONTRACT PRICE (Line 1 ± 2) ............................................... $</td>
<td></td>
</tr>
<tr>
<td>4. TOTAL COMPLETED AND STORED TO DATE</td>
<td></td>
</tr>
<tr>
<td>(Column F on Progress Estimate) .................................................... $</td>
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<tr>
<td>5. RETAINAGE:</td>
<td></td>
</tr>
<tr>
<td>a. _____ % x $_________________ Work Completed ......................... $</td>
<td></td>
</tr>
<tr>
<td>b. _____ % x $_________________ Stored Material ....................... $</td>
<td></td>
</tr>
<tr>
<td>c. Total Retainage (Line 5a + Line 5b) ....................................... $</td>
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</tr>
<tr>
<td>6. AMOUNT ELIGIBLE TO DATE (Line 4 - Line 5c) ............................ $</td>
<td></td>
</tr>
<tr>
<td>7. LESS PREVIOUS PAYMENTS (Line 6 from prior Application) ...... $</td>
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</tr>
<tr>
<td>8. AMOUNT DUE THIS APPLICATION .................................................. $</td>
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<tr>
<td>9. BALANCE TO FINISH, PLUS RETAINAGE</td>
<td></td>
</tr>
<tr>
<td>(Column G on Progress Estimate + Line 5 above) ......................... $</td>
<td></td>
</tr>
</tbody>
</table>

TOTALS

NET CHANGE BY CHANGE ORDERS

CONTRACTOR’S CERTIFICATION

The undersigned Contractor certifies that: (1) all previous progress payments received from Owner on account of Work done under the Contract have been applied on account to discharge Contractor's legitimate obligations incurred in connection with Work covered by prior Applications for Payment; (2) title of all Work, materials and equipment incorporated in said Work or otherwise listed in or covered by this Application for Payment will pass to Owner at time of payment free and clear of all Liens, security interests and encumbrances (except such as are covered by a Bond acceptable to Owner indemnifying Owner against any such Liens, security interest or encumbrances); and (3) all Work covered by this Application for Payment is in accordance with the Contract Documents and is not defective.

Payment of: $___________________________________________________
(Line 8 or other - attach explanation of other amount)

is recommended by: ________________________  (Engineer)  (Date)

Payment of: $___________________________________________________
(Line 8 or other - attach explanation of other amount)

is approved by: ________________________  (Owner)  (Date)

Approved by: ________________________  (Funding Agency (if applicable))  (Date)
## Progress Estimate

### Contractor’s Application

<table>
<thead>
<tr>
<th>Specification Section No.</th>
<th>Description</th>
<th>Item</th>
<th>Scheduled Value</th>
<th>Work Completed</th>
<th>From Previous Application (C + D)</th>
<th>This Period</th>
<th>Materials Presently Stored (not in C or D)</th>
<th>Total Completed and Stored to Date (C + D + E)</th>
<th>% (F) B</th>
<th>Balance to Finish (B - F)</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>B</td>
<td>C</td>
<td>D</td>
<td>E</td>
<td>F</td>
<td>G</td>
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<tr>
<td>Totals</td>
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<tr>
<td>Bid Item No.</td>
<td>Description</td>
<td>A</td>
<td>B</td>
<td>C</td>
<td>D</td>
<td>E</td>
<td>F</td>
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<td>Bid Quantity</td>
<td>Unit Price</td>
<td>Bid Value</td>
<td>Estimated Quantity Installed</td>
<td>Value</td>
<td>Materials Presently Stored (not in C)</td>
<td>Total Completed and Stored to Date (D + E)</td>
<td>% (F)</td>
<td>Balance to Finish (B - F)</td>
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Totals

**Stored Material Summary**

**Contractor's Application**
<table>
<thead>
<tr>
<th>Invoice No.</th>
<th>Shop Drawing Transmittal No.</th>
<th>Materials Description</th>
<th>Stored Previously</th>
<th>Stored this Month</th>
<th>Incorporated in Work</th>
<th>Materials Remaining in Storage ($)</th>
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<tr>
<td></td>
<td></td>
<td></td>
<td>Date (Month/Year)</td>
<td>Amount ($)</td>
<td>Date (Month/Year)</td>
<td>(D + E - F)</td>
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</table>

**Totals**
CERTIFICATE OF SUBSTANTIAL COMPLETION

Owner: ___________________________________________ Owner’s Project No.: ______________________
Engineer: _________________________________________ Engineer’s Project No.: ______________________
Contractor: ________________________________________ Contractor’s Project No.: ______________________
Project: ___________________________________________
Contract Name: ____________________________________

This ☐ Preliminary ☐ Final Certificate of Substantial Completion applies to:

☐ All Work ☐ The following specified portions of the Work:

__________________________________________________________________________________
__________________________________________________________________________________

(Describe the portion of the work for which Certificate of Substantial Completion is issued)

Date of Substantial Completion: __________________________

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

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

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

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

Amendments to Owner’s Responsibilities: ☐ None ☐ As follows:

Amendments to Contractor’s Responsibilities: ☐ None ☐ As follows:

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

List attachments such as punch list; other documents

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

Engineer

By (signature):

Name (printed):

Title:
SPECIFICATIONS/PERMITS/SPECIAL REQUIREMENTS

Florida Department of Economic Opportunity (FDEO) - Florida Job Growth Infrastructure Grant Agreement - DEO Agreement No. G0061

All verification testing is performed in accordance with, when applicable, the 2014 Standard Specifications for Road and Bridge Construction, as amended from time to time, under the oversight of the Consultant Construction Engineering Inspection (“CCEI”) firm retained by the owner.

The Florida Department of Transportation Utility Permit (Permit 3 ) issued to the City of Avon Park for the US 27 North Water Main and Force Main Utility Extension Project.

Florida Department of Transportation Standard Specifications for Road and Bridge Construction (latest edition)

Highlands County Land Development Regulations (most recent revision)

Highlands County Technical Standards Manual (most recent edition)

Florida Department of Environmental Protection Permit(s) for the water main, force main, gravity line and lift station.

The Highlands County Engineering Department Permit(s) for the water main, force main, gravity line and lift station.
CHAIN LINK FENCE SPECIFICATIONS

1.0 GENERAL

1.01 CHAIN LINK FENCE MANUFACTURERS INSTITUTE PRODUCT MANUAL CLF-PM0610 (Revised January, 2014)

1.02 REFERENCES

A. ASTM A121 Specification for Metallic-Coated Carbon Steel Barbed Wire
B. ASTM A392 Specification for Zinc-Coated Steel Chain-Link Fence Fabric
C. ASTM A491 Specification for Aluminum-Coated Steel Chain-Link Fabric
D. ASTM A780 Standard Practice for Repair of Damaged and Uncoated Areas of Hot-Dip Galvanized Coatings
E. ASTM A824 Specification for Metallic-Coated Steel Marcelled Tension Wire for Use With Chain Link
F. ASTM F552 Standard Terminology Relating to Chain Link Fencing
G. ASTM F567 Standard Practice for Installation of Chain Link Fence
H. ASTM F626 Specification for Fence Fittings
I. ASTM F668 Specification for Polymer Coated Chain Link Fence Fabric
J. ASTM F900 Specification for Industrial and Commercial Swing Gates
K. ASTM F934 Specification for Standard Colors for Polymer-Coated Chain Link
L. ASTM F1043 Specification for Strength and Protective Coatings of Metal Industrial Chain Link Fence Framework
M. ASTM F1083 Specification for Pipe, Steel, Hot-Dipped Zinc-Coated (Galvanized) Welded, for Fence Structures
N. ASTM F1184 Specification for Industrial and Commercial Horizontal Slide Gates
O. ASTM F1345 Specification for Zinc-5% Aluminum-Mischmetal Alloy-Coated Steel Chain-Link Fence Fabric
P. ASTM F1664 Specification for Poly (Vinyl Chloride) (PVC) and Other Conforming Organic Polymer-Coated Steel Tension Wire Used with Chain-Link Fence
Q. ASTM F1665 Specification for Poly (Vinyl Chloride) (PVC) and Other Conforming Organic Polymer-Coated Steel Barbed Wire Used with Chain-Link Fence

R. ASTM F1910 Specification for Long Barbed Tape Obstacles

S. ASTM F1911 Standard Practice for Installation of Barbed Tape

T. ASTM F2200 Specification for Automated Vehicular Gate Construction


V. CHAIN LINK FENCE MANUFACTURERS INSTITUTE (CLFMI) SFR 2445 Security Fence Recommendations

W. CLFMI CLF TPO211 Tested and Proven Performance of Security Grade Chain Link Fence Systems

X. CLFMI WLG2445 Chain Link Fence Wind Load Guide for the Selection of Line Post and Line Post Spacing

Y. CHAIN LINK FENCE MANUFACTURERS INSTITUTE PRODUCT MANUAL CLF-PM0610 (Revised January, 2014) CHAIN LINK FENCE MANUFACTURERS INSTITUTE GUIDE FOR SPECIFYING COMMERCIAL, INDUSTRIAL AND SECURITY CHAIN LINK FENCE AND GATES (CLFS 2445) [12/2013]

1.03 QUALITY ASSURANCE

A. Manufacturer: Company operating in the United States having U.S. manufacturing facility/facilities specializing in manufacturing chain link fence products with at least 5 years of experience.

B. Fence contractor: Company with demonstrated successful experience installing similar projects and products in accordance with ASTM F567 and have at least 5 years of experience.


1.04 DELIVERY, STORAGE AND HANDLING

A. Storage: Store and protect products off the ground when required.
2.0 PRODUCTS

2.01 MANUFACTURERS

A. Manufacturer: Company operating in the United States having U.S. manufacturing facility/facilities specializing in manufacturing chain link fence products with at least 5 years of experience.

2.02 CHAIN LINK FABRIC

A. Zinc Coated Steel Chain Link Fabric (galvanized steel): Two (2) inch mesh, nine (9) gauge, six (6) feet high per ASTM A392 hot dipped galvanized, Class 2 (2 oz/sq ft), twist top selvage, knuckle bottom selvage.

2.03 STEEL FENCE FRAMEWORK

A. Schedule 40 galvanized pipe per ASTM F1083 (group 1A). Exterior zinc coating Type A, interior zinc coating Type A. Steel yield strength 30,000 psi Regular Grade.

1. Line post: 2.375 inch OD, 3.65 lb/ft
2. End, Corner, Pull post: 2.875 inch, 8.62 lb/ft
3. Top, brace, bottom and intermediate rails, 1.660 inch OD, 2.27 lb/ft

2.04 TENSION WIRE

A. Metallic Coated Steel Marcelled Tension Wire: 7 gauge (0.177 in.) marcelled wire complying with ASTM A824, Type II Zinc-Coated Class 5 - 2.0 oz/ft²

2.05 BARBED WIRE

Not Required.

2.06 BARBED TAPE

Not Required

2.07 FITTINGS

A. Tension and Brace Bands: Galvanized pressed steel complying with ASTM F626, minimum steel thickness of 12 gauge (0.105 inch), minimum width of 3/4 inch and minimum zinc coating of 1.20 oz/ft². Bands supplied with 5/16 inch or 3/8 inch galvanized steel carriage bolts.

B. Terminal Post Caps, Line Post Loop Tops, Rail and Brace Ends, Boulevard Clamps, Rail Sleeves: In compliance to ASTM F626, pressed steel galvanized after fabrication having a minimum zinc coating of 1.20 oz/ft².
C. Truss Rod Assembly: In compliance with ASTM F626, 3/8 inch diameter steel truss rod with a pressed steel tightener, minimum zinc coating of 1.2 oz/ft², assembly capable of withstanding a tension of 2,000 lbs.

D. Tension Bars: In compliance with ASTM F626. Galvanized steel one-piece length 2 inch less than the fabric height. Minimum zinc coating 1.2 oz./ft². Bars for 2 inch mesh shall have a minimum cross section of 3/16 inch by 3/4 inch.

2.08 TIE WIRE and HOG RINGS

A. Tie wire and hogs rings per ASTM F626. [Standard applications: 9 gauge (0.148 inch) aluminum alloy ties, 9 gauge (0.148 inch) aluminum alloy hog rings

2.09 SWING GATES


2.10 CONCRETE

A. Concrete for post footings shall have a 28-day compressive strength of 2,500 psi.

3.0 INSTALLATION

3.01 CLEARING FENCE LINE

A. Clearing: The contract drawings indicate the extent of the area, if there is any, to be cleared and grubbed.

3.02 FRAMEWORK INSTALLATION

A. Posts: Posts shall be set plumb in concrete footings in accordance with ASTM F567. Gate and Corner Post shall be set a minimum of 36 inches into the ground and the footing shall extend 6 inches below the bottom of the post for a total minimum footing depth of 42 inches below ground level. Gate and Corner post minimum footing diameter shall be 18 inches. Line post shall be set a minimum of 30 inches into the ground and the footing shall extend 6 inches below the bottom of the post, for a total minimum footing depth of 36 inches. Top of post concrete footing to be at grade and crowned to shed water away from the post. Line posts installed at intervals not exceeding 10 ft. on center.
B. Top rail: Install 21 foot lengths of rail continuous thru the line post or barb arm loop top. Splice rail using top rail sleeves minimum 6 inches long. The rail shall be secured to the terminal post by a brace band and rail end. Bottom rail or intermediate rail shall be field cut and secured to the line posts using boulevard bands or rail ends and brace bands.

C. Terminal posts: End, corner, pull and gate posts shall be braced and trussed. The horizontal brace rail and diagonal truss rod shall be installed in accordance with ASTM F567.

D. Tension wire: Shall be installed 4 inches up from the bottom of the fabric. Tension wire to be stretched taut, independently and prior to the fabric, between the terminal posts and secured to the terminal post using a brace band. Secure the tension wire to the chain link fabric with a 9 gauge hog rings 18 inches on center and to each line post with a tie wire.

3.03 CHAIN LINK FABRIC INSTALLATION

A. Chain Link Fabric: Install fabric to outside of the framework. Attach fabric to the terminal post by threading the tension bar through the fabric; secure the tension bar to the terminal post with tension bands and 5/16 inch carriage bolts spaced no greater than 12 inches on center. Chain link fabric to be stretched taut free of sag. Fabric to be secured to the line post with tie wires spaced no greater than 12 inches on center and to rail spaced no greater than 18 inches on center. Secure fabric to the tension wire with Pre-formed 9 gauge galvanized steel power-fastened tie wire shall be wrapped 360 degrees around the post or rail and fabric picket, twist the two wire ends together three full turns per ASTM F626. Excess wire shall be cut off and bent over to prevent injury. The installed fabric shall have a ground clearance on no more than 2 inches.

3.04 GATE INSTALLATION

A. Swing Gates: Installation of swing gates and gateposts in compliance with ASTM F567. Direction of swing shall be outward. Gates shall be plumb in the closed position having a bottom clearance of 3 inches, grade permitting. Hinge and latch offset opening space from the gate frame to the post shall be no greater than 3 inches in the closed position. Double gate drop bar receivers shall be set in a concrete footing minimum 6 inches diameter and 24 inches deep. Gate leaf holdbacks shall be installed for all double gates.

3.05 BARBED TAPE INSTALLATION

Not Required.

3.06 NUTS AND BOLTS

A. Bolts: Carriage bolts used for fittings shall be installed with the head on the secure side of the fence. All bolts shall be peened over to prevent removal of the nut.
3.07 ELECTRICAL GROUNDING

A. Grounding: Grounding of the fence and gates is not the responsibility of the fence contractor and not included in the fencing scope of work for this contract.

3.08 CLEAN UP

A. Clean Up: The area of the fence line shall be left neat and free of any debris caused by the installation of the fence.