

PROJECT MANUAL

FOR

MAIN STREET WATER MAIN RELOCATION

CITY OF KETCHUM, IDAHO

FEBRUARY 7, 2024

Current thru Addendum 2

Prepared for

City of Ketchum
PO Box 2315
191 5th Street West
Ketchum, ID 83303

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INVITATION TO BID

RECEIPT OF BIDS: Sealed or electronic bids for the construction of the MAIN STREET WATER MAIN RELOCATION project addressed to “The City of Ketchum” **will be received until 4:00 PM, Local Time, on Wednesday, February 28, 2024 and will be opened immediately at Ketchum City Hall, 191 5th St W, Ketchum, ID 83340 in the Community Meeting Room.** Bids must be delivered to the City Clerk of the City of Ketchum, Idaho, at Ketchum City Hall, 191 5th Street West or mailed to PO Box 2315, Ketchum, Idaho, 83340 OR emailed to at bwhipple@ketchumidaho.org in PDF format. Electronic bids shall be submitted in one single PDF file with the file name “Ketchum Main Street Water Main Relocation_[contractor name]_2024-02-21.pdf.” The subject line of the bid submission email shall be “BID ATTACHED: Ketchum Main Street Water Main Relocation – [contractor name]”.

OBTAINING CONTRACT DOCUMENTS: The CONTRACT DOCUMENTS **will be available beginning at 1:00 PM, Local Time, on Wednesday, February 7, 2024.** The CONTRACT DOCUMENTS may be examined at Ketchum City Hall, PO Box 2315, Ketchum, Idaho, 83340. Copies of the CONTRACT DOCUMENTS in PDF file format may be obtained by submitting an email request to the following:

EMAIL: bwhipple@ketchumidaho.org

SUBJECT: Ketchum Main Street Water Main Relocation Contract Document Request

Printed copies of the CONTRACT DOCUMENTS may be obtained upon similar request, at the cost to the BIDDER of \$50 for reproduction and handling, plus any necessary postage. No return of reproduced documents is required, and no refund will be made.

DESCRIPTION OF WORK: The proposed project consists of the relocation of existing water and irrigation main infrastructure between 2nd Street and 4th Street as well as fire hydrant replacement between 1st Street and 9th Street along Main Street in conjunction with the re-construction of Main Street within the City of Ketchum. Work includes:

- Water Infrastructure: includes but is not limited to water main line, associated appurtenances/fittings, and existing water service extensions.
- Fire Hydrant Replacement: includes but is not limited to replacement of fire hydrant fixtures and/or assemblies along Main Street between 1st Street and 9th Street.
- Irrigation Infrastructure: includes but is not limited to irrigation main line, associated appurtenances/fittings, and new irrigation services for street tree irrigation.

The Contractor shall be responsible for hiring a Materials Testing Company during construction per the Construction Drawings. The contractor shall be responsible for obtaining acceptance of work from the City of Ketchum.

The City of Ketchum will concurrently manage a project including demolition and re-construction of existing roadway infrastructure on Main Street between River Street and 10th Street. Design drawings for said improvements are included for reference only. All work associated with roadway infrastructure is excluded from the scope of work. Demolition and construction of roadway and pedestrian facility infrastructure will occur concurrently with scoped water improvements. Coordination between roadway contractor and water contractor will be required.

BID SECURITY: A BID must be submitted on the prescribed form and shall be accompanied by Bid Security in the form of a certified cashier’s check, or a corporate bid bond payable to the City of Ketchum, in the amount of **five percent (5%)** of the total bid amount. The successful BIDDER will be required to provide Performance and Payment Bonds, each in the amount of not less than one-hundred percent (100%) of the contract price.

OTHER REQUIREMENTS: BIDDERS and their subcontractors shall provide proof of a Public Works Contractors License for the State of Idaho in effect at the time of BID submittal. BIDDERS will submit a list of all Subcontractors with their BID. All Subcontractors shall also provide proof of a Public Works Contractor’s License for the State of Idaho in effect at the time of BID submittal. The attention of BIDDERS is directed to the applicable local, state, and federal requirements regarding conditions of employment to be observed.

PROJECT ADMINISTRATION: All questions regarding this project prior to the opening of bids shall be directed to the OWNER’S ENGINEER, Samantha Stahlnecker, P.E., (208) 720-9608, sam@opal-engineering.com. No interpretations of the specifications will be made by telephone, nor will any “substitutions” of products be considered for approval prior to the award of the contract.

END OF SECTION

1 DEFINITIONS

- 1.01 Terms used in these Instructions to Bidder which are defined in the Standard General Conditions of the Construction Contract have the meanings assigned to them in the General Conditions. Certain additional terms used in these Instructions to BIDDER have the meanings indicated below, which meanings are applicable to both the singular and plural thereof.
- 1.01.1 *Issuing Office* – the office from the Contract Documents are to be issued and where the bidding procedures are to be administered.
- 1.01.2 *Plan Holder* – An entity having received or purchased a complete set of Bid Documents.

2 DESCRIPTION OF WORK

- 2.01 The proposed project consists of the relocation of existing water and irrigation main infrastructure between 2nd Street and 4th Street as well as fire hydrant replacement between 1st Street and 9th Street along Main Street in conjunction with the re-construction of Main Street within the City of Ketchum. Work:
- 2.01.1 Water Infrastructure: includes but is not limited to water main line, associated appurtenances/fittings, and existing water service extensions.
- 2.01.2 Fire Hydrant Replacement: includes but is not limited to replacement of fire hydrant fixtures and/or assemblies along Main Street between 1st Street and 9th Street.
- 2.01.3 Irrigation Infrastructure: includes but is not limited to irrigation main line, associated appurtenances/fittings, and new irrigation services for street tree irrigation.
- 2.02 The Contractor shall be responsible for hiring a Materials Testing Company during construction per the Construction Drawings. The contractor shall be responsible for obtaining acceptance of work from the City of Ketchum.
- 2.03 The City of Ketchum will concurrently manage a project including demolition and re-construction of existing roadway infrastructure on Main Street between River Street and 10th Street. Design drawings for said improvements are included for reference only. All work associated with roadway infrastructure is excluded from the scope of work. Demolition and construction of roadway and pedestrian facility infrastructure will occur concurrently with scoped water improvements. Coordination between roadway contractor and water contractor will be required.

3.0 BID SUBMITTAL

- 3.1 Two methods of delivery will be accepted electronic or hardcopy
- 3.1.01 **For electronic delivery:** The bid shall be emailed to Ben Whipple at bwhipple@ketchumidaho.org in PDF format. Electronic bids shall be submitted in one single PDF file with the file name "Ketchum Main Street Water Main Relocation_[contractor name]_ 2024-02-21.pdf." The subject line of the bid submission email shall be "BID ATTACHED: Ketchum Main Street Water Main Relocation – [contractor name]".
- 3.1.02 **For hardcopies delivery:** The bid shall be sealed and addressed to City Clerk of the City of Ketchum, Idaho, at Ketchum City Hall, PO Box 2315, Ketchum, Idaho, 83340 or delivered to 191 5th Street West, Ketchum, Idaho 83340. The envelope shall be plainly marked in the upper left-hand corner with the name and address of the bidder and shall bear the words "Bid for," followed by the Project title and the date and hour of opening of bids.

INSTRUCTION TO BIDDERS

- 3.2 Sealed or electronic bids for the construction of the MAIN STREET WATER MAIN RELOCATION project addressed to “The City of Ketchum” **will be received until 4:00 PM, Local Time, on Wednesday, February 28, 2024 and will be opened immediately at Ketchum City Hall, 191 5th St W, Ketchum, ID 83340 in the Community Meeting Room.** Bids must be delivered to the City Clerk of the City of Ketchum, Idaho, at Ketchum City Hall, 191 5th Street W, Ketchum, Idaho 83340 or mailed to PO Box 2315, Ketchum, Idaho, 83340 OR emailed to Ben Whipple at bwhipple@ketchumidaho.org in PDF format.
- 3.3 All BIDS must be made on the required BID form. All blank spaces for BID prices must be filled in, in ink or typewritten, and the BID form must be fully completed and executed when submitted. Only one copy of the BID form is required.

4.0 COPIES OF BIDDING DOCUMENTS

- 4.1 Bidding Documents may be obtained as indicated in the Invitation to Bid. The OWNER shall provide to BIDDERS prior to bidding, all information which is pertinent to, and delineates and describes, the land owned and rights-of-way acquired or to be acquired. The Contract Documents contain the provisions required for the construction of the project. Information obtained from an officer, agent, or employee of the OWNER or any other person shall not affect the risks or obligations assumed by the CONTRACTOR or relieve him from fulfilling any of the conditions of the contract.
- 4.2 Complete sets of Bidding Documents must be used in preparing Bids. The OWNER and ENGINEER assume no responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.
- 4.3 The OWNER, in making copies of Bidding Documents available on the above terms, do so only for the purpose of obtaining Bids for the Work, and do not confer a license or grant for any other use.
- 4.4 Contract Documents will be distributed by electronic file sharing, regular mail, express parcel carrier, e-mail, facsimile, or other means as deemed appropriate.
- 4.5 Parties ordering Contract Documents must include company name, U.S. mailing address, express parcel carrier address, telephone number, and facsimile number for timely receipt of Bidding Documents and Addenda.

5.0 QUALIFICATION OF BIDDERS

- 5.1 To demonstrate qualifications to perform the Work, each BIDDER must be prepared to submit within five calendar days after Bid opening upon OWNER's request detailed written evidence such as financial data, previous experience, present commitments, and other such data as may be called for below or in the Supplementary Conditions. Each Bid must contain evidence of BIDDER's qualification to do business in the state where the Project is located or covenant to provide such qualification within five calendar days of bid opening

6.0 SPECIFICATION FORMAT DIFFERENCES

- 6.1 Specification sections may have different formats. The BIDDER shall make no special interpretation, or inference of intent from any different formats of different Specification sections.

7.0 EXAMINATION OF CONTRACT DOCUMENTS AND SITE

- 7.1 BIDDERS must satisfy themselves of the accuracy of the estimated quantities in the BID PROPOSAL by examination of the site and a review of the drawings and specifications including any ADDENDA.
- 7.2 The quantities shown in the BID PROPOSAL are estimated quantities and are given solely for the purpose of facilitating the comparison of Proposals. The OWNER shall not be held responsible if the stated quantities are not accurately estimated.

- 7.3 All computations of the Contractor's compensation shall be based upon the quantities of work actually performed, whether greater or less than estimated quantities. After BIDS have been submitted, the BIDDER shall not assert a misunderstanding concerning the quantities of WORK or the nature of the WORK to be done.
- 7.4 Each BIDDER is responsible for inspecting the site and for reading and being thoroughly familiar with the Bidding Documents. The failure or omission of any BIDDER to do any of the foregoing shall in no way relieve any BIDDER from any obligation in respect to his BID PROPOSAL.
- 7.5 Each BIDDER shall consider federal, state, and local laws and regulations that may affect the material cost, labor cost, progress, performance or furnishing of the Work.
- 7.6 Each BIDDER shall promptly notify the OWNER of all conflicts, errors, ambiguities or discrepancies which the BIDDER has discovered in the Bidding Documents and such other related documents.
- 7.7 Information and data shown or indicated in the Bidding Documents with respect to existing underground facilities at, or contiguous to the site is based upon information and data furnished to the OWNER and ENGINEER by owners of such underground facilities or others, and the OWNER and ENGINEER do not assume responsibility for the accuracy of the completeness thereof, unless expressly provided otherwise.
- 7.8 Provisions concerning responsibilities for the adequacy of data furnished to prospective BIDDERS with respect to subsurface conditions, other physical conditions and Underground Facilities, and possible changes in the Bidding Documents due to differing or unanticipated conditions appear the General Conditions.
- 7.9 The submission of a BID PROPOSAL will constitute an incontrovertible representation by the BIDDER that the BIDDER has complied with every requirement of the Bidding Documents; that without exception the BID PROPOSAL is premised upon performing and furnishing the Work required by the Bidding Documents and applying the specific means, methods, techniques, sequences or procedures of construction (if any) that may be shown or indicated or expressly required by the Bidding Documents; that the BIDDER has given the OWNER written notice of all conflicts, errors, ambiguities and discrepancies that BIDDER has discovered in the Bidding Documents and the written resolutions thereof by the OWNER is acceptable to the BIDDER, and that the Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performing and furnishing the Work and for preparing the BID PROPOSAL.

8.0 INTERPRETATIONS AND ADDENDA

- 8.1 All questions regarding the meaning or intent of the Bidding Documents are to be directed to the OWNER'S ENGINEER. Interpretations or clarifications considered necessary by the OWNER'S ENGINEER in response to such questions will be issued by addenda mailed or delivered to all parties recorded by the OWNER'S ENGINEER as having received the Bidding Documents. Questions received less than five (5) days prior to the date for opening of Bids may not be answered. Only questions answered by formal written Addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.
- 8.2 Addenda may also be issued to modify the Bidding Documents as deemed advisable by the OWNER.

9.0 BID SECURITY

- 9.1 Each BID must be accompanied by a BID SECURITY made payable to the OWNER for five percent (5%) of the BIDDER'S total Bid Price. The Bid Security can be in the form of a certified cashier's check or a Bid Bond issued by a surety meeting the requirements of the General Conditions.

INSTRUCTION TO BIDDERS

- 9.2 The BID SECURITY of the Successful Bidder will be retained until the Contract Documents have been fully executed, and returned to the Successful Bidder with his copy of the fully executed Contract Documents.
- 9.3 The BID SECURITY of such other BIDDERS as the OWNER believes to have a reasonable chance of receiving the award will not be returned until the execution of the Agreement by the OWNER or until the rejection of all bids by the OWNER.
- 9.4 The Bid Securities of any other BIDDERS will be returned within 30 days of Bid Opening.
- 9.5 If the successful BIDDER fails to sign and return the Agreement with the time period specified in EXECUTION OF THE AGREEMENT, the OWNER may annul the award and the Bid Security of that BIDDER shall be forfeited.

10.0 CONTRACT TIMES

- 10.1 Contract Times are set forth in the AGREEMENT.

11.0 LIQUIDATED DAMAGES

- 11.1 Provisions for liquidated damages, if any, are set forth in the AGREEMENT.

12.0 SUBSTITUTE AND "OR-EQUAL" ITEMS

- 12.1 The Contract, if awarded, will be based on the materials and equipment shown in the Bidding Documents, or specified in the Specifications without consideration of possible substitute or "or-equal" items. A substitute or "or-equal" item of material or equipment may be furnished or used by the Contractor, if approved by the ENGINEER. Application for such acceptance will not be considered by the ENGINEER until after the Effective Date of the Agreement. The procedure for submission of any such application by the Contractor and consideration by the ENGINEER is set for in the GENERAL CONDITIONS.

13.0 SUBCONTRACTORS, SUPPLIERS, AND OTHERS

- 13.1 The successful BIDDER shall supply the names and addresses of major material Suppliers and Subcontractors when requested to do so by the OWNER. An experience statement with pertinent information regarding similar project experience and other evidence of qualification for each Subcontractor or Supplier may also be requested by the OWNER.
- 13.2 If the OWNER, after due investigation, has reasonable objections to any proposed Subcontractor, Supplier, other person or organization, the OWNER may request, before Notice-of-Award is given, that the apparent Successful Bidder submit an acceptable substitute and the OWNER will pay any increase in cost resulting from the change.
- 13.3 If the apparent successful BIDDER declines to make any such substitution, the OWNER may award the Contract to a different BIDDER that proposes to use acceptable Subcontractors, Suppliers, other persons or organizations. The declining to make requested substitutions will not constitute grounds for sacrificing the Bid Security of any BIDDER.
- 13.4 Any Subcontractors, Suppliers, other persons or organization listed to whom the OWNER does not make a written objection prior to giving the Notice-of-Award will be deemed acceptable to the OWNER, subject to revocation of such acceptance after the Effective Date of the Agreement, as provided in the General Conditions.

14.0 BID FORM

- 14.1 The BID FORM is included with the Bidding Documents. Additional copies of this form may be obtained from the OWNER. No substitution of forms will be allowed.
- 14.2 All blanks on the BID FORM should be completed by typing or printing in blue or black ink. All Price information shall be provided in figures where required. No changes to the form will be allowed.
- 14.3 BIDS by corporations shall be executed in the corporate name by the president, or a vice-president, or other corporate officer accompanied by evidence of authority to sign, and the corporate seal must be affixed and attested by the secretary, or an assistant secretary. The corporate address and state of incorporation shall be shown below the signature.
- 14.4 Bids by partnerships shall be executed in the partnership name and signed by a partner, whose title shall appear under the signature. The official partnership address shall be shown below the signature.
- 14.5 All names shall be typed or printed in blue or black ink below the signature line.
- 14.6 The BID shall contain an acknowledgement of receipt of all Addenda (the number must be filled in on the BID FORM).
- 14.7 The address and telephone number for communications regarding the BID shall be shown.

INSTRUCTION TO BIDDERS

- 14.8 Evidence of authority to conduct business as an out-of-state corporation in the State of Idaho shall be provided.
- 14.9 A Public Works Contractors License in the State of Idaho is required for this work at the time of execution of the AGREEMENT.
- 14.10 BIDS shall be priced on a lump sum or unit price basis as described in the specifications and provided for in the BID FORM.
- 14.11 The bid price shall include such amounts as the BIDDER deems appropriate for all applicable taxes, overhead, and profit on account of cash allowances named in the Contract Documents, as provided in the General Conditions.

15.0 ADDENDA

- 15.1 OWNER will transmit to all Plan Holders such Addenda as OWNER considers necessary. Oral statements in response to questions shall not be relied upon and shall not be binding or legally effective.

16.0 PRE-BID CONFERENCE

- 16.1 Where a Pre-bid Conference is deemed appropriate, times and locations are noted in Invitation to Bid. Representatives of OWNER will be present to discuss the Project. BIDDERS are encouraged to attend and participate in the conference. OWNER will transmit to all Plan Holders such Addenda as OWNER considers necessary in response to questions arising at the conference. Oral statements shall not be relied upon and shall not be binding or legally effective.

17.0 BID SUBMITTAL

- 17.1 Faxed copies of BID shall be considered non-responsive.
- 17.2 Submit BID no later than the time prescribed, at the place prescribed, and in a manner set forth herein.
 - 17.2.01 Enclose BID in an opaque, sealed envelope, marked with the project title and name and address of the BIDDER and accompanied by the Bid Security and other required documents.
 - 17.2.02 If the BID is sent through the mail or other delivery system, the sealed envelope shall be enclosed in a separate envelope with the notation "BID ENCLOSED" on the face of the envelope.
 - 17.2.03 Bids submitted via email shall be submitted on one pdf file with the file name "BID ATTACHED: Ketchum Main Street Water Main Relocation – [contractor name]".
- 17.3 Only the BID FORM and attachments indicated herein are required to be included with BID.
- 17.4 Only one BID from any individual, firm, partnership, or corporation, under the same or different names, will be considered. If the OWNER determines any BIDDER appears to have interest in more than one BID for the work contemplated, the OWNER may reject all BIDS in which such BIDDER is interested.

18.0 MODIFICATION AND WITHDRAWAL OF BID

- 18.1 BID may be modified or withdrawn by an appropriate document, duly executed in a manner that a BID must be executed, and delivered to the place where BIDS are to be submitted at any time prior to the BID OPENING.
- 18.2 If, before the scheduled closing time for receipt of BIDS, any BIDDER files a duly signed written notice to the, and promptly thereafter demonstrates to the reasonable satisfaction of the OWNER, that there was a material and substantial mistake in the preparation of the BID, that BIDDER may withdraw its BID and the Bid Security will be returned. Thereafter, that BIDDER will be disqualified from further bidding on the project Work to be provided as directed by the Contract Documents.

- 18.3 No BIDDER may withdraw a BID within 60 days after the actual date of the opening thereof.

19.0 OPENING OF BIDS

- 19.1 BIDS will be opened privately.
- 19.2 Any BID received after the time and date specified shall not be considered.
- 19.3 A conditional or qualified BID will not be accepted.

20.0 BIDS TO REMAIN SUBJECT TO ACCEPTANCE

- 20.1 All BIDS shall remain subject to acceptance by the OWNER for the period of time noted in the BID FORM, but the OWNER may release any BID and return the Bid Security prior to that date.

21.0 EVALUATION OF BIDS – BASIS OF AWARD – AWARD OF CONTRACT

- 21.1 Prior to issuing a Notice-of-Award, the OWNER will evaluate the BIDS, considering whether the BIDS comply with the prescribed requirements and whether the best interest of the OWNER is to award the Contract
- 21.2 The OWNER may make such investigations as he deems necessary to determine the ability of the BIDDER to perform the WORK, and the BIDDER shall furnish to the OWNER all such information and data for this purpose as the OWNER may request. The OWNER reserves the right to reject any BID if the evidence submitted by, or investigation of, such BIDDER fails to satisfy the OWNER that such BIDDER is properly qualified to carry out the obligations of the Agreement and to complete the WORK contemplated therein.
- 21.3 The OWNER may waive any informalities or minor defects not involving Bid Price, time, or Changes in the Work. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum.
- 21.4 The OWNER reserves the right to reject any and all BIDS, including without limitation the right to reject any or all nonconforming, non-responsive, unbalanced, or conditional BIDS, and to reject the BID of any BIDDER the OWNER believes not in the best interest of the Project to make an Award to that BIDDER, whether the BID is non-responsive or the BIDDER fails to meet any other pertinent criteria or standard established by the OWNER.
- 21.5 A BID will be rejected if:
 - 21.5.01 The authorized BID FORM furnished is not used, or is altered.
 - 21.5.02 The completed BID FORM contains any unauthorized additions, deletions, bid options, or conditions.
 - 21.5.03 The BIDDER adds provisions to the effect of reserving the right to reject or accept the award.
 - 21.5.04 The BID FORM is not properly executed.
 - 21.5.05 The proposed subcontractors and work responsibilities are not listed as part of the BID.
 - 21.5.06 The Bid Security is not provided.
 - 21.5.07 Receipt of Addenda is not acknowledged.
- 21.6 A BID may be rejected if:
 - 21.6.01 A member of a joint venture and the joint venture submits bids for the same project. In such an instance, both BIDS may be rejected.
 - 21.6.02 BID FORM entries are not clear and legible, and made in ink.

INSTRUCTION TO BIDDERS

- 21.7 If, at the time this Contract is to be awarded, the total Price of the preferred BIDDER exceeds the funds then estimated as available by the OWNER, the OWNER may reject all BIDS, or take other such action as best serves the interest of the OWNER.
- 21.8 If, and only if, the OWNER determines the Contract is to be awarded:
- 21.8.01 The Owner will issue a Notice-of-Award within 30 days after the BID OPENING.
 - 21.8.02 The Contract will be awarded to the lowest, responsive, responsible BIDDER as determined by Owner in the exercise of its unfettered discretion. The BIDDER will be designated the Successful Bidder.
 - 21.8.03 The Notice-of-Award shall be accompanied by the necessary Agreement and BOND forms. In case of failure of the BIDDER to execute the Agreement, the OWNER may, at his option, consider the BIDDER in default, in which case the BID BOND accompanying the proposal shall become the property of the OWNER.
 - 21.8.04 In the event of failure of the Successful BIDDER to sign the Agreement and provide acceptable Performance and Payment Bond(s), insurance certificate(s), and other required documents within the specified time, the OWNER may withdraw the designation of Successful Bidder and may award the Contract to the next lowest, responsive, responsible BIDDER, who would then be designated the Successful Bidder.
 - 21.8.05 Should there be reasons why the Contract cannot be awarded within the specified period, the time may be extended by mutual agreement between the OWNER and the Successful Bidder.

22.0 CONTRACT SECURITY

- 22.1 The party to whom the contract is awarded will be required to execute the Agreement and obtain the PERFORMANCE BOND, PAYMENT BOND and Certificates of Insurance within ten (10) calendar days from the date when NOTICE OF AWARD is delivered to the Successful Bidder. When the Successful Bidder delivers the executed Agreement to the OWNER, such PERFORMANCE BOND and PAYMENT BOND, each in the amount of one-hundred percent (100%) of the Contract Price, with a corporate surety approved by the OWNER, must accompany the Agreement for the faithful performance of the contract. Attorneys-in-fact who sign PERFORMANCE BONDS, or PAYMENT BONDS must file with each BOND a certified and effective dated copy of their power-of-attorney.

23.0 EXECUTION OF THE AGREEMENT

- 23.1 When the OWNER gives a Notice-of-Award to the Successful BIDDER, the notice will be accompanied by the Agreement. Within ten (10) days after receipt, the Successful BIDDER shall sign and return copies of the Agreement to the OWNER. These signed copies of the Agreement shall be accompanied by copies of each attachment (e.g. BONDS) stipulated by the Agreement.
- 23.2 The OWNER, within ten (10) days of receipt of acceptable PERFORMANCE BOND, PAYMENT BOND and Agreement signed by the Successful Bidder to whom the Agreement was awarded, shall sign the Agreement and return to such party an executed duplicate of the Agreement. Should the OWNER not execute the Agreement within such period, the Successful Bidder may, by WRITTEN NOTICE, withdraw his signed Agreement. Such notice of withdrawal shall be effective upon receipt of the notice by the OWNER
- 23.3 The NOTICE TO PROCEED shall be issued within seven (7) days of the execution of the Agreement by the OWNER. The NOTICE TO PROCEED shall direct the Successful Bidder **to start work on April 1, 2024, and all work must be complete by April 26, 2024.** Should there be reasons why the NOTICE TO PROCEED cannot be

INSTRUCTION TO BIDDERS

issued within such period, the time may be extended by mutual agreement between the OWNER and Successful BIDDER. If the NOTICE TO PROCEED has not been issued within the period mutually agreed upon, the successful BIDDER may terminate the Agreement without further liability on the part of either party.

- 23.4 The Successful BIDDER shall provide a detailed construction schedule when requested to do so by the OWNER, and shall attend weekly construction progress meetings with the OWNER and their representatives. The successful BIDDER shall make every effort to accommodate the access needs of the OWNER during the construction of the PROJECT. However, the OWNER will also be required to reasonably accommodate the inconvenience created by construction of the PROJECT. Accommodation of OWNER access to the PROJECT site shall be coordinated with the OWNER'S ENGINEER.
- 23.5 All applicable laws, ordinances, and the rules and regulations of all authorities having jurisdiction over construction of the PROJECT shall apply to the contract throughout as if written therein in full. The successful BIDDER shall comply with all applicable ordinances of the City of Hailey, particularly noise ordinances, hours of operations, and any other ordinances which regulate construction activity within the City of Hailey.
- 23.6 Contract payment retainage provisions are set forth in the Agreement.

24.0 RETAINAGE

- 24.1 Retainage provisions are set forth in the Agreement.

25.0 OTHER REQUIREMENTS

- 25.1 The project shall comply with the following Presidential Executive Orders:
 - 25.1.01 Contractor's Compliance Statement regarding equal employment opportunity.
 - 25.1.02 Certification regarding debarment, suspension and other responsibility matters.

END OF SECTION

NOTE TO BIDDER: Use BLACK or BLUE in for completing this BID FORM

To: City of Ketchum

Address: 191 5th Street West, Ketchum, ID 83340
PO Box 2315, Ketchum, ID 83340

Project Identification: Ketchum Main Street Water Main Relocation

1 BIDDER'S DECLARATION AND UNDERSTANDING

- 1.01 Bidder accepts all of the terms and conditions of the Advertisement and Instructions to Bidders, including without limitations those dealing with the dispositions of Bid Security. The bid will remain subject to acceptance for 30 days after the Bid Opening, or for such longer period of time that the Bidder may agree to in writing upon request of the Owner.
- 1.02 In compliance with the Instruction to Bidders, the BIDDER hereby proposes to perform all WORK for the construction of the KETCHUM MAIN STREET WATER MAIN RELOCATION project in strict accordance with the CONTRACT DOCUMENTS, within the time set forth therein, and at the prices stated below. The BID prices shall include all labor, materials, overhead, profit, insurance, etc., to cover the finished work of the several kinds called for. Prices shall also include all applicable taxes, overhead, profit, and fees.
- 1.03 By submission of this BID, each BIDDER certifies, and in the case of a joint BID each party thereto certifies as to his own organization, that this BID has been arrived at independently, without consultation, communication, or agreement as to any matter relating to this BID with any other BIDDER or with any competitor.
- 1.04 The BIDDER acknowledges that no special interpretation or inference of intent is to be given to any different formats of different Specifications sections.
- 1.05 In submitting this Bid, the BIDDER acknowledges and accepts the CONTRACTOR's representations as more fully set forth in the AGREEMENT.
- 1.06 The BIDDER understands that quantities listed are approximate and the OWNER reserves the right to increase or decrease individual items as may be, in his sole judgment, to his best interest depending upon conditions encountered or observed during the execution of the WORK.
- 1.07 In addition to this BID FORM, the BIDDER agrees that the following shall form part of this BID:
 - 1.07.1 BID SECURITY
 - 1.07.2 BID PROPOSAL – SCHEDULE OF ITEMS AND PRICES
 - 1.07.3 LISTING OF SUBCONTRACTORS
- 1.08 BIDDER accepts the terms and conditions of the Bidding Documents.

2 CONTRACT EXECUTION AND BONDS

- 2.01 The Bidder understands and agrees that if a contract is awarded, OWNER may elect to modify the scope of Work as best serves the interests of OWNER.
- 2.02 The undersigned BIDDER agrees, if this Bid is accepted, to enter into an Agreement with OWNER on the form included in the Bidding Documents, to perform and furnish Work as specified or indicated in the Bidding documents for the Contract Price derived from the Bid and within the Contract Times indicated in the Agreement and in accordance with the other terms and conditions of the Bidding Documents.

3 ADDENDA

3.01 BIDDER acknowledges receipt of the following ADDENDUM No's.:

_____, _____, _____, _____,
_____.

(BIDDER shall insert number of Addendum received) and agrees that Addenda issued are hereby made part of the Contract Documents, and BIDDER further agrees that this BID includes impacts resulting from said Addenda.

4 BID SCHEDULES

4.01 In the event of a discrepancy, the amount in words shall prevail.

4.02 The BIDDER hereby acknowledges that the bid prices are based solely on the BIDDER's own estimate of costs, and includes all applicable taxes, overhead, and profit.

Respectfully submitted by:

(Business Name)

(Type of Bidder: Individual, Partnership, Corporation, Joint Venture)

(State of Incorporation)

By:

(Name and Signature of Person Authorized to Sign)
For a Joint Venture, each Joint Venture must sign

(Title)

PUBLIC WORKS LICENSE NO.: _____

(Corporate Seal)

Name, telephone number, and address for receipt of official communications and for additional information on this BID:

Name: _____

Title: _____

Tel. No.: _____

Address: _____

DATE SUBMITTED: _____

BID BOND

BY THESE PRESENTS, that we, the undersigned, _____

_____ as Principal, and

_____ as Surety, are hereby held and firmly bound unto the CITY OF KETCHUM as OWNER in the penal sum of _____ for the payment of which, well and truly to be made, we hereby jointly and severally bind ourselves, successors and assigns.

Signed this _____ day of _____, 2024.

The Condition of the above obligation is such that whereas the Principal has submitted to the CITY OF KETCHUM certain BID attached hereto and hereby made a part hereof to enter into a contract in writing for the Work associated with KETCHUM MAIN STREET WATER MAIN RELOCATION project.

NOW, THEREFORE,

- (a) If said BID shall be rejected, or
- (b) If said BID shall be accepted and the Principal shall execute and deliver a contract in the Form of Contract attached hereto (properly completed in accordance with said BID) and shall furnish a BOND for his faithful performance of said contract, and for the payment of all persons performing labor or furnishing materials in connection therewith, and shall in all other respects perform the agreement created by the acceptance of said BID,

then this obligation shall be void, otherwise the same shall remain in force and effect; it being expressly understood and agreed that the liability of the Surety for any and all claims hereunder shall, in no event, exceed the penal amount of this obligation as herein stated.

The Surety, for value received, hereby stipulates and agrees that the obligations of said Surety and its BOND shall be in no way impaired or affected by any extension of the time within which the OWNER may accept such BID; and said Surety does hereby waive notice of any such extension.

IN WITNESS WHEREOF, the Principal and the Surety have hereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers, the day and year first set forth above.

SEAL (If BID is by a corporation)

By: _____
(Signature)

Attest: _____

Title: _____

By: _____
(Signature)

Witness: _____
(Signature)

IMPORTANT - Surety Companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the state where the project is located.

BID PROPOSAL – SCHEDULE OF ITEMS AND PRICES

1. CONTRACT PRICE

Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents and amount in current funds equal to the sum of the amounts determined pursuant to table below.

- 1.01 For all Unit Price Work, an amount equal to the sum of the established unit price for each separately identified item of Unit Price Work multiplied by the estimated quantity of that item as indicated below.
- 1.02 Estimated quantities are not guaranteed. All computations of the Contractor's compensation shall be based upon the quantities of work actually performed, whether greater or less than estimated quantities.
- 1.03 Each item to be bid shall be completely filled in by the Contractor.

No.	Description	Unit	Qty	Unit Price	Bid Amount
1	12" C900 Water Main	LF	560		
2	10" C900 Water Main	LF	60		
3	Water Main Connection- 12" Hot Tap	EA	1		
4	Water Main Connection- 12" D.I. 45° Fitting w/ Thrust Block	EA	1		
5	Water Main Disconnection- 12" Cap w/ Thrust Block	EA	1		
6	Gate Valve w/ Thrust Block- 12"	EA	4		
7	Gate Valve w/ Thrust Block- 10"	EA	2		
8	Gate Valve w/ Thrust Block- 8"	EA	1		
9	Gate Valve w/ Thrust Block- 6"	EA	2		
10	Gate Valve w/ Thrust Block- 4"	EA	3		
11	Remove Existing Water Valve	EA	1		
12	D.I. Fitting- 12" 45° Bend	EA	4		
13	D.I. Fitting- 12"x12"x6" Tee	EA	1		
14	D.I. Fitting- 12" x 10" x 12" x 10" 4- Way Cross	EA	1		
15	D.I. Fitting- 12"x12"x8" Tee	EA	1		
16	1" Water Service Extension	LF	67		
17	2" Water Service Extension	LF	18		
18	4" Water Service Extension	LF	40		
19	6" Water Service & 1" Temporary Service (Serva)	EA	1		

BID PROPOSAL – SCHEDULE OF ITEMS AND PRICES

20	Fire Hydrant Assembly (Hydrant, Gate, Valve, Tee)	EA	4		
21	Fire Hydrant, Fixture Only	EA	3		
22	Remove Existing Ketchum Spring Line Intertie	EA	2		
WATER IMPROVEMENTS TOTAL BID AMOUNT					

No.	Description	Unit	Qty	Unit Price	Bid Amount
23	2" 200 PSI Poly Pipe	LF	1,120		
24	Irrigation Main Connection w/ Irrigation Box	EA	2		
IRRIGATION IMPROVEMENTS TOTAL BID AMOUNT					

TOTAL BID AMOUNT					
-------------------------	--	--	--	--	--

This AGREEMENT, made this _____ day of _____, 2024,
by and between the CITY OF KETCHUM, hereinafter called "OWNER" and

_____, hereinafter called "CONTRACTOR".

WITNESSETH: That for and in consideration of the payments and agreements hereinafter mentioned:

1. The CONTRACTOR will commence and complete the construction of: KETCHUM MAIN STREET WATER MAIN RELOCATION.
2. The CONTRACTOR will furnish all of the material, supplies, tools, equipment, labor and other services necessary for the construction and completion of the WORK described herein.
3. The CONTRACTOR will commence the work required by the CONTRACT DOCUMENTS on **April 1, 2024** and will complete the same by **April 26, 2024**, unless the period for completion is extended otherwise by the CONTRACT DOCUMENTS.
4. The CONTRACTOR agrees to perform all of the WORK described in the CONTRACT DOCUMENTS and comply with the terms therein for the sum of:

_____ as shown in the BID PROPOSAL-SCHEDULE OF ITEMS AND PRICES.

5. The term "CONTRACT DOCUMENTS" means and includes the following:

- 5.01 INVITATION TO BID
- 5.02 INSTRUCTIONS TO BIDDERS
- 5.03 BID FORM
- 5.04 BID BOND
- 5.05 BID PROPOSAL- SCHEDULE OF ITEMS AND PRICES
- 5.06 LISTING OF SUBCONTRACTORS
- 5.07 NOTICE OF AWARD & ACCEPTANCE BY CONTRACTOR
- 5.08 AGREEMENT
- 5.09 PAYMENT BOND
- 5.10 PERFORMANCE BOND
- 5.11 CERTIFICATE OF INSURANCE
- 5.12 NOTICE TO PROCEED & ACCEPTANCE BY CONTRACTOR
- 5.13 STANDARD FORMS
- 5.14 GENERAL CONDITIONS
- 5.15 SUPPLEMENTAL CONDITIONS
- 5.16 STANDARD AND TECHNICAL SPECIFICATIONS
- 5.17 WATER DESIGN DRAWINGS- CONSTRUCTION DRAWINGS dated: _____ February xx, 2024
- 5.18 ROAD CONSTRUCTION DRAWINGS- for Reference Only, Not a Part

6. *Retainage.* The OWNER will pay to the CONTRACTOR in the manner and at such times as set forth in the General Conditions such amounts as required by the CONTRACT DOCUMENTS. Five-percent (5%) retainage will be held from each payment. Retainage will be released up Certification of Substantial Completion.

7. *Liquidated Damages.* OWNER and CONTRACTOR recognize that time is of the essence of this Agreement and that OWNER will suffer financial loss if the WORK is not completed within the times specified in paragraph 3 above, plus any extensions thereof allowed in accordance with **Article 12 of the General Conditions**. They also recognize the delays, expense and difficulties involved in proving 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) CONTRACTOR shall pay OWNER **Five Hundred dollars (\$500.00)** for each day that expires after the time specified in paragraph 3 for Substantial Completion until the WORK is substantially complete. After Substantial Completion, if CONTRACTOR shall neglect, refuse or fail to complete the remaining WORK within the time specified in paragraph 3 for completion and readiness for final payment or any proper extension thereof granted by OWNER, CONTRACTOR shall pay OWNER **Five Hundred dollars (\$500.00)** for each day that expires after the time specified in paragraph 3 for completion and readiness for final payment.

8. This Agreement shall be binding upon all parties hereto and their respective heirs, executors, administrators, successors, and assigns.

IN WITNESS WHEREOF, the parties hereto have executed, or caused to be executed by their duly authorized officials, this Agreement in (3) each of which shall be deemed an original on the date first above written.

OWNER:

CITY OF KETCHUM

BY: _____

Title: _____

(SEAL)

ATTEST:

Name _____
(Type or Print)

Title: _____

CONTRACTOR:

BY: _____

Title: _____

Address: _____

(SEAL)

ATTEST:

Name: _____
(Type or Print)

Title: _____

KNOW ALL MEN BY THESE PRESENTS: that

a _____, hereinafter called Principal, and

hereinafter called Surety, are held and firmly bound unto

City of Ketchum
PO Box 2315
191 W 5th Street
Ketchum, Idaho 83340

hereinafter called OWNER, in the penal sum of _____ Dollars (\$ _____) in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the Principal entered into a certain contract with the OWNER, dated the _____ day of _____, 2024, a copy of which is hereto attached and made a part hereof for the construction of: **KETCHUM MAIN STREET WATER MAIN RELOCATION.**

NOW, THEREFORE, if the Principal shall promptly make payment to all persons, firms, SUBCONTRACTORS, and corporations furnishing materials for or performing labor in the prosecution of the WORK provided for in such contract, and any authorized extension or modification thereof, including all amounts due for materials, lubricants, oil, gasoline, coal and coke, repairs on machinery, equipment and tools, consumed or used in connection with the construction of such WORK, and all insurance premiums on said WORK, and for all labor, performed in such WORK whether by SUBCONTRACTOR or otherwise, then this obligation shall be void; otherwise to remain in full force and effect.

PROVIDED, FURTHER, that the said Surety for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to the WORK to be performed there under or the SPECIFICATIONS accompanying the same shall in any way affect its obligation on this BOND, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the WORK or to the SPECIFICATIONS.

PROVIDED, FURTHER, that no final settlement between the OWNER and the CONTRACTOR shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

IN WITNESS WHEREOF, this instrument is executed in (3) counterparts, each one of which shall be deemed an original, this _____ day of _____, 2024.

ATTEST:

(Principal) Secretary

(SEAL)

By _____(s)

(Address)

Witness as to Principal

(Address)

(Surety) Secretary

(Seal)

Witness as to Surety

(Address)

Attorney-in-Fact

(Address)

NOTE: Date of BOND must not be prior to date of Contract.
If CONTRACTOR is Partnership, all partners should execute BOND.

IMPORTANT: Surety companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State where the PROJECT is located.

KNOW ALL MEN BY THESE PRESENTS: that

a _____, hereinafter called Principal, and

hereinafter called Surety, are held and firmly bound unto

City of Ketchum
PO Box 2315
191 W 5th Street
Ketchum, Idaho 83340

hereinafter called OWNER, in the penal sum of _____ Dollars (\$ _____) in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the Principal entered into a certain contract with the OWNER, dated the _____ day of _____, 2024, a copy of which is hereto attached and made a part hereof for the construction of: **KETCHUM MAIN STREET WATER MAIN RELOCATION.**

NOW, THEREFORE, if the Principal shall well, truly and faithfully perform its duties, all the undertakings, covenants, terms, conditions, and agreements of said contract during the original term thereof, and any extensions thereof of which may be granted by the OWNER, with or without notice to the Surety and during the two year guaranty period, and if he shall satisfy all claims and demands incurred under such contract, and shall fully indemnify and save harmless the OWNER from all costs and damages which it may suffer by reason of failure to do so, and shall reimburse and repay the OWNER all outlay and expense which the OWNER may incur in making good any default, then this obligation shall be void; otherwise to remain in full force and effect.

PROVIDED, FURTHER, that the said Surety for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to the WORK to be performed thereunder or the SPECIFICATIONS accompanying the same shall in any way affect its obligation on this BOND, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the WORK or to the SPECIFICATIONS.

PROVIDED, FURTHER, that no final settlement between the OWNER and the CONTRACTOR shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

IN WITNESS WHEREOF, this instrument is executed in (3) counterparts, each one of which shall be deemed an original, this _____ day of _____, 2024.

ATTEST:

(Principal) Secretary

(SEAL)

By _____(s)

(Address)

Witness as to Principal

(Address)

(Surety) Secretary

(Seal)

Witness as to Surety

Attorney-in-Fact

(Address)

(Address)

NOTE: Date of BOND must not be prior to date of Contract.
If CONTRACTOR is Partnership, all partners should execute BOND.

IMPORTANT: Surety companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State where the PROJECT is located.

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as a placeholder for certificate of insurance from Contractor

NOTICE TO PROCEED AND ACCEPTANCE BY CONTRACTOR

TO: CONTRACTOR: _____
 ADDRESS: _____

FROM: OWNER: **CITY OF KETCHUM** _____
 PROJECT: **KETCHUM MAIN STREET WATER MAIN RELOCATION** _____

 CONTRACT NO.: _____
 CONTRACT AMOUNT: \$ _____

You are hereby notified to commence WORK on _____ in accordance with the AGREEMENT, and you are to complete the WORK by _____, unless the period for completion is extended otherwise by the CONTRACT DOCUMENTS.

You are required to return an acknowledged copy of this NOTICE TO PROCEED to the OWNER.

Dated this _____ day of _____, 2024.

CITY OF KETCHUM

By: _____

Title: _____

ACCEPTANCE OF NOTICE

Receipt of the above NOTICE TO PROCEED is hereby acknowledged on this _____ day of _____, 2024 by: _____

(Contractor)

By: _____

Title: _____

STANDARD FORMS

CONTRACTOR'S APPLICATION FOR PAYMENT

	Application Period: From (Contractor):	Application Date: Via (Engineer):
To (Owner): CITY OF KETCHUM		
Project: Ketchum Main Street Water Main Relocation	Contract:	
Owner's Contract No.:	Contractor's Project No.:	Engineer's Project No.:

APPLICATION FOR PAYMENT

Change Order Summary

Approved Change Orders:			
Number	Additions	Deductions	
			1. ORIGINAL CONTRACT PRICE..... \$ _____
			2. Net change by Change Orders..... \$ _____
			3. CURRENT CONTRACT PRICE (Line 1+Line 2)..... \$ _____
			4. TOTAL COMPLETED AND STORED TO DATE (Progress Estimate)..... \$ _____
			5. RETAINAGE:
			a. ____% x \$ _____ Work Completed..... \$ _____
			b. ____% x \$ _____ Store Material..... \$ _____
			c. Total Retainage (Line 5a + Line 5b)..... \$ _____
			6. AMOUNT ELIGIBLE TO DATE (Line 4-LINE 5c)..... \$ _____
			7. LESS PREV. PAYMENTS (Line 6 from prior Appl.).. \$ _____
			8. AMOUNT DUE THIS APPLICATION..... \$ _____
			9. BALANCE TO FINISH, PLUS RETAINAGE (Line 3 – Line 7 – Line 8 + Line 5c)..... \$ _____
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 this 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 interest 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.

By: _____ Date: _____

Payment of: \$ _____
(Line 8, or other w/explanation)

Is recommend by: _____
(Engineer) (Date)

Payment of: \$ _____
(Line 8, or other w/explanation)

Is approved by: _____
(Owner) (Date)

Approved by: _____
Funding Agency (if applicable) (Date)

FIELD ORDER _____

In accordance with the General Conditions of this Contract, the CONTRACTOR is directed to make changes noted in this Field Order. However, if in the opinion of the CONTRACTOR, this work constitutes a change in Contract Price or Contract Time according to the General Conditions, the CONTRACTOR shall not accept this Field Order, but shall prepare a Change Order Request based on the work defined herein.

Project: Ketchum Main Street Water Main Relocation DATED: _____

Owner: CITY OF KETCHUM

Address: PO Box 2315; 191 W 5th Street
 KETCHUM, ID 83340

Contractor: _____

Contract for: _____

Engineer: _____

Owner: _____

You are directed to proceed promptly with the following change(s):

Attachments (list documents supporting change):

RECOMMENDED BY: _____ (ENGINEER)

If this Field Order is acceptable to CONTRACTOR as presented, acknowledge accordingly by signing below:

ACCEPTED BY: _____ (CONTRACTOR)

If this Field Order is acceptable to OWNER as presented, acknowledge accordingly by signing below:

ACCEPTED BY: _____ (OWNER)

CHANGE ORDER NO. _____

Date of Issuance: _____ Effective Date: _____

Project: KETCHUM MAIN STREET WATER MAIN RELOCATION	Owner: City of Ketchum	Owner's Contract No.:
Contract:		Date of Contract:
Contractor:		Engineer's Project No.

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

Description:

Attachments: (List documents supporting change):

CHANGE IN CONTRACT PRICE:

CHANGE IN CONTRACT TIMES:

Original Contract Price:

\$ _____

Original Contract Times: Working days Calendar days
Substantial completion (days or date): _____
Ready for final payment (days or date): _____

[Increase] [Decrease] from previously approved Change Orders No. _____ to No. _____:

\$ _____

[Increase] [Decrease] from previously approved Change Orders No. _____ to No. _____:
Substantial completion (days): _____
Ready for final payment (days): _____

Contract Price prior to this Change Order:

\$ _____

Contract Times prior to this Change Order:
Substantial completion (days or date): _____
Ready for final payment (days or date): _____

[Increase] [Decrease] of this Change Order:

\$ _____

[Increase] [Decrease] of this Change Order:
Substantial completion (days or date): _____
Ready for final payment (days or date): _____

Contract Price incorporating this Change Order:

\$ _____

Contract Times with all approved Change Orders:
Substantial completion (days or date): _____
Ready for final payment (days or date): _____

RECOMMENDED:
By: _____
Engineer (Authorized Signature)

ACCEPTED:
By: _____
Owner (Authorized Signature)

ACCEPTED:
By: _____
Contractor (Authorized Signature)

Date: _____

Date: _____

Date: _____

Approved by Funding Agency (if applicable): _____

Date: _____

Change Order Instructions

A. GENERAL INFORMATION

This document was developed to provide a uniform format for handling contract changes that affect Contract Price or Contract Times. Changes that have been initiated by a Work Change Directive must be incorporated into a subsequent Change Order if they affect the Contract Price or Contract Time.

Changes that affect Contract Price or Contract Time should be promptly covered by a Change Order. The practice of accumulating Change Orders to reduce the administrative burden may lead to unnecessary disputes.

If Milestones have been listed in the Agreement, any effect of a Change Order thereon should be addressed.

For supplemental instructions and minor changes not involving a change in the Contract Price or Contract Times, a Field Order should be used.

B. COMPLETING THE CHANGE ORDER FORM

Engineer normally initiates the form, including a description of the changes involved and attachments based upon documents and proposals submitted by Contractor, or requests from Owner, or both.

Once Engineer has completed and signed the form, all copies should be sent to Owner or Contractor for approval, depending on whether the Change Order is a true order to the Contractor or the formalization of a negotiated agreement for a previously performed change. After approval by one contracting party, all copies should be sent to the other party for approval. Engineer should make distribution of executed copies after approval by both parties.

If a change only applies to price or to times, cross out the part of the tabulation that does not apply.

WORK DIRECTIVE CHANGE NO. _____

This document was developed for use in situations involving changes in the Work which, if not processed expeditiously, might delay the Project. These changes are often initiated in the field and may affect the Contract Price or the Contract Time. This is not a CHANGE ORDER, but only a directive to proceed with Work that may be included in a subsequent CHANGE ORDER. For supplement instructions and minor changes not involving a change in the Contract Price or the Contract Time, a FIELD ORDER may be used. The ENGINEER initiates this form, including a description of the items involved and attachments. Once the Work covered by this directive is completed or final cost and time determined, the Contractor should submit documentation for inclusion in a CHANGE ORDER.

THIS IS A WORK DIRECTIVE TO PROCEED WITH A CHANGE THAT MAY AFFECT THE CONTRACT PRICE OR THE CONTRACT TIME. A CHANGE ORDER, IF ANY, SHOULD BE CONSIDERED PROMPTLY.

Project: **KETCHUM MAIN STREET WATER MAIN RELOCATION** DATED: _____

 Owner: CITY OF KETCHUM

 Address: PO BOX 2315; 191 W 5TH STREET
 KETCHUM, IDAHO 83340

Contractor: _____

Contract for: _____

Engineer: _____

You are directed to proceed promptly with the following change(s):

Description:

Purpose of this Work Directive:

Attachment (list documents supporting change):

If a claim is made that the above change(s) have affected the Contract Price or Contract Time, any claim for a CHANGE ORDER based thereon will involve one of the following methods of determining the effect of the change(s).

Method of determining change in Contract Price:

- Time and Materials
- Unit Prices
- Cost plus fixed fee
- Other

Method of determining change in Contract Time:

- Contractor's Records
- Engineer's Records
- Other

Estimated increase/decrease in Contract Price:

\$ _____

If the change involves an increase, the estimated amount is not to be exceeded without further authorization.

Estimated increase/decrease in Contract Time:

If the change involves an increase, the estimated time is not to be exceeded without further authorization.

RECOMMENDED BY: _____ (ENGINEER)

If this Field Order is acceptable to CONTRATOR as presented, acknowledge accordingly by signing below:

ACCEPTED BY: _____ (CONTRACTOR)

If this Field Order is acceptable to OWNER as presented, acknowledge accordingly by signing below:

ACCEPTED BY:

(OWNER)

WAIVER OF LIENS

FOR VALUABLE CONSIDERATION, the sufficiency of receipt of which is acknowledged, the undersigned acknowledges payment in full, including all approved change orders for which

of _____ has received payment, but excluding pending change order requests, or otherwise provided below and waives and releases any and all liens or claim or right and other rights afforded by law to protect unpaid subcontractors, laborers, and suppliers of machinery tools, equipment, materials, supplies, services and other items used in construction against the project known as _____ located at _____ and against the OWNER.

THIS RELEASE is effective for all labor, tools equipment, supplies, services and the like furnished up to and including the _____ day of _____, 2024 (excluding retainage withheld, if any) in the amount of \$ _____.

THIS RELEASE and the representations made above are made with the intent that the Project Owner or any other party who or whose property might be liable for any claims of the undersigned party may rely on the language of this instrument.

EXECUTED THIS _____ day of _____, 2024.

STATE OF _____ COMPANY NAME

COUNTY OF _____ BY

PRINTED NAME

TITLE

On this _____ day of _____, 2024, personally appeared before me, a Notary Public, in and for said County and State _____, known to me to be the person(s) described within. The person(s) described within executed the foregoing instrument, and duly acknowledged to me that s/he (they) executed the same, freely and voluntarily, for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above mentioned.

NOTARY PUBLIC

CERTIFICATE OF SUBSTANTIAL COMPLETION

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

This (tentative) (definitive) Certificate of Substantial Completion applies to:

All Work under the Contract Documents:
 The following specified portions:

Date of Substantial Completion

This Work to which this Certificate applies has been inspected by authorized representatives of OWNER, CONTRACTOR, and ENGINEER, and have found to be substantially complete. The Date of Substantial Completion of the Project or portion thereof designated above is hereby declared and is also the date of commencement of applicable warranties required by the Contract Document, except as stated below.

A (tentative) (revised tentative), (definitive) list of items to be completed or corrected, is attached hereto. 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.

The responsibilities between OWNER and CONTRACTOR for security, operation, safety, maintenance, heat, utilities, insurance and warranties shall be as provided in the Contract Documents, except as amended as follows:

Amended Responsibilities:
 Not Amended:

Owner's Amended Responsibilities: _____

Contractor's Amended Responsibilities: _____

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

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.

Executed by Engineer Date

Executed by Contractor Date

Accepted by Owner Date

GENERAL CONDITIONS

This document has important legal consequences; consultation with an attorney is encouraged with respect to its use or modification. This document should be adapted to the particular circumstances of the contemplated Project and the Controlling Law.

STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

Prepared by

ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE

and

Issued and Published Jointly by



AMERICAN COUNCIL OF ENGINEERING COMPANIES

ASSOCIATED GENERAL CONTRACTORS OF AMERICA

AMERICAN SOCIETY OF CIVIL ENGINEERS

PROFESSIONAL ENGINEERS IN PRIVATE PRACTICE
A Practice Division of the
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CONSTRUCTION SPECIFICATIONS
INSTITUTE

These General Conditions have been prepared for use with the Suggested Forms of Agreement Between Owner and Contractor (EJCDC C-520 or C-525, 2007 Editions). Their provisions are interrelated and a change in one may necessitate a change in the other. Comments concerning their usage are contained in the Narrative Guide to the EJCDC Construction Documents (EJCDC C-001, 2007 Edition). For guidance in the preparation of Supplementary Conditions, see Guide to the Preparation of Supplementary Conditions (EJCDC C-800, 2007 Edition).

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STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

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ARTICLE 1 – DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

- A. Wherever used in the Bidding Requirements or Contract Documents and printed with initial capital letters, the terms listed below will have the meanings indicated which are applicable to both the singular and plural thereof. 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 which is evidence of the agreement between Owner and Contractor covering the Work.
 3. *Application for Payment*—The form acceptable to Engineer which is to be used by Contractor during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Contract Documents.
 4. *Asbestos*—Any material that contains more than one percent asbestos and is friable or is releasing asbestos fibers into the air above current action levels established by the United States Occupational Safety and Health Administration.
 5. *Bid*—The offer or proposal of a Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.
 6. *Bidder*—The individual or entity who submits a Bid directly to Owner.
 7. *Bidding Documents*—The Bidding Requirements and the proposed Contract Documents (including all Addenda).
 8. *Bidding Requirements*—The advertisement or invitation to bid, Instructions to Bidders, Bid security of acceptable form, if any, and the Bid Form with any supplements.
 9. *Change Order*—A document recommended by Engineer 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, issued on or after the Effective Date of the Agreement.
 10. *Claim*—A demand or assertion by Owner or Contractor seeking an adjustment of Contract Price or Contract Times, or both, or other relief with respect to the terms of the Contract. A demand for money or services by a third party is not a Claim.
 11. *Contract*—The entire and integrated written agreement between the Owner and Contractor concerning the Work. The Contract supersedes prior negotiations, representations, or agreements, whether written or oral.
 12. *Contract Documents*—Those items so designated in the Agreement. Only printed or hard copies of the items listed in the Agreement are Contract Documents. Approved Shop Drawings, other Contractor submittals, and the reports and drawings of subsurface and physical conditions are not Contract Documents.

13. *Contract Price*—The moneys payable by Owner to Contractor for completion of the Work in accordance with the Contract Documents as stated in the Agreement (subject to the provisions of Paragraph 11.03 in the case of Unit Price Work).
14. *Contract Times*—The number of days or the dates stated in the Agreement to: (i) achieve Milestones, if any; (ii) achieve Substantial Completion; and (iii) complete the Work so that it is ready for final payment as evidenced by Engineer's written recommendation of final payment.
15. *Contractor*—The individual or entity with whom Owner has entered into the Agreement.
16. *Cost of the Work*—See Paragraph 11.01 for definition.
17. *Drawings*—That part of the Contract Documents prepared or approved by Engineer which graphically shows the scope, extent, and character of the Work to be performed by Contractor. Shop Drawings and other Contractor submittals are not Drawings as so defined.
18. *Effective Date of the Agreement*—The date indicated in the Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver.
19. *Engineer*—The individual or entity named as such in the Agreement or City Engineer.
20. *Field Order*—A written order issued by Engineer which requires minor changes in the Work but which does not involve a change in the Contract Price or the Contract Times.
21. *General Requirements*—Sections of Division 1 of the Specifications.
22. *Hazardous Environmental Condition*—The presence at the Site of Asbestos, PCBs, Petroleum, Hazardous Waste, or Radioactive Material in such quantities or circumstances that may present a substantial danger to persons or property exposed thereto.
23. *Hazardous Waste*—The term Hazardous Waste shall have the meaning provided in Section 1004 of the Solid Waste Disposal Act (42 USC Section 6903) as amended from time to time.
24. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
25. *Liens*—Charges, security interests, or encumbrances upon Project funds, real property, or personal property.
26. *Milestone*—A principal event specified in the Contract Documents relating to an intermediate completion date or time prior to Substantial Completion of all the Work.
27. *Notice of Award*—The written notice by Owner to the Successful Bidder stating that upon timely compliance by the Successful Bidder with the conditions precedent listed therein, Owner will sign and deliver the Agreement.
28. *Notice to Proceed*—A written notice given 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 under the Contract Documents.
29. *Owner*—The individual or entity with whom Contractor has entered into the Agreement and for whom the Work is to be performed.

30. *PCBs*—Polychlorinated biphenyls.
31. *Petroleum*—Petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), such as oil, petroleum, fuel oil, oil sludge, oil refuse, gasoline, kerosene, and oil mixed with other non-Hazardous Waste and crude oils.
32. *Progress Schedule*—A schedule, prepared and maintained by Contractor, describing the sequence and duration of the activities comprising the Contractor’s plan to accomplish the Work within the Contract Times.
33. *Project*—The total construction of which the Work to be performed under the Contract Documents may be the whole, or a part.
34. *Project Manual*—The bound documentary information prepared for bidding and constructing the Work. A listing of the contents of the Project Manual, which may be bound in one or more volumes, is contained in the table(s) of contents.
35. *Radioactive Material*—Source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 USC Section 2011 et seq.) as amended from time to time.
36. *Resident Project Representative*—The authorized representative of Engineer or City Engineer who may be assigned to the Site or any part thereof.
37. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish the standards by which such portion of the Work will be judged.
38. *Schedule of Submittals*—A schedule, prepared and maintained by Contractor, of required submittals and the time requirements to support scheduled performance of related construction activities.
39. *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.
40. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work.
41. *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 for access thereto, and such other lands furnished by Owner which are designated for the use of Contractor.
42. *Specifications*—That part of the Contract Documents consisting of written requirements for materials, equipment, systems, standards and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable thereto.
43. *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 at the Site.
44. *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 thereof.

45. *Successful Bidder*—The Bidder submitting a responsive Bid to whom Owner makes an award.
46. *Supplementary Conditions*—That part of the Contract Documents which amends or supplements these General Conditions.
47. *Supplier*—A manufacturer, fabricator, supplier, distributor, materialman, 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 Subcontractor.
48. *Underground Facilities*—All underground pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or attachments, and any encasements containing such facilities, including those that convey electricity, gases, steam, liquid petroleum products, telephone or other communications, cable television, water, wastewater, storm water, other liquids or chemicals, or traffic or other control systems.
49. *Unit Price Work*—Work to be paid for on the basis of unit prices.
50. *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, and furnishing, installing, and incorporating all materials and equipment into such construction, all as required by the Contract Documents.
51. *Work Change Directive*—A written statement to Contractor issued on or after the Effective Date of the Agreement and signed by Owner and recommended by Engineer ordering an addition, deletion, or revision in the Work, or responding to differing or unforeseen subsurface or physical conditions under which the Work is to be performed or to emergencies. A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the change ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order following negotiations by the parties as to its effect, if any, on the Contract Price or Contract Times.

1.02 *Terminology*

- A. The words and terms discussed in Paragraph 1.02.B through F are not defined but, when used in the Bidding Requirements or Contract Documents, have the indicated meaning.
- B. *Intent of Certain Terms or Adjectives:*
 1. 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 Paragraph 9.09 or any other provision of the Contract Documents.

C. Day:

1. The word “day” means a calendar day of 24 hours measured from midnight to the next midnight.

D. Defective:

1. The word “defective,” when modifying the word “Work,” refers to Work that is unsatisfactory, faulty, or deficient in that it:
 - a. does not conform to the Contract Documents; or
 - b. does not meet the requirements of any applicable inspection, reference standard, test, or approval referred to in the Contract Documents; or
 - c. 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 14.04 or 14.05).

E. Furnish, Install, Perform, Provide:

1. The word “furnish,” when used in connection with services, materials, or equipment, shall mean 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, shall mean 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, shall mean to furnish and install said services, materials, or equipment complete and ready for intended use.
4. When “furnish,” “install,” “perform,” or “provide” is not used in connection with services, materials, or equipment in a context clearly requiring an obligation of Contractor, “provide” is implied.

- F. 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 Bonds and Evidence of Insurance

- A. When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner such bonds as Contractor may be required to furnish.
- B. *Evidence of Insurance:* Before any Work at the Site is started, Contractor and Owner shall each deliver to the other, with copies to each additional insured identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance which either of them or any

additional insured may reasonably request) which Contractor and Owner respectively are required to purchase and maintain in accordance with Article 5.

2.02 *Copies of Documents*

- A. Owner shall furnish to Contractor up to ten printed or hard copies of the Drawings and Project Manual. Additional copies will be furnished upon request at the cost of reproduction.

2.03 *Commencement of Contract Times; Notice to Proceed*

- A. The Contract Times will commence to run on the thirtieth day after the Effective Date of the Agreement 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 Agreement. In no event will the Contract Times commence to run later than the sixtieth day after the day of Bid opening or the thirtieth day after the Effective Date of the Agreement, whichever date is earlier.

2.04 *Starting the Work*

- A. Contractor shall start to perform the Work on the date when the Contract Times commence to run. No Work shall be done at the Site prior to the date on which the Contract Times commence to run.

2.05 *Before Starting Construction*

- A. *Preliminary Schedules:* Within 10 days after the Effective Date of the Agreement (unless otherwise specified in the General Requirements), 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 Documents;
 - 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.

2.06 *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 2.05.A, procedures for handling Shop Drawings and other submittals, processing Applications for Payment, 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 instructions, receive information, render decisions relative to the Contract, and otherwise act on behalf of each respective party.

2.07 *Initial 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 for acceptability to Engineer as provided below the schedules submitted in accordance with Paragraph 2.05.A. Contractor shall have an additional 10 days to make corrections and adjustments and to complete and resubmit the schedules. No progress payment shall 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 component parts of the Work.

ARTICLE 3 – CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE

3.01 *Intent*

- A. The Contract Documents are complementary; what is required by one 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. Any labor, documentation, services, materials, or equipment that reasonably may be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the indicated result will be provided whether or not specifically called for, at no additional cost to Owner.
- C. Clarifications and interpretations of the Contract Documents shall be issued by Engineer as provided in Article 9.

3.02 *Reference Standards*

- A. Standards, Specifications, Codes, Laws, and Regulations
 - 1. Reference to standards, specifications, manuals, or codes of any technical society, organization, or association, or to Laws or Regulations, whether such reference be specific or by implication, shall mean the standard, specification, manual, code, or Laws or Regulations in effect at the time of opening of Bids (or on the Effective Date of the Agreement 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, or code, or any instruction of a Supplier, shall be effective to change the duties or responsibilities of Owner, Contractor, or Engineer, or any of their subcontractors, consultants, agents, or employees, from those set forth in the Contract Documents. No such provision or instruction shall be effective to assign to Owner, Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, any duty or authority to supervise or direct the performance

of the Work or any duty or authority to undertake responsibility inconsistent with the provisions of the Contract Documents.

3.03 *Reporting and Resolving Discrepancies*

A. *Reporting Discrepancies:*

1. *Contractor's Review of Contract Documents Before Starting Work:* Before undertaking each part of the Work, Contractor shall carefully study and compare the Contract Documents and check and verify pertinent figures therein and all applicable field measurements. Contractor shall promptly report in writing to Engineer any conflict, error, ambiguity, or discrepancy which Contractor discovers, or has actual knowledge of, and shall obtain a written interpretation or clarification from Engineer before proceeding with any Work affected thereby.
2. *Contractor's Review of Contract Documents During Performance of Work:* If, 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) any standard, specification, manual, or code, or (c) 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 6.16.A) until an amendment or supplement to the Contract Documents has been issued by one of the methods indicated in Paragraph 3.04.
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 Contract Documents shall take precedence in resolving any conflict, error, ambiguity, or discrepancy between the provisions of the Contract Documents and:
 - a. the provisions of any standard, specification, manual, or code, or the instruction of any Supplier (whether or not specifically incorporated by reference in the Contract Documents); 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 *Amending and Supplementing Contract Documents*

- A. The Contract Documents may be amended to provide for additions, deletions, and revisions in the Work or to modify the terms and conditions thereof by either a Change Order or a Work Change Directive.
- B. The requirements of the Contract Documents may be supplemented, and minor variations and deviations in the Work may be authorized, by one or more of the following ways:
 1. A Field Order;
 2. Engineer's approval of a Shop Drawing or Sample (subject to the provisions of Paragraph 6.17.D.3); or

3. Engineer's written interpretation or clarification.

3.05 *Reuse of Documents*

A. Contractor and any Subcontractor or Supplier 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 editions; or
2. 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.

B. The prohibitions of this Paragraph 3.05 will survive final payment, or termination of the Contract. Nothing herein shall preclude Contractor from retaining copies of the Contract Documents for record purposes.

3.06 *Electronic Data*

A. Unless otherwise stated in the Supplementary Conditions, the data furnished by Owner or Engineer to Contractor, or by Contractor to Owner or Engineer, that may be relied upon are limited to the printed copies (also known as hard copies). Files in electronic media format of text, data, graphics, or other types are furnished only for the convenience of the receiving party. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.

B. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within 60 days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any errors detected within the 60-day acceptance period will be corrected by the transferring party.

C. When transferring documents in electronic media format, the transferring party makes no representations as to long term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by the data's creator.

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

4.01 *Availability of Lands*

A. Owner shall furnish the Site. Owner shall notify Contractor 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. Owner will obtain in a timely manner and pay for easements for permanent structures or permanent changes in existing facilities. If Contractor and Owner are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, as a result of any delay in Owner's furnishing the Site or a part thereof, Contractor may make a Claim therefor as provided in Paragraph 10.05.

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 the Work is to be performed 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.

4.02 *Subsurface and Physical Conditions*

- A. *Reports and Drawings:* The Supplementary Conditions identify:

- 1. those reports known to Owner of explorations and tests of subsurface conditions at or contiguous to the Site; and
- 2. those drawings known to Owner of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities).

- B. *Limited Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the accuracy of the "technical data" contained in such reports and drawings, but such reports and drawings are not Contract Documents. Such "technical data" is identified in the Supplementary Conditions. Except for such reliance on such "technical data," Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors with respect to:

- 1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto; or
- 2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or
- 3. any Contractor interpretation of or conclusion drawn from any "technical data" or any such other data, interpretations, opinions, or information.

4.03 *Differing Subsurface or Physical Conditions*

- A. *Notice:* If Contractor believes that any subsurface or physical condition that is uncovered or revealed either:

- 1. is of such a nature as to establish that any "technical data" on which Contractor is entitled to rely as provided in Paragraph 4.02 is materially inaccurate; or
- 2. is of such a nature as to require a change in the Contract Documents; or
- 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 6.16.A), notify Owner and Engineer in writing about such condition. Contractor shall not further disturb such condition or perform any Work in connection therewith (except as aforesaid) until receipt of written order to do so.

- B. *Engineer's Review:* After receipt of written notice as required by Paragraph 4.03.A, Engineer will promptly review the pertinent condition, determine the necessity of Owner's obtaining additional exploration or tests with respect thereto, and advise Owner in writing (with a copy to Contractor) of Engineer's findings and conclusions.
- C. *Possible Price and Times Adjustments:*
1. The Contract Price or the Contract Times, or both, will be equitably adjusted to the extent that the existence of such differing subsurface or physical condition 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 meet any one or more of the categories described in Paragraph 4.03.A; and
 - 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 Paragraphs 9.07 and 11.03.
 2. Contractor shall not be entitled to any adjustment in the Contract Price or Contract Times if:
 - a. Contractor knew of the existence of such conditions at the time Contractor made a final 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
 - b. the existence of such condition could reasonably have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site and contiguous areas required by the Bidding Requirements or Contract Documents to be conducted by or for Contractor prior to Contractor's making such final commitment; or
 - c. Contractor failed to give the written notice as required by Paragraph 4.03.A.
 3. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, a Claim may be made therefor as provided in Paragraph 10.05. However, neither Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors shall be liable to Contractor for any claims, costs, losses, or damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Contractor on or in connection with any other project or anticipated project.

4.04 *Underground Facilities*

- A. *Shown or Indicated:* The information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or contiguous to the Site is based on information and data furnished to Owner or Engineer by the owners of such Underground Facilities, including Owner, or by others. Unless it is otherwise expressly provided in the Supplementary Conditions:
1. Owner and Engineer shall not be responsible for the accuracy or completeness of any such information or data provided by others; and
 2. the cost of all of the following will be included in the Contract Price, and Contractor shall have full responsibility for:
 - a. reviewing and checking all such information and data;

- b. locating all Underground Facilities shown or indicated in the Contract Documents;
- c. coordination of the Work with the owners of such Underground Facilities, including Owner, during construction; and
- d. the safety and protection of all such Underground Facilities and repairing any damage thereto resulting from the Work.

B. *Not Shown or Indicated:*

- 1. If an Underground Facility is uncovered or revealed at or contiguous to the Site which was not shown or indicated, or not shown or indicated with reasonable accuracy in the Contract Documents, 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 6.16.A), identify the owner of such Underground Facility and give written notice to that owner and to Owner and Engineer. Engineer will promptly review the Underground Facility and determine the extent, if any, to which a change is required in the Contract Documents to reflect and document the consequences of the existence or location of the Underground Facility. During such time, Contractor shall be responsible for the safety and protection of such Underground Facility.
- 2. If Engineer concludes that a change in the Contract Documents is required, a Work Change Directive or a Change Order will be issued to reflect and document such consequences. An equitable adjustment shall be made in the Contract Price or Contract Times, or both, to the extent that they are attributable to the existence or location of any Underground Facility that was not shown or indicated or not shown or indicated with reasonable accuracy in the Contract Documents and that Contractor did not know of and could not reasonably have been expected to be aware of or to have anticipated. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment in Contract Price or Contract Times, Owner or Contractor may make a Claim therefor as provided in Paragraph 10.05.

4.05 *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.

4.06 *Hazardous Environmental Condition at Site*

- A. *Reports and Drawings:* The Supplementary Conditions identify those reports and drawings known to Owner relating to Hazardous Environmental Conditions that have been identified at the Site.
- B. *Limited Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the accuracy of the "technical data" contained in such reports and drawings, but such reports and drawings are not Contract Documents. Such "technical data" is identified in the Supplementary Conditions. Except for such reliance on such "technical data," Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors with respect to:

1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences and procedures of construction to be employed by Contractor and safety precautions and programs incident thereto; or
 2. other data, interpretations, opinions and information contained in such reports or shown or indicated in such drawings; or
 3. 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 any Hazardous Environmental Condition uncovered or revealed at the Site which was not shown or indicated in Drawings or Specifications or identified in the Contract Documents to be within the scope of the Work. Contractor shall be responsible for a Hazardous Environmental Condition created with any materials brought to the Site by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible.
- D. If Contractor encounters a Hazardous Environmental Condition or if Contractor or anyone for whom Contractor is responsible creates a Hazardous Environmental Condition, Contractor shall immediately: (i) secure or otherwise isolate such condition; (ii) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by Paragraph 6.16.A); and (iii) 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 4.06.E.
- E. Contractor shall not be required to resume Work in connection with such condition or in any affected area until after Owner has obtained any required permits related thereto and delivered written notice to Contractor: (i) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work; or (ii) specifying any special conditions under which such Work may be resumed safely. 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, or both, as a result of such Work stoppage or such special conditions under which Work is agreed to be resumed by Contractor, either party may make a Claim therefor as provided in Paragraph 10.05.
- F. 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. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of an adjustment in Contract Price or Contract Times as a result of deleting such portion of the Work, then either party may make a Claim therefor as provided in Paragraph 10.05. Owner may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Article 7.
- G. 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 or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition, provided that such Hazardous Environmental Condition: (i) was not shown or indicated in the Drawings or Specifications or identified in the Contract Documents to be included within the scope of the Work, and (ii) was not created by Contractor or by anyone for whom Contractor is responsible.

Nothing in this Paragraph 4.06.G shall obligate Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

- H. 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 a Hazardous Environmental Condition created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 4.06.H shall obligate Contractor to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.
- I. The provisions of Paragraphs 4.02, 4.03, and 4.04 do not apply to a Hazardous Environmental Condition uncovered or revealed at the Site.

ARTICLE 5 – BONDS AND INSURANCE

5.01 *Performance, Payment, and Other Bonds*

- A. Contractor shall furnish performance and payment bonds, each in an amount at least equal to the Contract Price as security for the faithful performance and payment of all of Contractor's obligations under the Contract Documents. These bonds shall remain in effect until one year after the date when final payment becomes due or until completion of the correction period specified in Paragraph 13.07, whichever is later, except as provided otherwise by Laws or Regulations or by the Contract Documents. Contractor shall also furnish such other bonds as are required by the Contract Documents.
- B. All bonds shall be in the form prescribed by the Contract Documents except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in the list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. All bonds 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 shall show that it is effective on the date the agent or attorney-in-fact signed each bond.
- C. If the surety on any bond furnished by Contractor is declared bankrupt or becomes insolvent or its right to do business is terminated in any state where any part of the Project is located or it ceases to meet the requirements of Paragraph 5.01.B, Contractor shall promptly notify Owner and Engineer and shall, within 20 days after the event giving rise to such notification, provide another bond and surety, both of which shall comply with the requirements of Paragraphs 5.01.B and 5.02.

5.02 *Licensed Sureties and Insurers*

- A. All bonds and insurance required by the Contract Documents to be purchased and maintained by Owner or Contractor shall be obtained from surety or insurance companies that are duly licensed or authorized in the jurisdiction in which the Project is located to issue bonds or insurance policies for the limits and coverages so required. Such surety and insurance companies shall also meet such additional requirements and qualifications as may be provided in the Supplementary Conditions.

5.03 *Certificates of Insurance*

- A. Contractor shall deliver to Owner, with copies to each additional insured and loss payee identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance requested by Owner or any other additional insured) which Contractor is required to purchase and maintain.
- B. Owner shall deliver to Contractor, with copies to each additional insured and loss payee identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance requested by Contractor or any other additional insured) which Owner is required to purchase and maintain.
- C. Failure of Owner to demand such certificates or other evidence of Contractor's full compliance with these insurance requirements or failure of Owner to identify a deficiency in compliance from the evidence provided shall not be construed as a waiver of Contractor's obligation to maintain such insurance.
- D. Owner does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect Contractor.
- E. The insurance and insurance limits required herein shall not be deemed as a limitation on Contractor's liability under the indemnities granted to Owner in the Contract Documents.

5.04 *Contractor's Insurance*

- A. Contractor shall purchase and maintain such insurance as is appropriate for the Work being performed and as will provide protection from claims set forth below which may arise out of or result from Contractor's performance of the Work and Contractor's other obligations under the Contract Documents, whether it is to be performed 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:
 - 1. claims under workers' compensation, disability benefits, and other similar employee benefit acts;
 - 2. claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees;
 - 3. claims for damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees;
 - 4. claims for damages insured by reasonably available personal injury liability coverage which are sustained:
 - a. by any person as a result of an offense directly or indirectly related to the employment of such person by Contractor, or
 - b. by any other person for any other reason;
 - 5. claims for damages, other than to the Work itself, because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom; and
 - 6. claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle.

- B. The policies of insurance required by this Paragraph 5.04 shall:
1. with respect to insurance required by Paragraphs 5.04.A.3 through 5.04.A.6 inclusive, be written on an occurrence basis, include as additional insureds (subject to any customary exclusion regarding professional liability) Owner and Engineer, and any other individuals or entities identified in the Supplementary Conditions, all of whom shall be listed as additional insureds, and *be in the form of ISO form CG 2010 (1001) or in combination with CG 2037 (1001), or equivalent forms, including* coverage for the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of all such additional insureds, and the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby;
 2. include at least the specific coverages and be written for not less than the limits of liability provided in the Supplementary Conditions or required by Laws or Regulations, whichever is greater;
 3. include contractual liability insurance covering Contractor's indemnity obligations under Paragraphs 6.11 and 6.20;
 4. contain a provision or endorsement that the coverage afforded will not be canceled, materially changed or renewal refused until at least 30 days prior written notice has been given to Owner and Contractor and to each other additional insured identified in the Supplementary Conditions to whom a certificate of insurance has been issued (and the certificates of insurance furnished by the Contractor pursuant to Paragraph 5.03 will so provide);
 5. remain in effect at least until final payment and at all times thereafter when Contractor may be correcting, removing, or replacing defective Work in accordance with Paragraph 13.07; and
 6. include completed operations coverage:
 - a. Such insurance shall remain in effect for five years after final payment.
 - b. Contractor shall furnish Owner and each other additional insured identified in the Supplementary Conditions, to whom a certificate of insurance has been issued, evidence satisfactory to Owner and any such additional insured of continuation of such insurance at final payment and one year thereafter.

5.05 *Owner's Liability Insurance*

- A. In addition to the insurance required to be provided by Contractor under Paragraph 5.04, Owner, at Owner's option, may purchase and maintain at Owner's expense Owner's own liability insurance as will protect Owner against claims which may arise from operations under the Contract Documents.

5.06 *Property Insurance*

- A. Unless otherwise provided in the Supplementary Conditions, Owner shall purchase and maintain property insurance upon the Work at the Site in the amount of the full replacement cost thereof (subject to such deductible amounts as may be provided in the Supplementary Conditions or required by Laws and Regulations). This insurance shall:
1. include the interests of Owner, Contractor, Subcontractors, and Engineer, and any other individuals or entities identified in the Supplementary Conditions, and the officers, directors,

- members, partners, employees, agents, consultants, and subcontractors of each and any of them, each of whom is deemed to have an insurable interest and shall be listed as a loss payee;
2. be written on a Builder's Risk "all-risk" policy form that shall at least include insurance for physical loss or damage to the Work, temporary buildings, falsework, and materials and equipment in transit, and shall insure against at least the following perils or causes of loss: fire, lightning, extended coverage, theft, vandalism and malicious mischief, earthquake, collapse, debris removal, demolition occasioned by enforcement of Laws and Regulations, water damage (other than that caused by flood), and such other perils or causes of loss as may be specifically required by the Supplementary Conditions.
 3. include expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers and architects);
 4. cover materials and equipment stored at the Site or at another location that was agreed to in writing by Owner prior to being incorporated in the Work, provided that such materials and equipment have been included in an Application for Payment recommended by Engineer;
 5. allow for partial utilization of the Work by Owner;
 6. include testing and startup; and
 7. be maintained in effect until final payment is made unless otherwise agreed to in writing by Owner, Contractor, and Engineer with 30 days written notice to each other loss payee to whom a certificate of insurance has been issued.
- B. Owner shall purchase and maintain such equipment breakdown insurance or additional property insurance as may be required by the Supplementary Conditions or Laws and Regulations which will include the interests of Owner, Contractor, Subcontractors, and Engineer, and any other individuals or entities identified in the Supplementary Conditions, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, each of whom is deemed to have an insurable interest and shall be listed as a loss payee.
- C. All the policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained in accordance with this Paragraph 5.06 will contain a provision or endorsement that the coverage afforded will not be canceled or materially changed or renewal refused until at least 30 days prior written notice has been given to Owner and Contractor and to each other loss payee to whom a certificate of insurance has been issued and will contain waiver provisions in accordance with Paragraph 5.07.
- D. Owner shall not be responsible for purchasing and maintaining any property insurance specified in this Paragraph 5.06 to protect the interests of Contractor, Subcontractors, or others in the Work to the extent of any deductible amounts that are identified in the Supplementary Conditions. The risk of loss within such identified deductible amount will be borne by Contractor, Subcontractors, or others suffering any such loss, and if any of them wishes property insurance coverage within the limits of such amounts, each may purchase and maintain it at the purchaser's own expense.
- E. If Contractor requests in writing that other special insurance be included in the property insurance policies provided under this Paragraph 5.06, Owner shall, if possible, include such insurance, and the cost thereof will be charged to Contractor by appropriate Change Order. Prior to commencement of the Work at the Site, Owner shall in writing advise Contractor whether or not such other insurance has been procured by Owner.

5.07 *Waiver of Rights*

- A. Owner and Contractor intend that all policies purchased in accordance with Paragraph 5.06 will protect Owner, Contractor, Subcontractors, and Engineer, and all other individuals or entities identified in the Supplementary Conditions as loss payees (and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them) in such policies and will provide primary coverage for all losses and damages caused by the perils or causes of loss covered thereby. All such policies shall contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against Owner as a loss payees thereunder. Contractor waives all rights against Owner and its officers, directors, members, partners, employees, and agents for all losses and damages caused by, arising out of or resulting from any of the perils 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 Subcontractors and Engineer, and all other individuals or entities identified in the Supplementary Conditions as loss payees (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. None of the above waivers shall extend to the rights that any party making such waiver may have to the proceeds of insurance held by Owner as trustee or otherwise payable under any policy so issued.
- B. Contractor, Subcontractors, and Engineer waive all rights against Owner, and Owners officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them for:
 - 1. loss 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 perils whether or not insured by Owner;
 - 2. loss or damage to the completed Project or part thereof caused by, arising out of, or resulting from fire or other insured peril or cause of loss covered by any property insurance maintained on the completed Project or part thereof by Owner during partial utilization pursuant to Paragraph 14.05, after Substantial Completion pursuant to Paragraph 14.04, or after final payment pursuant to Paragraph 14.07; and
 - 3. loss or damage arising out of the Work to the extent covered by general commercial liability insurance except any right to receive proceeds from such insurance.
- C. Any insurance policy maintained by Owner covering any loss, damage or consequential loss referred to in Paragraph 5.07.B shall contain provisions to the effect that in the event of payment of any such loss, damage, or consequential loss, the insurers will have no rights of recovery against Contractor, Subcontractors, or Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them.

5.08 *Receipt and Application of Insurance Proceeds*

- A. Any insured loss under the policies of insurance required by Paragraph 5.06 will be adjusted with Owner and made payable to Owner as fiduciary for the loss payees, as their interests may appear, subject to the requirements of any applicable mortgage clause and of Paragraph 5.08.B. Owner shall deposit in a separate account any money so received and shall distribute it in accordance with such agreement as the parties in interest may reach. If no other special agreement is reached, the damaged Work shall be repaired or replaced, the moneys so received applied on account thereof, and the Work and the cost thereof covered by an appropriate Change Order.
- B. Owner as fiduciary shall have power to adjust and settle any loss with the insurers unless one of the parties in interest shall object in writing within 15 days after the occurrence of loss to Owner’s

exercise of this power. If such objection be made, Owner as fiduciary shall make settlement with the insurers in accordance with such agreement as the parties in interest may reach. If no such agreement among the parties in interest is reached, Owner as fiduciary shall adjust and settle the loss with the insurers and, if required in writing by any party in interest, Owner as fiduciary shall give bond for the proper performance of such duties.

5.09 *Acceptance of Bonds and Insurance; Option to Replace*

- A. If either Owner or Contractor has any objection to the coverage afforded by or other provisions of the bonds or insurance required to be purchased and maintained by the other party in accordance with Article 5 on the basis of non-conformance with the Contract Documents, the objecting party shall so notify the other party in writing within 10 days after receipt of the certificates (or other evidence requested) required by Paragraph 2.01.B. Owner and Contractor shall each provide to the other such additional information in respect of insurance provided as the other may reasonably request. If either party does not purchase or maintain all of the bonds and insurance required of such party by the Contract Documents, 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. Without prejudice to any other right or remedy, the other party may elect to obtain equivalent bonds or insurance to protect such other party's interests at the expense of the party who was required to provide such coverage, and a Change Order shall be issued to adjust the Contract Price accordingly.

5.10 *Partial Utilization, Acknowledgment of Property Insurer*

- A. If Owner finds it necessary to occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work as provided in Paragraph 14.05, no such use or occupancy shall commence before the insurers providing the property insurance pursuant to Paragraph 5.06 have acknowledged notice thereof and in writing effected any changes in coverage necessitated thereby. The insurers providing the property insurance shall consent by endorsement on the policy or policies, but the property insurance shall not be canceled or permitted to lapse on account of any such partial use or occupancy.

ARTICLE 6 – CONTRACTOR’S RESPONSIBILITIES

6.01 *Supervision and Superintendence*

- A. Contractor shall supervise, inspect, perform 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, manufacturers' warranties, applicable building codes and regulations. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction. Contractor shall not be responsible for the negligence of Owner or Engineer in the design or specification of a specific means, method, technique, sequence, or procedure of construction which is shown or indicated in and expressly required by the Contract Documents. Contractor shall promptly notify Owner and Engineer in writing if it becomes aware of any such negligence.
- B. At all times during the progress of the Work, Contractor shall assign a competent resident superintendent who shall not be replaced without written notice to Owner and Engineer except under extraordinary circumstances.

6.02 *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 at all times maintain good discipline and order at the Site.

- B. 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 shall be performed during regular working hours. Contractor will not permit the performance of Work on a Saturday, Sunday, or any legal holiday without Owner's written consent (which will not be unreasonably withheld) given after prior written notice to Engineer.

6.03 *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.
- B. All materials and equipment incorporated into the Work shall be as specified or, if not specified, shall be of good quality and new, except as otherwise provided in the Contract Documents. All special warranties and guarantees required by the Specifications shall 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 shall 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.

6.04 *Progress Schedule*

- A. Contractor shall adhere to the Progress Schedule established in accordance with Paragraph 2.07 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 2.07) proposed adjustments in the Progress Schedule that will not result in changing the Contract Times. Such adjustments will comply with any provisions of the General Requirements applicable thereto.
 - 2. Proposed adjustments in the Progress Schedule that will change the Contract Times shall be submitted in accordance with the requirements of Article 12. Adjustments in Contract Times may only be made by a Change Order.

6.05 *Substitutes and "Or-Equals"*

- A. Whenever an item of material or equipment is specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier, the specification or description 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 or no substitution is permitted, other items of material or equipment or material or equipment of other Suppliers may be submitted to Engineer for review under the circumstances described below.
 - 1. *"Or-Equal" Items:* If in Engineer's sole discretion an item of material or equipment proposed by Contractor is functionally equal to that named and sufficiently similar so that no change in related Work will be required, it may be considered by Engineer as an "or-equal" item, in which case review and approval of the proposed item may, in Engineer's sole discretion, be accomplished without compliance with some or all of the requirements for approval of

proposed substitute items. For the purposes of this Paragraph 6.05.A.1, a proposed item of material or equipment will be considered functionally equal to an item so named if:

- a. in the exercise of reasonable judgment Engineer determines that:
 - 1) it is at least equal in materials of construction, quality, durability, appearance, strength, and design characteristics;
 - 2) it 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; and
 - 3) it has a proven record of performance and availability of responsive service.
- b. Contractor certifies that, if approved and incorporated into the Work:
 - 1) there will be no increase in cost to the Owner or increase in Contract Times; and
 - 2) it will conform substantially to the detailed requirements of the item named in the Contract Documents.

2. *Substitute Items:*

- a. If in Engineer's sole discretion an item of material or equipment proposed by Contractor does not qualify as an "or-equal" item under Paragraph 6.05.A.1, it will be considered a proposed substitute item.
- b. Contractor shall submit sufficient information as provided below to allow Engineer to determine if the item of material or equipment proposed is essentially equivalent to that named and an acceptable substitute therefor. Requests for review of proposed substitute items of material or equipment will not be accepted by Engineer from anyone other than Contractor.
- c. The requirements for review by Engineer will be as set forth in Paragraph 6.05.A.2.d, as supplemented by the General Requirements, and as Engineer may decide is appropriate under the circumstances.
- d. Contractor shall make written application to Engineer for review of a proposed substitute item of material or equipment that Contractor seeks to furnish or use. The application:
 - 1) shall certify that the proposed substitute item will:
 - a) perform adequately the functions and achieve the results called for by the general design,
 - b) be similar in substance to that specified, and
 - c) be suited to the same use as that specified;
 - 2) will state:
 - a) the extent, if any, to which the use of the proposed substitute item will prejudice Contractor's achievement of Substantial Completion on time,
 - b) 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

- c) whether incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty;

3) will identify:

- a) all variations of the proposed substitute item from that specified, and
- b) available engineering, sales, maintenance, repair, and replacement services; and

4) shall contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including costs of redesign and claims of other contractors affected by any resulting change.

B. *Substitute Construction Methods or Procedures:* If a specific means, method, technique, sequence, or procedure of construction is expressly required by the Contract Documents, Contractor may furnish or utilize a substitute means, method, technique, sequence, or procedure of construction approved by Engineer. Contractor shall submit sufficient information to allow Engineer, in Engineer's sole discretion, to determine that the substitute proposed is equivalent to that expressly called for by the Contract Documents. The requirements for review by Engineer will be similar to those provided in Paragraph 6.05.A.2.

C. *Engineer's Evaluation:* Engineer will be allowed a reasonable time within which to evaluate each proposal or submittal made pursuant to Paragraphs 6.05.A and 6.05.B. Engineer may require Contractor to furnish additional data about the proposed substitute item. Engineer will be the sole judge of acceptability. No "or equal" or substitute will be ordered, installed or utilized until Engineer's review is complete, which will be evidenced by a Change Order in the case of a substitute and an approved Shop Drawing for an "or equal." Engineer will advise Contractor in writing of any negative determination.

D. *Special Guarantee:* Owner may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute.

E. *Engineer's Cost Reimbursement:* Engineer will record Engineer's costs in evaluating a substitute proposed or submitted by Contractor pursuant to Paragraphs 6.05.A.2 and 6.05.B. 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.

F. *Contractor's Expense:* Contractor shall provide all data in support of any proposed substitute or "or-equal" at Contractor's expense.

6.06 *Concerning Subcontractors, Suppliers, and Others*

A. Contractor shall not employ any Subcontractor, Supplier, or other individual or entity (including those acceptable to Owner as indicated in Paragraph 6.06.B), whether initially or as a replacement, against whom Owner may have reasonable objection. Contractor shall not be required to employ any Subcontractor, Supplier, or other individual or entity to furnish or perform any of the Work against whom Contractor has reasonable objection.

- B. If the Supplementary Conditions require the identity of certain Subcontractors, Suppliers, or other individuals or entities to be submitted to Owner in advance for acceptance by Owner by a specified date prior to the Effective Date of the Agreement, and if Contractor has submitted a list thereof in accordance with the Supplementary Conditions, Owner's acceptance (either in writing or by failing to make written objection thereto by the date indicated for acceptance or objection in the Bidding Documents or the Contract Documents) of any such Subcontractor, Supplier, or other individual or entity so identified may be revoked on the basis of reasonable objection after due investigation. Contractor shall submit an acceptable replacement for the rejected Subcontractor, Supplier, or other individual or entity, and the Contract Price will be adjusted by the difference in the cost occasioned by such replacement, and an appropriate Change Order will be issued. No acceptance by Owner of any such Subcontractor, Supplier, or other individual or entity, whether initially or as a replacement, shall constitute a waiver of any right of Owner or Engineer to reject defective Work.
- C. Contractor shall be fully responsible to Owner and Engineer for all acts and omissions of the Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work just as Contractor is responsible for Contractor's own acts and omissions. Nothing in the Contract Documents:
1. shall create for the benefit of any such Subcontractor, Supplier, or other individual or entity any contractual relationship between Owner or Engineer and any such Subcontractor, Supplier or other individual or entity; nor
 2. shall create any obligation on the part of Owner or Engineer to pay or to see to the payment of any moneys due any such Subcontractor, Supplier, or other individual or entity except as may otherwise be required by Laws and Regulations.
- D. Contractor shall be solely responsible for scheduling and coordinating the Work of Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work under a direct or indirect contract with Contractor.
- E. Contractor shall require all Subcontractors, Suppliers, and such other individuals or entities performing or furnishing any of the Work to communicate with Engineer through Contractor.
- F. The divisions and sections of the Specifications and the identifications of any Drawings shall not control Contractor in dividing the Work among Subcontractors or Suppliers or delineating the Work to be performed by any specific trade.
- G. All Work performed for Contractor by a Subcontractor or Supplier will be pursuant to an appropriate agreement between Contractor and the Subcontractor or Supplier which specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract Documents for the benefit of Owner and Engineer. Whenever any such agreement is with a Subcontractor or Supplier who is listed as a loss payee on the property insurance provided in Paragraph 5.06, the agreement between the Contractor and the Subcontractor or Supplier will contain provisions whereby the Subcontractor or Supplier waives all rights against Owner, Contractor, Engineer, and all other individuals or entities identified in the Supplementary Conditions to be listed as insureds or loss payees (and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them) for all losses and damages caused by, arising out of, relating to, or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work. If the insurers on any such policies require separate waiver of subrogation forms to be signed by any Subcontractor or Supplier, Contractor will obtain the same.
- H. All contracts with Subcontractors shall require the Subcontractor to agree:

a. To provide all necessary supervision, materials, labor, supplies, and equipment required to complete the Subcontract Work in accordance with all applicable laws, government regulations, and orders and terms and conditions of all applicable Subcontract Documents.

b. To be bound by the terms of the Construction Contract with the OWNER (including every part of and all the general and special conditions, drawings, specifications and addenda), in any way applicable to this Agreement, which are hereby referred to and made a part of this Agreement.

c. To assume toward the Contractor, so far as the Subcontract work is concerned, all the obligations and responsibilities which the Contractor assumed toward the Owner by the Main Contract which includes the general and special conditions thereof, and the plans and specifications and addenda, and all modifications thereof incorporated in the documents before their execution (which documents shall be available to the Subcontractor). The Subcontractor agrees not to assign or sublet said work or any portion thereof without the written consent of the Contractor.

d. To start work when notified by the Contractor or as otherwise provided in the Purchase Order, and to complete the Subcontract Work, at such times as will enable the Contractor to fully comply with the Main Contract, and to be bound by any provisions in the Main Contract for liquidated damages, if such liquidated damages are a result of the Subcontractor's delay. Time is of the essence of this Agreement.

e. To submit to Contractor applications for payment no later than the 25th of each month to enable the Contractor to apply for and obtain payment from the Owner, and to receive as progress payment from the Contractor the amounts allowed to the Contractor by the Owner on account of the Subcontract Work to the extent of the Subcontractor's interest therein. All applications for payment must be submitted on the Subcontractor Application for Payment Form and be accompanied by the Interim Lien/Claim Waiver, the form of which will be provided by the Contractor. Contractor is not required to make any payment to Subcontractor unless Subcontractor shall previously have provided such supporting documentation as may be required by Contractor, Owner, Architect or any construction lender which has provided financing in connection with the Work. Ten-percent (10%) retention will be withheld from all payments unless set forth in the Purchase Order. Final payment shall be made within a reasonable time after the completion and acceptance of the Subcontract Work unless a definite time for final payment is fixed in the Purchase Order. It is agreed that progress payment to Subcontractor shall only be made with funds received by Contractor from Owner for work performed by Subcontractor as reflected in Contractor's application for payment and only when and if such funds are received by Contractor from Owner. Approval of Contractor's application for payment for the work reflected therein by Owner shall be a condition precedent which must occur before Contractor will be obligated to pay Subcontractor. Subcontractor warrants that it will look to and solely rely upon the credit and ability of Owner and not of Contractor for payment for work performed and materials furnished by Subcontractor, including retainages. Contractor may prepare and issue a joint check for the amount(s) due.

f. The Contractor may, without invalidating this Agreement, order in writing extra work or make changes by altering, adding to, or deducting from work; the price herein being adjusted accordingly. All such work shall be executed under the conditions hereof, and of the Main Contract, except that any claim for extension of time caused thereby must be agreed upon at the time of ordering such change.

g. To make no claim for extras unless the same shall be fully agreed upon in writing by the Contractor prior to the performance of any such extra work. Back charge work performed by either Subcontractor or Contractor for the account of the other will be performed for an agreed lump sum amount or on a time and material basis providing a maximum mark-up of ten percent.

h. That he is an independent contractor and shall, at his own expense, and without increase in the Purchase Order, comply with all laws, rules, ordinances and regulations of all governing bodies having jurisdiction over the Project or work, obtain all necessary permits and licenses therefore, pay all manufacturers' taxes, sales taxes, processing taxes, and all federal and state taxes, insurance and contributions for social security and unemployment which are measured by wages, salaries or other remuneration paid to employees, whether levied under existing or subsequently enacted laws, rules or regulations. That he has the status of an employer as defined by the Unemployment Compensation Act of the State, and all similar acts of the National Government, including all Social Security Acts; that he will withhold from his payroll the necessary Social Security and Unemployment reserves, and pay the same; that the Contractor shall in no way

be liable as an employer to or on account of any of the employees of the Subcontractor; that the Subcontractor will as an employer, to the extent of any of his employees under this contract, conform to all the rules and regulations of Social Security Acts and Unemployment Commissions created by said laws, and that he will furnish satisfactory evidence to the Contractor that he is conforming to said laws, rules and regulations. The Subcontractor hereby releases and indemnifies the Contractor from any and all liability under said laws.

i. That the Subcontractor will pay any and all federal, state and municipal taxes and licenses, including sales taxes, if any, for which the Subcontractor may be liable in connection with the labor and materials herein, or in carrying out this Agreement, prior to final payment being made to him.

j. To pay industrial insurance and all other payments required under Workman's Compensation laws as the same becomes due, and to furnish Contractor with evidence that the same has been paid before final payment is made on this Subcontract Agreement.

k. That all materials delivered by or on account of the Subcontractor and intended to be incorporated into the Project shall become the property of the Owner as delivered; but the Subcontractor may re-possess himself of any surplus remaining at the completion of the Subcontract. That all scaffolding, apparatus, ways, works, machinery and plant brought upon the premises by the Subcontractor shall remain his property, but in case of default, and the completion of the work by the Contractor, the latter shall be entitled to use the said scaffolding, apparatus, ways, works, machinery and plant without cost, or liability for depreciation or damage by use and without prejudice to Contractor's other rights or remedies for any damage or loss sustained by reason of said default.

L. That in the event the Purchase Order provides for a unit price, it is understood and agreed that any quantities and amounts mentioned are approximate only and may be more or less at the same unit price, and subject to change as ordered and directed by the Contractor.

m. To immediately, after receiving written notice from Contractor, proceed to remove or take down from the grounds or buildings, all materials condemned by the Contractor, whether worked or not, as unsound or improper, or as in any way failing to conform to the Main Contract, including the general or special conditions, drawings, specifications, or addenda. Failure of the Contractor to immediately condemn any work or materials as installed shall not in any way waive the Contractor's right to object thereto at any subsequent time.

n. To commence and at all times to carry on, perform and complete this Subcontract to the full and complete satisfaction of the Contractor, and of the Project Architect or Owner. It is specifically understood and agreed that in the event the Contractor shall at any time be of the opinion that the Subcontractor is not proceeding with diligence and in such a manner as to satisfactorily complete said work within the required time, then and in that event the Contractor shall have the right, after 48 hours notice, to take over said work and to complete the same at the cost and expense of the Subcontractor, without prejudice to the Contractor's other rights or remedies for any loss or damage sustained.

o. Upon completion of any unit of the work, and upon final completion thereof, to clean up all refuse and rubbish around or alongside the same caused by the Subcontractor, and to promptly remove all excess materials, tools, structures, etc., which may have been brought on the premises or erected by the Subcontractor, and in the event of the failure of the Subcontractor to do so, the Contractor may, after 24 hour notice to the Subcontractor, clean up the premises at the cost and expense of the Subcontractor.

p. Notwithstanding any other provisions contained herein, no sales hypothecation assignment or other disposition of this Subcontract, nor of any monies due or to become due hereunder by operation of law or otherwise, shall be made or be valid without prior written consent of the Contractor, and then, if such consent be given, only upon such conditions as the Contractor may prescribe.

q. Prior to the start of work Subcontractor shall obtain and keep in force commercial general liability insurance with dollar limits and coverage equal to, or greater than, the minimum specified in the Main Contract for Contractor, and not less than the types and amounts of coverages noted below.

r. The Subcontractor shall effect and maintain during the life of this Agreement, and as otherwise provided, Bodily Injury, Property Damage and Personal Injury Liability insurance on an occurrence form of coverage with an insurance company having an A.M. Best's rating of AV or better, or acceptable to the

Contractor and Owner. Such insurance shall name the Contractor, the Owner and others as the contractor may designate as a primary additional insured.

Commercial General Liability Coverage, Limits of Liability shall not be less than:

\$1,000,000 Combined Single Limit for Bodily Injury and Property Damage each occurrence;

\$1,000,000 Personal Injury and Advertising Liability each occurrence;

\$2,000,000 General Aggregate;

\$1,000,000 Combined Single Limits for Products and Completed Operations Liability;

\$1,000,000 Combined Single Limit for Automobile Bodily Injury and Property Damage Liability;

each Accident or Loss.

The General Liability and Automobile Liability required shall include coverage such as is usual to the practice of the insurance industry, including but not limited to, coverage's referred to as:

Premises and Operations Liability

Owner's and Contractor's Protective Liability

Products & Completed Operations Liability

Contractual Liability

Broad Form Property Damage Liability including Completed Operations

Personal Injury Liability

Employer's Contingent ("Stop Gap") Liability

Explosion, Collapse and Underground Damage Liability (referred to as "xcu" where appropriate)

Automobile Liability, including coverage for owned, non-owned, leased and hired vehicles.

The Subcontractor shall maintain Products and Completed Operations Liability Insurance for not less than two (2) years after final acceptance of the work on each Project.

Provided, however, that deviations from any of the above limits may be accepted or required by the Contractor.

Such insurance shall include contractual liability coverage applicable to the indemnity provisions of this Subcontract. Subcontractor shall furnish the Contractor certificates of insurance, naming the Contractor as a primary additional insured on the Subcontractor's policies, evidenced by a certificate of insurance and a primary **Additional Insured Endorsement**, or as acceptable to the Contractor and Owner, before commencing work under this Subcontract for the minimum coverages specified above. Such insurance shall waive all rights of subrogation against Owner and provide for not less than 30 days prior written notice to Owner and Contractor of cancellation or reduction in coverage. In the event Subcontractor fails to maintain any and all insurance required by this Subcontract during the entire life of this Subcontract, Contractor may at its option, and without waiver of other available remedies, purchase such insurance in the name of Subcontractor and deduct the cost of same from payments due Subcontractor. Any deductibles in exclusions in coverage in the policy required by this paragraph shall be assumed by, and shall be the sole risk of, subcontractor or any sub-tier subcontractor which provides the insurance.

s. To pay the Contractor his pro rata share of the cost of a builder's risk insurance policy to be obtained by the Contractor and in which the Subcontractor will be named as an additional insured. Subcontractor waives all rights against Contractor and the Owner, or employees of any of them, separate contractors, and all other subcontractors for loss or damage to the extent covered by builder's Risk or any other property or equipment insurance, except such rights as they may have to the proceeds of such insurance.

t. To the fullest extent of the law, to defend, indemnify and save harmless Owner and Contractor, their officers, employees and agents from every claim, risk, loss, damage, demand, suit, judgment and attorney's fee, and any other kind of expense arising out of injury to or death of any and all persons, or arising out of property damage of any kind, whether tangible or intangible, or loss of use resulting therefrom, arising

out of or in any manner connected with the Work performed under this Agreement, whether such claim, risk, loss, damage, demand, suit, or judgment is made during the term of a Project or after it is completed.

Subcontractor's duty to indemnify Contractor and Owner shall not apply to liability for damages arising out of bodily injury to persons or damage to property caused by or resulting from the sole negligence of Contractor or Contractor's agent or employees.

Subcontractor's duty to indemnify Contractor and Owner for liability for damages arising out of bodily injury to person or damage to property caused by or resulting from the concurrent negligence of (a) Contractor or Contractor's agents or employees, and (b) Subcontractor or Subcontractor's agents or employees, shall apply only to the extent of negligence of Subcontractor or Subcontractor's agents or employees.

FOR PURPOSES OF THE FOREGOING INDEMNIFICATION PROVISION ONLY, AND ONLY TO THE EXTENT OF CLAIMS AGAINST SUBCONTRACTOR BY CONTRACTOR UNDER SUCH INDEMNIFICATION PROVISION, SUBCONTRACTOR SPECIFICALLY WAIVES ANY IMMUNITY IT MAY BE GRANTED UNDER THE IDAHO WORKERS COMPENSATION ACT, TITLE 72, IDAHO CODE. THE INDEMNIFICATION OBLIGATION UNDER THIS SUBCONTRACT SHALL NOT BE LIMITED IN ANY WAY BY ANY LIMITATION ON THE AMOUNT OR TYPE OF DAMAGES, COMPENSATION OR BENEFITS PAYABLE TO OR FOR ANY THIRD PARTY UNDER WORKER'S COMPENSATION ACTS, DISABILITY BENEFIT ACTS, OR OTHER EMPLOYEE BENEFIT ACTS. THE TERMS OF THIS INDEMNITY HAVE BEEN SPECIFICALLY NEGOTIATED AND AGREED TO BY THE PARTIES.

Subcontractor: _____ (Initial) Contractor: _____ Initial

Subcontractor agrees to make all claims for which the Contractor may be liable in the manner and within the time limits provided in the Main Contract documents for like claims by the Contractor upon the Owner and in sufficient time for the Contractor to make such claims against the Owner in accordance with the Main Contract documents. Subcontractor agrees to be bound by Contractor's determination as to whether the Owner is or may be liable for Subcontractor's claim(s). Pending resolution of the claim(s) and the exhaustion of all legal and administrative remedies, the Subcontractor agrees to stay all legal remedies against the Contractor.

u. To provide a Material Safety Data Sheet (MSDS) for all materials and products brought on the project as a part of the Subcontractor's work, and deliver a copy of the same to the Contractor's supervisory personnel.

v. To have all Subcontractor's employees and representatives participate in all safety meetings when on site, and to at all times, perform their work in a manner consistent with applicable OSHA, state or other safety standards.

w. Subcontractor shall submit to general contractor a Site Specific Safety Plan prior to commencing work on any Project.

x. That Subcontractor has satisfied itself as to the nature and location of the work, the character, kind and quantity of material to be encountered, the character, kind and quantity of equipment needed, the location, conditions and other matters which can in any manner affect the work under this Subcontract agreement, and acknowledges that Subcontractor has had a reasonable opportunity to examine the site, all of the Main Contract documents, this Master Subcontract, and all Subcontract Documents. Prior to commencing work, Subcontractor shall examine the site and surfaces upon which work is to be performed, and shall notify Contractor in writing of any conditions which might adversely affect its work; failure to do so will constitute a waiver of entitlement to any additional compensation or contract time arising out of such conditions.

y. That in the event Owner, for any cause other than Contractor's default, temporarily suspends work under the Main Contract, Contractor may order Subcontractor to suspend work under this Subcontract. Subcontractor shall not be entitled to any additional compensation or damage for such suspensions, except, and only to the same extent, Contractor receives additional compensation from Owner under the provisions of the Main Contract for work covered by this Subcontract.

z. If Subcontractor refuses or fails to supply enough properly-skilled workers or materials to maintain the schedule of work, refuses or fails to make prompt payment to lower-tier subcontractors or

suppliers of labor, materials or services, fails to correct, replace, or re-execute faulty or defective work done or materials furnished, disregards the law, ordinances, rules, regulations or orders of any public authority having jurisdiction, files for bankruptcy, or otherwise commits a material breach of this Subcontract, and fails to correct the breach and maintain the corrected condition within not less than forty eight (48) hours of receipt of written notice of the breach, then Contractor, without prejudice to any rights to remedies otherwise available to it, shall have the right to any and all of the following remedies:

Supply such numbers of workers and quantity of materials, equipment, and other facilities as Contractor deems necessary for the completion of Subcontractor's work, or any part thereof, which Subcontractor has failed to complete or perform after the above notice, and to charge the cost thereof to Subcontractor who shall be liable for the payment of same including reasonable overhead and profit.

Contract with one (1) or more additional subcontractors to perform such part or Subcontractor's work as Contractor shall determine is necessary to provide prompt completion of the project and charge the costs thereof to Subcontractor.

Withhold payment of any monies due or to become due Subcontractor pending corrective action to the extent required to the satisfaction of Contractor.

Terminate this Subcontract, use any materials, implements, equipment, appliances, or tools furnished or belonging to Subcontractor to complete Subcontractor's work and furnish those materials, equipment, and/or employ such workers as Contractor deems necessary to maintain orderly progress of the work. Subcontractor's equipment shall be only utilized when equivalent equipment is not locally available to lease and will not be supplied by a substitute subcontractor and when procurement of substitute equipment will not delay completion of the Main Contract. All of the costs, including reasonable overhead, profit, and attorney's fees, incurred by Contractor in arraigning and performing Subcontractor's work shall be charged to Subcontractor, and Contractor shall have the right to deduct such expenses from monies due or becoming due Subcontractor. Subcontractor shall be liable for the payment of any expenses incurred in excess of the unpaid balance of the Subcontract, and or Purchase Order price. Offset against any sums due or to become due Subcontractor all costs incurred in pursuing any remedies provided herein, including but not limited to reasonable overhead, profit, and actual attorneys' fees incurred as a result of Subcontractor's non-performance. In the event of an emergency, Contractor may proceed as described above without notice.

aa. To provide Performance or payment bonds (if required) in an amount and on terms as required by the Purchase Order at the expense of the Subcontractor prior to the commencement of the work on each Project.

bb. That modifications to or waiver of any rights under this Agreement shall be valid or binding on the parties to this Subcontract unless the same be in writing. Failure of Contractor to insist upon strict performance of any term or condition of this Subcontract, or to exercise any option herein conferred on one or more instances, shall not be construed to be waiver of such performance or option, or of any other covenants or agreements on subsequent occasions, but the same shall be and remain in full force and effect.

cc. To supply Contractor with any notice of safety hazard(s), or cancers found on the jobsite or of any injury to its own or lower tier subcontractors' workers incurred on the jobsite.

dd. That Subcontractor is licensed and bonded as a specialty or general contractor in the State of Idaho and that such license and bond will remain in full force and effect throughout the duration of this Agreement and any Project.

ee. To comply with all ordinances, regulations or laws affecting the work contemplated under this Agreement or any Purchase Order, including but not limited to applicable environmental, labor and safety ordinances, regulations or laws.

ff. That this Agreement shall be governed and construed in accordance with the laws of the State of Idaho.

gg. That in case any provision of this Agreement, or any other document contemplated in this Agreement, shall be invalid, illegal or unenforceable, such provisions shall be severable from the rest of this

Agreement and the validity, legality or enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

hh. That all notices required to be given under this Agreement shall be in writing and delivered personally or be sent to the other party by registered mail at the address set forth in this agreement or at such place or places as either party may from time to time designate in writing.

ii. That Subcontractor warrants all equipment, materials and labor furnished or performed under this Subcontract by Subcontractor, or any sub-tier subcontractor, against defects in design, materials and workmanship for the period of 12 months after substantial completion of the Project, or such longer period applicable to Subcontractor's Work as set forth in the Contract Documents. The Subcontractor shall provide all necessary maintenance and/or repairs of the Work during construction until final acceptance of the Project. This clause shall not be construed to limit the applicable statute of limitation period in which the Contractor may file a cause of action against the Subcontractor.

jj. That if any lien or bond claim is filed or if a claim of any nature is asserted against the Owner or the Contractor on account of any obligation of the Subcontractor, the Subcontractor shall, within five (5) days thereafter, cause such lien or claim to be satisfied, discharged or bonded off at the Subcontractor's sole cost and expense. The Subcontractor's failure so to do shall constitute a default hereunder.

kk. That Contractor may, without cause and at any time, terminate this Subcontract, in whole or in part, by written notice to the Subcontractor. In the event of such termination, the Subcontractor shall be entitled to its actual direct costs incurred for labor, materials and equipment prior to the effective date of termination plus fifteen percent (15%) of such costs as an allowance for the Subcontractor's overhead and profit and will not be entitled to any other costs, damages or allowance for overhead and profit on work not performed, provided, however, the total sum payable to the Subcontractor at termination shall not exceed the Subcontract Sum reduced by payments previously made.

ll. Any and all funds payable to Subcontractor hereunder are hereby declared to constitute trust funds in the hands of Subcontractor, to be applied first to the payment of claims of its subcontractors, architects, engineers, surveyors, laborers, and materialmen, arising out of the work, to claims for utilities furnished and taxes imposed, and to the payment of premiums on surety bonds filed and premiums on insurance accruing during the construction of the work, before application to any other purpose.

6.07 *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 a particular 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 shall be disclosed by Owner 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.

6.08 *Permits*

- A. Unless otherwise provided in the Supplementary Conditions, Contractor shall obtain and pay for all construction permits and licenses. 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 opening of Bids, or, if there are no Bids, on the Effective Date of the Agreement. Owner shall pay all charges of utility owners for connections for providing permanent service to the Work.

6.09 *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. Except where otherwise expressly required by applicable Laws and Regulations, neither Owner nor Engineer shall be responsible for monitoring Contractor's compliance with any Laws or Regulations.
- B. If Contractor performs any Work knowing or having reason to know that it is contrary to Laws or Regulations, Contractor shall bear 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. However, it shall not be Contractor's responsibility to make certain that the Specifications and Drawings are in accordance with Laws and Regulations, but this shall not relieve Contractor of Contractor's obligations under Paragraph 3.03.
- C. Changes in Laws or Regulations not known at the time of opening of Bids (or, on the Effective Date of the Agreement if there were no Bids) having an effect on the cost or time of performance of the Work shall be the subject of an adjustment in Contract Price or Contract Times. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment, a Claim may be made therefor as provided in Paragraph 10.05.

6.10 *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.

6.11 *Use of Site and Other Areas*

- A. *Limitation on Use of Site and Other Areas:*
 - 1. Contractor shall confine construction equipment, the storage of materials and equipment, and the operations of workers to the Site and other areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and other areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility for any damage to any such land or area, or to the owner or occupant thereof, or of any adjacent land or areas resulting from the performance of the Work.

2. Should any claim be made by any such owner or occupant because of the performance of the Work, Contractor shall promptly settle with such other party by negotiation or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law.
 3. 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 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 by or based upon Contractor's performance of the Work.
- B. *Removal of Debris During Performance of the Work:* During the progress of the Work Contractor shall keep the Site and other areas free from accumulations of waste materials, rubbish, and other debris. Removal and disposal of such waste materials, rubbish, and other debris shall 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 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 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 property to stresses or pressures that will endanger it.

6.12 *Record Documents*

- A. Contractor shall maintain in a safe place at the Site one record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, and written interpretations and clarifications in good order and annotated to show changes made during construction. These record documents together with all approved Samples and a counterpart of all approved Shop Drawings will be available to Engineer for reference. Upon completion of the Work, these record documents, Samples, and Shop Drawings will be delivered to Engineer for Owner.

6.13 *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. 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, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.

- B. 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. Contractor shall notify owners of adjacent property and of Underground Facilities and other utility owners when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property.
- C. Contractor shall comply with the applicable requirements of Owner's safety programs, if any. The Supplementary Conditions identify any Owner's safety programs that are applicable to the Work.
- D. 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.
- E. All damage, injury, or loss to any property referred to in Paragraph 6.13.A.2 or 6.13.A.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 (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).
- F. Contractor's duties and responsibilities for safety and for protection of the Work shall continue until such time as all the Work is completed and Engineer has issued a notice to Owner and Contractor in accordance with Paragraph 14.07.B that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion).

6.14 *Safety Representative*

- A. Contractor shall designate a qualified and experienced safety representative at the Site whose duties and responsibilities shall be the prevention of accidents and the maintaining and supervising of safety precautions and programs.

6.15 *Hazard Communication Programs*

- A. Contractor shall be responsible for coordinating any exchange of 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.

6.16 *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 threatened 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 thereby or are required as a result thereof. If Engineer determines that a change in the Contract Documents is required because of the action taken by Contractor in response to such an emergency, a Work Change Directive or Change Order will be issued.

6.17 *Shop Drawings and Samples*

A. Contractor shall submit Shop Drawings and Samples to Engineer for review and approval in accordance with the accepted Schedule of Submittals (as required by Paragraph 2.07). Each submittal will be identified as Engineer may require.

1. *Shop Drawings:*

- a. Submit number of copies specified in the General Requirements.
- b. Data shown on the Shop Drawings will 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 6.17.D.

2. *Samples:*

- a. Submit number of Samples specified in the Specifications.
- b. 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 6.17.D.

B. 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. *Submittal Procedures:*

1. Before submitting each Shop Drawing or Sample, Contractor shall have:
 - a. reviewed and coordinated each Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents;
 - b. determined and verified all field measurements, quantities, dimensions, specified performance and design criteria, installation requirements, materials, catalog numbers, and similar information with respect thereto;
 - c. determined and verified the suitability of all materials offered with respect to the indicated application, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work; and
 - d. determined and verified all information relative to Contractor's responsibilities for means, methods, techniques, sequences, and procedures of construction, and safety precautions and programs incident thereto.
2. Each submittal shall bear a stamp or specific written certification that Contractor has satisfied Contractor's obligations under the Contract Documents with respect to Contractor's review and approval of that submittal.
3. With each submittal, Contractor shall give Engineer specific written notice of any variations that the Shop Drawing or Sample may have from the requirements of the Contract Documents. This notice shall be both a written communication separate from the Shop

Drawings or Sample submittal; and, in addition, by a specific notation made on each Shop Drawing or Sample submitted to Engineer for review and approval of each such variation.

D. *Engineer's Review:*

1. Engineer will provide timely review of Shop Drawings and Samples in accordance with the Schedule of Submittals acceptable to Engineer. 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, conform to the information given in 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 (except where a particular means, method, technique, sequence, or procedure of construction is specifically and expressly called for by the Contract Documents) or to safety precautions or programs incident thereto. The review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.
3. Engineer's review and approval shall not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirements of Paragraph 6.17.C.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's review and approval shall not relieve Contractor from responsibility for complying with the requirements of Paragraph 6.17.C.1.

E. *Resubmittal Procedures:*

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.

6.18 *Continuing the Work*

- A. Contractor shall carry on the Work and adhere to the Progress Schedule during all disputes or disagreements with Owner. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, except as permitted by Paragraph 15.04 or as Owner and Contractor may otherwise agree in writing.

6.19 *Contractor's General Warranty and Guarantee*

- A. Contractor warrants and guarantees to Owner that all Work, including equipment, materials and labor furnished or performed will be in accordance with the Contract Documents and will not be defective. Engineer and Owner and their respective officers, directors, members, partners, employees, agents, consultants, and subcontractors shall be entitled to rely on representation of Contractor's warranty and guarantee.
- B. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:
1. abuse, modification, or improper 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.
- C. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents or a release of Contractor's obligation to perform the Work in accordance with the Contract Documents:
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 or the issuance of a notice of acceptability by Engineer;
 6. any inspection, test, or approval by others; or
 7. any correction of defective Work by Owner.

6.20 *Indemnification*

- A. Contractor releases and shall defend, indemnify and hold harmless Owner from and against all royalties, claims, losses, harm, costs, liabilities, damages and expenses (including, but not limited to, reasonable attorneys' fees and interest), whether arising before or after final acceptance and whether suffered by Owner or any other person or entity, in any manner directly or indirectly arising out of or due to:
- (1) any act, omission, fault, strict liability or negligence of Contractor or its Support, in connection with or incident to performance of the Work or this Contract;
 - (2) Any injury to or death of any person or persons or damage to any property, including without limitation any property of Owner, and all other persons of entities, or the environment in connection with or incident to performance of the Work or this Contract;
 - (3) any liens or asserted liens upon the property of Owner arising out of or in connection with the performance of the Work or this Contract, except for liens arising out of work which is performed by third parties at Owner's sole request and which is outside the scope of this Contract;
 - (4) any failure of Contractor, its Support, or the portion of the Work for which any of such parties are responsible to comply with all applicable laws, ordinances, rules, regulations, orders, licenses, permits and other requirements, now or hereafter in effect, of any governmental authority;
 - (5) any failure of Contractor or its Support to secure and maintain insurance as required by this Contract; or
 - (6) any correction by Owner of defective, deficient or noncomplying Work.

To the full extent permitted by applicable law, the provisions of this Paragraph shall apply regardless of the fault, negligence or strict liability of Owner; provided, that nothing in this

Contract shall require Contractor to indemnify a person against liability for damages arising out of bodily injury or property damage caused by or resulting from the negligence of such person, his agents or employees.

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 6.20.A shall 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.

The indemnification obligations of Contractor under Paragraph 6.20.A shall not extend to the liability of Engineer and Engineer's officers, directors, members, partners, employees, agents, consultants and subcontractors arising out of:

1. the preparation or approval of, or the failure to prepare or approve maps, Drawings, opinions, reports, surveys, Change Orders, designs, or Specifications; or
2. giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage.

6.21 *Delegation of Professional Design Services*

- A. Contractor will not be required to provide professional design services unless such services are specifically required by the Contract Documents for a portion of the Work or unless such services are required to carry out Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. Contractor shall not be required to provide professional services in violation of applicable law.
- B. If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of Contractor by the Contract Documents, Owner and Engineer will specify all performance and design criteria that such services must satisfy. Contractor shall cause such services or certifications to be provided by a properly licensed professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to Engineer.
- C. Owner and Engineer shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals, provided Owner and Engineer have specified to Contractor all performance and design criteria that such services must satisfy.
- D. Pursuant to this Paragraph 6.21, Engineer's review and approval of design calculations and design drawings will be only for the limited purpose of checking for conformance with performance and design criteria given and the design concept expressed in the Contract Documents. Engineer's review and approval of Shop Drawings and other submittals (except design calculations and design drawings) will be only for the purpose stated in Paragraph 6.17.D.1.
- E. Contractor shall not be responsible for the adequacy of the performance or design criteria required by the Contract Documents.

ARTICLE 7 – OTHER WORK AT THE SITE

7.01 *Related Work at Site*

- A. Owner may perform other work related to the Project at the Site with Owner’s employees, or through other direct contracts therefor, or have other work performed by utility owners. If such other work is not noted in the Contract Documents, then:
 - 1. written notice thereof will be given to Contractor prior to starting any such other work; and
 - 2. if Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times that should be allowed as a result of such other work, a Claim may be made therefor as provided in Paragraph 10.05.

- B. Contractor shall afford each other contractor who is a party to such a direct contract, each utility owner, and Owner, if Owner is performing other work with Owner’s employees, proper and safe access to the Site, provide a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work, and properly coordinate the Work with theirs. 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. The duties and responsibilities of Contractor under this Paragraph are for the benefit of such utility owners and other contractors to the extent that there are comparable provisions for the benefit of Contractor in said direct contracts between Owner and such utility owners and other contractors.

- C. If the proper execution or results of any part of Contractor’s Work depends upon work performed by others under this Article 7, 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.

7.02 *Coordination*

- A. If Owner intends to contract with others for the performance of other work on the Project at the Site, the following will be set forth in Supplementary Conditions:
 - 1. the individual or entity who will have authority and responsibility for coordination of the activities among the various contractors will be identified;
 - 2. the specific matters to be covered by such authority and responsibility will be itemized; and
 - 3. the extent of such authority and responsibilities will be provided.

- B. Unless otherwise provided in the Supplementary Conditions, Owner shall have sole authority and responsibility for such coordination.

7.03 *Legal Relationships*

- A. Paragraphs 7.01.A and 7.02 are not applicable for utilities not under the control of Owner.

- B. Each other direct contract of Owner under Paragraph 7.01.A shall provide that the other contractor is liable to Owner and Contractor for the reasonable direct delay and disruption costs incurred by Contractor as a result of the other contractor's wrongful actions or inactions.
- C. Contractor shall be liable to Owner and any other contractor under direct contract to Owner for the reasonable direct delay and disruption costs incurred by such other contractor as a result of Contractor's wrongful action or inactions.

ARTICLE 8 – OWNER'S RESPONSIBILITIES

8.01 *Communications to Contractor*

- A. Except as otherwise provided in these General Conditions, Owner shall issue all communications to Contractor through Engineer.

8.02 *Replacement of Engineer*

- A. In case of termination of the employment of Engineer, Owner shall appoint an engineer, whose status under the Contract Documents shall be that of the former Engineer.

8.03 *Furnish Data*

- A. Owner shall promptly furnish the data required of Owner under the Contract Documents.

8.04 *Pay When Due*

- A. Owner shall make payments to Contractor when they are due as provided in Paragraphs 14.02.C and 14.07.C.

8.05 *Lands and Easements; Reports and Tests*

- A. Owner's duties with respect to providing lands and easements and providing engineering surveys to establish reference points are set forth in Paragraphs 4.01 and 4.05. Paragraph 4.02 refers to Owner's identifying and making available to Contractor copies of reports of explorations and tests of subsurface conditions and drawings of physical conditions relating to existing surface or subsurface structures at the Site.

8.06 *Insurance*

- A. Owner's responsibilities, if any, with respect to purchasing and maintaining liability and property insurance are set forth in Article 5.

8.07 *Change Orders*

- A. Owner is obligated to execute Change Orders as indicated in Paragraph 10.03.

8.08 *Inspections, Tests, and Approvals*

- A. Owner's responsibility with respect to certain inspections, tests, and approvals is set forth in Paragraph 13.03.B.

8.09 *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.

8.10 *Undisclosed Hazardous Environmental Condition*

- A. Owner's responsibility in respect to an undisclosed Hazardous Environmental Condition is set forth in Paragraph 4.06.

8.11 *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 Documents.

8.12 *Compliance with Safety Program*

- 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 pursuant to Paragraph 6.13.D.

ARTICLE 9 – ENGINEER'S STATUS DURING CONSTRUCTION

9.01 *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 Documents.

9.02 *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 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 use commercially reasonable efforts 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 9.09. 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.

9.03 *Project Representative*

- A. If Owner and Engineer agree, Engineer will furnish a Resident Project Representative to assist Engineer in providing more extensive observation of the Work. The authority and responsibilities of any such Resident Project Representative and assistants will be as provided in the Supplementary Conditions, and limitations on the responsibilities thereof will be as provided in Paragraph 9.09. If Owner designates another representative or agent to represent Owner at the Site who is not Engineer's consultant, agent or employee, the responsibilities and authority and limitations thereon of such other individual or entity will be as provided in the Supplementary Conditions.

9.04 *Authorized Variations in Work*

- A. Engineer may authorize minor variations in the Work from the requirements of the Contract Documents which 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. These may be accomplished by a Field Order and will be binding on Owner and also on Contractor, who shall perform the Work involved promptly. If Owner or Contractor believes that a Field Order justifies an adjustment in the Contract Price or Contract Times, or both, and the parties are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment, a Claim may be made therefor as provided in Paragraph 10.05.

9.05 *Rejecting Defective Work*

- A. Engineer will have authority to reject Work which Engineer believes to be defective, or that Engineer believes will not produce a completed Project that conforms to the Contract Documents or that will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Engineer will also have authority to require special inspection or testing of the Work as provided in Paragraph 13.04, whether or not the Work is fabricated, installed, or completed.

9.06 *Shop Drawings, Change Orders and Payments*

- A. In connection with Engineer's authority, and limitations thereof, as to Shop Drawings and Samples, see Paragraph 6.17.
- B. In connection with Engineer's authority, and limitations thereof, as to design calculations and design drawings submitted in response to a delegation of professional design services, if any, see Paragraph 6.21.
- C. In connection with Engineer's authority as to Change Orders, see Articles 10, 11, and 12.
- D. In connection with Engineer's authority as to Applications for Payment, see Article 14.

9.07 *Determinations for Unit Price Work*

- A. 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, subject to the provisions of Paragraph 10.05.

9.08 *Decisions on Requirements of Contract Documents and Acceptability of Work*

- A. Engineer will be the initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the Work thereunder. All matters in question and other matters between Owner and Contractor arising prior to the date final payment is due relating to the acceptability of the Work, and the interpretation of the requirements of the Contract Documents pertaining to the performance of the Work, will be referred initially to Engineer in writing within 30 days of the event giving rise to the question.
- B. Engineer will, with reasonable promptness, render a written decision on the issue referred. If Owner or Contractor believes that any such decision entitles them to an adjustment in the Contract Price or Contract Times or both, a Claim may be made under Paragraph 10.05. The date of Engineer's decision shall be the date of the event giving rise to the issues referenced for the purposes of Paragraph 10.05.B.
- C. Engineer's written decision on the issue referred will be final and binding on Owner and Contractor, subject to the provisions of Paragraph 10.05.
- D. When functioning as interpreter and judge under this Paragraph 9.08, Engineer will not show partiality to Owner or Contractor and will not be liable in connection with any interpretation or decision rendered in good faith in such capacity.

9.09 *Limitations on Engineer's Authority and Responsibilities*

- A. Neither Engineer's authority or responsibility under this Article 9 or under any other provision of the Contract Documents 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 shall 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.
- 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 Paragraph 14.07.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 9.09 shall also apply to the Resident Project Representative, if any, and assistants, if any.

9.10 *Compliance with Safety Program*

- A. While at the Site, Engineer's employees and representatives shall comply with the specific applicable requirements of Contractor's safety programs of which Engineer has been informed pursuant to Paragraph 6.13.D.

ARTICLE 10 – CHANGES IN THE WORK; CLAIMS

10.01 *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 by a Change Order, or a Work Change Directive. Upon receipt of any such document, Contractor shall promptly proceed with the Work involved which will be performed under the applicable conditions of the Contract Documents (except as otherwise specifically provided).
- B. If Owner and Contractor are unable to agree on entitlement to, or on the amount or extent, if any, of an adjustment in the Contract Price or Contract Times, or both, that should be allowed as a result of a Work Change Directive, a Claim may be made therefor as provided in Paragraph 10.05.

10.02 *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 as provided in Paragraph 3.04, except in the case of an emergency as provided in Paragraph 6.16 or in the case of uncovering Work as provided in Paragraph 13.04.D.

10.03 *Execution of Change Orders*

- A. Owner and Contractor shall execute appropriate Change Orders recommended by Engineer covering:
 - 1. changes in the Work which are: (i) ordered by Owner pursuant to Paragraph 10.01.A, (ii) required because of acceptance of defective Work under Paragraph 13.08.A or Owner's correction of defective Work under Paragraph 13.09, or (iii) agreed to by the parties;
 - 2. changes in the 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; and
 - 3. changes in the Contract Price or Contract Times which embody the substance of any written decision rendered by Engineer pursuant to Paragraph 10.05; provided that, in lieu of executing any such Change Order, an appeal may be taken from any such decision in accordance with the provisions of the Contract Documents and applicable Laws and Regulations, but during any such appeal, Contractor shall carry on the Work and adhere to the Progress Schedule as provided in Paragraph 6.18.A.

10.04 *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.

10.05 *Claims*

- A. *Engineer's Decision Required:* All Claims, except those waived pursuant to Paragraph 14.09, shall be referred to the Engineer for decision. A decision by Engineer shall be required as a

condition precedent to any exercise by Owner or Contractor of any rights or remedies either may otherwise have under the Contract Documents or by Laws and Regulations in respect of such Claims.

- B. *Notice:* Written notice stating the general nature of each Claim shall be delivered by the claimant to Engineer and the other party to the Contract promptly (but in no event later than 30 days) after the start of the event giving rise thereto. The responsibility to substantiate a Claim shall rest with the party making the Claim. Notice of the amount or extent of the Claim, with supporting data shall be delivered to the Engineer and the other party to the Contract within 60 days after the start of such event (unless Engineer allows additional time for claimant to submit additional or more accurate data in support of such Claim). A Claim for an adjustment in Contract Price shall be prepared in accordance with the provisions of Paragraph 12.01.B. A Claim for an adjustment in Contract Times shall be prepared in accordance with the provisions of Paragraph 12.02.B. Each Claim shall be accompanied by claimant's written statement that the adjustment claimed is the entire adjustment to which the claimant believes it is entitled as a result of said event. The opposing party shall submit any response to Engineer and the claimant within 30 days after receipt of the claimant's last submittal (unless Engineer allows additional time).
- C. *Engineer's Action:* Engineer will review each Claim and, within 30 days after receipt of the last submittal of the claimant or the last submittal of the opposing party, if any, take one of the following actions in writing:
 - 1. deny the Claim in whole or in part;
 - 2. approve the Claim; or
 - 3. notify the parties that the Engineer is unable to resolve the Claim if, in the Engineer's sole discretion, it would be inappropriate for the Engineer to do so. For purposes of further resolution of the Claim, such notice shall be deemed a denial.
- D. In the event that Engineer does not take action on a Claim within said 30 days, the Claim shall be deemed denied.
- E. Engineer's written action under Paragraph 10.05.C or denial pursuant to Paragraphs 10.05.C.3 or 10.05.D will be final and binding upon Owner and Contractor, unless Owner or Contractor invoke the dispute resolution procedure set forth in Article 16 within 30 days of such action or denial.
- F. No Claim for an adjustment in Contract Price or Contract Times will be valid if not submitted in accordance with this Paragraph 10.05.

ARTICLE 11 – COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK

11.01 *Cost of the Work*

- A. *Costs Included:* The term Cost of the Work means the sum of all costs, except those excluded in Paragraph 11.01.B, necessarily incurred and paid by Contractor in the proper performance of the Work. When the value of any Work covered by a Change Order or when a Claim for an adjustment in Contract Price is determined on the basis of Cost of the Work, the costs to be reimbursed to Contractor will be only those additional or incremental costs required because of the change in the Work or because of the event giving rise to the Claim. Except as otherwise may be agreed to in writing by Owner, such costs shall be in amounts no higher than those prevailing in the locality of the Project, shall not include any of the costs itemized in Paragraph 11.01.B, and shall 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. Such employees shall include, without limitation, superintendents, foremen, and other personnel employed full time on the Work. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits, which shall include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, bonuses, sick leave, vacation and holiday pay applicable thereto. The expenses of performing Work outside of regular working hours, on Saturday, Sunday, or legal holidays, shall 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 shall accrue to Contractor unless Owner deposits funds with Contractor with which to make payments, in which case the cash discounts shall accrue to Owner. All trade discounts, rebates and refunds and returns from sale of surplus materials and equipment shall 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, who 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 shall be determined in the same manner as Contractor's Cost of the Work and fee as provided in this Paragraph 11.01.
4. Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed for services specifically related to the Work.
5. Supplemental costs including 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, and hand tools not owned by the workers, 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.
 - c. Rentals of all construction equipment and machinery, and the parts thereof whether rented from Contractor or others in accordance with rental agreements approved by Owner with the advice of Engineer, and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs shall be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts shall cease when the use thereof is no longer necessary for the Work.
 - 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 property insurance established in accordance with Paragraph 5.06.D), 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 shall include settlements made with the written consent and approval of Owner. No such losses, damages, and expenses shall 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 telegrams, long distance telephone calls, telephone 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 Contractor is required by the Contract Documents to purchase and maintain.

B. *Costs Excluded:* The term Cost of the Work shall not include any of the following items:

- 1. Payroll costs and other compensation of Contractor's officers, executives, principals (of partnerships and sole proprietorships), general managers, safety managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks, and other personnel employed by Contractor, whether at the Site or in Contractor's principal or branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 11.01.A.1 or specifically covered by Paragraph 11.01.A.4, all of which are to be considered administrative costs covered by the Contractor's fee.
- 2. Expenses of Contractor's principal and branch offices other than Contractor's office at the Site.
- 3. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.
- 4. 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.
- 5. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraphs 11.01.A.

C. *Contractor's Fee:* When all the Work is performed on the basis of cost-plus, Contractor's fee shall be determined as set forth in the Agreement. When the value of any Work covered by a Change Order or when a Claim for an adjustment in Contract Price is determined on the basis of Cost of the Work, Contractor's fee shall be determined as set forth in Paragraph 12.01.C.

D. *Documentation:* Whenever the Cost of the Work for any purpose is to be determined pursuant to Paragraphs 11.01.A and 11.01.B, Contractor will establish and maintain records thereof in

accordance with generally accepted accounting practices and submit in a form acceptable to Engineer an itemized cost breakdown together with supporting data.

11.02 *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:*
 - 1. Contractor agrees that:
 - a. 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
 - b. 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 on account of any of the foregoing will be valid.
- C. *Contingency Allowance:*
 - 1. Contractor agrees that a 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 on account of Work covered by allowances, and the Contract Price shall be correspondingly adjusted.

11.03 *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. Determinations of the actual quantities and classifications of Unit Price Work performed by Contractor will be made by Engineer subject to the provisions of Paragraph 9.07.
- 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. Owner or Contractor may make a Claim for an adjustment in the Contract Price in accordance with Paragraph 10.05 if:
 - 1. the quantity of any item of Unit Price Work performed by Contractor differs materially and significantly from the estimated quantity of such item indicated in the Agreement; and
 - 2. there is no corresponding adjustment with respect to any other item of Work; and

3. Contractor believes that Contractor is entitled to an increase in Contract Price as a result of having incurred additional expense or Owner believes that Owner is entitled to a decrease in Contract Price and the parties are unable to agree as to the amount of any such increase or decrease.

ARTICLE 12 – CHANGE OF CONTRACT PRICE; CHANGE OF CONTRACT TIMES

12.01 *Change of Contract Price*

- A. The Contract Price may only be changed by a Change Order. Any Claim for an adjustment in the Contract Price shall be based on written notice submitted by the party making the Claim to the Engineer and the other party to the Contract in accordance with the provisions of Paragraph 10.05.
- B. The value of any Work covered by a Change Order or of any Claim for 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, by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 11.03); or
 2. where the Work involved is not covered by unit prices contained in the Contract Documents, by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 12.01.C.2); or
 3. where the Work involved is not covered by unit prices contained in the Contract Documents and agreement to a lump sum is not reached under Paragraph 12.01.B.2, on the basis of the Cost of the Work (determined as provided in Paragraph 11.01) plus a Contractor’s fee for overhead and profit (determined as provided in Paragraph 12.01.C).
- C. *Contractor’s Fee:* The Contractor’s fee for overhead and profit shall 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 11.01.A.1 and 11.01.A.2, the Contractor’s fee shall be 15 percent;
 - b. for costs incurred under Paragraph 11.01.A.3, the Contractor’s fee shall be five 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 12.01.C.2.a and 12.01.C.2.b is that the Subcontractor who actually performs the Work, at whatever tier, will be paid a fee of 15 percent of the costs incurred by such Subcontractor under Paragraphs 11.01.A.1 and 11.01.A.2 and that any higher tier Subcontractor and Contractor will each be paid a fee of five percent of the amount paid to the next lower tier Subcontractor;
 - d. no fee shall be payable on the basis of costs itemized under Paragraphs 11.01.A.4, 11.01.A.5, and 11.01.B;
 - e. the amount of credit to be allowed by Contractor to Owner for any change which results in a net decrease in cost will be the amount of the actual net decrease in cost plus a deduction in Contractor’s fee by an amount equal to five percent of such net decrease; and

- f. when both additions and credits are involved in any one change, the adjustment in Contractor's fee shall be computed on the basis of the net change in accordance with Paragraphs 12.01.C.2.a through 12.01.C.2.e, inclusive.

12.02 *Change of Contract Times*

- A. The Contract Times may only be changed by a Change Order. Any Claim for an adjustment in the Contract Times shall be based on written notice submitted by the party making the Claim to the Engineer and the other party to the Contract in accordance with the provisions of Paragraph 10.05.
- B. Any adjustment of the Contract Times covered by a Change Order or any Claim for an adjustment in the Contract Times will be determined in accordance with the provisions of this Article 12.

12.03 *Delays*

- A. Where Contractor is prevented from completing any part of the Work within the Contract Times due to delay beyond the control of Contractor, the Contract Times will be extended in an amount equal to the time lost due to such delay if a Claim is made therefor as provided in Paragraph 12.02.A. Delays beyond the control of Contractor shall include, but not be limited to, acts or neglect by Owner, acts or neglect of utility owners or other contractors performing other work as contemplated by Article 7, fires, floods, epidemics, abnormal weather conditions, or acts of God.
- B. If Owner, Engineer, or other contractors or utility owners performing other work for Owner as contemplated by Article 7, 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 the Contract Price or the Contract Times, or both. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.
- C. If Contractor is delayed in the performance or progress of the Work by fire, flood, epidemic, abnormal weather conditions, acts of God, acts or failures to act of utility owners not under the control of Owner, or other causes not the fault of and beyond control of Owner and Contractor, then Contractor shall be entitled to an equitable adjustment in Contract Times, if such adjustment is essential to Contractor's ability to complete the Work within the Contract Times. Such an adjustment shall be Contractor's sole and exclusive remedy for the delays described in this Paragraph 12.03.C.
- D. Owner, Engineer, and their officers, directors, members, partners, employees, agents, consultants, or subcontractors shall not be liable to Contractor for any claims, costs, losses, or damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Contractor on or in connection with any other project or anticipated project.
- E. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delays within the control of Contractor. Delays attributable to and within the control of a Subcontractor or Supplier shall be deemed to be delays within the control of Contractor.

ARTICLE 13 – TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK

13.01 *Notice of Defects*

- A. Prompt notice of all defective Work of which Owner or Engineer has actual knowledge will be given to Contractor. Defective Work may be rejected, corrected, or accepted as provided in this Article 13.

13.02 *Access to Work*

- A. Owner, Engineer, their consultants and other representatives and personnel of Owner, independent testing laboratories, and governmental agencies with jurisdictional interests will 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 therewith as applicable.

13.03 *Tests and Inspections*

- A. Contractor shall give Engineer timely notice of readiness of the Work for all required inspections, tests, or approvals and shall cooperate with inspection and testing personnel to facilitate required inspections or tests.
- B. Owner shall employ and pay for the services of an independent testing laboratory to perform all inspections, tests, or approvals required by the Contract Documents except:
 - 1. for inspections, tests, or approvals covered by Paragraphs 13.03.C and 13.03.D below;
 - 2. that costs incurred in connection with tests or inspections conducted pursuant to Paragraph 13.04.B shall be paid as provided in Paragraph 13.04.C; and
 - 3. as otherwise specifically provided in the Contract Documents.
- 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 and obtaining and shall pay all costs in connection with any inspections, tests, or approvals required for Owner's and Engineer's acceptance of materials or equipment to be incorporated in the Work; or acceptance of materials, mix designs, or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work. Such inspections, tests, or approvals shall be performed by organizations acceptable to Owner and Engineer.
- E. 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.
- F. Uncovering Work as provided in Paragraph 13.03.E shall be at Contractor's expense unless Contractor has given Engineer timely notice of Contractor's intention to cover the same and Engineer has not acted with reasonable promptness in response to such notice.

13.04 *Uncovering Work*

- A. If any Work is covered contrary to the written request of Engineer, it must, if requested by Engineer, be uncovered for Engineer's observation and replaced at Contractor's expense.
- B. If Engineer considers it necessary or advisable that covered Work be observed by Engineer or inspected or tested by others, 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, furnishing all necessary labor, material, and equipment.
- C. If it is found that the uncovered Work is defective, Contractor shall pay 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 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 Owner shall be entitled to an appropriate decrease in the Contract Price. If the parties are unable to agree as to the amount thereof, Owner may make a Claim therefor as provided in Paragraph 10.05.
- D. 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, or both, 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, Contractor may make a Claim therefor as provided in Paragraph 10.05.

13.05 *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, 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 shall 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.

13.06 *Correction or Removal of Defective Work*

- A. Promptly after receipt of written notice, Contractor shall correct all defective Work, whether or not fabricated, installed, or completed, or, if the Work has been rejected by Engineer, remove it from the Project and replace it with Work that is not defective. Contractor shall pay 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 correction or removal (including but not limited to all costs of repair or replacement of work of others).
- B. When correcting defective Work under the terms of this Paragraph 13.06 or Paragraph 13.07, Contractor shall take no action that would void or otherwise impair Owner's special warranty and guarantee, if any, on said Work.

13.07 *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 terms of any applicable special guarantee required by the Contract Documents) or by any specific provision of the Contract Documents, any Work is found to be

defective, or if the repair of any damages to the land or areas made available for Contractor's use by Owner or permitted by Laws and Regulations as contemplated in Paragraph 6.11.A is found to be defective, Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:

1. repair such defective land or areas; or
 2. correct such defective Work; or
 3. if the defective Work has been rejected by Owner, remove it from the Project and replace it with Work that is not defective, and
 4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others or other land or areas resulting therefrom.
- B. If 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. 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 correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others) will be paid by Contractor.
- C. 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.
- D. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this Paragraph 13.07, 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.
- E. Contractor's obligations under this Paragraph 13.07 are in addition to any other obligation or warranty. The provisions of this Paragraph 13.07 shall not be construed as a substitute for, or a waiver of, the provisions of any applicable statute of limitation or repose.

13.08 *Acceptance of Defective Work*

- A. If, instead of requiring correction or removal and replacement of defective Work, Owner (and, prior to Engineer's recommendation of final payment, Engineer) prefers to accept it, Owner may do so. Contractor shall pay 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) 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 pursuant to this sentence. If any such acceptance occurs prior to Engineer's recommendation of final payment, a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work, and Owner shall be entitled to an appropriate decrease in the Contract Price, reflecting the diminished value of Work so accepted. If the parties are unable to agree as to the amount thereof, Owner may make a Claim therefor as provided in Paragraph 10.05. If the acceptance occurs after such recommendation, an appropriate amount will be paid by Contractor to Owner.

13.09 *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 rejected Work as required by Engineer in accordance with Paragraph 13.06.A, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any other provision of the Contract Documents, Owner may, after seven days written notice to Contractor, correct, or remedy any such deficiency.
- B. In exercising the rights and remedies under this Paragraph 13.09, 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, take possession of Contractor's tools, appliances, construction equipment and machinery at the Site, 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 (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) incurred or sustained by Owner in exercising the rights and remedies under this Paragraph 13.09 will be charged against Contractor, and a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work; and Owner shall be entitled to an appropriate decrease in the Contract Price. If the parties are unable to agree as to the amount of the adjustment, Owner may make a Claim therefor as provided in Paragraph 10.05. 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 13.09.

ARTICLE 14 – PAYMENTS TO CONTRACTOR AND COMPLETION

14.01 *Schedule of Values*

- A. The Schedule of Values established as provided in Paragraph 2.07.A will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to Engineer. Progress payments on account of Unit Price Work will be based on the number of units completed.

14.02 *Progress Payments*

- A. *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. 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 shall also be accompanied by a bill of sale, invoice, or other documentation warranting that Owner has received the

materials and equipment free and clear of all Liens and evidence that the materials and equipment are covered by appropriate property insurance or other arrangements to protect Owner's interest therein, all of which must be satisfactory to Owner.

2. Beginning with the second Application for Payment, each Application shall include an affidavit of Contractor stating that all previous progress payments received on account of the Work have been applied on account to discharge Contractor's legitimate obligations associated with prior Applications for Payment.
3. The amount of retainage with respect to progress payments will be as stipulated in the Agreement.

B. Review of Applications:

1. Engineer will, within 10 days after receipt of each Application for Payment, 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 9.07, 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 Documents; 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, or

- b. for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or
 - c. for Contractor's failure to comply with Laws and Regulations applicable to Contractor's performance of the Work, or
 - d. to make any examination to ascertain how or for what purposes Contractor has used the moneys paid on account of the Contract Price, 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 14.02.B.2. Engineer may also refuse to recommend any such payment or, because of subsequently discovered evidence or the results of subsequent inspections or tests, revise or revoke any such payment recommendation previously made, to such extent as may be necessary in Engineer's opinion to protect Owner from loss because:
- a. the Work is defective, or completed Work has been damaged, requiring correction or replacement;
 - b. the Contract Price has been reduced by Change Orders;
 - c. Owner has been required to correct defective Work or complete Work in accordance with Paragraph 13.09; or
 - d. Engineer has actual knowledge of the occurrence of any of the events enumerated in Paragraph 15.02.A.

C. Payment Becomes Due:

- 1. Ten days after presentation of the Application for Payment to Owner with Engineer's recommendation, the amount recommended will (subject to the provisions of Paragraph 14.02.D) become due, and when due will be paid by Owner to Contractor.
- 2. Any and all funds payable to Contractor hereunder are hereby declared to constitute trust funds in the hands of Contractor, to be applied first to the payment of claims of its subcontractors, architects, engineers, surveyors, laborers, and materialmen, arising out of the work, to claims for utilities furnished and taxes imposed, and to the payment of premiums on surety bonds filed and premiums on insurance accruing during the construction of the work, before application to any other purpose.

D. Reduction in Payment:

- 1. Owner may refuse to make payment of the full amount recommended by Engineer because:
 - a. claims have been made against Owner on account of Contractor's performance or furnishing of the Work;
 - b. 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;
 - c. there are other items entitling Owner to a set-off against the amount recommended; or

- d. Owner has actual knowledge of the occurrence of any of the events enumerated in Paragraphs 14.02.B.5.a through 14.02.B.5.c or Paragraph 15.02.A.
- 2. If Owner refuses to make payment of the full amount recommended by Engineer, Owner will give Contractor immediate written notice (with a copy to Engineer) stating the reasons for such action 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, when Contractor remedies the reasons for such action.
- 3. Upon a subsequent determination that Owner's refusal of payment was not justified, the amount wrongfully withheld shall be treated as an amount due as determined by Paragraph 14.02.C.1 and subject to interest as provided in the Agreement.

14.03 *Contractor's Warranty of Title*

- A. Contractor warrants and guarantees that title to all Work, materials, and equipment covered by any Application for Payment, whether incorporated in the Project or not, will pass to Owner no later than the time of payment free and clear of all Liens.

14.04 *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 (except for items specifically listed by Contractor as incomplete) and request that Engineer issue a certificate of Substantial Completion.
- 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 tentative certificate of Substantial Completion which shall fix the date of Substantial Completion. There shall be attached to the certificate a tentative list of items to be completed or corrected before final payment. Owner shall have seven days after receipt of the tentative certificate during which to make written objection to Engineer as to any provisions of the certificate or attached list. If, after considering such objections, Engineer concludes that the Work is not substantially complete, Engineer will, within 14 days after submission of the tentative certificate to Owner, notify Contractor in writing, stating the reasons therefor. If, after consideration of Owner's objections, Engineer considers the Work substantially complete, Engineer will, within said 14 days, execute and deliver to Owner and Contractor a definitive certificate of Substantial Completion (with a revised tentative list of items to be completed or corrected) reflecting such changes from the tentative certificate as Engineer believes justified after consideration of any objections from Owner.
- D. At the time of delivery of the tentative certificate of Substantial Completion, Engineer will deliver to Owner and Contractor a written recommendation as to division of responsibilities pending final payment between Owner and Contractor with respect to security, operation, safety, and protection of the Work, maintenance, heat, utilities, insurance, and warranties and guarantees. Unless Owner and Contractor agree otherwise in writing and so inform Engineer in writing prior to Engineer's issuing the definitive certificate of Substantial Completion, Engineer's aforesaid recommendation will be binding on Owner and Contractor until final payment.

- E. 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 tentative list.

14.05 *Partial Utilization*

- 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. Owner at any time may request Contractor in writing to permit Owner to use or occupy any such part of the Work which Owner believes to be ready for its intended use and 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 14.04.A through D for that part of the Work.
 - 2. Contractor at any time may notify Owner and Engineer in writing that Contractor considers any such part of the Work ready for its intended use and 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 14.04 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 5.10 regarding property insurance.

14.06 *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 is incomplete or defective. Contractor shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.

14.07 *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, marked-up record documents (as provided in Paragraph 6.12), and other documents, Contractor may make application for final payment following the procedure for progress payments.
 - 2. The final Application for Payment shall be accompanied (except as previously delivered) by:

- a. all documentation called for in the Contract Documents, including but not limited to the evidence of insurance required by Paragraph 5.04.B.6;
 - b. consent of the surety, if any, to final payment;
 - c. a list of all Claims against Owner that Contractor believes are unsettled; and
 - d. complete and legally effective releases or waivers (satisfactory to Owner) of all Lien rights arising out of or Liens filed in connection with the Work.
3. In lieu of the releases or waivers of Liens specified in Paragraph 14.07.A.2 and as approved by Owner, Contractor may furnish receipts or releases in full and an affidavit of Contractor that: (i) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (ii) 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.

B. *Engineer's Review of Application and Acceptance:*

1. If, on the basis of Engineer's observation of the Work during construction and final inspection, and Engineer's review of the final Application for Payment 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 Documents have been fulfilled, Engineer will, within ten days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of payment and present the Application for Payment to Owner for payment. At the same time Engineer will also give written notice to Owner and Contractor that the Work is acceptable subject to the provisions of Paragraph 14.09. Otherwise, Engineer will return the Application for Payment to Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case Contractor shall make the necessary corrections and resubmit the Application for Payment.

C. *Payment Becomes Due:*

1. Thirty days after the presentation to Owner of the Application for Payment and accompanying documentation, the amount recommended by Engineer, less any sum Owner is entitled to set off against Engineer's recommendation, including but not limited to liquidated damages, will become due and will be paid by Owner to Contractor.

14.08 *Final Completion Delayed*

- A. If, through no fault of Contractor, final completion of the Work is significantly delayed, and if Engineer so confirms, Owner shall, upon receipt of Contractor's final Application for Payment (for Work fully completed and accepted) and recommendation of Engineer, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance to be held by Owner for Work not fully completed or corrected is less than the retainage stipulated in the Agreement, and if bonds have been furnished as required in Paragraph 5.01, the written consent of the surety to the payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by Contractor to Engineer with the Application for such payment. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

14.09 *Waiver of Claims*

- A. The making and acceptance of final payment will constitute:
 - 1. a waiver of all Claims by Owner against Contractor, except Claims arising from unsettled Liens, from defective Work appearing after final inspection pursuant to Paragraph 14.06, from failure to comply with the Contract Documents or the terms of any special guarantees specified therein, or from Contractor’s continuing obligations under the Contract Documents; and
 - 2. a waiver of all Claims by Contractor against Owner other than those previously made in accordance with the requirements herein and expressly acknowledged by Owner in writing as still unsettled.

ARTICLE 15 – SUSPENSION OF WORK AND TERMINATION

15.01 *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 notice in writing to Contractor and Engineer which will fix the date on which Work will be resumed. Contractor shall resume the Work on the date so fixed. Contractor shall be granted an adjustment in the Contract Price or an extension of the Contract Times, or both, directly attributable to any such suspension if Contractor makes a Claim therefor as provided in Paragraph 10.05.

15.02 *Owner May Terminate for Cause*

- A. The occurrence of any one or more of the following events will 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 established under Paragraph 2.07 as adjusted from time to time pursuant to Paragraph 6.04);
 - 2. Contractor’s disregard of Laws or Regulations of any public body having jurisdiction;
 - 3. Contractor’s repeated disregard of the authority of Engineer; or
 - 4. Contractor’s violation in any substantial way of any provisions of the Contract Documents.
- B. If one or more of the events identified in Paragraph 15.02.A occur, Owner may, after giving Contractor (and surety) seven days written notice of its intent to terminate the services of Contractor:
 - 1. exclude Contractor from the Site, and take possession of the Work and of all Contractor’s tools, appliances, construction equipment, and machinery at the Site, and use the same to the full extent they could be used by Contractor (without liability to Contractor for trespass or conversion);
 - 2. 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
 - 3. complete the Work as Owner may deem expedient.

- C. If Owner proceeds as provided in Paragraph 15.02.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 all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Owner arising out of or relating to completing the Work, such excess will be paid to Contractor. If such claims, costs, losses, and damages exceed 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.
- D. Notwithstanding Paragraphs 15.02.B and 15.02.C, Contractor's services will not be terminated if Contractor begins within seven days of receipt of notice of intent to terminate to correct its failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt of said notice.
- E. 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. Any retention or payment of moneys due Contractor by Owner will not release Contractor from liability.
- F. If and to the extent that Contractor has provided a performance bond under the provisions of Paragraph 5.01.A, the termination procedures of that bond shall supersede the provisions of Paragraphs 15.02.B and 15.02.C.

15.03 *Owner May Terminate For Convenience*

- A. Upon seven 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;
 - 3. 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) incurred in settlement of terminated contracts with Subcontractors, Suppliers, and others; and
 - 4. reasonable expenses directly attributable to termination.
- B. Contractor shall not be paid on account of loss of anticipated profits or revenue or other economic loss arising out of or resulting from such termination.

15.04 *Contractor May Stop Work or Terminate*

- A. If, through no act or fault of Contractor, (i) the Work is suspended for more than 90 consecutive days by Owner or under an order of court or other public authority, or (ii) Engineer fails to act on

any Application for Payment within 30 days after it is submitted, or (iii) Owner fails for 30 days to pay Contractor any sum finally determined to be due, then Contractor may, upon seven 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 15.03.

- 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, seven 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 15.04 are not intended to preclude Contractor from making a Claim under Paragraph 10.05 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 16 – DISPUTE RESOLUTION

16.01 *Methods and Procedures*

- A. Either Owner or Contractor may request mediation of any Claim submitted to Engineer for a decision under Paragraph 10.05 before such decision becomes final and binding. The mediation will be governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect as of the Effective Date of the Agreement. The request for mediation shall be submitted in writing to the American Arbitration Association and the other party to the Contract. Timely submission of the request shall stay the effect of Paragraph 10.05.E.
- B. Owner and Contractor shall participate in the mediation process in good faith. The process shall be concluded within 60 days of filing of the request. The date of termination of the mediation shall be determined by application of the mediation rules referenced above.
- C. If the Claim is not resolved by mediation, Engineer's action under Paragraph 10.05.C or a denial pursuant to Paragraphs 10.05.C.3 or 10.05.D shall become final and binding 30 days after termination of the mediation unless, within that time period, Owner or Contractor:
 - 1. elects in writing to invoke any dispute resolution process provided for in the Supplementary Conditions; or
 - 2. agrees with the other party to submit the Claim to another dispute resolution process; or
 - 3. gives written notice to the other party of the intent to submit the Claim to a court of competent jurisdiction.

ARTICLE 17 – MISCELLANEOUS

17.01 *Giving Notice*

- A. Whenever any provision of the Contract Documents requires the giving of written notice, it will be deemed to have been validly given if:
 - 1. delivered in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended; or
 - 2. delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the giver of the notice.

17.02 *Computation of Times*

- A. When any period of time is referred to in the Contract Documents 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.

17.03 *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 Documents. 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.

17.04 *Survival of Obligations*

- A. All representations, indemnifications, warranties, and guarantees made in, required by, or given in accordance with the Contract Documents, as well as all continuing obligations indicated in the Contract Documents, will survive final payment, completion, and acceptance of the Work or termination or completion of the Contract or termination of the services of Contractor.

17.05 *Controlling Law*

- A. This Contract is to be governed by the law of the state in which the Project is located.

17.06 *Headings*

- A. Article and paragraph headings are inserted for convenience only and do not constitute parts of these General Conditions.

SUPPLEMENTAL CONDITIONS

These Supplementary Conditions amend and supplement Standard General Conditions (SC) and other provisions of the Contract Documents. All provisions which are not so amended or supplemented remain in full force and effect.

SC-1.01.A.42 **Renumber** paragraph 1.01.A.41 *Site* of the Standard General Conditions to 1.01.A.41a *Site* and **add** a new paragraph immediately following paragraph 1.42a as follows:

1.01.A.41b *Specialist*: The term Specialist refers to a person, partnership, firm, or corporation of established reputation (or if newly organized, whose personnel have previously established a reputation in the same field), which is regularly engaged in, and which maintains a regular force of workers skilled in either (as applicable) manufacturing or fabricating items required by the Contract Documents, or otherwise performing Work required by the Contract Documents. Where Specifications require installation by a Specialist, that term shall also be deemed to mean either the manufacturer of the item, a person, a partnership, firm, or corporation licensed by the manufacturer, or a person, partnership, firm, or corporation who will perform the Work under the manufacturer's direct supervision.

SC-3.03.C **Add** the following paragraph to Article 3 - *Contract Documents* of the Standard General Conditions:

3.03 C. Precedence of Documents:

In resolving inconsistencies among two or more sections of the Contract Documents, precedence shall be given in the following order:

- A. AGREEMENT
- B. SUPPLEMENTARY CONDITIONS
- C. INSTRUCTIONS TO BIDDERS
- D. STANDARD GENERAL CONDITIONS
- E. SPECIFICATIONS
- F. DRAWINGS
- G. INVITATION TO BID

Figure dimensions on DRAWINGS shall take precedence over scaled dimensions.

Detailed DRAWINGS shall take precedence over more general DRAWINGS.

SC-4.03 **Insert** the following to paragraph 4.03.A *Notice* of the Standard General Conditions: immediately after the word "promptly" insert ",and within 24 hours,"

SC-5.04.A.4 **Replace** item 5.04.A.4 of the Standard General Conditions in its entirety with the following:

4. Claims for damages insured by customary personal injury liability coverage which are sustained:

- a. by any person as a result of a claim directly or indirectly related to the employment of such person by CONTRACTOR, or
- b. by any other person for any other reason;

SC-5.04.B.1 **Replace** the phrase “OWNER and ENGINEER,” with the following in paragraph 5.04.B.1 of the Standard General Conditions: “OWNER, ENGINEER, and Engineer’s Consultants,”

SC-5.04.B.8 **Add** the following at the end with paragraph 5.04.B of the Standard General Conditions:

- 7. Contain a provision or endorsement that the coverages and limits afforded will apply exclusively to claims which may arise out of or result from CONTRACTOR’s performance and furnishing of the Work and CONTRACTOR’s other obligations under the Contract Documents, whether it is performed or furnished by CONTRACTOR, Subcontractor, Supplier or by anyone directly or indirectly employed by any of them to perform or furnished any of the Work, or by anyone for whose acts any of them may be liable.

SC-5.04 The limits of liability for the insurance required by paragraph 5.04 *Contractor’s Liability Insurance* of the Standard General Conditions shall provide coverage for not less than the following amounts or greater where required by Laws and Regulations.

Worker’s compensation, disability benefits and other similar employee benefit acts, and damages because of bodily injury, occupational sickness or disease, or death of CONTRACTOR’s employees as provided in paragraphs 5.04.A and 5.04.B of the Standard General Conditions:

- State: Statutory.
- Federal (if any applicable): Statutory
- Employer’s Liability or “Stop-Gap”: \$1,000,000

Contractor’s Liability Insurance under paragraphs 5.04.A and 5.04.B of the Standard General Conditions shall provide the following minimum limits and conditions:

- General Aggregate \$2,000,000.
- Products-Completed Operations Aggregate \$1,000,000.
- Personal Accident Injury (per person/organization with employment exclusion deleted) \$1,000,000.
- Each Occurrence (bodily injury and property damage) \$1,000,000.
- Fire Damage (any one fire) \$1,000,000.
- Medical Expenses (any one person) \$5,000.

Property Damage liability insurance shall not include the explosion, collapse, and underground exclusions and shall provide broad form property damage coverage.

Automobile Liability under paragraph 5.04.A.6 of the Standard General Conditions shall provide for the following for owned,

Non-owned, rented, or hired vehicles:

- Combined Single Limit (bodily injury and property damage) \$1,000,000

SC-5.06 **Replace** paragraph 5.06 *Property Insurance* of the Standard General Conditions, in its entirety, with the following:

- A. CONTRACTOR shall purchase and maintain property insurance upon the Work at the site in the amount of the full replacement cost thereof (subject to such deductible amounts as may be provided in these Supplementary Conditions or required by Laws and Regulations). This insurance shall:
1. Include the interests of OWNER, CONTRACTOR, Subcontractors, ENGINEER, and Engineer's Consultants and any other persons or entities identified in the Supplementary Conditions, each of whom is deemed to have an insurable interest and shall be listed as an insured or additional insured;
 2. Be written on a Builder's Risk, special peril, or risk of loss policy form that shall at least include insurance for physical loss and damage to the Work, temporary buildings, falsework and Work in transit and shall insure against at least the following perils: fire, lightning, extended coverage, theft, vandalism and malicious mischief, earthquake, collapse, debris removal, demolition occasioned by enforcement of Laws and Regulations, water damage, and other such perils as may be specifically required by the Supplementary Conditions.
 3. Include expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of ENGINEER's, Engineer's Consultants, Consultants, and specialists);
 4. Cover materials and equipment in transit for incorporation in the Work or stored at the site or at another location that was agreed to in writing by OWNER prior to being incorporated in the Work, provided that such materials and equipment have been included in an Application Payment recommended by ENGINEER; and
 5. Be maintained in effect until final payment is made unless otherwise agreed to in writing by OWNER, CONTRACTOR and ENGINEER with thirty days written notice to each other additional insured to whom a certificate of insurance has been issued.
- B. The policies of insurance required to be purchased and maintained by CONTRACTOR in accordance with this paragraph 5.06 shall comply with the requirements of 5.08 *Receipt and Application of Insurance Proceeds* and 5.10 *Partial Utilization, Acknowledgment of Property Insurer*.

SC-5.08 **Replace** paragraph 5.08 *Receipt and Application of Insurance Proceeds* of the Standard General Conditions in its entirety with the following:

5.08 Receipt and Application of Insurance Proceeds

- A. Any insured loss under the policies of insurance required by paragraphs 5.04 and 5.06 will be adjusted with CONTRACTOR and made payable to CONTRACTOR as fiduciary for the insureds, as their interests may appear, subject to the requirements of any applicable mortgage clause and or paragraph 5.08.B. CONTRACTOR shall deposit in a separate account any money so received, and shall distribute it in accordance with such agreement as the parties in interest may reach. If no other special agreement is reached the damaged Work shall be repaired or replaced, the moneys so received applied on account thereof and the Work and the cost thereof covered by an appropriate Change Order or Written Amendment.
- B. CONTRACTOR as fiduciary shall have power to adjust and settle any loss with the insurers unless one of the parties in interest shall object in writing within 15 days after the occurrence of loss to CONTRACTOR's exercise of this power. If such objection be made, CONTRACTOR as fiduciary shall make settlement with the insurers in accordance with such agreement as the parties in interest may reach. If no such agreement among the parties in interest is reached, CONTRACTOR as fiduciary shall

adjust and settle the loss with the insurers and, if required in writing by any party in interest, CONTRACTOR as fiduciary shall give bond for the proper performance of such duties.

SC-5.10.B **Add** the following to paragraph 5.10 *Partial Utilization, Acknowledgment of Property Insurer* of the Standard General Conditions:

- B. The property insurance shall contain no partial occupancy restriction for utilization of the Project by the OWNER for the purpose intended.

SC-6.01.B **Add** the following sentence to the end of paragraph 6.01.B of the Standard General Conditions:

If during the performance of the Work, the Owner determines that the CONTRACTOR has provided an incompetent resident superintendent, the OWNER shall notify the CONTRACTOR in writing, and the CONTRACTOR shall replace said resident superintendent within ten days with a competent resident superintendent.

SC-6.02.B After the first sentence in paragraph 6.02.B of the Standard General Conditions, **insert** the following sentence:

Regular working hours consist of up to 10 working hours within an 11+1/2 hour period between 7:30 a.m. and 7:00 p.m.

SC-6.11.A.4 **Add** the following at the end of paragraph 6.11.A of the Standard General Conditions:

- 4. CONTRACTOR shall not enter upon nor use property not under OWNER control until appropriate easements have been executed and a copy is on file with the ENGINEER.

SC-6.17.E.2 **Add** the following at the end of paragraph 6.17.E *Resubmittal Procedures* of the Standard General Conditions:

- 2. ENGINEER will record time required by ENGINEER or Engineer's Consultants for submittal review occasioned by CONTRACTOR's resubmissions, in excess of one resubmission, of a required submittal, caused by unverified, unchecked or unreviewed, incomplete, inaccurate or erroneous, or nonconforming submittals. Upon receipt of Engineer's accounting of time and costs, CONTRACTOR will reimburse OWNER for charges of ENGINEER or Engineer's Consultants review for excessive resubmissions through setoffs from the recommended OWNER payments to CONTRACTOR as established in paragraph 14.03.D.1.C of the Supplementary Conditions.

SC-6.20.A **Replace** paragraph 6.20.A of the Standard General Conditions, in its entirety, with the following:

- A. To the fullest extent permitted by Law or Regulation, the CONTRACTOR shall indemnify, hold harmless, and defend the OWNER and its agents, architects, ENGINEER, Consultants, officers, agents, servants, employees, and each of them (hereinafter individually and collectively, the "Indemnitees") from and against any and all liability, claims, damages, injury of any kind or nature whatsoever (including death) and cost of defense to any person or property (including, without limitation, claims for injury to or death to any employee of CONTRACTOR, Subcontractor or Supplier) which result from, arise out of, or occur in connection with the execution

of the Work, whether or not such claims are based upon actual or alleged active or passive negligence or wrongdoing of any Indemnities, except that the CONTRACTOR shall not be required to indemnify an Indemnitees against a claim or loss that is the result of the Indemnitee's sole negligence or willful misconduct. CONTRACTOR shall indemnify all Indemnitees from and against all loss, cost, expense, liability, damage or injury, including legal fees, that Indemnitees may directly or indirectly sustain suffer or incur as a result thereof, and the CONTRACTOR agrees to and does hereby assume on behalf of Indemnitees the defense of any action at law or in equity which may be brought against Indemnitees by reason of such claim, and will pay on behalf of Indemnitees, upon their demand, the amount of any judgment that may be entered against Indemnitees or any of them in any such action. In the event that any such claims, loss, costs, expense, liability, damage or injury arise or are made, asserted or threatened against an Indemnitees for which the insurer of CONTRACTOR does not admit coverage, or if the OWNER deems such coverage to be inadequate, the OWNER shall have the right to withhold from any payments due or to become due to the CONTRACTOR an amount sufficient to protect Indemnitees from such claims, loss costs, expense, liability, damage or injury, including legal fees. The CONTRACTOR will require any and all subcontractors and supplier to conform with the provisions of this clause prior to commencing any work and agrees to insure this clause in conformity with Article 5. Bonds and Insurance, herein.

SC-6.20.C.,D.,E. & F. Add the following after paragraph 6.20.C of the Standard General Conditions:

- D. For suits, actions, legal or administrative proceedings, claims, demands, damages, losses, penalties, fines, costs, and expenses caused by or resulting from the concurrent negligence of the OWNER and the ENGINEER, or the OWNER's or ENGINEER's agents or employees, and the CONTRACTOR or the CONTRACTOR's agents or employees, in situations where liability for damages arises from claims of bodily injury to persons or damage to property, the preceding indemnity provision shall be valid and enforceable only to extent of the CONTRACTOR's negligence.
- E. CONTRACTOR acknowledges that by entering into a contract with OWNER, CONTRACTOR has mutually negotiated the above indemnity provision with the OWNER.
- F. CONTRACTOR's indemnity and defense obligations shall survive the termination or completion of the Work and remain in full force and effect until satisfied in full.

SC-7.01.D Add the following to paragraph 7.01 *Related Work at Site* of the Standard General Conditions as follows:

- D. Other work anticipated to be performed at the site by others, prior to, during, and in sequence with the scheduled performance of the Work under these Contract Documents is described in Section 01 31 00 – COORDINATION AND SEQUENCING.

SC-8.02.B Add the following to paragraph 8.02 *Replacement of Engineer* of the Standard General Conditions:

- B. In such an event, work on the project shall temporarily cease until a new ENGINEER is appointed and on-site.

SC-9.03.B., &C. Add the following to paragraph 9.03 *Project Representative* of the Standard General Conditions:

- B. The Resident Project Representative (RPR) for the Project will be furnished by ENGINEER.
- C. The responsibilities and authority of the Resident Project Representative, assistants and other field staff are limited to those of ENGINEER in paragraph 9.09 *Limitations on Engineer's Authority and Responsibilities* of the Standard General Conditions and to those delegated to the RPR by the ENGINEER's project manager.
- D. The RPR will be prohibited from:
 - 1. Undertaking any of the responsibilities of CONTRACTOR, Subcontractors or CONTRACTOR's superintendent; or
 - 2. Accept Submittals from anyone other than CONTRACTOR.
 - 3. Exceeding the authority delegated by the ENGINEER's project manager.
- E. The following are examples of responsibilities and authority typically delegated to the RPR:
 - 1. Schedules: Review and monitor the Progress Schedule, Schedule of Submittals and Schedule of Values prepared by CONTRACTOR and consult with ENGINEER concerning acceptability.
 - 2. Conferences and Meetings: Conduct or attend meetings with CONTRACTOR, such as preconstruction conferences, progress meetings, Work conferences and other Project related meetings.
 - 3. Liaison:
 - a. serve as ENGINEER's liaison with CONTRACTOR, working principally through CONTRACTOR's superintendent and assist in understanding the intent of the Contract Documents;
 - b. assist ENGINEER in serving as OWNER's liaison with CONTRACTOR when CONTRACTOR's operations affect Owner's onsite operations;
 - c. obtain from OWNER and CONTRACTOR additional details or information when required for proper execution of the Work.
 - 4. Submittals:
 - a. receive Submittals at the site, from CONTRACTOR.
 - b. advise ENGINEER and CONTRACTOR of the commencement of any Submittal has not been approved by ENGINEER.
 - 5. Review of Work, Rejection of *defective* Work, Inspection and Tests:
 - a. conduct onsite observations of the Work in progress to assist ENGINEER in determining if the Work is in general proceeding in accordance with the Contract Documents;
 - b. inform ENGINEER and CONTRACTOR when whenever RPR believes that any Work is unsatisfactory, faulty or *defective*, or does not conform to the Contract Documents, or has been damaged, or does not meet the requirements of any inspection, test, or approval required to be made
 - c. advise ENGINEER and CONTRACTOR whenever RPR believes that any Work will not produce a completed Project that conforms generally to the Contract Documents or will prejudice the integrity of the design concept of the completed

- Project as a functioning whole as indicated in the Contract Documents, or whenever RPR believes Work should be uncovered for observation, or requires special testing, inspection, or approval
- d. monitor that tests, equipment and systems startups and operating and maintenance training are conducted in the presence of appropriate personnel, and that CONTRACTOR maintains adequate records thereof
 - e. observe, record and report to ENGINEER appropriate details relative to the test procedures and startups
 - f. accompany visiting inspectors representing public or other agencies having jurisdiction over the Project, record the results of these inspections and report to ENGINEER.
- 6. Records:
 - a. maintain at the site files for correspondence, conference records, Submittals including Shop Drawings and Samples, reproductions of original Contract Documents including all Addenda, the signed Agreement, Work Change Directives, Change Orders, Field Orders, additional Drawings issued after the Effective Date of the Agreement, Engineer's written clarifications and interpretations, progress reports, and other Project related documents;
 - b. keep a diary or log book recording pertinent site conditions, activities, decision and events.
 - 7. Payment Requests: Review applications for payment with CONTRACTOR.
 - 8. Certificates, Maintenance, and Operation Manuals, Record Documents, and Site Records: During the course of the Work, monitor that these documents and other data required to be assembled, maintained, and furnished by CONTRACTOR are applicable to the items actually installed and in accordance with the Contract Documents, and have this material delivered to ENGINEER for review and forwarding to OWNER prior to final payment for the Work.
 - 9. Substantial Completion:
 - a. conduct an inspection in the company of ENGINEER, OWNER, and CONTRACTOR and prepare a list of items to be completed or corrected;
 - b. submit to ENGINEER a list of observed items requiring completion or correction.
 - 10. Completion:
 - a. conduct final inspection in the company of ENGINEER, OWNER, and CONTRACTOR;
 - b. notify CONTRACTOR and ENGINEER in writing of all particulars in which this inspection reveals that Work is incomplete or *defective*;
 - c. observe that all items on final list have been completed, corrected, or accepted by OWNER and make recommendations to ENGINEER concerning acceptance.

SC-9.10 **Add** the following paragraph at the end of Article 9 – ENGINEER'S STATUS DURING CONSTRUCTION of the Standard General Conditions:

9.10 Clarifications and Interpretations

- A. OWNER or CONTRACTOR may submit, to the ENGINEER, written requests for clarifications and interpretations of the Contract Documents per the Request for Clarification/Interpretation (RFI) form and process. ENGINEER may also initiate an RFI.

- B. In response, ENGINEER will issue with reasonable promptness such written clarifications or interpretations of the requirements of the Contract Documents as ENGINEER may determine are:
 - a. are necessary and consistent with the intent of the Contract Documents.
 - b. can be reasonably inferred from the Contract Documents.
- C. Such clarifications and interpretations shall be binding on OWNER and CONTRACTOR.
- D. If OWNER, CONTRACTOR, ENGINEER assert that an RFI response should result in an adjustment to Contract Price or Contract Times, the party making this assertion shall prepare and submit a written request to modify the Contract per the Contract Modification Request (CMR) form and process.

SC-10.03.A In the first sentence or paragraph 10.03.A of the Standard General Conditions, **delete** the word “shall” and **insert** the word “may” in its place.

SC-11.01.D **Add** a sentence to the end of paragraph 11.01.D *Documentation*: of the Standard General Conditions as follows:

Supporting data shall include but not be limited to daily submissions of timesheets indicating hours and trades worked, equipment and time equipment was employed, and materials expended.

SC-11.03.D **Replace** paragraph 11.03.D of the Standard General Conditions in its entirety the following:

- D. The unit price of an item of Unit Price Work shall be subject to reevaluation and adjustment under the following conditions:
 - 1. If the total cost of a particular item of Unit Price Work amounts to 15% or more of the Contract Price and the variation in the quantity of that particular item of Unit Price Work performed by CONTRACTOR differs by more than 25% from the estimated quantity of such item indicated in the Agreement; and
 - 2. If there is no corresponding adjustment with respect to any other item of Work
 - 3. If CONTRACTOR believes that CONTRACTOR has incurred additional expense as a result thereof; or if Owner believes that the quantity variation entitles OWNER to an adjustment in the unit price, either OWNER or CONTRACTOR may make a claim for an adjustment in the Contract Price in accordance with Article 11 if the parties are unable to agree as to the effect of any such variations in the quantity of Unit Price Work performed.

SC-13.03.D **Add** the following at the end of paragraph 13.03.D of the Standard General Conditions:

See paragraphs 13.03.G and 13.03.H.

SC-13.03.G., & H. **Add** the following new paragraphs immediately after paragraph 13.03.E of the Standard General Conditions:

- G. Tests required by Contract Documents to be performed by an independent laboratory for CONTRACTOR shall be made by a laboratory licensed or certified in accordance with Laws and Regulations and applicable state and local statutes. In the event state license or certification is not required, meet following applicable requirements.
 - 1. “Recommended Requirements for Independent Laboratory Qualification,” published by the American Council of Independent Laboratories.

2. Basic requirements of ASTM E329, "Standard General of Recommended Practice for Inspection and Testing agencies for Concrete and Steel as Used in Construction" as applicable.
3. Calibrate testing equipment at reasonable intervals by devices of accuracy traceable to either the National Bureau of Standards or accepted values of natural physical constants.

H. The CONTRACTOR shall establish an inspection program and a testing plan acceptable to the ENGINEER and shall maintain complete inspection and testing records available to ENGINEER.

SC-14.02.A.1 In the first sentence of paragraph 14.02.A.1 of the Standard General Conditions, after the phrase "At least 20 days before" **delete** the phrase "the date established in the Agreement for".

SC-14.02.C.1 In paragraph 14.02.C.1 of the Standard General Conditions, **delete** the word "Ten" and **insert** the word "Twenty-five" in its place.

SC-14.02.D.1. Replace paragraph 14.02.D.1.c of the Standard General Conditions, in its entirety, with the following:

- c. items entitling OWNER to retain setoffs from the amount recommended including but not limited to:
 - 1) OWNER compensation to ENGINEER at an estimated average rate of \$100 per each extra personnel hour for labor plus expenses because of the following CONTRACTOR-caused events:
 - Retesting *defective* Work;
 - Return visits to manufacturing facilities for shop testing or retesting;
 - Shop Drawing review in excess of two reviews by ENGINEER for substantially the same submittal;
 - Evaluation and implementation of CONTRACTOR-proposed substitutes or "or equal" items of equipment and in making changes to Contract Documents occasioned thereby;
 - 2) liability for liquidated damages incurred by CONTRACTOR as set forth in the Agreement.

SC-14.07.A.2.e Add the following new paragraphs immediately after paragraph

14.07.A.2.d

e. final acceptance letter from the OWNER, accompanied by a letter from the ENGINEER stating that the project has been constructed in accordance with the Contract Documents and is ready for use by OWNER.

SC-14.09.A.1 In paragraph 14.09.A.1 of the Standard General Conditions, **delete** the word "appearing" and **insert** the word "discovered" in its place.

SC-15.04.A In the first sentence of paragraph 15.04.A of the Standard General Conditions, and after the words "OWNER fails for", **delete** the phrase "30" and **insert** the phrase "60".

SC-15.04.B In the first sentence of paragraph 15.04.B of the Standard General Conditions, and after the words "OWNER fails for", **delete** the phrase "30" and **insert** the phrase "60".

SC-17.07 **Add** a new paragraph 17.07 to the Standard General Conditions as follows:

17.07 If any provision of portion of the Contract Documents is held unconstitutional, invalid or otherwise unenforceable the rest of the Contract Documents shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

In such an event, the Owner reserves the right at it sole option to declare the Contract void and to enter into negotiations with Contractor for a new Contract.

END OF SUPPLEMENTARY CONDITIONS

1. DEFINITIONS

Wherever used in the CONTRACT DOCUMENTS, the following terms shall have the meanings indicated which shall be applicable to both the singular and plural thereof.

STANDARD SPECIFICATIONS

A. GENERAL

1. All work performed under this contract shall be completed in strict accordance with these STANDARD SPECIFICATIONS, the project CONSTRUCTION DRAWINGS, "Idaho Standards for Public Works Construction" (ISPWC) and where referenced, the City of Hailey Standards and Municipal Code. Project specific TECHNICAL SPECIFICATIONS and the project CONSTRUCTION DRAWINGS included in the CONTRACT DOCUMENTS have precedence over ISPWC and City Standards where there is a difference.
2. All labor, materials, equipment, traffic control, and incidentals necessary for the completion of the work, as herein described in these specifications and as shown on the plans, shall be furnished by the Contractor.
3. Damage to properties caused by the Contractor shall be repaired and paid for by the Contractor.
4. Settlement of asphalt patches (i.e. backfill settlement) that occur within two-years from the date of 'Substantial Completion Certification' shall be repaired at the Contractor's expense.
5. Equipment must be operated in such a manner as to minimize the damage to the surface of the existing streets and planted areas. Track-type backhoes shall be equipped with approved street-use type tracks.
6. Construction items which are not explicitly covered in these written specifications, but are required to make a functioning installation, shall not be misconstrued by the Contractor as not being a part of the scope of the work covered by the contract. Those items which are not specifically covered in these specifications, but are required by the plans, shall be constructed in accordance with the construction industry's highest standards.
7. 'Utility Locates' shall be the responsibility of the Contractor and incidental to the Work of this Contract.
8. The intent and purpose of these specifications and plans is to obtain good workmanship throughout, with all work complying with these specifications. The project will not be considered substantially complete until all requirements of these specifications have been completed to the satisfaction of the Owner.
9. Failure to notify the Engineer shall be sufficient grounds to reject all un-inspected work and cause its immediate removal. All discrepancies indicated by the Engineer shall be corrected by the Contractor and re-inspected before

payment will be made for that portion of work. No claim shall be made for delays caused by correction of work found unacceptable by the Engineer.

10. All debris or rubbish generated by the contractor's operations shall be removed and the areas occupied during such operation shall be left in a neat appearing condition. Any property, public or private, damaged by the contractor shall be repaired to its original condition at the expense of the Contractor.
11. Traffic control for all work is the full responsibility of the Contractor and shall adhere strictly to the minimum requirements of the General Condition GC 29, the MUTCD, and as directed by the Engineer. A minimum of two-way traffic, one-lane each direction, shall be maintained at all times. The contractor shall notify individual property owners at least 24 hours in advance as to when their driveways will be disrupted for construction activities.
12. Upon the satisfactory completion of all work embraced in the contract and specifications, including the cleanup, together with full compliance with the requirements of the General Specifications, the Engineer will, within fifteen (15) days after such completion and compliance, issue a certificate of completion to the Owner with two (2) copies to the Contractor.

TECHNICAL SPECIFICATIONS

SECTION 01 01 00 – SUMMARY OF PROJECT

PART 1 - GENERAL

1.1 SECTION INCLUDES

- A. Basic descriptions of the Work, schedules, related sequences and various administrative requirements.

1.2 DESCRIPTION OF WORK

- A. The Work to be performed under this Contract shall consist of furnishing all plant, tools, equipment, supplies, and manufactured articles and furnishing all labor, transportation and services, including fuel, power, water, and essential communications and performing all work, or other operations required for the fulfillment of the Contract in strict accordance with these Contract Documents for the KETCHUM MAIN STREET WATER MAIN RELOCATION. The Work shall be complete, and all work, materials, and services not expressly indicated or called for in the Contract Documents which may be necessary for the complete and proper construction of the Work in good faith shall be provided by CONTRACTOR as though originally so indicated, at no increase in cost to the OWNER.

The proposed project consists of the relocation of existing water and irrigation main infrastructure between 2nd Street and 4th Street as well as fire hydrant replacement between 1st Street and 9th Street along Main Street in conjunction with the re-construction of Main Street within the City of Ketchum. Work includes:

- Water Infrastructure: includes but is not limited to water main line, associated appurtenances/fittings, and existing water service extensions.
- Fire Hydrant Replacement: includes but is not limited to replacement of fire hydrant fixtures and/or assemblies along Main Street between 1st Street and 9th Street.
- Irrigation Infrastructure: includes but is not limited to irrigation main line, associated appurtenances/fittings, and new irrigation services for street tree irrigation.

The Contractor shall be responsible for hiring a Materials Testing Company during construction per the Construction Drawings. The contractor shall be responsible for obtaining acceptance of work from the City of Ketchum.

The City of Ketchum will concurrently manage a project including demolition and re-construction of existing roadway infrastructure on Main Street between River Street and 10th Street. Design drawings for said improvements are included for reference only. All work associated with roadway infrastructure is excluded from the scope of work. Demolition and construction of roadway and pedestrian facility infrastructure will occur concurrently with scoped water improvements. Coordination between roadway contractor and water contractor will be required

1.3 BEGINNING AND COMPLETION OF THE WORK

- A. Conform to all preliminary matters stated in Article 2 of the General Conditions before commencing the Work. Commencement dates, and completion dates, are stated in the Notice to Proceed.
- 1.4 CONTRACT METHOD
- A. The Work will be constructed under unit price payment provisions. See the Agreement and Section 01 02 00 – Measurement and Payment.
- 1.5 WORK SEQUENCE
- A. See Section 01 04 00 – Coordination and Sequencing.
 - B. Provisions of Section 01 30 00 – Submittals shall be followed for all submittals.
 - C. After Work has begun on any portion or designated part of the Project, carry it forward to its final completion. All Work shall conform to the provisions of the approved Construction Schedule.
- 1.6 AVAILABILITY OF LANDS FOR WORK, ETC.
- A. The lands upon which the Work is to be performed, rights-of-way and easements for access thereto and other lands designated for use by CONTRACTOR in performing the Work are owned by the City of Ketchum, where encroachment permits are required.
- 1.7 OWNERS USE OF PREMISES
- A. Cooperate fully with OWNER and any public or private agencies engaged in the relocation, altering, or otherwise rearranging of any utilities or other facilities which interface with the Work. Schedule the Work so as to minimize interference with said relocation, altering, or other rearranging of facilities.
- 1.8 ANTIQUITIES
- A. All fossils, coins, articles of value or antiquity and structures and other remains or relics of geological or archeological interest discovered on or in the area of the work site are and will remain the absolute property of the OWNER.
 - B. Take all reasonable precautions to prevent unauthorized removal of or damage to any such discovery. Inform the ENGINEER immediately upon discovery.
 - C. Obtain and comply with the ENGINEER's instructions for removal and disposal of the discovery.
- 1.9 PERMITS AND FEES
- A. The CONTRACTOR is responsible for obtaining all permits required for this project and shall pay all necessary fees unless otherwise noted below. The CONTRACTOR shall also coordinate all necessary inspections. Dig permits will be required.
- 1.10 IDAHO LICENSES
- A. The CONTRACTOR and applicable subcontractors shall have and maintain valid licenses as required by the State of Idaho. Licenses shall include, but not be limited to, the following:

1. Public Works Licenses, obtained through the Idaho Division of Building Safety.

PART 2 - PRODUCTS - Not Used

PART 3 - EXECUTION - Not Used

END OF SECTION

SECTION 01 02 00 – MEASUREMENT AND PAYMENT

PART 1 - GENERAL

1.1 SECTION INCLUDES

- A. Description of unit price base bid item.
- B. Measurement and payment procedures used as a basis for progress payments

1.2 GENERAL

- A. Payment for all Bid Items, whether lump sum or unit price, shall include all compensation to be received by CONTRACTOR for furnishing all tools, equipment, dewatering, supplies, and manufactured articles, and for all labor operations, and incidentals appurtenant to the items of Work being described, as necessary to complete the various items of the Work all in accordance with the requirements of the Contract Documents, including all cost of compliance with the regulations or permits required of public agencies having jurisdiction, including safety and health requirements of the Occupational Safety and Health Administration (OSHA) of the U.S. Department of Labor.
- B. No separate payment will be made for any item that is not specifically set forth in the Bid Form, and all costs therefore shall be included in the Total Contract Price named in the Bid Form.
- C. Payment for all Work shown or specified in the Contract Documents is included in the Total Contract Price.

1.3 BASIS FOR PROGRESS PAYMENT

- A. Progress payments shall be based on the work completed.
- B. In general, measurement will not normally be required for lump sum Bid Items. In general, measurement will be required for items on which the CONTRACTOR is to be compensated on a time and materials basis (e.g., unit price Bid Items, allowance Bid Items, and force account work).

1.4 SUBMITTALS

- A. See General Conditions Article 14 – Payment to Contractor and Completion for details on the following:
 - 1. Applications for Progress Payments
 - 2. Review of Application for Progress Payment
 - 3. Application for Final Payment

1.5 DESCRIPTION OF BID ITEM

- A. Payment for general construction will be made at the lump sum price named in the Bid Form under Lump Sum Base Bid plus any additive/deductive alternates, which price shall constitute full compensation for completion of all mobilization, demobilization, insurance, supervision, planning, design, engineering fees, furnishing and construction of all facilities, complete as defined within these Contract Documents, and all taxes.

1.6 APPLICATIONS FOR PROGRESS PAYMENTS

- A. General:
 - 1. Submit applications for progress payments on a monthly basis.
- B. Application for Payment shall be generated by determining complete activities from the Progress Schedule to the Schedule of Values and such other spreadsheets (e.g., Cost Summaries) as are needed.
 - 1. Identify each complete activity to which cost value has been allocated and for each indicate the value completed during the last period.
 - 2. Provide Cost Summaries for each sub-schedule identified in the Schedule of Values.
- C. Provide Substantiating Data with cover letter identifying:
 - 1. Project
 - 2. Application for number and date
 - 3. Detailed list of enclosures
 - 4. "Certified" payroll
- D. ENGINEER will check application for reasonableness and accuracy. If Application is not acceptable to ENGINEER, Application will be returned to CONTRACTOR for revising and resubmission. Once application is acceptable to ENGINEER, ENGINEER will transmit application to OWNER with recommendation for payment.

1.7 MISCELLANEOUS

- A. It is the responsibility of the CONTRACTOR to fully inform himself regarding all Federal, State and local tax laws, rules or regulations furnished under this Contract, including all exemption provisions and procedures.
- B. The Total Contract Price for the Work under this Contract is inclusive of any taxes which are imposed by any governing agency to which the Work hereunder is subject. CONTRACTOR is solely responsible for assuring that all the applicable taxes are included in his bid.

1.8 PAYMENT FOR MOBILIZATION

- A. Limit Amounts Included under Mobilizations to the Following Items:
 - 1. Moving on the site any equipment required for first month operations.
 - 2. Installing temporary construction power and wiring.
 - 3. Establishing fire protection system.
 - 4. Developing construction water supply.
 - 5. Providing field office trailers for CONTRACTOR.
 - 6. Providing field office trailer for ENGINEER, complete with all specified furnishings and utility services including telephones.
 - 7. Providing on-site sanitary facilities and potable water facilities as specified.
 - 8. Arranging for and erection of CONTRACTOR's work and storage yard.
 - 9. Subcontractor insurance and bonds.
 - 10. Obtaining all required permits, licenses and fees.
 - 11. Developing construction schedule.

12. Provide and erect the project sign, if required.
13. CONTRACTOR bonds and insurance.

1.9 REJECTED PRODUCTS AND UNUSED PRODUCTS

A. Payment will not be made for the following:

1. Loading, hauling, and disposing of rejected material.
2. Quantities of material wasted or disposed of in a manner not called for under Contract Documents.
3. Rejected loads of material, including material rejected after it has been placed by reason of failure of CONTRACTOR to conform to provisions of Contract Documents.
4. Equipment not unloaded from transporting vehicle.
5. Defective Work not accepted by OWNER and cost to remedy.
6. Material remaining on hand after completion of Work.
7. Equipment stored or installed without approved Shop Drawings.
8. Equipment or materials stored or installed not in conformance with approved Shop Drawings.

1.10 MEASUREMENT OF QUANTITIES

A. General

1. CONTRACTOR will take all measurements and compute quantities accordingly and summarize the information.
2. CONTRACTOR will provide all necessary equipment, Workers, and survey personnel as required.
3. ENGINEER will review the summarized information and reported quantities.
4. If ENGINEER takes exception to the quantity reported for an item, ENGINEER may insist that CONTRACTOR repeat the measurements with the Resident Project Representative in attendance to witness the measurement.

B. Measurement Devices:

1. Weigh Scales: Inspected, tested and certified by the applicable state Weights and Measures department within the past year.
2. Platform Scales: Of sufficient size and capacity to accommodate the conveying vehicle.
3. Metering Devices: Inspected, tested and certified by the applicable state department within the past year.

C. Measurement by Weight: Concrete reinforcing steel, rolled or formed steel or other metal shapes will be measured by handbook weights. Welded assemblies will be measured by handbook or scale weight.

D. Measurement by Volume: Measured by cubic dimension using mean length, width and height or thickness.

E. E. Measurement by Area: Measured by square dimension using mean length and width or radius.

- F. Linear Measurement: Measured by linear dimension, at the item centerline or mean chord.
- G. Stipulated Sum/Price Measurement: Items measured by weight, volume, area, or linear means or combination, as appropriate, as a completed item or unit of the Work.

END OF SECTION

SECTION 01 03 00 – AMENDING AND SUPPLEMENTING CONTRACT DOCUMENTS

PART 1 - GENERAL

1.1 SECTION INCLUDES

- A. General procedures for clarifying and modifying the Contract and for addressing claims.

1.2 GENERAL

- A. Reference the General Conditions, particularly Articles 3, 9, 10, 11, and 12.
- B. Document Types:
 - 1. The following document types will be used:
 - a. Requests for Information/Clarification (RFIs)
 - b. Contract Modification Requests (CMRs)
 - c. Work Change Directives (WCDs)
 - d. Field Orders (FOs)
 - e. Change Orders (COs)
 - 2. The Resident Project Representative (RPR) or engineer will distribute forms for these document types and provide additional procedural information at the pre-construction conference or as requested.
- C. Document Tracking Numbers: Originators of individual documents shall contact the RPR's designee, prior to submission of the document, for a reference tracking number (e.g., RFI-001, CMR-002).
- D. Submission: The originator shall submit the document to the RPR's designee for screening, and if deemed appropriate, distribution.

1.3 CLAIMS

- A. Only the CONTRACTOR may initiate and submit claims. RPR and ENGINEER will review submitted claims and make recommendations to the OWNER regarding their disposition. Neither the RPR, nor ENGINEER may approve the disposition of claims for OWNER.
- B. At minimum, provide the following information:
 - 1. Stipulated facts and pertinent documents, reports, photographs, statements.
 - 2. Interpretations relied upon.
 - 3. Description of:
 - a. the nature and extent of claim that caused the alleged situation
 - b. discussion of claimant's justification for requesting a change to price or times or both
 - 4. Full description of alleged impact on the Work and on work by others.
 - 5. Estimated adjustment in price and/or times claimant believes it is entitled to with full documentation and justification.
 - 6. Requested Change in Contract Price: See General Conditions Paragraph 12.01.
 - 7. Requested Change in Contract Time:
 - a. See General Conditions Paragraph 12.01.

- b. At a minimum, include the following supporting information:
 - 1) progress schedule documentation showing logic diagram for request
 - 2) documentation that all float times available for Work have been used
 - 3) a revised activity logic with durations including sub-network logic revisions, duration's changes, and other interrelated schedule impacts, as appropriate
- C. Provide such additional information and documentation as:
 - 1. set forth below for Work Change Directives
 - 2. as required by RPR and ENGINEER during review of claim.

1.4 REQUESTS FOR INTERPRETATION OR CLARIFICATION (RFIs)

- A. Procedures:
 - 1. CONTRACTOR: Initiate RFIs to include at least the information listed below, and transmit to RPR or engineer:
 - a. Information requested on RFIs Form provided by RPR or engineer.
 - b. Additional information appended thereto, as appropriate.
 - c. CONTRACTOR's signature and date.
 - d. Assigned document tracking reference number.
 - e. Requested response date.
 - 2. RPR: Upon receipt of CONTRACTOR's written RFI/C, will:
 - a. Promptly review request to determine intent of Contract Documents and clarification necessary.
 - b. Notify CONTRACTOR promptly if unable to meet CONTRACTOR's requested response date and indicate a tentative response date.
 - c. Prepare written clarification or interpretation in accordance with paragraph 9.10 of General Conditions, (See Supplementary Conditions).
 - d. Sign the document and return two copies to CONTRACTOR.

1.5 FIELD ORDER

- A. RPR will issue supplemental instructions on Field Order Form, with two copies to CONTRACTOR. The effective date of the Field Order shall be the date of signature by RPR, unless otherwise indicated thereon. CONTRACTOR shall acknowledge receipt by signing and returning one copy to RPR.

1.6 WORK CHANGE DIRECTIVES (WCDs)

- A. Procedures:
 - 1. Only the RPR or engineer may initiate a Work Change Directive.
 - 2. Only the OWNER may approve and execute a Work Change Directive
 - 3. Based on communications with CONTRACTOR, RPR or engineer will prepare the Work Change Directive form as follows:
 - a. Estimate of change, if any, in Contract Price:
 - 1) Indicate method to be used in determining the final cost of Work involved
 - 2) Indicate estimated net effect on the Contract Price, if applicable
 - b. Estimate of change, if any, Contract Times:
 - 1) Indicate methods to be used in determining the change in Contract Times.

- 2) Indicate estimated increase or decrease in Contract Times.
 - c. If the Work Change Directive is not likely to change the Contract Price or the Contract Times, the space for estimated increase (decrease) should be marked "Not Applicable."
 - 4. Upon completing and signing the Work Change Directive, RPR will send five copies to OWNER for authorization. Upon signature by OWNER, four copies will be sent to RPR, who will retain two copies (one for RPR and one for ENGINEER) and forward two copies to CONTRACTOR.
 - 5. If the change involves an increase in the Contract Price or Contract Times, and the estimated amount or times are approached before the additional or changed Work is completed, another Work Change Directive may be issued to change the estimated price or times.
 - 6. Upon completion of Work covered by the Work Change Directive or when final cost or times are determined, CONTRACTOR shall submit documentation for inclusion in Change Order contemplated by this Work Change Directive. A Change Order, as appropriate, will be considered by RPR and ENGINEER.
 - 7. CONTRACTOR's documentation shall include but not be limited to:
 - a. Appropriately detailed records of Work performed to enable determination of value of the Work.
 - b. Full information required to substantiate requested changes in Contract Times and Contract Price for Work.
 - c. On request of RPR or ENGINEER, provide additional data as necessary to support price or times issues.
 - d. Support data for Work performed on a unit price or cost of the Work basis with additional information such as:
 - 1) Dates and times Work was performed, and by whom.
 - 2) Daily time records, wage rates paid, and equipment rental rates.
 - 3) Invoices and receipts for materials, equipment, and subcontracts, all similarly documented.
 - B. Effective Date of Work Change Directive: Date of signature by OWNER, unless otherwise indicated thereon.
- 1.7 CONTRACT MODIFICATION REQUESTS (CMRS) AND CHANGE ORDERS (COs)
- A. Procedures as indicated in preconstruction conference, or as instructed by ENGINEER.

PART 2 - PRODUCTS - Not Used

PART 3 - EXECUTION - Not Used

END OF SECTION

SECTION 01 04 00 – COORDINATION AND SEQUENCING

PART 1 – GENERAL

- 1.1 SECTION INCLUDES
 - A. Requirements for sequencing and scheduling the Work, work restrictions and coordination.
- 1.2 SUBMITTALS
 - B. As requested below.
- 1.3 OTHER WORK
 - A. Coordination with OWNER’s Work by Others: Reference Section 01 01 00 – Summary of Work and the Drawings for coordination with OWNER’s work by others, if any, and coordinate CONTRACTOR’s Work with OWNER.
 - B. Other work anticipated to be performed at site by others prior to, during, and in sequence with scheduled performance of Work under these Contract Documents as follows:
 - 1. CONTRACTOR shall coordinate work with OWNER to avoid any conflicts.
- 1.4 UTILITIES
 - A. Coordinate Work with various utilities within Project limits. Notify applicable utilities prior to commencing Work, if damage occurs, or if conflicts or emergencies arise during Work.
 - B. See the Drawings for contact information.
- 1.5 SEQUENCE OF WORK
 - A. Include the Milestones and sequences of Work specified herein as a part of the progress schedule required under Section 01 31 00 - Progress Schedule and Schedule of Values.
 - B. The CONTRACTOR shall strive to meet the following project milestones:
 - 1. Notice of Award – March 5, 2024
 - 2. Insurance & Bonds –March 15, 2024
 - 3. Construction Start- April 1, 2024
 - 4. Substantial Completion – April 26, 2024
 - 5. Final Completion—May 3, 2024
 - C. Construction sequencing requirements include the following:
 - 1. Comply with the following unit process operating requirements unless approved by OWNER in writing.
 - 2. Construction Sequence Report:
 - a. General:
 - 1) Prepare and submit a proposed Construction Sequence Report for review and approval regarding compliance with the above stated requirements and the project milestones as stated in the Agreement

within 20 days following Date of Contract. The approved Construction Sequence Report shall be consistent with the Progress Schedule Submittal as specified in Section 01 31 00 - Progress Schedules and Schedule of Values.

- D. Construct Work in stages to maintain one-lane of traffic in both directions during construction. Coordinate construction schedule and operation with ENGINEER.
- E. Coordinate proposed Work with ENGINEER effecting street or utility shutdowns. Under no circumstances cease Work at the end of a normal working day if such actions may inadvertently cause a street closure, or extended utility shutdown; in which case, remain onsite until necessary improvements are complete to re-open street.
- F. Do not close lines, open valves, or take other action which would affect the operation of existing systems, except as specifically required by the Contract Documents and after approval of ENGINEER. Such actions will be considered by ENGINEER when included in a Pre-submitted and approved Operational Modification Plan.

1.6 ADJACENT FACILITIES AND PROPERTIES

A. Examination:

- 1. After Effective Date of the Agreement and before Work at site is started, CONTRACTOR, ENGINEER, affected property owners and utility owners shall make thorough examination of pre-existing conditions including existing buildings, structures, public and private access roads, and other improvements in vicinity of Work, as applicable, which might be damaged by construction operations. Periodic reexamination shall be jointly performed to include, but not limited to, cracks in structures, settlement, leakage, road surfaces damage and similar conditions.
- 2. Record observations for signature of ENGINEER and CONTRACTOR.

B. Documentation:

- 1. Submit two copies of photographs or other records documenting examination for ENGINEER's signature. ENGINEER will review, sign, and return one record copy of every observation document and photograph to CONTRACTOR to be kept on file in CONTRACTOR's field office as site records.
- 2. These observations and photographs are intended for use as indisputable evidence in ascertaining whether and to what extent damage occurred as a result of CONTRACTOR's operations, and are for protection of adjacent property owners, CONTRACTOR, and OWNER.

1.7 PHYSICAL CONDITIONS

- A. Exercise reasonable care including manual (hand) excavation to verify locations of existing subsurface structures and Underground Facilities.
- B. Thoroughly check immediate and adjacent areas subject to excavation by visual examination (and by electronic metal and pipe detection equipment, as necessary) for indications of subsurface structures and Underground Facilities.
- C. Make exploratory excavations where existing Underground Facilities or structures may potentially conflict with proposed Underground Facilities or structures. Conduct exploratory excavations in presence of ENGINEER and sufficiently ahead of construction to avoid possible delays to CONTRACTOR's Work.

1.8 CONSTRUCTION PHOTOGRAPHS

- A. Pre-construction Photo Set
 - 1. See Article ADJACENT FACILITIES AND PROPERTIES.
- B. Progress Photo Sets
 - 1. CONTRACTOR to prepare a set of construction progress photos Monday morning every other week until Substantial Completion.
 - 2. Provide to RPR by Friday of that same week.
- C. Post Construction Photo Sets
 - 1. With RPR or engineer present, photograph post-construction site and adjacent property with particular emphasis on structures and paved areas and as directed by RPR.
- D. Additional Requirements for All Sets
 - 1. Each set shall include a minimum of 1.4 meg/picture, 4 mega pixel colors based digital media.
 - 2. Provide a compact disc containing the same images to Resident Project Representative.
 - 3. Digital photographs are required in lieu of film based photos by OWNER and ENGINEER.
 - 4. It should not be necessary to use a professional photographer. Photographs made by CONTRACTOR's employee should suffice.

1.9 REFERENCE POINTS AND SURVEYS

- A. OWNER'S Responsibilities:
 - 1. Any existing survey points or other survey control markers destroyed without proper authorization will be replaced by OWNER at the CONTRACTOR's expense.
- B. CONTRACTOR'S Responsibilities:
 - 1. Provide additional survey and layout required.
 - 2. Locate and protect reference points prior to starting site preparation.
 - 3. Check and establish exact location of existing facilities prior to construction of new facilities and any connections thereto.
 - 4. In event of discrepancy in data or staking provided by ENGINEER has completed checks it deems necessary.
 - 5. Preserve and leave undistributed control staking until ENGINEER has completed checks it deems necessary.
 - 6. Re-establish reference points resulting from destruction by CONTRACTOR's operations.

PART 2 – PRODUCTS - NOT USED

PART 3 – EXECUTION NOT USED

END OF SECTION

SECTION 01 30 00 - SUBMITTALS

PART 1 - GENERAL

1.1 GENERAL

- A. Inquiries: Direct to ENGINEER regarding procedure, purpose, or extent of Submittal.
- B. Timelines: Schedule and make submissions in accordance with requirements of individual Specification section and in such sequence as to cause no delay in Work or in work of other CONTRACTOR's.
- C. Identification of Submittals:
 - 1. Complete, sign, and transmit with each Submittal package, one transmittal of CONTRACTOR's Submittal Form as provided at preconstruction conference.
 - 2. Identify each Submittal with the following numbering and tracking system:
 - a. Sequentially number each Submittal.
 - b. Resubmissions of a Submittal will have original number with sequential alphabetic suffix.
 - 3. Format: Orderly, indexed with labeled tab dividers.
 - 4. Show date of submission.
 - 5. Show Project title and OWNER's contract identification and contract number.
 - 6. Show names of CONTRACTOR, Subcontractor or Supplier, and manufacturer as appropriate.
 - 7. Identify, as applicable, Contract Document section and paragraph to which Submittal applies.
 - 8. Identify Submittal type; submit only one type in each Submittal package.
 - 9. Identify and indicate each deviation or variation from Contract Documents.
- D. Resubmissions: Clearly identify each correction or change made.
- E. Incomplete Submittal Submissions:
 - 1. ENGINEER will return the entire Submittal for CONTRACTOR's revision/correction and resubmission.
 - 2. Submittals which do not clearly bear CONTRACTOR's specific written indication of CONTRACTOR review and approval of Submittal or which are transmitted with an unsigned or uncertified submission form or as may otherwise be required will be returned to CONTRACTOR unreviewed.
- F. Non-specified Submissions: Submissions not required under these Contract Documents will not be reviewed and will be returned to CONTRACTOR.
- G. ENGINEER's Review: ENGINEER will act upon CONTRACTOR's Submittal and transmit response to CONTRACTOR not later than 30 days after receipt, unless otherwise specified. Resubmittals will be subject to the same review time.
- H. Schedule Delays:
 - 1. No adjustment of Contract Times or Price will be allowed due to ENGINEER's review of Submittals, unless all of the following criteria are met:

- a. CONTRACTOR has notified ENGINEER in writing that timely review of Submittal in question is critical to progress of Work, and has received ENGINEER's written acceptance to reflect such on current accepted submission and progress schedule. Written agreement by ENGINEER to reduce Submittal review time will be made only for unusual and CONTRACTOR-justified reasons. Acceptance of a progress schedule containing Submittal review times less than specified or less than agreed to in writing by ENGINEER will not constitute ENGINEER's acceptance of the review times.
 - b. ENGINEER has failed to review and return first submission of a Submittal within agreed time indicated and accepted by ENGINEER.
2. No adjustment of Contract Times or Price will be allowed due to delays in progress of Work caused by rejection and subsequent resubmission of Submittals, including multiple resubmissions.

1.2 SHOP DRAWINGS AND SAMPLES

- A. Description: Reference paragraph 1.35 of the General Conditions.
- B. Excessive Shop Drawing Review: One resubmission of Shop Drawings will be performed by ENGINEER, as appropriate, at no cost to CONTRACTOR. Subsequent additional resubmissions of that Shop Drawing will be reviewed by ENGINEER; however ENGINEER will document work hours required to perform such additional review(s) and will report these costs to OWNER. CONTRACTOR shall reimburse OWNER for these costs in accordance with paragraph 6.17 of the Supplementary Conditions.
- C. Substitute and "Or Equal" Items: Meet requirements of paragraph 6.7 of General Conditions.
- D. Copies:
 1. Shop Drawings and Product Data: Eight (8).
 2. Samples: Two (2), unless otherwise specified in individual Specification sections. CONTRACTOR responsible for safe and proper delivery of samples and to prepay cartage charges.
- E. General: Submit to ENGINEER as required by individual Specification sections.
- F. Identify and Indicate:
 1. Pertinent Drawing sheet(s) and detail number(s), products, units and assemblies, and system or equipment identification or tag numbers.
 2. Critical field dimensions and relationships to other critical features of Work.
 3. Samples: Source, location, date taken, and by whom.
 4. Each deviation or variation from Contract Documents in accordance with paragraph 6.25.3 of the General Conditions.
- G. Design Data: When specified, provide Project-specific information as required and as necessary to clearly show calculations, dimensions, logic and assumptions, and referenced standards and codes upon which design is based.
- H. Manufacturer's Certificate of Appropriate Equipment Application:

1. For all equipment specified in Division 44, provide with the initial shop drawing submittal or substitution, Certificate of Appropriate Equipment Application consisting of the following and signed by an appropriate corporate officer of the manufacturer.

“The manufacturer has reviewed the construction documents including installation details for (name of equipment being provided), upstream and downstream piping as appropriate, or connecting or appurtenant equipment, and certifies this is an appropriate application of the manufacturer’s equipment and warrants the equipment’s successful performance for two (2) years of actual operations by OWNER in accordance with the manufacturer’s written recommendations and instructions based on the earliest date the equipment is placed in normal operation by OWNER and is in full compliance with the requirements of the Contract Documents.”

2. In addition to the above, the manufacturer certifies that all equipment supports, utilities, and electrical service connections and requirements are indicated on the enclosed Shop
- I. Foreign Manufacturers: When proposed, include following additional information:
 1. Names and addresses of at least two companies closest to Project that maintain technical service representatives.
 2. Complete inventory of spare parts and accessories for each piece of equipment.
 - J. Preparation:
 1. Format: Whenever possible, schedule for and combine Shop Drawings and Samples required for submission in each Specification section or division into a single Submittal package. Also combine product data for like items into a single Submittal package.
 2. Present in a clear and thorough manner and of sufficient detail to show kind, size, arrangement, and function of components, materials, and devices and compliance with Contract Documents. Identify details by reference to sheet and detail, and schedule or room numbers shown on Drawings.
 3. Reproducible Copy:
 - a. referred Minimum Sheet Size: 8 ½- by 11-inch and 11 by 17-inch pages, suitable for photocopying.
 - b. Larger than 11 by 17-inch Sheets: 22-inch by 34-inch preferred, mylar or sepias suitable for copying in a blueprint machine.
 4. Piping Systems: Drawn to scale.
 5. Product Data: Clearly mark each copy to identify pertinent products or models and show performance characteristics and capacities, dimensions and clearances required, wiring or piping diagrams and controls, and external connections, anchorages, and supports required.
 6. Equipment and Component Titles: Identical to title shown on Drawings, Manufacturer’s standard schematic drawings and diagrams as follows:
 - a. Modify to delete information that is not applicable to Work.
 - b. Supplements standard information to provide information specifically applicable to Work.

- K. Design Data:
1. Design systems, equipment, and components, including supports and anchorages, in accordance with the provisions of the latest edition of all uniform codes, including Uniform Building Code and to withstand seismic loads in addition to other loads.
 2. Provide an appropriately licensed professional engineer to perform design, oversee preparation of Shop Drawings, manufacturing, and installation, as appropriate, and to stamp and certify that Shop Drawings conform with design requirements and requirements of Laws and Regulations and governing agencies.
 3. When specified, provide Project-specific information as necessary to clearly show calculations, dimensions, logic and assumptions, and referenced standards and codes upon which design is based.
- L. Shop Drawing Disposition: ENGINEER will review, mark, and stamp as appropriate and distribute marked-up copies as noted:
1. No Exceptions Taken (for incorporation in Work):
 - a. One copy furnished Resident Project Representative.
 - b. One copy retained in ENGINEER's file.
 - c. One copy furnished to OWNER.
 - d. Remaining copies returned to CONTRACTOR appropriately annotated.
 - e. CONTRACTOR may begin to implement activities to incorporate specific product(s) or Work covered by Submittal.
 2. Make Corrections Noted (for incorporation in Work):
 - a. One copy furnished Resident Project Representative.
 - b. One copy retained in ENGINEER's file.
 - c. One copy furnished to OWNER.
 - d. Remaining copies returned to CONTRACTOR appropriately annotated.
 - e. CONTRACTOR may begin to implement activities to incorporate specific product(s) or Work covered by Submittal.
 3. Revise and Resubmit:
 - a. One copy furnished Resident Project Representative.
 - b. Remaining copies returned to CONTRACTOR appropriately annotated.
 - c. One copy furnished to OWNER.
 - d. CONTRACTOR shall make corrections or develop replacement and resubmit (in manner and quantity as specified for original submission).
 - e. Submittal is not approved.
 4. Rejected:
 - a. One copy furnished Resident Project Representative.
 - b. One copy retained in ENGINEER's file.
 - c. One copy furnished to OWNER.
 - d. Remaining copies returned to CONTRACTOR appropriately annotated.
 - e. CONTRACTOR shall make corrections or develop replacement and resubmit (in manner and quantity as specified for original submission).
 - f. Submittal is not approved.
- M. Sample Disposition:
1. One sample furnished to Resident Project Representative.

2. One sample returned to CONTRACTOR.

2.3 ADMINISTRATIVE SUBMITTALS

- A. Copies: Submit four.
- B. Description: Submittals that are not Shop Drawings or Samples, or that do not reflect quality of product or method of construction. May include, but not limited to those Submittals identified below.
- C. Applications for Payment (and Cash Allowance Data and Values): Meet requirements of Section 01 02 00 – Measurement and Payment.
- D. Construction Photographs: In accordance with Section 01 04 00 – Coordination and Sequencing, and as may otherwise be required in the Contract Documents.
- E. Progress Reports and Quantity Charts: As may be required in Section 01 31 00 – Progress Schedule and Schedule of Values.
- F. Schedules:
 - 1. Schedule of Values: Meet requirements of Section 01 02 00 – Measurement and Payment.
 - 2. Schedule of Functional and Performance Testing and of Startup Schedule and Plan: Meet requirements of Section 01 65 00 – Facility Testing and Startup.
 - 3. Schedule of Submittal Submissions:
 - a. Prepare and submit, preliminary list of submissions grouped by Contract Document article/paragraph number or Specification section number, with identification, numbering and tracking system as specified under Paragraph Identification of Submittals and as approved by ENGINEER.
 - b. Include only the following required submissions:
 - 1) Shop Drawings and Samples.
 - 2) Training plans.
 - 3) Test Procedures.
 - 4) Operation and maintenance manuals.
 - 5) Record documents.
 - 6) Specifically required certificates, warranties, and service agreements.
 - c. Coordinate with progress schedule and prepare submissions to show for each Submittal, at a minimum, the following:
 - 1) Estimates submission date to ENGINEER.
 - 2) Specifically requested and clearly identified ENGINEER review time if shorter than that set forth herein, with justification for such request and critical dates Submittals will be needed from ENGINEER.
 - 3) For first 6-month period from the date the Contract Times commence or following any updates or adjustment of the submissions, the estimated submission beyond 6-month time period, show closest month and year.
 - d. Submit to ENGINEER monthly (i) updated list if changes have occurred, otherwise submit a written communication confirming existing list, and (ii) adjusted submissions reflecting submission activity planned for forthcoming 6-month time period, show closest month and year.

- G. Training Materials: Not used
- H. Submittals Required by Laws, Regulations, and Governing Agencies:
 - 1. Submit promptly notifications, reports, certifications, payrolls, and otherwise as may be required, directly to the applicable federal, state, or local governing agency or their representative.
 - 2. Transmit to ENGINEER for OWNER's records one copy of correspondence and transmittals (include enclosures and attachments) between CONTRACTOR and governing agency.
- I. Disposition: ENGINEER will review, stamp, and indicate requirements for resubmission or acceptance on Submittal as follows:
 - 1. Accepted:
 - a. Schedules: Acceptance will indicate that schedules provide for the orderly progression of the Work to completion within any specified milestones and the Contract Times, but such acceptance will neither impose on ENGINEER responsibility for the sequencing, scheduling, or progress of the Work nor interfere with or relieve CONTRACTOR from CONTRACTOR's full responsibility therefore.
 - b. Acceptance of other administrative Submittals will indicate that Submittal conforms to intent of Contract Documents as to form substance.
 - c. CONTRACTOR may proceed to perform Submittal related to Work.
 - d. One copy furnished OWNER.
 - e. One copy furnished Resident Project Representative
 - f. One copy retained in ENGINEER's file.
 - g. Remaining copies returned to CONTRACTOR appropriately annotated.
 - 2. Rejected as Noted:
 - a. One copy retained in ENGINEER's file.
 - b. One copy furnished Resident Project Representative
 - c. Remaining copies returned to CONTRACTOR appropriately annotated.
 - d. CONTRACTOR shall revise/correct or develop replacement and resubmit.

1.4 QUALITY CONTROL SUBMITTALS

- A. Certificates:
 - 1. Manufacturer's Certificate of Compliance:
 - a. When specified in individual Specification sections or where products are specified to a recognized standard or code, submit prior to shipment of product or material to the site.
 - b. ENGINEER may permit use of certain materials or assemblies prior to sampling and testing if accompanied by accepted certification of compliance.
 - c. Signed by product manufacturer certifying that materials, manufacture, and product specified conforms to or exceeds specified requirements and intent for which product will be used. Submit supporting reference data, affidavits, and certifications as appropriate.
 - d. May reflect recent or previous test results on material or product, but must be acceptable to ENGINEER.

2. Certificates of Successful Testing or Inspection: Submit when testing or inspection is required by Laws and Regulations or governing agency or specified in the individual Specification sections.
 3. Manufacturer’s Certificate of Proper Installation: Coordinate with Section 01 65 00 – Testing and Facility Startup.
- B. Operation and Maintenance Manual: Not used
- C. Statements of Qualification: Evidence of qualification, certification, or registration. As required in these Contract Documents to verify qualifications of professional land surveyors, ENGINEER's, materials testing laboratories, specialty Subcontractors, trades, specialists, consultants, installers, and other professionals. Reference paragraph 1.01.A.43 of the Supplementary Conditions for the definition of Specialist.
- D. Field Samples: Provide as required by individual Specifications and as may be required by ENGINEER during progress of Work.
- E. Plans and Methods for Groundwater Control: Written report for designing, furnishing, installing, operating, maintaining, and eventual removal of groundwater control and monitoring equipment and systems.
- F. Written Test Reports of Each Test and Inspection: As a minimum, include the following:
1. Date of test and date issued, Project title and number, testing laboratory name, address, and telephone number, and name and signature of laboratory inspector.
 2. Date and time of sampling or inspection and record of temperature and weather conditions.
 3. Identification of product and Specification section, location of Sample, test or inspection in the Project, type of inspection or test with referenced standard or code, certified results of test.
 4. Compliance with Contract Documents, and identifying corrective action necessary to bring materials and equipment into compliance.
 5. Provide an interpretation of test results, when requested by ENGINEER.

1.5 CONTRACT CLOSEOUT SUBMITTALS

General: In accordance with Section 01 70 00 – Closeout Procedures and Record Documents.

PART 2 - PRODUCTS - Not Used.

PART 3 - EXECUTION - Not Used.

END OF SECTION

SECTION 01 50 00 – TEMPORARY FACILITIES AND CONTROLS

PART 1 - GENERAL

1.1 SECTION INCLUDES

- A. Temporary Utilities: Electricity, telephone service, water, and sanitary facilities.
- B. Temporary Controls: Barriers, enclosures and fencing, protection of the Work and dust and water control.
- C. Other Temporary Facilities during Construction including such things as: Access roads, parking, progress cleaning, project signage, and temporary buildings.

1.2 TEMPORARY ELECTRICITY – NOT USED

1.3 TEMPORARY HEAT – NOT USED

1.4 TEMPORARY VENTILATION – NOT USED

1.5 TEMPORARY WATER SERVICE – NOT USED

1.6 TEMPORARY SANITARY FACILITIES

- A. Provide and maintain required facilities and enclosures.

1.7 TEMPORARY BARRIERS

- A. Provide barriers to prevent unauthorized entry to construction areas, to allow for OWNER's use of site, and to protect existing facilities and adjacent properties from damage from construction operations.
- B. Provide protection for plant life designated to remain. Replace damaged plant life.
- C. Protect non-owned vehicular traffic, stored materials, site and structures from damage.

1.8 CONSTRUCTION FENCING

- A. Construction: CONTRACTOR's option.

1.9 STORM/GROUND WATER CONTROL – Not used

- A. Protect existing stormwater catch basins and drywells from sedimentation during construction activities.

1.10 DUST CONTROL – Not used

- Use water to control dust during construction activities.

1.11 PROTECTION OF INSTALLED WORK

- A. Protect installed Work and provide special protection where specified in individual specification sections.
- B. Prohibit traffic from re-vegetated areas.

1.12 SECURITY

- A. Provide security and facilities to protect Work, existing facilities, and OWNER's operations from unauthorized entry, vandalism, or theft.

- 1.13 ACCESS ROADS
 - A. Provide means of removing mud from vehicle wheels before leaving the site and entering streets.

- 1.14 PARKING
 - A. Provide temporary parking areas to accommodate construction personnel.
 - B. When site space is not adequate, provide additional off-site parking.
 - C. Do not allow vehicle parking on existing pavement, except in areas designated for this use.

- 1.15 PROGRESS CLEANING
 - A. Maintain areas free of waste materials, debris, and rubbish. Maintain site in a clean and orderly condition.
 - B. Removal of, contract and pay for waste materials, debris, and rubbish from site weekly and dispose off-site.

- 1.16 TEMPORARY ADVERTISING SIGNAGE
 - A. No signage allowed, except that required by law for which CONTRACTOR has obtained OWNER's permission.

- 1.17 PROJECT SIGNAGE
 - A. No signage required.

- 1.18 FIELD OFFICES
 - A. Contractor's option.

- 1.19 REMOVAL OF UTILITIES, FACILITIES, AND CONTROLS
 - A. Clean and repair damage caused by installation or use of temporary work.
 - B. Restore existing facilities used during construction to original condition. Restore permanent facilities used during construction to specified condition.

PART 2 - PRODUCTS - Not used

PART 3 - EXECUTION - Not used

END OF SECTION

SECTION 01 61 00 – SITE ACCESS AND STORAGE

PART 1 - GENERAL

1.1 SITE ACCESS

- A. CONTRACTOR and SUPPLIERS shall not block public and private access.

1.2 CONTRACTOR'S WORK AND STORAGE AREA

- A. The OWNER will designate the site for the CONTRACTOR'S exclusive use during the term of the Contract as a storage and shop area for its construction operations relative to this Contract.
- B. The CONTRACTOR shall make its own arrangements for any necessary off-site storage or shop areas necessary for the proper execution of the WORK.
- C. Should the CONTRACTOR find it necessary to use any additional land for storage or for other purposes during the construction of the WORK, it shall provide for the use of such lands at its own expense.
- D. All hazardous materials which are delivered in containers shall be stored in the original containers until use. Hazardous materials which are delivered in bulk shall be stored in containers which meet the requirements of authorities having jurisdiction.

1.3 PARKING

- A. The CONTRACTOR shall:
 - 1. The CONTRACTOR shall direct its employees to park in areas as directed by the OWNER.
 - 2. Traffic and parking areas shall be maintained in a sound condition, free of excavated material, construction equipment, mud, and construction materials. The CONTRACTOR shall repair breaks, potholes, low areas which collect standing water, and other deficiencies.

PART 2 - PRODUCTS - Not Used

PART 3 - EXECUTION - Not Used

END OF SECTION

SECTION 01 61 10 – MATERIAL AND EQUIPMENT

PART 1 - GENERAL

1.01 SUBSTITUTE AND “OR EQUAL” ITEMS

- A. When equipment or material is specified by naming one or more manufacturers or suppliers followed by words “No Substitute Permitted”, CONTRACTOR shall provide one of the named manufacturers or suppliers.
- B. “Or Equal” Items: For material or equipment specified by naming one or more suppliers or manufacturers followed by the words “Or Equal”, CONTRACTOR shall make submittal in accordance with Section 01 30 00. ENGINEER will review submittal in accordance with Supplementary Conditions.
- C. Substitute Items:
 - 1. For material or equipment specified by naming one or more suppliers or manufactures and not followed by the words “Or equal” or “No Substitute Permitted”, CONTRACTOR shall submit “Request for Substitution” in accordance with General Conditions for material or equipment not specifically named.
 - 2. Requests for Substitution will be considered by ENGINEER, subject to CONTRACTOR’S representations and review provisions of Contract Documents, when one or more of the following conditions are satisfied.
 - a. Where required equipment or material cannot be provided within Contract Time, but not as result of CONTRACTOR’S failure to pursue Work promptly or coordinate various activities properly.
 - b. Where packaging of several items of equipment from single source will provide maintenance and coordination advantages to OWNER.
 - c. When CONTRACTOR proposes to provide OWNER with cost savings.
 - 3. If ENGINEER approves CONTRACTOR’S Request for Substitution, Contractor shall make submittal in accordance with Section 01 30 00.
- D. Conditions Which Are Not Substitutions:
 - 1. CONTRACTOR options provided for in Specifications.
 - 2. Revisions to Contract requested by OWNER or ENGINEER.
 - 3. CONTRACTOR’S determination of and compliance with governing regulations, except as provided for in Contract Documents.

1.02 REUSE OF EXISTING MATERIAL

- A. Except as specifically indicated or specified, do not use removed materials and equipment in new Work. All material and equipment incorporated into the Work shall be new, and as specified, except as otherwise provided in the Contract Documents.
- B. For material and equipment specifically indicated or specified to be reused in new Work:
 - 1. Use special care in removal, handling, storage, and reinstallation to ensure proper function in completed Work.
 - 2. Provide for transportation, storage, and handling of products which require off-site storage, restoration, or renovation.

1.03 MANUFACTURE'S INSTRUCTIONS

- A. Installation of equipment and materials shall comply with manufacturer's written instructions. Maintain one set of complete instructions at job site. Distribute printed copies of instructions to parties involved in installation, including 2 copies to ENGINEER.
- B. Handle, store, install, connect, clean, condition, and adjust materials and equipment in accordance with manufacturer's written instructions and in conformance with Specifications.
- C. If job conditions or specified requirements conflict with manufacturer's written instructions, consult ENGINEER for further direction. Do not proceed with Work without written instruction of ENGINEER.

1.04 TRANSPORTATION AND HANDLING

- A. Arrange deliveries of material and equipment in accordance with Construction Progress Schedule.
- B. Deliver materials and equipment in undamaged condition, in manufacturer's original containers or packaging, with identifying labels intact and legible.
- C. Protect bright-machined surfaces, such as shafts and valve faces, with heavy coat of grease prior to shipment.
- D. Immediately upon delivery, inspect shipments to ensure compliance with Contract Documents and approved submittals, and products have been protected and are undamaged.

- E. Provide equipment and personnel to handle materials and equipment by methods recommended by manufacturer to prevent soiling or damage to materials or equipment, or packaging.

1.05 STORAGE, PROTECTION, AND MAINTENANCE

- A. Store, protect, and maintain material and equipment in accordance with manufacturer's written instructions.
- B. Temporary storage areas and buildings shall conform to Section 01 61 00.
- C. OWNER assumes no responsibility for damage or loss due to storage of materials and equipment.
- D. Interior Storage:
 - 1. Store with seals and labels intact and legible.
 - 2. Store materials and equipment subject to damage by elements in weather tight enclosures.
 - 3. Maintain temperature and humidity within ranges required by manufacturer.
- E. Exterior Storage:
 - 1. Store fabricated materials and equipment above ground, on blocking or skids, to prevent soiling or staining. Cover materials and equipment subject to deterioration with impervious sheet coverings. Provide ventilation to avoid condensation.
 - 2. Store loose granular materials in well-drained area on solid surfaces to prevent mixing with foreign matter.
 - 3. Store materials such as pipe, reinforcing steel, structural steel, and equipment on pallets or racks, off ground.
- F. Inspection and Maintenance:
 - 1. Arrange storage to provide easy access for inspection, maintenance, and inventory.
 - 2. Make periodic inspections of stored materials and equipment to ensure materials and equipment maintained under specified conditions are free from damage or deterioration, and coverings are in place and in condition to provide required protection.
 - 3. Perform maintenance on stored material and equipment in accordance with manufacturer's written instructions and in presence of OWNER and ENGINEER.
 - a. Notify ENGINEER 24 hrs before performing maintenance.
 - b. Submit report of completed maintenance to ENGINEER with each Application for Payment.
 - c. Failure to perform maintenance, to notify ENGINEER, or to submit report may result in rejection of material or equipment.

- G. Assume responsibility for protection of completed construction and repair and restore damage to completed Work.
- H. Wheeling of loads over finished floors, with or without plank protection, not permitted in anything except rubber-tired wheelbarrows, buggies, trucks or dollies. This applies to finished floors and exposed concrete floors, as well as those covered with other applied surfacing.
- I. Where structural concrete is also finished surface, avoid marking or damaging surface.

PART 2 - PRODUCTS

2.01 MATERIALS

- A. Conform to applicable Specifications and standards. Comply with size, make, type, and quality specified or as approved on submittals.
- B. Design, fabricate, and assemble in accordance with engineering and shop practices standard with industry.
- C. Manufacture like parts of duplicate units to standard sizes and gauges, to be interchangeable. Two or more items of same kind shall be identical, by same manufacturer.
- D. Material and equipment shall be suitable for service conditions. Design so working parts are readily accessible for inspection and repair, and easily duplicated and replaced.
- E. Equipment capabilities, sizes, and dimensions shown or specified shall be adhered to, unless specifically approved in accordance with General Conditions.
- F. Equipment shall be adapted to best economy in power consumption and maintenance. Parts and components shall be portioned for stresses occurring during continuous or intermittent operation, and for additional stresses occurring during fabrication or installation.
- G. Do not use material or equipment for purpose other than for which it is designed or specified.

PART 3 - EXECUTION

3.01 GENERAL

- A. Include and pay for Supplier's services, including, but not limited to, those specified.
- B. Workday is defined as an 8-hr period during a calendar day. Workday for purposes of this section does not include travel to and from the Project Site.

END OF SECTION

SECTION 01 70 00 – CLOSEOUT PROCEDURES AND RECORD DRAWINGS

PART 1 - GENERAL

1.3 SECTION INCLUDES

- A. Contract closeout requirements including:
 - 1. Final Cleaning
 - 2. Preparation and submittal of closeout documents
 - 3. Final completion certification

1.2 FINAL CLEANING

- A. Perform final cleaning prior to inspections for Substantial Completion.
- B. Employ skilled workers who are experienced in cleaning operations.
- C. Use cleaning materials, which are recommended by manufacturers on surfaces to be cleaned.
- D. Prevent scratching, discoloring, and otherwise damaging surfaces being cleaned.
- E. Broom clean exterior paved surfaces and rake clean other surfaces of sitework.
- F. Police yards and grounds to keep clean.
- G. Clean grease, mastic, adhesives, dust, dirt, stains, fingerprints, paint, blemishes, sealants, plaster, concrete and other foreign materials from sight-exposed surfaces, and fixtures and equipment.
- H. Remove non-permanent protection and labels.
- I. Clean permanent filters or screens and replace disposable filters when heating, ventilation, and air conditioning units were operated during construction.

1.3 WASTE DISPOSAL

- A. Arrange for and dispose of surplus materials, waste products, and debris off-site.
- B. Do not create unsightly or unsanitary nuisances during disposal operations.

1.4 TOUCH-UP AND REPAIR

- A. Touch-up or repair finished surfaces on structures, equipment, fixtures and installations that have been damaged prior to inspection for Substantial Completion.
- B. Refinish or replace entire surfaces which cannot be touched-up or repaired satisfactorily.

1.5 FINAL CLEANING FACILITIES

- A. Clean, pipe, before running of air testing, or before acceptance testing.

1.6 CLOSEOUT DOCUMENTS

- A. Submit the following Closeout Submittals upon completion of the Work and at least 7 days prior to submitting Application for Final Payment:
 - 1. Evidence of Compliance with Requirements of Governing Authorities.
 - 2. Warranties and Bonds.
 - 3. Evidence of Payment and Release of Liens as outlined in Conditions of the Contract.
 - 4. Release of Claims as outlined in Conditions of the Contract.
 - 5. Certificate of Final Completion.
 - 6. As-built drawings

1.7 PROJECT RECORD DOCUMENTS – NOT USED

1.8 WARRANTIES AND BONDS – NOT USED

1.9 CERTIFICATE OF FINAL COMPLETION

- A. Upon Substantial Completion, ENGINEER will submit a list of known items (punchlist) still to be completed or corrected prior to contract completion.

- B. List of items to be completed or corrected will be amended as items are resolved by CONTRACTOR.

- C. When all items have been completed or corrected, submit written certification that the entire work is complete in accordance with the Contract Documents and request final inspection.

PART 2 - PRODUCTS - Not Used.

PART 3 - EXECUTION - Not Used.

END OF SECTION