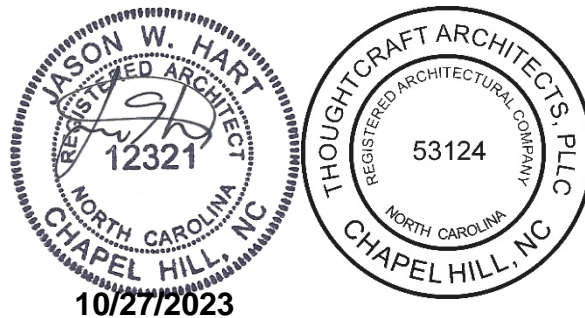


**Contract Documents
for the
OWASA ADMINISTRATIVE BUILDING COPING AND EIFS IMPROVEMENTS
OWASA CIP 280 - 17**

**Prepared for:
Orange Water and Sewer Authority
Carrboro, North Carolina**

**Prepared By:
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**NC License 12321
THOUGHTCRAFT PROJECT NO: 2307**

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ADVERTISEMENT FOR BIDS

CIP No.: 280-17

Project: OWASA ADMINISTRATIVE BDLG. COPING AND EIFS IMPROVEMENTS

Owner: ORANGE WATER AND SEWER AUTHORITY
400 JONES FERRY ROAD
CARRBORO, NORTH CAROLINA 27510

Date: October 27, 2023

Bids will be received by Orange Water and Sewer Authority from Bidders until 2:00 P.M., local time, on Monday, December 4, 2023 for CIP No. 280-17, Project: "OWASA Administrative Bldg. Coping and EIFS Improvements" at the OWASA Board Room in the Administrative Offices, 400 Jones Ferry Road, Carrboro, North Carolina 27510. Since this is an informal bid, there will not be a public opening of bids.

Bids will be received for a Single Prime Lump Sum General Construction Contract. The Contractor and all Subcontractors shall have valid North Carolina General Contractor's Licenses for the type and value of the work to be performed.

The Project consists of furnishing all materials, labor, equipment, tools, etc. unless otherwise specified, for the complete and operable installation of:

New coping cap and EIFS Improvements, and all associated appurtenances as described in the Specifications and as shown on the Drawings.

The foregoing description shall not be construed as a complete description of all work required.

Beginning on Friday, October 27, 2023, the Contract Documents will be on file upon request to Brad Barber at bbarber@owasa.org.

Bidders shall attend a mandatory Pre-Bid Conference at 10 A.M., local time, on Wednesday November 8, 2023 in the Administrative Offices, 400 Jones Ferry Road, Carrboro, North Carolina.

Orange Water and Sewer Authority has adopted a minimum ten (10%) percent goal for participation by minority businesses in the total value of the work for this project in accordance with Section 143-128.2 of the General Statutes of North Carolina.

Each Bidder shall be licensed under Chapter 87 of the North Carolina General Statutes. Bidders are notified that "An Act to Regulate the Practice of General Contracting," was ratified by the General Assembly of North Carolina on March 10, 1925, and that this Act and subsequent Amendments, will be observed in receiving and awarding Contracts.

Each bidder is required to submit a Non-Collusion Affidavit pursuant to Section 133-30 of the General Statutes of North Carolina.



To ensure that all Bidders are kept up to date on any Addenda, changes, or information notices, please send an e-mail to: bbarber@owasa.org indicating your intention to prepare a Bid for the Project. Failure to complete this step may render your Bid as non-responsive.

Each Bidder is advised that the Work may be inspected and supervised by an Engineer or firm under the direction of Orange Water and Sewer Authority. The Engineer or firm may also be involved in the identification of specific repair areas and the proposed method of repairs for the Work.

Orange Water and Sewer Authority requires the Project to be at Substantial Completion within 60 consecutive calendar days from date of Notice to Proceed and at Final Completion 90 consecutive calendar days from date of Notice to Proceed

Bids shall be submitted under a condition of irrevocability, except as required by law, for a period of ninety (90) calendar days after the Bid opening.

Orange Water and Sewer Authority reserves the right to accept or reject any or all Bids, to waive any and all informalities, and to disregard all nonconforming or conditional Bids or counter Bids, and to accept the Bid that will be in the best interest of Orange Water and Sewer Authority.

ORANGE WATER AND SEWER AUTHORITY
TODD TAYLOR, EXECUTIVE DIRECTOR
October 27, 2023

-END OF DOCUMENT-

INSTRUCTIONS TO BIDDERS

ARTICLE 1 - DEFINED TERMS

- 1.01 Terms used in these Instructions to Bidders which are defined in the Standard General Conditions of the Construction Contract, EJCDC C-700 (2013 edition) and modified by Orange Water and Sewer Authority (Copyright 2013) shall have the meanings assigned to them in the General Conditions as modified, changed, added to or deleted by the General Conditions.
- A. Issuing Office - The office at which the Bidding Documents are to be received.
- B. The term "Successful Bidder" means the lowest, qualified, responsive and responsible Bidder to whom Owner (on the basis of Owner's evaluation as hereinafter provided) makes an Award.

ARTICLE 2 - COPIES OF BIDDING DOCUMENTS

- 2.01 The Bidding Documents are identified as "Project Manual including Bidding Documents, Contract Documents, and Technical Specifications for CIP No. 280-17, Project: "OWASA Administrative Bldg. And EIFS Improvements"
- 2.02 Beginning on Friday, October 27, 2023, an electronic PDF file of the Contract Documents may be obtained from the office of OWASA by contacting Brad Barber, at bbarber@owasa.org.
- 2.03 Not Used.
- 2.04 To ensure that all Bidders are kept up-to-date on any Addenda, changes, or information notices, please send an e-mail to: bbarber@owasa.org indicating your intention to prepare a Bid for the Project. Failure to complete this step may render your Bid as non-responsive.
- 2.05 Complete sets of Bidding Documents shall be used in preparing Bids; neither Orange Water and Sewer Authority nor the Engineer assumes any responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.
- 2.06 Upon receipt of Bidding Documents, Bidder shall verify that the Bidding Documents are complete. The Bidder shall notify the Engineer if they have received incomplete Bidding Documents.
- 2.07 Orange Water and Sewer Authority and Engineer, in making copies of the 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.

ARTICLE 3 - QUALIFICATIONS OF BIDDERS

- 3.01 NOT USED

- 3.02 To demonstrate Bidder's qualifications to perform the Work, Bidder shall submit with its Bid written evidence establishing its qualifications such as financial data, previous experience, and present commitments, as described in Article 11 of the Proposal.
- 3.03 If the Bidder fails to demonstrate the ability to complete a majority of all portions of the Contract with equipment and personnel owned and employed by the Bidder, the Bid may be considered non-responsive.
- 3.03 The Bidder shall be licensed under Chapter 87 of the North Carolina General Statutes as a General Contractor.

ARTICLE 4 - SITE AND OTHER AREAS; EXISTING SITE CONDITIONS; EXAMINATION OF SITE; OWNER'S SAFETY PROGRAM; OTHER WORK AT THE SITE

4.01 Site and Other Areas

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

4.02 Existing Site Conditions

A. Subsurface and Physical Conditions; Hazardous Environmental Conditions

- 1. Article 5 of the General Conditions identifies:
 - a. Those reports known to Orange Water and Sewer Authority of explorations and tests of subsurface conditions at or adjacent to the Site.
 - b. Those drawings known to Orange Water and Sewer Authority of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities).
 - c. Those reports and drawings known to Orange Water and Sewer Authority relating to Hazardous Environmental Conditions that have been identified at or adjacent to the Site.
 - d. Technical Data contained in such reports and drawings.
- 2. Owner will make copies of reports and drawings referenced above available to any Bidder upon request. These reports and drawings are not to be considered part of the Contract Documents, but the Technical Data contained therein upon whose accuracy Bidder is entitled to rely as provided in the General Conditions, has been identified and established in the General Conditions. Bidder is responsible for any interpretation or conclusion Bidder draws from any Technical Data or any other data, interpretations, opinions, or information contained in such reports or shown or indicated in such drawings.
- 3. If the General Conditions do not identify Technical Data, the default definition of Technical Data set forth in Article 1 of the General Conditions shall apply.

- B. Underground Facilities: Information and data shown or indicated in the Bidding Documents with respect to existing Underground Facilities at or contiguous to the Site are set forth in the Contract Documents and are based upon information and data furnished to Orange Water and Sewer Authority and Engineer by owners of such Underground Facilities, including Orange Water and Sewer Authority, or others
- C. Adequacy of Data: 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 subsurface or physical conditions appear in Paragraphs 5.03, 5.04, and 5.05 of the General Conditions. Provisions concerning responsibilities for the adequacy of data furnished to prospective Bidders with respect to a Hazardous Environmental Condition at the Site, if any, and possible changes in the Contract Documents due to any Hazardous Environmental Condition uncovered or revealed at the Site which was not shown or indicated in the Drawings or Specifications or identified in the Contract Documents to be within the Scope of Work, appear in Paragraph 5.06 of the General Conditions.

4.03 Site Visit and Testing by Bidders

- A. Bidder shall conduct the required Site visit during normal working hours, (9:00 a.m. to 4:00 p.m., Monday through Friday) and shall not disturb any ongoing operations at the Site.
- B. On request, and to the extent Orange Water and Sewer Authority has control over the Site, and schedule permitting, Orange Water and Sewer Authority will provide Bidder access to the Site to conduct such additional examinations, investigations, explorations, tests, and studies as Bidder deems necessary for submission of a Bid. Bidder shall fill all holes and clean up and restore the Site to its former condition upon completion of such explorations, investigations, tests, and studies.
- C. Orange Water and Sewer Authority will not have any obligation to grant such access if doing so is not practical because of existing operations, security, or safety concerns, or restraints on Orange Water and Sewer Authority's authority regarding the Site.
- D. Bidder shall comply with all applicable Laws and Regulations regarding excavation and location of utilities, obtain all permits, and comply with all terms and conditions established by Owner or by property owners or other entities controlling the Site with respect to schedule, access, existing operations, security, liability insurance, and applicable safety programs.
- E. All requests for access to the Site must be received forty-eight (48) hours prior to the preferred time of access. **All Site access requests must be made to and coordinated by the Orange Water and Sewer Authority Project Manager (919-968-4421).**
- F. The Bidder shall not access any Site without written permission from Orange Water and Sewer Authority. The Bidder shall be responsible for any damage (including

damage to any underground utility and acceptable restoration) as a result of additional subsurface investigations.

4.04 Orange Water and Sewer Authority's Safety Program

- A. Site visits and Work at the Site are to be in accordance with Orange Water and Sewer Authority's safety program. As the General Conditions indicate, an Owner's safety program exists.

4.05 Other Work at the Site

- A. Reference is made to the General Conditions for the identification of the general nature of other Work of which Orange Water and Sewer Authority is aware (if any) that is to be performed at the Site by Orange Water and Sewer Authority or others (such as utilities and other prime contractors) and relates to the Work contemplated by these Bidding Documents. Subsurface data are offered in good faith solely for the purpose of placing the Bidder in receipt of all information available to Orange Water and Sewer Authority and Engineer, and in no event is to be considered part of the Contract Documents.

ARTICLE 5 – BIDDER'S REPRESENTATIONS

5.01 It is the responsibility of each Bidder before submitting a Bid to:

- A. examine and carefully study the Bidding Documents, and any data and reference items identified in the Bidding Documents;
- B. visit the Site, conduct a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and satisfy itself as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work;
- C. become familiar with and satisfy Bidder as to all federal, state, and local, Laws and Regulations, ordinances or rules that may affect cost, progress, and performance of the Work;
- D. carefully study all: (1) reports of explorations and tests of subsurface conditions at or adjacent to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the General Conditions, especially with respect to Technical Data in such reports and drawings, and (2) reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings;
- E. consider the information known to Bidder itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Bidding Documents; and the Site-related reports and drawings identified in the Bidding Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder; and (3) Bidder's safety precautions and programs;

- F. obtain and carefully study (or accept consequences of not doing so) all additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder, including applying and specific means, methods, techniques, sequences, and procedures of construction expressly required by the Bidding Documents, and safety precautions and programs incident thereto;
- G. agree based on the information and observations referred to in the preceding paragraph, that at the time of submitting its Bid no further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of its Bid for performance of the Work at the price bid and within the times required, and in accordance with the other terms and conditions of the Bidding Documents;
- H. become aware of the general nature of the Work to be performed by Orange Water and Sewer Authority and others at the Site that relates to the Work as indicated in the Bidding Documents;
- I. promptly give Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder discovers in the Bidding Documents and confirm that the written resolution thereof by Engineer is acceptable to Bidder;
- J. determine that the Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance and furnishing of the Work; and
- K. correlate the information known to Bidder, information and observations obtained from visits to the Site, reports and drawings identified in the Bidding Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Bidding Documents;
- L. the submission of a Bid will constitute an incontrovertible representation by the Bidder that Bidder has complied with every requirement of this Article 5, that without exception the Bid is premised upon performing and furnishing the Work required by the Bidding Documents and applying any specific means, methods, techniques, sequences, and procedures of construction that may be shown or indicated or expressly required by the Bidding Documents, that Bidder has given Engineer written notice of all conflicts, errors, ambiguities, and discrepancies that Bidder has discovered in the Bidding Documents and the written resolutions thereof by Engineer are acceptable to Bidder, and that the Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performing and furnishing of the Work.

ARTICLE 6 - PRE-BID CONFERENCE

- 6.01 Bidders are required to attend a mandatory Pre-Bid Conference at 11:00 A.M., local time, on Wednesday, November 8, 2023 at the OWASA Board Room, in the Administrative Offices, 400 Jones Ferry Road, Carrboro, North Carolina. Representatives of Orange Water and Sewer Authority, and the Engineer will be present to discuss the Project. Bidders are strongly encouraged to participate in the conference. Engineer will

transmit to all prospective Bidders of record, such Addenda as Engineer considers necessary in response to questions arising from the Pre-Bid Conference. Oral statements may not be relied upon and shall not be binding or legally effective.

- 6.02 Bidder questions pertaining to the Work and M/WBE participation will be addressed at the Pre-Bid Conference.

ARTICLE 7 - INTERPRETATIONS AND ADDENDA

- 7.01 All questions about the meaning or intent of the Bidding Documents shall be submitted in writing to the Engineer/Architect via email only to: bbarber@owasa.org by November 22, 2023 at 5 P.M. : Interpretations or clarifications considered necessary by Engineer in response to such questions will be issued by Addenda emailed or delivered to all parties recorded by Engineer as having received the Bidding Documents. All Addenda will also be posted at least twenty-four (24) hours before Bids are opened. Questions received less than five (5) days prior to the date for opening of Bids may not be answered. Only questions answered by Addenda will be binding. Oral and other interpretations or clarifications shall be without legal effect.
- 7.02 Addenda may be issued to clarify, correct, or change the Bidding Documents as deemed advisable by Orange Water and Sewer Authority or Engineer.
- 7.03 **It shall be the Bidder's sole responsibility to make inquiry as to the Addenda issued.** All Addenda shall be bound and securely attached to the Bidding Documents and submitted with the Bid. All such Addenda shall become a part of the Contract Documents and Bidder shall be bound by such Addenda, whether or not received by the Bidder.

ARTICLE 8 - BID SECURITY

- 8.01 A Bid must be accompanied by a Bid security made payable to Orange Water and Sewer Authority in an amount equal to five (5%) percent of Bidder's maximum Bid price (if alternates determined by adding the base bid and all alternates), and in the form of a certified check, or bank money order, drawn on a bank or trust company insured by the Federal Deposit Insurance Corporation (FDIC), or a Bid Bond (on the form included in the Bidding Documents) issued by a Surety meeting the requirements of Article 6 of the General Conditions and Article 8.02 herein-below. No Bid shall be considered or accepted unless at the time of its filing the same shall be accompanied by a Bid security. Said Bid security shall guarantee that the Contract shall be entered into by the successful Bidder if the Award is made.
- 8.02 In lieu of the certified check, bank money order deposit mentioned above, the Bidder may file a Bid Bond in the same amount executed by a corporate surety authorized to execute such bonds in North Carolina and conditioned as provided by North Carolina General Statute 143-129 and in the Bid Bond form found in the Proposal section, or on file with the Engineer. Bid Bond forms shall be properly executed at the time Bids are submitted before Bid will be considered. Properly executed Power of Attorney of the corporate surety's agent shall accompany such Bid Bond, and be attached to the page provided therefore in the Contract Documents.
- 8.03 The Bid security of the apparent Successful Bidder shall be retained until Orange Water and Sewer Authority officially Awards Contract to such Bidder, and such Bidder has executed the Contract Documents, furnished the required Contract security and met the other conditions of the Notice to Award, whereupon the Bid Security will be released. If the successful Bidder fails to execute and deliver the Contract Documents and furnish the

required Contract security within fifteen (15) calendar days after the Notice of Award, Orange Water and Sewer Authority may consider Bidder to be in default, annul the Notice of Award, and the Bid Security of that Bidder will be forfeited. The Bid security of other Bidders whom Orange Water and Sewer Authority believes to have a reasonable chance of receiving the Award may be retained by Orange Water and Sewer Authority until the earlier of seven (7) days after the Effective Date of the Agreement or ninety-one (91) calendar days after the Bid opening, whereupon Bid security furnished by such Bidders will be returned.

- 8.04 Bid security of other Bidders that Orange Water and Sewer Authority believes to have a reasonable chance of receiving the Award may be retained by Orange Water and Sewer Authority until the earlier of seven (7) calendar day after the after the Effective Date of the Contract or ninety-one (91) calendar days after the Bid opening, whereupon the Bid security furnished by such Bidders will be released.

ARTICLE 9 - CONTRACT TIMES

- 9.01 The number of days within which, or the dates by which, the Work is to be substantially completed (Contract Time) and ready for final payment are set forth in the Agreement. The Bidder shall commence Work on the date specified in the Notice to Proceed, and shall complete the Work within the stipulated Contract Time.

ARTICLE 10 - LIQUIDATED DAMAGES

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

ARTICLE 11 - SUBSTITUTE AND "OR-EQUAL" ITEMS

- 11.01 The Contract for the Work, as awarded, will be on the basis of materials and equipment specified or described in the Bidding Documents without consideration during the Bidding and Contract Award process of possible substitute or "or-equal" items. In cases in which the Contract allows the Contractor to request that Engineer authorize the use of a substitute or "or-equal" item of material or equipment, application for such acceptance may not be made to and will not be considered by Engineer until after the Effective Date of the Contract.
- 11.02 The burden of proof of the merit of the proposed item is upon Bidder. The Engineer's decision of approval or disapproval of a proposed item will be final.
- 11.03 All prices that Bidder sets forth in its Bid shall be based on the presumption that the Contractor will furnish the materials and equipment specified or described in the Bidding Documents, as supplemented by Addenda. Any assumptions regarding the possibility of post-Bid approvals of "or-equal" or substitution requests are made at Bidder's sole risk.

ARTICLE 12 - SUBCONTRACTORS, SUPPLIERS, AND OTHERS

- 12.01 A Non-Collusion Affidavit Form for all Subcontractors shall be filed with Orange Water and Sewer Authority within five (5) days after the Bid opening.
- 12.02 All Bidders are required to complete the M/WBE Participation Documents and submit the completed forms with its Bid.
- 12.03 All questions regarding M/WBE documents or requirements may be directed to the Finance Department at (919) 968-4421.

- 12.04 Orange Water and Sewer Authority reserves the right to reject a proposed Subcontractor for reasonable cause.
- 12.05 A Bidder shall be prepared to retain specific Subcontractors, Suppliers, or other individuals or entities for the performance of the Work, if required by the Bidding Documents to do so. If a prospective Bidder objects to retaining any such Subcontractor, Supplier, or other individual or entity, and the concern is not relieved by an Addendum, then the prospective Bidder should refrain from submitting a Bid.
- 12.05 Article 7 of the General Conditions and/or the Proposal section, require the identity of certain Subcontractors, Suppliers, individuals, or entities to be submitted to Orange Water and Sewer Authority in advance of a specified date prior to the Effective Date of the Agreement, the apparent Successful Bidder, and any other Bidder so requested, shall within five (5) days after Bid opening, submit to Orange Water and Sewer Authority a list of all such Subcontractors, Suppliers, individuals, or entities proposed for those portions of the Work for which such identification is required. Such list shall be accompanied by an experience statement with pertinent information regarding similar projects and other evidence of qualification for each such Subcontractor, Supplier, individual, or entity if requested by Orange Water and Sewer Authority. If Orange Water and Sewer Authority or Engineer, after due investigation, has reasonable objection to any proposed Subcontractor, Supplier, individual, or entity, Orange Water and Sewer Authority may, before the Notice of Award is given, request apparent Successful Bidder to submit an acceptable substitute, without an increase in the Bid price.
- 12.06 If apparent Successful Bidder declines to make any such substitution, Orange Water and Sewer Authority may Award the Contract to the next lowest Bidder that proposes to use acceptable Subcontractors, Suppliers, or other individuals, or entities. Declining to make requested substitutions will not constitute grounds of forfeiture of the Bid security of any Bidder. Any Subcontractor, Supplier, individual, or entity so listed and against which Orange Water and Sewer Authority or Engineer makes no written objection prior to giving of the Notice of Award will be deemed acceptable to Orange Water and Sewer Authority and Engineer subject to revocation of such acceptance after the Effective Date of the Agreement as provided in Article 7 of the General Conditions.
- 12.07 Subsequent to the submittal of the Bid, Orange Water and Sewer Authority may not require the Successful Bidder or Contractor to retain any Subcontractor, Supplier, individual, or entity against which Contractor has reasonable objection.

ARTICLE 13 - PREPARATION OF BID

- 13.01 The Bid Form is included with the Bidding Documents. All Bids must be submitted on the approved Bid Form furnished in the Bidding Documents. **DO NOT REMOVE ANY PAGES FROM THE BOUND DOCUMENTS.**
- A. The Lump Sum and/or Unit Price for specific items shall reflect all costs associated with furnishing, installing all items of Work as indicated on the Drawings and Technical Specifications, complete, in place and accepted, per the Engineer's Contract Documents, and any other agency having jurisdiction over the Project such as: Federal Aviation Administration (FAA), North Carolina Department of Transportation (NCDOT) Standards and Specifications, North Carolina Department of Environment and Natural Resources (NCDENR) Erosion and Sediment Control Planning and Design Manual, NCDENR – Public Water Supply (PWS), and Orange Water and Sewer Authority.

- B. All blank spaces on the Bid Form shall be completed by printing in ink or by typewriter in both words and numerals, and the Bid Form signed in ink. Erasures or alterations shall be clearly initialed also in ink by the person signing the Bid Form. In case of a conflict between the price in words and its equivalent shown in numerals, the price in words shall take precedence. **PROPOSALS SHALL NOT BE CONDITIONAL, LIMITED OR RESTRICTED IN ANY WAY.**
 - C. A Bid Price shall be indicated for each lump sum or unit price bid item listed therein, or the words “No Bid,” “No Change,” or “Not Applicable” shall be entered.
 - D. The omission of prices for any item on the Bid Form, or the tendering of any unbalanced Bid, as determined by Orange Water and Sewer Authority, may be the cause for the rejection of the submitted Bid.
 - E. The estimated quantities contained on the Bid Form are for the purpose of comparing Bids. While the quantities are close approximations, they are not guaranteed. Payment will be made on the basis of the Work as actually executed at the unit prices set forth in the executed Agreement and under the provisions of such Agreement.
 - F. There shall be no additional compensation to the Bidder for materials, equipment, or Work that is incidental to the successful completion of the Contract. Incidental costs include the costs inherent to the complete installation of those individual items included on the Bid Form. For example, those costs associated with temporary electrical services, surveying, staking, deliveries and storage are incidental to the Project, and no additional payment will be made unless specifically indicated in the Bidding Documents.
 - G. Item values on the Bid Form shall be given as numerals (i.e. \$23,000.00) and in writing (i.e. Twenty-three thousand and no/100’s dollars).
- 13.02 A Bid by a corporation 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. The corporate seal shall be affixed and attested by the secretary or an assistant secretary. Insert the corporate officer’s capacity under each signature. The corporate address and state of incorporation shall be shown below the signatures.
- 13.03 A Bid by a limited liability company shall be executed in the name of the firm by a member in the presence of a witness with signature, and accompanied by evidence of authority to sign. The state of formation of the firm and the official address of the firm shall be shown below the signature. Affix the limited liability company seal adjacent to the signatures.
- 13.04 A Bid by an individual or sole proprietorship shall be executed with a signature of the individual/sole proprietor in the presence of a witness with signature. Insert the words “Individual/Sole Proprietor” under the signature and show the Bidder’s name and official address. Affix the individual/sole proprietor seal adjacent to the signature.
- 13.05 A Bid by a partnership shall be executed in the partnership name and signed by all partners (whose title must appear under the signature) in the presence of a witness with signature, accompanied by evidence of authority to sign. The official address of the partnership shall be shown below the signatures. Affix the partnership seal adjacent to the each partner signature.

- 13.06 A Bid by a joint venture shall be executed by each party of the joint venture under their respective seals in a manner appropriate to each such party as described above for each party type. Provide a single signature sheet for each party to the joint venture.
- 13.07 All names shall be typed or printed in ink below the signatures.
- 13.08 The Bid shall contain an acknowledgment of all Addenda, the numbers of which shall be filled in on the Bid Form.
- 13.09 The Postal and email address and telephone number for communication regarding the Bid shall be shown.
- 13.10 The Bid shall contain evidence of the Bidder's authority and qualification to do business in the State of North Carolina or covenant to obtain such qualification prior to the award of the Contract. Bidders shall be licensed under Chapter 87 of the North Carolina General Statutes as a General Contractor. Bidder's State of North Carolina contractor license number shall also be shown on the Bid Form.
- 13.11 Minority and Women Business Enterprise Ordinance (M/WBE) Forms shall be submitted with the Bid, or the Bid may be considered non-responsive. Orange Water and Sewer Authority has adopted a minimum ten (10%) percent goal for participation by minority businesses in the total value of the Work for this Project in accordance with Section 143-128.2 of the General Statutes of North Carolina.

ARTICLE 14 - BASIS OF BID; COMPARISON OF BIDS

14.01 Lump Sum

- A. Bidders shall submit a Bid on a Lump Sum basis as set forth in the Bid Form.

14.02 Unit Price

- A. Bidders shall submit a Bid on a unit price basis for each item of Work listed on the unit price section of the Bid Form.
- B. The "Bid Price" for each unit price Bid item will be the product of the "Estimated Quantity" for the item and the corresponding "Bid Unit Price" offered by the Bidder. The total of all unit price Bid items will be the sum of these "Bid Prices"; such total will be used by Owner for Bid comparison purposes. The final quantities and Contract Price will be determined in accordance with Paragraph 13.03 of the General Conditions.
- C. Discrepancies between the multiplication of units of Work and unit prices will be resolved in favor of the unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum. Discrepancies between words and numerals will be resolved in favor of the words.
- D. The Bid Price shall include such amounts as the Bidder deems proper for overhead and profit on account of cash allowances, if any, named in the Contract Documents as provided in Article 13 of the General Conditions.
- E. Bid prices will be compared after adjusting for differences in the time designated by Bidders for Substantial Completion. The adjusting amount will be determined at the rate set forth in the Contract Documents as Liquidated Damages for failing to achieve Substantial Completion and/or Final Completion for each and every day after the time allowed, as set forth in the Agreement.

ARTICLE 15 - SUBMITTAL OF BID

- 15.01 Bidders shall be solely responsible for delivery of Bids in the required manner and time.
- 15.02 No Bid shall be accepted or considered unless the complete set of required and executed documents is included with the Bidder's submittal.
- 15.03 Each Bid shall include Non-Collusion Affidavits for the Bidder. Affidavits for all Subcontractors of the apparent Successful Bidder, and those Bidders requested by Orange Water and Sewer Authority, must be filed within five (5) days after the Bid opening. Blank Non-Collusion Affidavit Forms can be found in the Proposal section.
- 15.04 A Bid shall be received no later than the date and time prescribed and at the place indicated in the Advertisement for Bids, and shall be enclosed in an opaque sealed envelope plainly marked with the following information:
 - 1. CIP No.: _____
 - 2. Project: _____
 - 3. Name of Bidder: _____
 - 4. Address of Bidder: _____

 - 5. Phone Number of Bidder: _____
 - 6. Contact Person for Bidder: _____
 - 7. Phone Number of Contact: _____
 - 8. Bidder's North Carolina General Contractor's License Number: _____
 - 9. The above-name Bidder has enclosed, and checked as appropriate, the following items in the Bid (check all):
 - 1. _____ Bid Form
 - 2. _____ M/WBE Forms
 - 3. _____ Non-Collusion Affidavit of Bidder
 - 4. _____ Bid Security
 - 5. _____ List of Bidder's Equipment and Personnel
- 15.05 Incorrect information, incomplete information, or irregularities on the Bid envelope may be cause for a Bid to be declared invalid or non-responsive. Invalid or non-responsive Bids will not be opened.
- 15.06 Bids received after the time listed in the Advertisement for Bids or Proposal will be returned to the Bidder unopened.
- 15.07 If a Bid is sent by mail it should be registered mail. The sealed envelope containing the Bid shall be enclosed in a separate mailing/delivery envelope plainly marked on the outside with the notation "BID ENCLOSED." A mailed Bid shall be addressed to:

Brad Barber, PE
Utilities Engineer
Orange Water and Sewer Authority
400 Jones Ferry Road
Carrboro, North Carolina 27510

If a Bid is sent by air/ground special delivery, express delivery, etc. (e.g. FEDEX, UPS, etc.) shall be marked as indicated above and should be addressed to:

Brad Barber, PE
Utilities Engineer
Orange Water and Sewer Authority
400 Jones Ferry Road
Carrboro, North Carolina 27510

Mark envelope with the Project title and Contract number in the lower left-hand corner. Bids sent by mail or express air/ground delivery and arriving after the time for opening of Bids shall not be considered as valid Bids. **SPECIAL NOTE: If the Bidder chooses delivery of the Bid by means other than in person, neither Orange Water and Sewer Authority nor the Engineer assumes responsibility for delivery to the Bid opening.** In such instances, the Bidder shall have no claim against Orange Water and Sewer Authority or Engineer.

- 15.08 Bids that are unsigned, improperly signed or sealed, conditional, illegible, obscure, contain arithmetical errors, erasures, alterations, or irregularities of any kind, may be declared unacceptable at Orange Water and Sewer Authority's sole discretion.
- 15.09 Bid Forms, appendices, and enclosures which are improperly prepared may be declared unacceptable at Orange Water and Sewer Authority's sole discretion.
- 15.10 Failure to provide required insurance information will invalidate the Bid and therefore be considered non-responsive at Orange Water and Sewer Authority's sole discretion.

ARTICLE 16 - MODIFICATION AND WITHDRAWAL OF BID

- 16.01 A Bid may be withdrawn by an appropriate document duly executed in the same manner that a Bid must be executed and delivered to the place where Bids are to be submitted prior to the date and time for the opening of Bids. Upon receipt of such notice, the unopened Bid will be returned to the Bidder.
- 16.02 If a Bidder wishes to modify its Bid prior to Bid opening, Bidder must withdraw its initial Bid in the manner specified in Paragraph 16.01, and submit a new Bid prior to the date and time for the opening of Bids.
- 16.03 No Bidder may withdraw a Bid after Bid opening and prior to the conclusion to the period of time stated in the Bid Form except to the extent, if any, that may be required by law. Negligence on the part of the Bidder in preparing its Bid confers no right for the withdrawal of the Bid, after it has been opened.

ARTICLE 17 - OPENING OF BIDS

17.01 NOT USED

17.02 NOT USED

17.03 This is an informal bid process. **Bids will not be opened publicly.**

ARTICLE 18 - BIDS TO REMAIN SUBJECT TO ACCEPTANCE

18.01 All Bids will remain subject to acceptance for the period of time stated in the Bid Form, but Orange Water and Sewer Authority may, in its sole discretion, release any Bid prior to the end of this period.

ARTICLE 19 - EVALUATION OF BIDS AND AWARD OF CONTRACT

19.01 Orange Water and Sewer Authority reserves the right to reject any or all Bids, including without limitation, nonconforming, non-responsive, unbalanced, or conditional Bids. Orange Water and Sewer Authority further reserves the right to reject the Bid of any Bidder whom it finds, after reasonable inquiry and evaluation, to not be responsible. Orange Water and Sewer Authority may also reject the Bid of any Bidder if Orange Water and Sewer Authority believes that it would not be in the best interest of the Project to make an Award to that Bidder. Orange Water and Sewer Authority also reserves the right to waive any or all informalities not involving price, time, or changes in the Work, and to negotiate terms with the Successful Bidder.

19.02 More than one Bid for the same Work from an individual or entity under the same or different names will not be considered. Reasonable grounds for believing any Bidder has an interest in more than one Bid for the Work may be cause for disqualification of that Bidder and the rejection of all Bids in which that Bidder has an interest.

19.03 In evaluating Bids, Orange Water and Sewer Authority will consider whether or not the Bids comply with the prescribed requirements, and such alternates, unit prices, and other data, as may be requested in the Bid form or prior to the Notice of Award.

19.04 In evaluating whether a Bidders is responsible, Orange Water and Sewer Authority will consider the qualifications of Bidders and may consider the qualifications and experience of Subcontractors, Suppliers, and other individuals or entities proposed for those portions of the Work for which the identity of Subcontractors, Supplies, and other individuals or entities must be provided as provided in the Bidding Documents.

19.05 Orange Water and Sewer Authority may conduct such investigations as it deems necessary to establish the responsibility, qualifications, and financial ability of Bidders, proposed Subcontractors, Suppliers, individuals, or entities to perform the Work in accordance with the Contract Documents.

19.06 If the Contract is to be Awarded, Orange Water and Sewer Authority will award the Contract to the Bidder whose Bid is determined by Orange Water and Sewer Authority to be in the best interest of the Project.

19.07 Notice of Award or notice of intent to Award will not constitute a Contract binding on Orange Water and Sewer Authority and will not obligate Orange Water and Sewer Authority to enter into a Contract with the Bidder. Orange Water and Sewer Authority will not be legally bound before Orange Water and Sewer Authority executes and delivers to the Bidder a written Contract.

ARTICLE 20 – BONDS AND INSURANCE

20.01 Article 6 of the General Conditions sets forth Orange Water and Sewer Authority requirements as to insurance. When the Successful Bidder delivers the executed Agreement to Orange Water and Sewer Authority, it shall be accompanied by such required insurance documentation.

ARTICLE 21 - SIGNING OF AGREEMENT

21.01 After Orange Water and Sewer Authority has identified the Successful Bidder, Orange Water and Sewer Authority will issue to the Successful Bidder a written Notice to Award.

21.02 Orange Water and Sewer Authority will give the apparent successful Bidder a Notice of Award within ninety (90) calendar days after the day of the Bid opening. When Orange Water and Sewer Authority gives a Notice of Award to the Successful Bidder, it shall be accompanied by the required number of unsigned counterparts to the Agreement with the other Contract Documents which are identified in the Agreement as attached thereto. Within fifteen (15) calendar days thereafter, Successful Bidder shall execute and deliver the required number of counterparts of the Agreement and attached documents to Orange Water and Sewer Authority. Within ten (10) days after execution of the Agreement by the Orange Water and Sewer Authority Board of Directors, Orange Water and Sewer Authority will deliver one fully executed counterpart to Successful Bidder.

21.03 Failure or refusal of the Bidder whose Bid is accepted to execute the Contract as hereinbefore provided shall constitute a breach by such Bidder of the Contract created by the acceptance of the Bid, and in such event, Orange Water and Sewer Authority at its option, may determine that such Bidder has abandoned the Contract. Thereupon such Bidder's Bid and the acceptance thereof shall be null and void.

ARTICLE 22 - SALES AND USE TAXES

22.01 The North Carolina General Assembly adopted legislation which required that Contractors pay North Carolina Sale and Use Tax on materials, supplies, fixtures, and equipment used by the Bidder in the performance of contracts with cities, counties, and towns on Contracts dated July 1, 1961 or later. This requirement also applies to Orange Water and Sewer Authority in order that Orange Water and Sewer Authority may recover the amount of tax permitted under the law.

22.02 The following procedure in handling the North Carolina Sales Tax is applicable to this Contract. Contractor(s) shall comply fully with the requirements outlined hereinafter, in order that the Orange Water and Sewer Authority may recover the amount of tax permitted under the law.

- A. It shall be the Contractor's responsibility to furnish Orange Water and Sewer Authority documentary evidence showing the materials used and sales tax paid by the Contractor and each of its Subcontractors with each payment request in a format approved by Orange Water and Sewer Authority.
- B. The documentary evidence shall consist of a certified statement, by the Contractor and each of his Subcontractors individually, showing total purchases of materials from each separate vendor and total sales taxes paid each vendor. Certified statements must show the invoice number or numbers, covered and inclusive dates of such invoices.
- C. Materials used from the Contractor's or Subcontractor's warehouse stock shall be shown in a certified statement at warehouse stock prices.
- D. The Contractor shall not be required to certify the Subcontractor's statements.
- E. The documentary evidence to be furnished to Orange Water and Sewer Authority eligible for sales or use tax refunds covers sales and/or use taxes paid on building materials used by Contractor(s) and Subcontractors in the performance of Contracts with churches, orphanages, hospitals not operated for profit and other charitable or religious institutions or organizations not operated for profit and, incorporated cities, towns, and counties in this State. The documentary evidence is to be submitted to the above-named institutions, organizations and governmental units to be included in claims for refunds to be prepared and submitted by them to obtain refunds provided by G.S. 105-164.14(2) and (3) of the 1961 Statute, and is to include the purchases of building materials, supplies, fixtures, and equipment which become a part of or annex to buildings or structures being erected, altered or repaired under Contracts with such institutions, organizations or governmental units.

22.03 The Bidder shall include North Carolina Sales and Use Tax in its Bid.

-END OF DOCUMENT-

PRICE PROPOSAL

(LUMP SUM CONTRACT – BID FORM)

ARTICLE 1 – BID RECIPIENT

1.01 This Bid is submitted to:

EXECUTIVE DIRECTOR
ORANGE WATER AND SEWER AUTHORITY
400 JONES FERRY ROAD
CARRBORO, NORTH CAROLINA 27510
(919) 968-4421

Date: _____, 20__

OWASA CIP: **280-17**

Project: **OWASA Administrative Bldg. Coping and EIFS Improvements**

Name of Bidder: _____

Address of Bidder: _____

Phone Number of Bidder: _____

Contact Person for Bidder: _____

Phone Number of Contact: _____

Bidder's NC General Contractor's License Number (required): _____

1.02 The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an Agreement with Orange Water and Sewer Authority in the form included in the Bidding Documents to perform all Work as specified or indicated in the Bidding Documents for the prices and within the times indicated in this Bid and in accordance with the other terms and conditions of the Bidding Documents.

1.03 The undersigned Bidder hereby declares that the names of all persons interested in this Bid as principals appear in the blank spaces hereinafter provided for such purpose, that this Bid is in all respects fair and without collusion, that the Bidder has examined the locations of the proposed Work, the Advertisement to Bidders, the Instructions to Bidders, Technical Specifications, M/WBE requirements of Orange Water and Sewer Authority, the Contract Documents and Bond forms, and the Drawings therein referred to and fully understands the same and agrees and accepts the terms and conditions thereof, that it is understood that the estimated quantities are approximate only and are given for the purpose of comparing Bids upon a uniform basis, and that said estimate shall in no way affect the unit prices for the Work.



- 1.04 The undersigned Bidder hereby agrees to furnish at the Bidder's cost the expense of all the necessary labor, tools, apparatus, machinery, equipment, transportation, and all other things which may be required to fully and properly perform all the terms, covenants, provisions, and agreements of this Contract.
- 1.05 The undersigned Bidder hereby agrees to do said Work and furnish said materials as prescribed in the Contract Documents and Technical Specifications, and, according to the Drawings and requirements of the Engineer under said Contract Documents and Technical Specifications, in a first-class manner and to the best of the undersigned's ability at the following lump sum or unit prices.
- 1.06 The undersigned Bidder has examined the Site of the Work and all matters referred to in the Instructions to Bidders and the Contract Documents prepared by the Engineer for the Project, we, the undersigned Bidder, hereby offers to enter into a Contract to perform the Work for the lump sum or unit prices listed in this Bid Form in lawful money of the United States of America.
- 1.07 The undersigned Bidder acknowledges that it is the intent of these Contract Documents to obtain a Contract based on a **Lump Sum Bid Price**, unless Unit Prices are applied to the various portions of the Work and are specifically requested. In the event of errors in the arithmetical extension of unit prices to total prices, the unit price bid shall govern, and the Award of the Contract shall be based on the recomputed total prices. Where discrepancy exists between words and numerals, the written words shall govern. If a Bidder submits a Bid showing a unit price for a particular item and omits an extended total for that item, or a Bidder submits a Bid showing an extended total for a particular item and omits a unit price for that item, the omitted numbers shall be computed using the equation "Estimated Quantity x Unit Bid Price = Extended Total", so that the omission shall not render the Bid non-responsive or incomplete. If the Bidder leaves blank any lines or spaces indicated for the dollar amount of any item in the Bid, that omission will be understood and treated as if the Bidder had written in zero dollars (\$0.00) for that particular item in the Bid. Before applying the preceding two (2) sentences this paragraph, the following rule shall apply in the special case that it describes: In places where it is indicated that a Bid should show both words and numerals for a particular dollar amount, if the Bid shows the dollar amount in numerals but omits to show any dollar amount in words (or vice versa), the Bid shall be treated as if it had shown the indicated dollar amount in both numerals and words.
- 1.08 The undersigned Bidder shall be required to submit a complete detailed cost breakdown of the Lump Sum Bid for payment purposes, for approval by the Engineer, prior to the Award of the Contract.
- 1.09 The undersigned Bidder acknowledges that all costs for mobilization, demobilization, bonds, insurance, etc. shall be included in the Lump Sum Bid Price indicated. There shall be no additional compensation for mobilization, demobilization, bonds, insurance, etc and no adjustments to the Lump Sum Bid based on changes in the scope of Work, including but not limited to, any additions to the Work on the Contract.
- 1.10 The undersigned Bidder acknowledges that the Project will be Awarded to the lowest responsible, responsive Bidder for the Project, as selected by Orange Water and Sewer Authority whose evaluation indicates that the Award will be in the best interest of the Project.



- 1.11 The undersigned Bidder acknowledges that all blanks on the Bid Form shall be completed by printing in ink or by typewriter and the Bid signed in ink. Erasures or alterations shall be initialed in ink by the person signing the Bid Form. A Bid Price shall be indicated for the Lump Sum or each Unit Price item listed therein, or the words, "No Bid", "No Change", or "Not Applicable" entered."
- 1.12 The undersigned Bidder acknowledges that the omission of prices for any item on the Bid Form, or the tendering of any unbalanced Bid may be the cause for the rejection of the submitted Bid.
- 1.13 The undersigned Bidder acknowledges that the payment will be made on the basis of the Work as actually executed at the Lump Sum or unit prices set forth in the executed Contract and under the provisions of such Contract.
- 1.14 The undersigned Bidder acknowledges that there shall be no additional compensation to the Bidder for materials, equipment, or Work that is incidental to the successful completion of the Contract. Incidental costs include the costs inherent to the complete installation of those individual items included on the Bid Form.
- 1.15 The undersigned Bidder acknowledges that the Non-Collusive Affidavit for the Contractor shall be submitted with the Bid, and Non-Collusive Affidavit(s) for all Subcontractors (all tiers) for the apparent low Bidder shall be submitted within five (5) calendar days of the Bid Opening.
- 1.16 NOT USED
- 1.17 The undersigned Bidder agrees to comply with all requirements of local, State, or Federal permits that may be required for the completion of the Work.
- 1.18 The undersigned Bidder shall have all proper Contractors licenses and privilege licenses required under State and local laws governing their respective trade(s).
- 1.19 The undersigned agrees that the rights of Orange Water and Sewer Authority and the recommendations of the Engineer are not to be questioned in the Award of a Contract.
- 1.20 The undersigned Bidder certifies compliance with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes ("E-Verify"), and represents that it will require any subcontractors to comply with the requirements of Article 2 of Chapter 64 of the General Statutes.
- 1.21 The undersigned Bidder certifies compliance with the requirements of Article 6 of Chapter 143 of the North Carolina General Statutes ("Iran Divestment") and that it is not listed on the State Treasurer's Final Divestment List found at the website address www.nctreasurer.com/Iran and updated every 180 days, and represents that it will require any subcontractors to comply with the requirements of Article 6 of Chapter 143 of the General Statutes.

ARTICLE 2 – BIDDER'S ACKNOWLEDGEMENTS

- 2.01 Bidder accepts all of the terms and conditions of the Instructions to Bidders, including without limitation those dealing with the disposition of Bid security. This Bid shall remain
–Proposal – Lump Sum Single-Prime Contract Bid Form



open and remain subject to acceptance, and is irrevocable, except as required by law, for ninety (90) calendar days from the Bid opening date, or for such longer period of time that Bidder may agree to in writing upon request of Orange Water and Sewer Authority.

2.02 If this Bid is accepted by Orange Water and Sewer Authority within the time period stated above, the Bidder will:

- Execute the Agreement within fifteen (15) days of receipt of Notice of Award.
- Furnish the required Bonds within fifteen (15) days of receipt of Notice of Award.
- Commence Work within ten (10) days after written Notice to Proceed.

2.03 NOT USED

2.04 In the event Bid is not accepted by Orange Water and Sewer Authority within the time stated above, the required Bid security will be returned to the undersigned, in accordance with the provisions of the Instructions to Bidders; unless a mutually satisfactory arrangement is made for its retention and validity for an extended period of time.

ARTICLE 3 - BIDDER'S REPRESENTATIONS

3.01 In submitting this Bid, Bidder represents that:

A. Bidder has examined and carefully studied the Bidding Documents, and any data and reference items identified in the Bidding Documents, and hereby acknowledges receipt of the following Addenda:

<u>Addendum No.:</u>	<u>Addendum Date:</u>
_____	_____
_____	_____
_____	_____
_____	_____

- B. Bidder has visited the Site, conducted a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and satisfied itself as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
- C. Bidder is familiar with and has satisfied itself as to all Laws and Regulations that may affect cost, progress, and performance of the Work.
- D. Bidder has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or adjacent to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings, and (2) reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings.

–Proposal – Lump Sum Single-Prime Contract Bid Form



- E. Bidder has considered the information known to Bidder itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Bidding Documents; and any Site-related reports and drawings identified in the Bidding Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder; and (3) Bidder's safety precautions and programs.
- F. Bidder agrees, based on the information and observations referred to in the preceding paragraph, that no further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of this Bid for performance of the Work at the price bid and within the times required, and in accordance with the other terms and conditions of the Bidding Documents.
- G. Bidder is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Bidding Documents.
- H. Bidder has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bidding Documents, and confirms that the written resolution thereof by Engineer is acceptable to Bidder.
- I. The Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance and furnishing of the Work.
- J. The submission of this Bid constitutes an incontrovertible representation by Bidder that Bidder has complied with every requirement of this Article, and that without exception the Bid and all prices in the Bid are premised upon performing and furnishing the Work required by the Bidding Documents.

ARTICLE 4 - BIDDER'S CERTIFICATION

4.01 Bidder certifies that:

- A. This Bid is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any collusive agreement or rules of any group, association, organization, or corporation;
- B. Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid;
- C. Bidder has not solicited or induced any individual or entity to refrain from bidding; and
- D. Bidder has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the Contract. For the purposes of this Paragraph 4.01.D:

"corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process;

"fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process to the detriment of Orange Water and Sewer Authority, (b) to establish bid prices at artificial non-competitive levels, or (c) to deprive Orange Water and Sewer Authority of the benefits of free and open competition;

"collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Orange Water and Sewer Authority, a purpose of which is to establish bid prices at artificial, non-competitive levels; and

–Proposal – Lump Sum Single-Prime Contract Bid Form



“coercive practice” means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

ARTICLE 5 – BASIS OF BID (LUMP SUM SINGLE PRIME BID PRICE)

5.01 CIP: **#280-17**

Project: **OWASA Administrative Bldg. Coping and EIFS Improvements**

Project Description:

LUMP SUM BID SHALL INCLUDE:

New coping cap and EIFS Improvements and all associated appurtenances as described in the Specifications and as shown on the Drawings.

CONTINGENCY ALLOWANCE: The Contractor shall include in its Bid a contingency allowance in the amount of **\$25,000** . **The contingency allowance shall only be used at the specific direction and written approval of the Engineer.**

The foregoing description shall not be construed as a complete description of all Work required.

The Lump Sum Single Prime Bid Price shall reflect all costs associated with furnishing and installing, and placing into service all items of Work as indicated on the Drawings and in the Technical Specifications, complete, in place, operable and accepted by Orange Water and Sewer Authority, per the Engineer’s Contract Documents.

5.02 Orange Water and Sewer Authority has established a “Contingency Allowance” for this project. The contingency allowance is intended to provide adequate budget to cover items not precisely determined by Orange Water and Sewer Authority, and unforeseeable conditions prior to the Bid. Orange Water and Sewer Authority has provided for a contingency allowance of \$ 25,000 as indicated in the Proposal. Funds allocated as part of the allowance will be used **at the sole discretion of Orange Water and Sewer Authority.** This allowance is included on the Bid Form in the Proposal, and will be included in the total amount of each Bid. Orange Water and Sewer Authority shall approve use of the contingency allowance funds prior to any Work associated with a contingency allowance being performed. The Contractor shall invoice items authorized for payment under the Contingency Allowance with its monthly pay applications. The amount invoiced will be deducted from the indicated amount.

5.03 Bidder shall complete the Work in accordance with the Contract Documents for the following TOTAL LUMP SUM BID PRICE:



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–Proposal – Lump Sum Single-Prime Contract Bid Form
Orange Water & Sewer Authority OWASA ADMINISTRATIVE BDLG.
COPING AND EIFS IMPROVEMENTS

BID FORM

NOTE TO BIDDERS: DO NOT REMOVE THIS BID FORM FROM THE CONTRACT DOCUMENTS

LUMP SUM SINGLE PRIME CONTRACT

OWASA Administrative Building Coping and EIFS Improvements

ITEM NO.	DESCRIPTION	UNIT	BID PRICE
1	BASE BID	LS	
2	CONTINGENCY ALLOWANCE	\$25,000	
TOTAL			

TOTAL LUMP SUM SINGLE PRIME BASE BID PRICE for the Project described in Sub-Article 5.01, complete as indicated by the Contract Documents (in words and numerals):

_____ Dollars

and _____ Cents (\$ _____)

Bidder _____
(Print Name)

Bidder _____
(Signature)



CERTIFICATION AFFIDAVIT

THE ABOVE INFORMATION IS TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I FURTHER UNDERSTAND AND AGREE THAT, IF AWARDED A CONTRACT, THIS CERTIFICATION SHALL BE ATTACHED THERETO AND BECOME A PART THEREOF.

NAME OF SIGNER: _____
(Please Print or Type)

TITLE OF SIGNER: _____
(Please Print or Type)

DATE: _____ SIGNATURE: _____

-END OF CERTIFICATION-

REMAINDER OF PAGE LEFT BLANK INTENTIONALLY



ARTICLE 6 – TIME OF COMPLETION

6.01 Bidder agrees that the Work will be Substantially Complete within **60 CONSECUTIVE CALENDAR DAYS**, after the date when the Contract Time commences to run as provided in Paragraph 4.01 of the General Conditions and will be completed and ready for final payment in accordance with Paragraph 15.03 of the General Conditions within **90 CONSECUTIVE CALENDAR DAYS**, of the date when the Contract Time commences to run.

6.02 Bidder accepts the provisions of the Agreement as to Liquidated Damages.

ARTICLE 7 - ATTACHMENTS TO THIS BID

7.01 The following documents are submitted with and made a condition of this Bid:

- A. NOT USED
- B. List of Proposed Subcontractors;
- C. List of Proposed Suppliers;
- D. List of Project References;
- E. Evidence of authority to do business in the State of North Carolina; or a written covenant to obtain such license within the time for acceptance of Bids;
- F. Required Bidder Qualification Statement with supporting data;

ARTICLE 8 – BID CERTIFICATION

8.01 THE ABOVE INFORMATION IS TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I FURTHER UNDERSTAND AND AGREE THAT, IF AWARDED A CONTRACT, THIS CERTIFICATION SHALL BE ATTACHED THERETO AND BECOME A PART THEREOF.

SIGNATURE: _____

DATE: _____

8.02 We agree to diligently perform the Work in accordance with all Contract Documents, to complete such Work within the period as outlined in the Contract, and to begin Work within ten (10) consecutive calendar days after receipt of the Notice to Proceed from Orange Water and Sewer Authority.



ARTICLE 9 - CONTRACTOR EXPERIENCE

9.01 The undersigned Contractor has regularly engaged in and successfully completed contract Work of this Class for a minimum of four years. A completed contracts summary shall be submitted that clearly demonstrates a minimum of four years' experience. Failure to provide this information shall be just cause for rejection of the Bid: _____

9.02 List of Contractor's personnel experienced to do this Work including and designating the Superintendent to be in charge of this Work showing the length of their varied experience with this particular Work. The list shall not include Subcontractor personnel.

<u>Name</u>	<u>Experience</u>	<u>Name</u>	<u>Experience</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____



9.03 List of Contractor's equipment in good condition and suitable for completion of this Contract. Contractor must be able to demonstrate ownership of all equipment necessary to complete all portions of the Contract. The list shall not include Subcontractor equipment.

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Attach additional sheets as necessary to complete the items above.

ARTICLE 10 - BID FORM SIGNATURES

10.01 Refer to Document 00 21 15 for specific Bid Form signature requirements for corporations, partnerships, limited liability companies, individuals, or sole proprietorships.

ARTICLE 11 - QUALIFICATIONS OF BIDDERS

11.01 In order to assist the Owner in determining whether the Bidder is qualified to perform the Work, as set forth in the Contract Documents, the Bidder shall furnish the following information. Bidder shall submit detailed information required for below Items 1 through 6 with his Bid package and at the discretion of the Bidder the information required under Item 7 can be furnished after Bids are received if required by the Owner and Engineer to evaluate the financial qualifications of a prospective Bidder. **Attach additional sheets as necessary.**

- a. List and describe a minimum of three (3) previous projects of similar size and nature completed in the last ten (10) years. Be sure the description includes the type of pumps installed (vertical turbine, centrifugal, submersible, etc.) and the pump capacity (in gallons per minute). For each project, also list:
 - a. Owner, contact and telephone number;
 - b. original bid price and final construction cost;
 - c. specified completion time and actual completion time;
 - d. explanations for differences in costs and times as required.
- b. List and describe current projects, current status of job and estimated schedule of completion.
- c. List references who are qualified to judge as to Bidder's financial responsibility and experience in work of similar nature to that bid upon.
- d. Past Safety Performance Data; EMR and 3-years of DART (provide in Section 11.02)
- e. Debarment status (provide in Section 11.02)
- f. Information on claims, judgements, and final resolutions (provide in Section 11.02)
- g. Financial Statement:

ASSETS

–Proposal – Lump Sum Single-Prime Contract Bid Form



CURRENT ASSETS:

Cash \$ _____
Notes and Accounts Receivable \$ _____
Inventories \$ _____

PLANT ASSETS:

Real Estate \$ _____
Machinery \$ _____
Good Will, Patents, etc. \$ _____

LIABILITIES:

Notes Payable \$ _____
Accounts Payable \$ _____
Accrued Wages \$ _____
Other Liabilities \$ _____

EXCESS OF ASSETS OR NET WORTH \$ _____

Note:

- 1. The above is a suggested form for the Financial Statement, and the Bidder is not required to follow the form explicitly. The Financial Statement submitted must clearly show to the satisfaction of the Owner the Bidders current financial condition. The Owner reserves the privilege of requiring additional information as to financial responsibility of the Bidder prior to awarding Contract.

11.02 Provide responses for the following items:

a. **Past Safety Performance:** Provide Experience Modification Rate (EMR) and Days Away, Restricted, or Transferred (DART) Rate numbers below:

i. Current EMR = _____ / Year: _____

- i. Generally, an EMR greater than 1.5 will not be considered qualified. Bidders with an EMR greater than 1.5 shall provide additional supporting information if they believe that extenuating circumstances unrelated to job site safety have resulted in their high EMR. EMR must be a fully realized year, not a partial year rate.

ii. Previous 3 Years DART Rates = _____ (2022), _____ (2021), _____ (2020)

- i. Generally, a three-year average DART rate greater than 1.50 times the national rate for the North American Industry Classification System (NAICS) Code 237 (heavy and civil construction) will not be considered qualified. Bidders with a three-year DART rate greater than 1.50 times the NAICS Code 237 rate shall provide additional supporting information if they believe that extenuating circumstances unrelated to job site safety have resulted in their high DART rate. DART rates must be fully realized years, not partial year rates.

b. **Debarment Status:** Has the Bidder, or any affiliate, ever been the subject of any of the following actions:

- i. Debarment.....Yes ___ No ___
- ii. Deletion from a Prequalified Bidders ListYes ___ No ___
- iii. Other action which resembles debarmentYes ___ No ___



- c. **Claims/Final Resolution/Judgments** - Have any of the following actions occurred on, or in conjunction with, any project performed by the Bidder, any affiliate, or their officers, partners or directors in the last five years?
- i. Legal Action Implemented by Contractor against Owner.....Yes ___ No ___
 - ii. Legal Action Implemented by Contractor against Subcontractor...Yes ___ No ___
 - iii. Legal Action Implemented by Owner.....Yes ___ No ___
 - iv. Legal Action Implemented by Subcontractor.....Yes ___ No ___
 - v. Settlement or Close Out Agreement in effect with Owner.....Yes ___ No ___
 - vi. JudgmentsYes ___ No ___
 - vii. Arbitrations.....Yes ___ No ___

ARTICLE 12 – SEQUENCE OF WORK – NOT USED

ARTICLE 13 - INTERIM COMPLETION DATES – NOT USED

CORPORATION

The Corporate Seal of

 (Bidder - print the full legal corporate name of firm)

 (President/Vice President/Authorized Corporate Officer)

(Seal)

was hereunto affixed in the presence of:

 (Secretary/Assistant Secretary)

(Seal)

Corporate Address:

 (State of Incorporation)



LIMITED LIABILITY COMPANY

(Bidder - print the full legal name of firm)

(Authorized Firm Member)

(Seal)

was hereunto affixed in the presence of:

(Witness)

(Seal)

Firm Address:

(State of Formation)



INDIVIDUAL OR SOLE PROPRIETORSHIP

(Bidder - print the full name of individual or sole proprietorship)

(Seal)

Individual or Sole Proprietorship Address:



PARTNERSHIP

(Bidder - print the full legal corporate name of partnership)

(Partner and Title)

(Seal)

(Partner and Title)

(Seal)

(Partner and Title)

(Seal)

(Partner and Title)

(Seal)

(Partner and Title)

(Seal)

(Partner and Title)

(Seal)

(Partner and Title)

(Seal)

(Partner and Title)

(Seal)

(Partner and Title)

(Seal)

(Partner and Title)

(Seal)

(All Partners shall sign, additional signatures with titles and seals may be added below.)

was hereunto affixed in the presence of:

(Witness)

(Seal)

Partnership Address:



JOINT VENTURE

If the Bid is a joint venture, add additional forms of execution for each member of the joint venture in the appropriate manner using the forms from above.



PROPOSAL SIGNATURE

Bidder operates under the legal name of _____

BIDDERS COMPLETE THE APPROPRIATE SECTION*

CORPORATION* The Bidder is a corporation, has a corporate seal and the full names of its officers are:

President _____

Secretary _____

Vice President _____

Treasurer _____

The _____ (officer's title) is authorized to sign construction proposals and contracts for the company by action of its Board of Directors taken on _____, 20____ a certified copy of which is attached. (Strike out previous sentence if not applicable. This section must be completed if President or Vice President is not the signatory party.)

PARTNERSHIP* The Bidder is a partnership consisting of individual partners whose full names are:

INDIVIDUAL* The Bidder is an individual whose full name is:

Print Name of Legal Entity

By: _____

Print name and title of signatory

CORPORATIONS ONLY – Secretary or Assistant Secretary attest and affix corporate Seal:

Circle one: Secretary or Assistant Secretary

State of Incorporation

Address and telephone number

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

Notary Public _____ (Seal)

My Commission Expires: _____



CONTRACTOR'S AFFIDAVIT OF ORGANIZATION AND AUTHORITY

STATE OF _____

COUNTY OF _____

_____ being the first duly sworn on oath deposes and says that the Bidder on the attached Bid proposal is organized as indicated below and that all statements herein made are made on behalf of such Bidder and that this deponent is authorized to make them.

(Fill Out Applicable Paragraph)

1. CORPORATION:

The Bidder is a corporation organized and existing under the laws of the State of _____ and its President is _____;

its Secretary is _____,

and it does have a corporate seal. The _____ (officer's title) is authorized to sign construction Contracts and Bids for the company by action of its Board of Directors taken on _____, 20____, a certified copy of which is hereto attached. (Strike out last sentence if not applicable.)

2. PARTNERSHIP:

The Bidder is a partnership consisting of _____ and _____, partners doing business under the name of _____.

3. INDIVIDUAL / SOLE TRADER:

The Bidder is an individual and if operating under a trade name, such trade name is as follows:

4. ADDRESS:

The business address of the Bidder is as follows: _____

Its phone number is _____.

Bidder

By: _____

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

My commission expires: _____

Notary Public

(SEAL)



NON-COLLUSION AFFIDAVIT FOR CONTRACTOR'S

STATE OF _____

COUNTY OF _____

_____ being first duly sworn,
deposes and says that:

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

BY: _____

ITS: _____
Title

CORPORATIONS ONLY

Secretary or Assistant, attest & affix corporate seal

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

_____ My commission expires: _____

Notary Public (SEAL)



NON-COLLUSION AFFIDAVIT FOR SUBCONTRACTOR(S)
(DUE WITHIN 5 DAYS OF THE BID OPENING)

STATE OF _____

COUNTY OF _____

_____ being first duly sworn,
deposes and says that:

- (1) He/She is _____ of _____, hereinafter referred to as the "Subcontractor";
- (2) He/She is fully informed respecting the preparation and contents of the Subcontractor's Proposal submitted by the Subcontractor to _____, the Contractor for certain work in connection with the _____ Contract pertaining to the Project in _____ (City or County, and State);
- (3) Such Subcontractor's Proposal is genuine and is not a collusive or sham proposal;
- (4) Neither the Subcontractor nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly with any other Bidder, firm or person to submit a collusive or sham Proposal in connection with such Contract or to refrain from submitting a Proposal in connection with such Contract, or has in any manner, directly or indirectly, sought by unlawful agreement or connivance with any other Bidder, firm or person to fix the price or prices in said Contractor's Proposal, or to fix any overhead, profit or cost element of the price or prices in said Contractor's Proposal, or to secure through collusion, conspiracy connivance or unlawful agreement any advantage against the _____ (Local Public Agency) or any person interested in the proposed Contract; and
- (5) The price or prices quoted in the Subcontractor's Proposal are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Bidder or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

(Signed) _____

Title

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

_____ My commission expires: _____

Notary Public

(Seal)



EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

During the performance of this Contract the Contractor agrees as follows:

- a. The Contractor will not discriminate against any employee or applicant because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to race, color, religion, sex, or national origin. Such action shall include but not be limited to the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of the nondiscrimination clause.
- b. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- c. The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other Contract understanding, a notice; to be provided, advising the labor union or worker's representative of the Contractor's commitments under the Equal Employment Opportunity Section of this Contract, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- d. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Contract or with any of such rules, regulations, or orders, this Contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Owner Contracts,
- e. The Contractor will include the provisions of this section in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Owner so that such provisions will be binding upon each Subcontractor or vendor.

(Complete this section for signatures by a CORPORATION):

(CORPORATE SEAL)

 Corporate Name

ATTEST:

Secretary* or Assistant Secretary*

BY:

President* or Vice President*

*choose one

(Complete this section for signatures by PARTNERSHIP and INDIVIDUAL):

WITNESS:

BY:

(Seal)

(ACKNOWLEDGEMENT OF THE ABOVE SIGNATURE MUST BE NOTARIZED USING THE FORM ON THE FOLLOWING PAGE)



**ACKNOWLEDGEMENT FOR
EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION**

Corporate Acknowledgement

(Use this portion of the form for acknowledgement of signature by a Corporation):

STATE OF _____

COUNTY OF _____

I, the undersigned notary public, do hereby certify that _____ personally appeared before me this day and acknowledged that he/she is *Secretary* or Assistant Secretary** of _____, a corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its *President* or Vice President**, sealed with its corporate seal, and attested by himself as its *Secretary* or Assistant Secretary**.

**choose one*

WITNESS my hand and notarial seal this _____ day of _____, 20____

My commission expires _____.
(SEAL)

Notary Public

Individual or Partnership Acknowledgement

(Use this portion of the form for acknowledgement of signature by a partnership or an individual.)

NORTH CAROLINA

(Enter correct State and County if different than shown.)

_____ COUNTY

I, the undersigned Notary Public, do hereby certify that, _____ personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and notarial seal this _____ day of _____, 20____

My commission expires: _____.

Notary Public (SEAL)



MINORITY BUSINESS PARTICIPATION

Provide with the Bid:

Under GS 143-128.2(c) the undersigned Bidder shall identify on its Bid Proposal the minority businesses that it will use on the Project and the total dollar value of the bid that will be performed by the minority businesses and list the good faith efforts (**Affidavit A**) made to solicit participation. A Contractor that performs all of the Work with its own workforce may submit an **Affidavit B** to that effect in lieu of **Affidavit A** required above.

After the Bid opening:

Orange Water and Sewer Authority will consider all bids and alternates, and determine the lowest responsible, responsive Bidder. Upon notification of being the apparent low Bidder, the Bidder shall then file within 72 hours of the notification of being the apparent lowest Bidder, the following:

An **Affidavit C** that includes a description of the portion of Work to be executed by minority businesses, expressed as a percentage of the total Contract Price, which is equal to or more than the 10% goal established. This affidavit shall give rise to the presumption that the Bidder has made the required good faith effort; or **Affidavit D** of its good faith effort to meet the goal. The document must include evidence of all good faith efforts that were implemented, including any advertisements, solicitations and other specific actions demonstrating recruitment and selection of minority businesses for participation in the contract.

These forms are included herein:

- (1) Identification of Minority Business Participation
- (2) Affidavit A – Listing of the Good Faith Effort
- (3) Affidavit B – Intent to Perform Contract with Own Workforce
- (4) Affidavit C – Portion of Work to be Performed by Minority Firms
- (5) Affidavit D – Good Faith Efforts



State of North Carolina AFFIDAVIT A – Listing of the Good Faith Efforts

County of _____

Affidavit of _____ (Name of Bidder)

I have made a good faith effort to comply under the following areas checked:

Bidders must earn at least 50 points from the good faith efforts listed for their bid to be considered responsive (NC Administrative Code 01 NCAC 30I .0102)

- 1 – (10 pts)** Contacting minority businesses that reasonably could have been expected to submit a quote and that were known to the contractor or available on State or local government maintained lists at least 10 days before the bid or proposal date and notifying them of the nature and scope of the work to be performed.
- 2 – (10 pts)** Making the construction plans, specifications and requirements available for review by prospective minority businesses, or providing these documents to them at least 10 days before the bid or proposals are due.
- 3 – (15 pts)** Breaking down or combining elements of work into economically feasible units to facilitate minority participation.
- 4 – (10 pts)** Working with minority trade, community, or contractor organizations identified by the Office for Historically Underutilized Businesses and included in the bid documents that provide assistance in recruitment of minority businesses.
- 5 – (10 pts)** Attending any prebid meetings scheduled by the public owner.
- 6 – (20 pts)** Providing assistance in getting required bonding or insurance or providing alternatives to bonding or insurance for subcontractors.
- 7 – (15 pts)** Negotiating in good faith with interested minority businesses and not rejecting them as unqualified without sound reasons based on their capabilities. Any rejection of a minority business based on lack of qualification should have the reasons documented in writing.
- 8 – (25 pts)** Providing assistance to an otherwise qualified minority business in need of equipment, loan capital, lines of credit, or joint pay agreements to secure loans, supplies, or letters of credit, including waiving credit that is ordinarily required. Assisting minority businesses in obtaining the same unit pricing with the bidder's suppliers in order to help minority businesses in establishing credit.
- 9 – (20 pts)** Negotiating joint venture and partnership arrangements with minority businesses in order to increase opportunities for minority business participation on a public construction or repair project when possible.
- 10 – (20 pts)** Providing quick pay agreements and policies to enable minority contractors and suppliers to meet cash-flow demands.

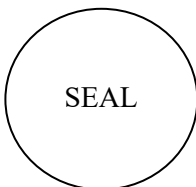
The undersigned, if apparent low bidder, will enter into a formal agreement with the firms listed in the Identification of Minority Business Participation schedule conditional upon scope of contract to be executed with the OWNER. Substitution of contractors must be in accordance with GS 143-128.2(d). Failure to abide by this statutory provision will constitute a breach of the contract.

The undersigned hereby certifies that he or she has read the terms of the minority business commitment and is authorized to bind the BIDDER to the commitment herein set forth.

Date: _____ Name of Authorized Officer: _____

Signature: _____

Title: _____



State of North Carolina, County of _____

Subscribed and sworn to before me this ___ day of _____ 20__

Notary Public _____ My commission expires _____



–Proposal – Lump Sum Single-Prime Contract Bid Form

Orange Water & Sewer Authority OWASA ADMINISTRATIVE BDLG.
COPING AND EIFS IMPROVEMENTS

AFFIDAVIT B – Intent to Perform Contract with Own Workforce

County of _____

Affidavit of _____
(Name of Bidder)

I hereby certify that it is our intent to perform 100% of the work required for the _____

(Name of Project)

In making this certification, the Bidder states that the Bidder does not customarily subcontract elements of this type project, and normally performs and has the capability to perform and will perform all elements of the work on this project with his/her own current work forces; and

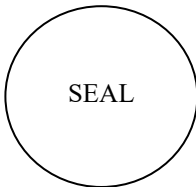
The Bidder agrees to provide any additional information or documentation requested by the Owner in support of the above statement.

The undersigned hereby certifies that he or she has read this certification and is authorized to bind the Bidder to the commitments herein contained.

Date: _____ Name of Authorized Officer: _____

Signature: _____

Title: _____



State of North Carolina, County of _____

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

Notary Public _____

My commission expires _____



AFFIDAVIT C – Portion of the Work to be Performed by Minority Firms

County of _____

***** (NOTE: THIS FORM IS NOT TO BE SUBMITTED WITH THE BID PROPOSAL) *****

If the portion of the Work to be executed by minority businesses as defined in G. S. 143-128.2(g) is **equal to or greater than 10%** of the Bidders Total Contract Price, then the Bidder must complete this affidavit. This affidavit shall be provided by the apparent lowest responsible, responsive Bidder within **72 hours** after notification of being low Bidder.

Affidavit of _____ I do hereby certify that on the
(Name of Bidder)

_____ (Project Name)
Project ID# _____ Amount of Bid \$ _____

I will expend a minimum of _____% of the total dollar amount of the contract with minority business enterprises. Minority businesses will be employed as construction subcontractors, vendors, suppliers or providers of professional services. Such work will be subcontracted to the following firms listed below.

Attach additional sheets if required

Name and Phone Number	*Minority Category	Work description	Dollar Value

*Minority categories: Black, African American (B), Hispanic (H), Asian American (A) American Indian (I), Female (F) Socially and Economically Disadvantaged (D)

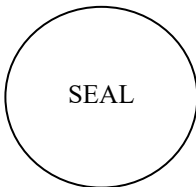
Pursuant to G. S. 143-128.2(d), the undersigned will enter into a formal agreement with Minority Firms for work listed in this schedule conditional upon execution of a contract with the Owner. Failure to fulfill this commitment may constitute a breach of the contract.

The undersigned hereby certifies that he or she has read the terms of this commitment and is authorized to bind the Bidder to the commitment herein set forth.

Date: _____ Name of Authorized Officer: _____

Signature: _____

Title: _____



State of North Carolina, County of _____

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

Notary Public _____

My commission expires _____



CIP NO.: 280-17

PROJECT: OWASA Administrative Bldg. Coping and EIFS Improvements

DATE: October 27, 2023

AFFIDAVIT D – Good Faith Efforts

County of _____

***** (NOTE: THIS FORM IS NOT TO BE SUBMITTED WITH THE BID PROPOSAL) *****

If the goal of 10% participation by minority business **is not** achieved, the Bidder shall provide the following documentation to the Owner of his good faith efforts:

Affidavit of: _____

(Name of Bidder)

I do certify the attached documentation as true and accurate representation of my good faith efforts.

(Attach additional sheets if required)

Name and Phone Number	*Minority Category	Work description	Dollar Value

*Minority categories: Black, African American (**B**), Hispanic (**H**), Asian American (**A**) American, Indian (**I**), Female (**F**) Socially and Economically Disadvantaged (**D**)

Documentation of the Bidder's good faith efforts to meet the goals set forth in these provisions.

Examples of documentation include, but are not limited to, the following evidence:

- A. Copies of solicitations for quotes to at least three (3) minority business firms from the source list provided by the State for each subcontract to be let under this contract (if 3 or more firms are shown on the source list). Each solicitation shall contain a specific description of the work to be subcontracted, location where bid documents can be reviewed, representative of the Prime Bidder to contact, and location, date and time when quotes must be received.
- B. Copies of quotes or responses received from each firm responding to the solicitation.
- C. A telephone log of follow-up calls to each firm sent a solicitation.
- D. For subcontracts where a minority business firm is not considered the lowest responsible sub-bidder, copies of quotes received from all firms submitting quotes for that particular subcontract.
- E. Documentation of any contacts or correspondence to minority business, community, or contractor organizations in an attempt to meet the goal.
- F. Copy of pre-bid roster.
- G. Letter documenting efforts to provide assistance in obtaining required bonding or insurance for minority business.
- H. Letter detailing reasons for rejection of minority business due to lack of qualification.
- I. Letter documenting proposed assistance offered to minority business in need of equipment, loan capital, lines of credit, or joint pay agreements to secure loans, supplies, or letter of credit, including waiving credit that is ordinarily required.

Proposal – Lump Sum Single-Prime Contract Bid Form

00 41 43-31

OWASA Administrative Bldg.
Coping and EIFS Improvements



CIP NO.: 280-17

PROJECT: OWASA Administrative Bldg. Coping and EIFS Improvements

DATE: October 27, 2023

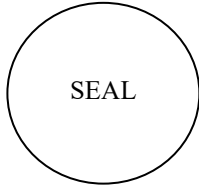
AFFIDAVIT D – Good Faith Efforts (continued)

Failure to provide the documentation as listed in these provisions may result in rejection of the bid and award to the next lowest responsible and responsive bidder.

Date: _____ Name of Authorized Officer: _____

Signature: _____

Title: _____



State of North Carolina, County of _____

Subscribed and sworn to before me this ___ day of _____ 20__

Notary Public _____

My commission expires _____

-END OF DOCUMENT-

Proposal – Lump Sum Single-Prime Contract Bid Form

00 41 43-32

OWASA Administrative Bldg.
Coping and EIFS Improvements



Orange Water & Sewer Authority

CIP No: 280-17
 PROJECT: OWASA Administrative Bldg. Coping and EIFS Improvements
 DATE: October 27, 2023

SECTION 00 41 43a

Bidder's Checklist

This checklist shall be included as the first page of the submitted bidding documents. As outlined in Section 00 41 43 Article 7.01 of the Proposal the following items shall be included with the fully executed Section 00 41 43 Proposal:

		BID FORMS, including:
	A.	Executed Lump Sum Bid Form
	B.	Certified List of Equipment/Material Manufacturers and Subcontractors/Suppliers
n/a	C.	Certification Affidavit
	D.	Bid Certification
	E.	Contractor Experience
	F.	Qualifications of Bidders
	G.	Appropriate Bid Form Signature Page
	H.	Bid Security or Bid Bond and Power of Attorney
	I.	Proposal Signature Page
	J.	Contractor's Affidavit of Organization and Authority
	K.	Non-Collusion Affidavit of Bidder *
	L.	Equal Employment Opportunity Certification
	M.	Acknowledgement for Equal Employment Opportunity Certification
	N.	Bidder's North Carolina General Contractor's License
		M/WBE Forms, including:
	O.	Identification of Minority Business Participation
	P.	Affidavit A or B **

*Within five (5) day of bid opening, Contractor shall file a Non-Collusion Affidavit for Sub-Contractors.

**After bid opening, the Contractor shall file Affidavits C or D within 72 hours of being informed of low bid.

Bidder's Checklist
 00 41 43a-1

AGREEMENT

THIS AGREEMENT is dated as of the ____ day of _____, in the year 20____ by and between Orange Water and Sewer Authority, Carrboro, North Carolina, party of the first part, and _____ party of the second part, (Contractor).

Orange Water and Sewer Authority and Contractor, in consideration of the mutual covenants set forth herein, hereby agree as follows:

ARTICLE 1 - WORK

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

Project Name: OWASA Administrative Bldg. Coping and EIFS Improvements

Includes furnishing and installing new coping cap and EIFS improvements for OWASA, and all associated appurtenances as described in the Specifications and as shown on the Drawings.

The foregoing description shall not be construed as a complete description of all work required.

ARTICLE 2 - THE PROJECT

- 2.01 The Project, of which the Work under the Contract Documents may be the whole or only a part, is generally described as follows:

OWASA CIP: #280-17 Project: **“OWASA Administrative Bldg. And EIFS Improvements”**

ARTICLE 3 - ENGINEER

- 3.01 The Project has been designed by ThoughtCraft Architects, who is to act as Orange Water and Sewer Authority's representative assume all duties and responsibilities, and have the rights and authority assigned to Engineer/Architect in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.
- 3.02 OWASA will be in charge of construction administration. ThoughtCraft will be involved at the discretion of OWASA for submittal and shop drawing reviews, site visits to observe work is in conformance with Construction Documents at the following stages but not limited to: demo, rough carpentry, finishes, punch list, final.

ARTICLE 4 - CONTRACT TIME

- 4.01 Time of the Essence

Agreement Form – Lump Sum Single-Prime Contract

00 52 15-1

OWASA Administrative Bldg.
Coping and EIFS Improvements



Orange Water & Sewer Authority

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

4.02 Contract Times: (Consecutive Calendar Days)

- A. Days to achieve Substantial Completion, Final Completion, and Final Payment:

The Work shall be Substantially Complete in accordance with Paragraph 15.03 of the General Conditions within **60 CONSECUTIVE CALENDAR DAYS**, after the date when the Contract Time commences to run (Notice to Proceed), and Finally Complete and ready for final payment in accordance with Paragraph 15.06 of the General Conditions within **90 CONSECUTIVE CALENDAR DAYS** after the date when the Contract Times commence to run (Notice to Proceed).

- B. Not Used.
- C. Bidder accepts the provisions of the Agreement as to Liquidated Damage.

4.03 Liquidated Damages

- A. The Contractor and Orange Water and Sewer Authority recognize that time is of the essence for this Agreement and that the Orange Water and Sewer Authority will suffer financial and other losses if the Work is not completed within either or both the time of Substantial Completion and the time of Final Completion as specified in Paragraph 4.02 above, plus any extensions thereof allowed in accordance with the Contract. The parties also recognize the delays, expenses, and difficulties to both parties involved in proving or contesting in a legal or mediation preceding the actual loss suffered by Orange Water and Sewer Authority, if the Work is not completed on time. Accordingly, instead of requiring any such proof of losses, it is agreed that the Contractor shall be liable for and pay the following amounts to Orange Water and Sewer Authority as Liquidated Damages, and not as a penalty:

Completion Milestone Date	Liquidated Damages (per day)
Date of Substantial Completion	\$150
Date of Final Completion	\$150

- B. Liquidated damages will be assessed for the above listed amounts for each and every day the Work remains incomplete beyond the date of Substantial Completion and the date of Final Completion, either date being independent of the other.

4.04 NOT USED

4.05 Weather Related Delays

- A. Contractor's requests to extend Contract Time based on weather related delays shall be made in writing and shall be made with reference to the table below as



the reasonably expected weather conditions for a given month. Contractor will still need to demonstrate the adverse effect on the construction schedule. Unless Orange Water and Sewer Authority agrees otherwise, the weather conditions must be shown by use of data, submitted by the Contractor, from either the National Weather Service (NWS) for Carrboro, North Carolina or NWS readings from a location closer to the site than Carrboro, North Carolina, and not by use of weather readings on the Site or by the Contractor. Notwithstanding the General Conditions, in order to request an extension of Contract Time for abnormal weather conditions the form must be submitted by the tenth (10th) day of the month after the month as to which the request is made.

Month	Expected number of days with 0.1 or more inches precipitation
January	10
February	10
March	10
April	9
May	10
June	9
July	11
August	10
September	8
October	7
November	8
December	9

4.06 Work Related to Weekends or Orange Water and Sewer Authority Holiday

- A. The Contractor shall have notified the Resident Project Representative by 3:30 PM, three (3) days in advance of the day of the Contractor’s request to Work on a specific Saturday, Sunday, or holiday. Notwithstanding the General Conditions, if the day on which the notice is to be given is a Saturday, Sunday, or Orange Water and Sewer Authority holiday, the request shall be made by the first day before that Saturday, Sunday, or holiday that is not a Saturday, Sunday, or Orange Water and Sewer Authority holiday.

ARTICLE 5 - CONTRACT PRICE

5.01 Orange Water and Sewer Authority shall pay Contractor for completion of the Work in accordance with the Contract Documents the amounts that follow, subject to adjustment under the Contract:

- A. For all Work other than Unit Price Work, a Lump Sum of: _____
 _____(words), (\$ _____ (numerals)).
- B. All specific cash allowances are included in the above price in accordance with Paragraph 13.02 of the General Conditions.



C. For all Work, at the price(s) stated in Contractor's Bid, attached hereto as an exhibit.

ARTICLE 6 - PAYMENT PROCEDURES

6.01 Submittal and Processing of Payments

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

6.02 Progress Payments; Retainage

A. Orange Water and Sewer Authority shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment on or about the twenty-fifth (25th) day of each month during performance of the Work as provided in Paragraphs 6.02.A.1 below provided that such Applications for Payment have been submitted in a timely manner and otherwise meet the requirements of the Contract. All such payments will be measured by the Schedule of Values established as provided in the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no Schedule of Values, as provided in the General Requirements:

1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts Orange Water and Sewer Authority may withhold, including but not limited to liquidated damages, in accordance with the Contract.
2. Orange Water and Sewer Authority will retain five (5%) percent of the amount of each estimate until Work covered by the Contract is fifty percent (50%) complete (50% of the Total Contract Amount). If after the Project is deemed fifty percent (50%) complete based upon the Contractor's gross Project invoices, excluding the value of materials stored on and off-site, and the Contractor provides Orange Water and Sewer Authority the following:
 - a. Written verification evidencing fifty percent (50%) completion of the Project; and,
 - b. Written consent of the surety named in the Project performance and payment bonds agreeing that Orange Water and Sewer Authority shall not retain more than two and one-half percent (2½%) of the Total Bid Price in retainage from periodic payments due to the Contractor;
 - c. Orange Water and Sewer Authority shall reduce retainage to two and one-half percent (2½%) of the Total Bid Price from future periodic payments if Orange Water and Sewer Authority finds that the Contractor is performing satisfactorily, and any nonconforming Work identified in writing by the Engineer or Orange Water and Sewer Authority (prior to the point of fifty percent (50%) Project completion) has been corrected by the Contractor and accepted by the Engineer or Orange Water and Sewer Authority, whoever



provided such prior notice of nonconforming Work. If, however, Orange Water and Sewer Authority determines the Contractor's performance is unsatisfactory, Orange Water and Sewer Authority may reinstate the specified retainage for each subsequent periodic payment.

- d. In addition to the retainage amounts allowed to be held by Orange Water and Sewer Authority, it shall also retain all rights allowed under this Agreement to withhold payment to the Contractor in accordance with the General Conditions and for unsatisfactory job progress, defective or nonconforming construction not remedied, disputed Work, or third-party claims filed against Orange Water and Sewer Authority or reasonable evidence that a third-party claim will be filed.
- e. Within sixty (60) days of receipt by Orange Water and Sewer Authority of (1) an Application for Payment and (2) written consent of the surety, and after City has either (1) received a certificate of Substantial Completion or (2) received beneficial occupancy or use of the Project (if applicable), Orange Water and Sewer Authority shall pay an amount sufficient to increase total payment to Contractor to the Contract Price, less such amounts as Engineer shall determine in accordance with the General Conditions, including up to two hundred fifty percent (250%) of Engineer's estimate of the value of Work to be completed or corrected as shown on the tentative list of items to be completed or corrected attached to the certificate of Substantial Completion.

6.03 *Final Payment*

- A. Upon final completion and acceptance of the Work in accordance with Paragraph 15.06 of the General Conditions, Orange Water and Sewer Authority shall pay the remainder of the Contract Price as recommended by Engineer as provided in said Paragraph 15.06.
- B. Prior to issuing final payment, the Contractor will furnish to Orange Water and Sewer Authority certification that: All Subcontractors and vendors associated with this Contract have been paid; no liens and/or lawsuits have been placed against the Contractor for this Work; and the total dollar amount has been paid to all Subcontractors, Suppliers, and others associated with this project.
- C. Upon final completion and acceptance of the Work in accordance with the General Conditions, Orange Water and Sewer Authority shall pay the remainder of the Contract price as recommended by Engineer.

ARTICLE 7 – INTEREST [NOT IN CONTRACT]

ARTICLE 8 - CONTRACTOR'S REPRESENTATIONS

8.01 In order to induce Orange Water and Sewer Authority to enter into this Agreement Contractor makes the following representations:

- A. Contractor has examined and carefully studied the Contract Documents, and any data and reference items identified in the Contract Documents.

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OWASA Administrative Bldg.
Coping and EIFS Improvements



- B. Contractor has visited the Site, conducted a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
- C. Contractor is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work.
- D. Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or adjacent to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities) which have been identified in the General Conditions; and (2) reports and drawings relating to Hazardous Environmental Condition, if any, at or adjacent to the Site that have been identified in the General Conditions, especially with respect to Technical Data in such reports and drawings.
- E. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Site-related reports and drawings identified in the Contract Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (3) Contractor's safety precautions and programs.
- F. Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.
- G. Contractor is aware of the general nature of work to be performed by Orange Water and Sewer Authority and others at the Site that relates to the Work as indicated in the Contract Documents.
- H. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
- I. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
- J. Contractor's entry into this Contract constitutes an incontrovertible representation by Contractor that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.



ARTICLE 9 - CONTRACT DOCUMENTS

9.01 Contents

- A. The Contract Documents consist of all of the items listed in the Table of Contents.
- B. The documents listed in Paragraph 9.01 are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in Paragraph 9.01.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in Paragraph 3.04 of the General Conditions.
- E. Coordination of General Conditions, Agreement, and Technical Specifications.
 - 1. All components of the Contract Documents are essential elements of the Contract between the Owner and Contractor, and notwithstanding the requirements of Article 3.03 of the General Conditions, in case of a conflict or contradiction among the General Conditions, Agreement, and Technical Specifications, the following shall be the order of controlling authority as among these documents: The Technical Specifications shall control over the Agreement and the Agreement shall control over the General Conditions.

ARTICLE 10 - MISCELLANEOUS

10.01 Terms

- A. Terms used in this Agreement will have the meanings stated in the General Conditions.

10.02 Assignment of Contract

- A. Unless expressly agreed to elsewhere in the Contract, no assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, money that may become due and money that is due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

10.03 Successors and Assigns

- A. Orange Water and Sewer Authority and Contractor each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

10.04 Severability

Agreement Form – Lump Sum Single-Prime Contract

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OWASA Administrative Bldg.
Coping and EIFS Improvements



Orange Water & Sewer Authority

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Orange Water and Sewer Authority and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

10.05 Notices and Communications

- A. All notices and other communications required or permitted by Contract shall be in writing and shall be given by personal delivery, email, or certified United States mail (return receipt requested) addressed/email as follows:

To Orange Water and Sewer Authority:
Attention: Brad Barber, PE, Utilities Engineer
Project Manager
Orange Water and Sewer Authority
400 Jones Ferry Road
Carrboro, North Carolina 27510

To the Contractor:
Attention: _____
Firm Name: _____
Street Address: _____
City, State Zip Code: _____
Phone Number: _____
Email: _____

- B. A change of address, email, or person to receive notices or communications may be made by either party by notice given to the other party. Any notices or communications under Contract shall be deemed given at the time of actual delivery, if it is personally delivered or faxed. If the notices or communications are sent by United States mail, it shall be deemed given upon the third calendar day following the day on which the notices or communications were postmarked, or upon actual delivery, whichever first occurs.

10.06 Technical Data and Other Work

- A. Subsurface and Physical Conditions
No reports of explorations or tests of subsurface conditions at or contiguous to the Site are known to Orange Water and Sewer Authority or Engineer, that are not included with these documents as an Appendix.
- B. Hazardous Environmental Condition
No reports or drawings related to Hazardous Environmental Condition are known to Orange Water and Sewer Authority or Engineer.
- C. Other Work



Orange Water and Sewer Authority and Engineer are unaware of any other work on the Site at the time of Notice to Proceed.

10.07 Contractor's Liability Insurance

- A. Workers compensation insurance shall cover employers' liability, \$1,000,000.
- B. Automobile liability insurance shall have a combined single limit not less than \$1,000,000 per occurrence; aggregate limit not less than \$2,000,000 per year.
- C. The policies of insurance required by the General Conditions shall have a combined single limit not less than \$1,000,000 per occurrence; aggregate limit not less than \$2,000,000 per year.
- D. An Excess Liability Policy naming the contractor or other person who will be performing the activity as insured and also naming Orange Water and Sewer Authority and the Engineer as an additional insured in an amount not less than \$5,000,000.00 for bodily injury, personal injury, property damage and products completed operations. (Coverage shall be at least as broad as provided for in the most current version of the Insurance Services Office Form applicable to such policy.)
- E. Professional liability insurance coverage self-insured retentions/deductibles in excess of \$10,000 must be approved by Orange Water and Sewer Authority's Finance Director.
- F. Professional liability insurance coverage shall have a combined single limit not less than \$2,000,000 per claim applicable to this Contract.
- G. Wherever in this Article the terms "The Insured" and OWNER occurs with respect to coverage in a policy, it shall mean Orange Water and Sewer Authority and its agent and agencies, all municipalities where work is being performed under the Contract, the Engineer, and any other parties specifically designated herein, who shall be named as insured in each policy issued. The insurance policies required herein shall not contain any Third Party Beneficiary Exclusion.



**CERTIFICATE OF INSURANCE
(Attach)**

See Article 5 of the General Conditions and Article 10.07 herein above for specific requirements.

Agreement Form – Lump Sum Single-Prime Contract
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OWASA Administrative Bldg.
Coping and EIFS Improvements



Orange Water & Sewer Authority

POWER OF ATTORNEY
(Attach)

Agreement Form – Lump Sum Single-Prime Contract
00 52 15-11

OWASA Administrative Bldg.
Coping and EIFS Improvements



Orange Water & Sewer Authority

ARTICLE 11 - CERTIFICATE OF ATTORNEY

I hereby certify that I am the duly appointed attorney for Orange Water and Sewer Authority and that I have examined the foregoing instrument and Bond, and insurance documents and I have approved the same as being legal and in proper form.

This _____ day of _____, 20__.

AUTHORITY GENERAL COUNSEL

ARTICLE 12 - CERTIFICATE OF PAYMENTS

I hereby certify that I am the legal and duly appointed Financial Officer for Orange Water and Sewer Authority and that provision for the payment of the moneys to fall due under this agreement has been made by appropriation duly made or by Bonds or notes duly authorized, as required by the Local Government and Fiscal Control Act.

This _____ day of _____, 20__.

BY:

DIRECTOR OF FINANCE AND
CUSTOMER SERVICE



ARTICLE 13 - CONTRACTOR'S AFFIDAVIT

STATE OF _____

COUNTY OF _____

FOR CORPORATIONS:

THIS IS TO CERTIFY that on this day _____ appeared before me, with whom I am personally acquainted, who, being duly sworn, says that he or she* is the _____ (title of signatory party) and that _____ (name of attesting party) is the Assistant* Secretary of _____, the Corporation described in and which executed the foregoing Contract; that he or she* knows the common seal of said corporation; that the seal affixed to the said instrument is said common seal; that the name of the corporation was subscribed thereto by the said Vice* President and that the said Vice* President and Assistant* Secretary-subscribed their names thereto and said common seal was affixed, all by order of the Board of Directors of said Corporation, and said instrument is the act and Deed of said Corporation.

FOR PARTNERSHIPS AND INDIVIDUALS:

THIS IS TO CERTIFY that on this day _____ appeared before me, with whom I am personally acquainted, who, being duly sworn, says that he or she* is the Owner or Partner* of _____, the entity described in and which executed the foregoing Contract; and that if a Partner, he or she* attests that the consent of all partners was attained before executing said Contract.

Witness my hand and notarial seal, this the ___ day of _____, 20__

Notary Public

My commission expires: _____

* Strike as needed



ARTICLE 14 - OWNER'S AFFIDAVIT

STATE OF _____

COUNTY OF _____

THIS IS TO CERTIFY that on this day _____ personally appeared, and acknowledged before me that (he or she*) is the _____ of Orange Water and Sewer Authority, and that, by authority of the Board of its Directors, (he or she*) executed the foregoing document on its behalf, as its act and deed.

Witness my hand and notarial seal, this the ___ day of _____, 20__

* Strike as needed

Notary Public

My commission expires: _____



ARTICLE 15 - CONTRACT SIGNATURES

IN WITNESS WHEREOF, said Individual, Partnership or Corporation (circle one) has caused these presents to be signed in its corporate name, its corporate seal to be hereto affixed and attested by its secretary, and the Owner has caused these presents to be executed in its name by the Executive Director, attested by its Secretary and its Official Corporate Seal to be affixed all by order of its Board of Directors as of the day and year first above written.

Individuals or Partnerships Sign Below

Printed Legal Name of Individual or Partners: _____ Signature(s): _____

_____ (SEAL)
_____ (SEAL)
_____ (SEAL)

ATTEST:

Secretary Partnership Name (if applicable)

Corporations Sign Below

Name of Corporation: _____
ATTEST Signature: _____

Corporate Secretary or Assistant Secretary Title: _____
(SEAL) Officer's Printed Name: _____

OWASA Sign Below

ORANGE WATER AND SEWER AUTHORITY

By: _____
Todd Taylor, Executive Director



IMPORTANT: If the Contractor is a Corporation, the legal name of the Corporation shall be set forth above, together with the signature of the officer or officers authorized to sign Contracts on behalf of the Corporation; if Contractor is a partnership, the true name of the firm shall be set forth above, together with the signatures of all the partners; and if Contractor is an individual, his signature shall be placed above. If signature is by an agent other than an officer of a Corporation or a member of a partnership, a Power of Attorney must be attached hereto. Signature of Owner and Contractor shall also be acknowledged before a Notary Public or other person authorized by law to execute such acknowledgment on the Owner's and Contractor's Affidavits which are found under Article 13 and Article 14 herein above this page.

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Agreement Form – Lump Sum Single-Prime Contract
00 52 15-16

OWASA Administrative Bldg.
Coping and EIFS Improvements



Orange Water & Sewer Authority

PERFORMANCE BOND AND PAYMENT BOND

Date of Contract: _____

Contract Name and Number: Gravity Sewer Rehab. Package 7, CIP No. 276-18

Name of Principal (Name of Contractor): _____

Name of Surety: _____

Name and Address of Surety's NC Resident Agent: _____

Contracting Body: Orange Water and Sewer Authority

Amount of Performance Bond (in words and numerals): _____
_____ dollars (\$ _____)

Amount of Payment Bond: same dollar amount as the dollar amount of Performance Bond.

Date of Execution of these Bonds: _____

* * * * *

KNOW ALL PERSONS BY THESE PRESENTS, that we, the PRINCIPAL AND SURETY above named, are held and firmly bound unto the above named Contracting Body, hereinafter called the Contracting Body, in the penal sum of the amount stated above for the payment of which sum well and truly to be made, we bind ourselves, our heirs, administrators, and successors, jointly and severally, by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas the Principal entered into a certain Contract with the Contracting Body, numbered as shown above and hereto attached:

NOW THEREFORE, if the Principal shall well and truly perform and fulfill all the undertakings, covenants, terms, conditions, and agreements of said Contract during the original term of said Contract and any extensions thereof that may be granted by the Contracting Body, with or without notice to the Surety, and during the life of any guaranty required under the Contract, and shall also well and truly perform and fulfill all the undertakings, covenants, terms, conditions, and agreements of any and all duly authorized modifications of said Contract that may hereafter be made, notice of which modifications to the Surety being hereby waived, then this obligation to be void; otherwise to remain in full force and virtue. As used hereinabove,



"modifications" shall include, without limitation, changes (including, without limitation, changes granting extensions of time) and additions to with respect to the Work, scope of work, and specifications.

* * * * *

KNOW ALL PERSONS BY THESE PRESENTS, that we, the PRINCIPAL AND SURETY above named, are held and firmly bound unto the above named Contracting Body, hereinafter called the Contracting Body, in the penal sum of the amount stated above for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally, by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas the Principal entered into a certain Contract with the Contracting Body, numbered as shown above and hereto attached:

NOW THEREFORE, if the Principal shall promptly make payment to all persons supplying labor and material in the prosecution of the Work provided for in said Contract, and any and all duly authorized modifications of said Contract that may hereafter be made, notice of which modifications to the Surety being hereby waived, then this obligation to be void; otherwise to remain in full force and virtue. As used hereinabove, "modifications" shall include, without limitation, changes (including, without limitation, changes granting extensions of time) and additions to or with respect to the Work, scope of work, and specifications.

* * * * *

The Performance Bond and the Payment Bond are being combined here only for purposes of convenience in signing and acknowledging and the obligations of the Principal and of the Surety are the same as if the bonds were on separate documents. Each bond is in the dollar amount stated above, and the amounts of these bonds are not combined. The Surety agrees that both of these bonds are fully binding on it whether or not the Principal executes these bonds. These bonds are given pursuant to Article 3 of Chapter 44A of the NC General Statutes.



IN WITNESS WHEREOF, the above-bounden parties have executed this instrument (for both the Performance Bond and the Payment Bond) under their several seals on the date of execution indicated above, the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

ATTEST:

Principal Secretary
(SEAL)

Principal

By: _____(1)

By: _____(1)

By: _____(1)

(Address)

Witness as to Principal

(Phone Number)

(Surety)

ATTEST:

N. C. Resident Agent
(SEAL)

By: _____
Attorney-in-Fact

Witness as to Surety

(Address)

(Address)

(Phone Number)

(1) If Contractor is a Partnership, all partners should execute Bond

(Note: If you use a raised corporate seal, press hard enough to make it legible.)



PERFORMANCE AND PAYMENT BOND - POWER OF ATTORNEY

(Attach)

Agreement Form – Lump Sum Single-Prime Contract

00 52 15-20

OWASA Administrative Bldg.
Coping and EIFS Improvements



Orange Water & Sewer Authority

**ACKNOWLEDGEMENT OF CONTRACTOR'S EXECUTION OF CONTRACT,
PERFORMANCE BOND AND PAYMENT BOND**

State of _____ County of _____

I, _____, a notary public for the aforesaid county and state, certify that personally appeared before me this day, and acknowledged that he or she is _____ Secretary of _____, a corporation, and that by authority duly given and as the act of the corporation, the foregoing (1) Contract with Orange Water and Sewer Authority and (2) Performance Bond and Payment Bond with respect to the Contract, were signed in its name by its _____ President, whose name is _____, sealed with its corporate seal, and attested by him/herself as its said Secretary or Assistant Secretary.

This the ____ day of _____ .

NOTARY PUBLIC

My commission expires: _____

**ACKNOWLEDGEMENT OF SURETY'S EXECUTION OF
PERFORMANCE BOND AND PAYMENT BOND**

State of _____ County of _____

I, _____, a Notary Public for said county and state, certify that _____, personally appeared before me this day and acknowledged that he or she is Attorney in Fact for _____, the Surety named in the foregoing Performance Bond and Payment Bond, in both of which bonds the contracting body is Orange Water and Sewer Authority, and that he or she executed said bonds, under the seal of said Surety, on behalf of said Surety.

This the ____ day of _____ .

NOTARY PUBLIC

My commission expires: _____



NON-DISCRIMINATION CLAUSE

It is specifically agreed as part of the consideration of the signing of this Contract that the parties hereto, their agents, officials, employees or servants will not discriminate in any manner on the basis of age, handicap, race, color, creed, sexual orientation or national origin with reference to the subject matter of this Contract, no matter how remote.

This provision being incorporated for the benefit of the Orange Water and Sewer Authority and its residents may be enforced as set out in said ordinances; enforcement of this provision shall be by action for specific performance, injunctive relief, or other remedy as by law provided.

This provision shall be binding on the successors and assigns of the parties hereto with reference to the subject matter of this Contract.

SIGNATURE FOR CORPORATION

Corporate Name

ATTEST:

Secretary* / Assistant Secretary*

(Printed Name)

BY: _____(SEAL)

President* / Vice President*

(Printed Name)

(Corporate Seal)

INDIVIDUAL OR PARTNERSHIP SIGNATURE

BY: _____(SEAL)

(Printed Name)

WITNESS:

(Printed Name)

*choose one

-END OF DOCUMENT-



FORM OF SUBMITTALS

The forms listed below and included in this Section are to be used in accordance with the requirements noted in other Sections and included herein. The first five digits of the form number generally refers to the Section number which would provide the most information or instruction regarding that form. Forms such as the Bid Form are included in the Section to which it pertains.

Any form referred to in the Contract Documents but not contained in the Project Manual should be requested from Orange Water and Sewer Authority and the failure to include a required form herein does not excuse the Contractor from the requirement to use that form.

Form #	Title
00300-A	Notice of Award
00500-A	Notice to Proceed
00700-A	Certificate of Substantial Completion
00700-B	MBE Documentation for Contract Payments
00700-F	Application and Certification for Progress Payment
00700-G	Work Change Directive
00700-H	Field Order
00700-I	Change Order
00700-C	AIA Document G706 Contractor's Affidavit of Payments of Debts & Claims
00700-D	AIA Document G706A Contractor's Affidavit or Release of Liens
00700-E	AIA Document G707 Consent of Surety Company to Final Payment
	Request for Information Form
	NC Sales & Use Tax Affidavit Form



NOTICE OF AWARD

CIP # _____

To: _____

From: Orange Water and Sewer Authority
400 Jones Ferry Road
Carrboro, NC 27510

Project: _____

Contract Amount: _____

You are hereby notified that Orange Water and Sewer Authority has accepted your Bid dated _____ for the above named project in response to its Advertisement for Bids.

You are required by the Instructions to Bidders to execute the formal Contract with Orange Water and Sewer Authority and to furnish Performance and Payment Bonds and evidence of insurance within 10 calendar days from the date of delivery of this Notice.

If you fail to execute said Contract and to furnish said bonds and insurance within 10 calendar days from the date of delivery of this Notice, Orange Water and Sewer Authority shall be entitled to consider all of your rights arising out of its acceptance of your Bid as abandoned and to award the Work covered by the Advertisement to Bids to another, to re-advertise the Work, or otherwise dispose thereof as Orange Water and Sewer Authority sees fit.

Dated this _____ day of _____, 20____

By: _____

By: _____

Date: _____

Date: _____

Title: Finance Officer

Title: Director of Engineering & Planning

This Instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act

Orange Water and Sewer Authority

ACCEPTANCE OF NOTICE BY CONTRACTOR

Receipt of this Notice of Award is hereby acknowledged.

By: _____

Date: _____

Title: _____



CIP NO.: 280-17

PROJECT: OWASA Administrative Bldg. Coping and EIFS Improvements

DATE: October 27, 2023

NOTICE TO PROCEED

PO # _____

CIP # _____

To: _____

From: Orange Water and Sewer Authority
400 Jones Ferry Road
Carrboro, NC 27510

Project: _____

Contract Amount: _____

You are hereby notified that the Contract Time(s) for the above Project will commence to run on _____ . You are directed to commence work on the referenced Project by that date. You are to complete the Work on or before the completion dates noted below.

The Contract Time(s) based on the durations set forth in Article 4 of the Agreement are:

Substantial Completion of All Work: _____

Final Completion of All Work: _____

Article 4 of the Agreement provides for the assessment of Liquidated Damages for each consecutive calendar day the Work remains incomplete after the above completion dates.

By: _____

Title: Director of Engineering and Planning

Date: _____

CIP NO.: 280-17

PROJECT:OWASA Administrative Bldg. Coping and EIFS Improvements

DATE: October 27, 2023

CERTIFICATE OF SUBSTANTIAL COMPLETION

CIP # _____

To: _____

From: Orange Water and Sewer Authority
400 Jones Ferry Road
Carrboro, NC 27510

Project: _____

The Work to which this Certificate applies has been inspected by authorized representatives of Owner, Contractor and Engineer and the Work is hereby declared to be substantially complete in accordance with the Contract Documents on _____.

A tentative list of items to be completed or corrected will be issued as the punch list. This list may not be all-inclusive, and the failure to include an item in it does not alter the responsibility of Contractor to complete all the Work in accordance with the Contract Documents.

The responsibilities between Owner and Contractor for security, operation, safety, maintenance, heat, utilities and warranties shall be as follows:

Owner _____

Contractor _____

This certificate does not constitute an acceptance of Work that is not in accordance with the Contract Documents nor is it release of Contractor's obligation to complete the Work in accordance with the Contract Documents.

RECOMMENDATION OF ENGINEER

By: _____ Title: _____

Firm: _____ Date: _____

ACCEPTANCE BY CONTRACTOR

By: _____ Title: _____

Firm: _____ Date: _____

APPROVAL BY OWNER

By: _____ Title: _____

Firm: Orange Water and Sewer Authority Date: _____



CIP NO.: 280-17
 PROJECT: OWASA Administrative Bldg. Coping and EIFS Improvements
 DATE: October 27, 2023

MBE DOCUMENTATION FOR CONTRACT PAYMENTS

Prime Contractor: _____

Address & Phone: _____

Project Name: _____

Pay Application #: _____ Period: _____

The following is a list of payments made to Minority Business Enterprises on this project for the above-mentioned period.

MBE FIRM NAME	* INDICATE TYPE OF MBE	AMOUNT PAID THIS MONTH	TOTAL PAYMENTS TO DATE	TOTAL AMOUNT COMMITTED

*Minority categories: Black, African American (B), Hispanic (H), Asian American (A), American Indian (I), Female (F), Social and Economically Disadvantage (D)

Date: _____

Approved/Certified By: _____

Name

Title

Signature

SUBMIT WITH EACH PAY REQUEST & FINAL PAYMENT



CIP NO.: 280-17

PROJECT: OWASA Administrative Bldg. Coping and EIFS Improvements

DATE: October 27, 2023

APPLICATION AND CERTIFICATION FOR PROGRESS PAYMENT

CIP # _____

To: Orange Water & Sewer Authority (Owner) Application #: _____

Project: _____

Period Covered: From: _____ To: _____

Application for Payment:

This Application for Progress Payment is submitted in accordance with the General Conditions of the Contract Documents. Application is hereby made for the progress payment in the amount indicated below:

A.	<u>Original Contract Price (Schedule of Values)</u>	\$	0.00
B.	Net Total Value of Executed Change Orders to Date		0.00
C.	<u>CONTRACT VALUE TO DATE (A+B)</u>		0.00
D.	Value of Completed Change Order Work		0.00
E.	Value of Completed Original Contract Work and Stored Materials to Date		0.00
F.	<u>TOTAL VALUE OF COMPLETED WORK AND STORED MATERIALS TO DATE (D+E)</u>		0.00
G.	Retainage Amount (5% x F)		0.00
H.	Retainage Held this Request		0.00
I.	Other Withholding (if any)		0.00
J.	Total Value of Previous Progress Payments		0.00
K.	<u>TOTAL VALUE OF DEDUCTIONS (G+I+J)</u>		0.00
L.	<u>AMOUNT DUE THIS APPLICATION (F-K)</u>	\$	0.00

CONTRACTOR CERTIFICATION:

The undersigned Contractor certifies that (1) all previous payments received from Owner on account of Work done under the Contract referred to above have been applied to discharge, in full, obligations of Contractor incurred in connection with Work covered by prior Applications for Payment numbered 1 through ____ inclusive and (2) title to all materials and equipment incorporated in said Work or otherwise listed in, or covered by, this Application for Progress Payment will pass to Owner at time of payment free and clear of all liens, claims, security interests and encumbrances (except such as covered by Bond acceptable to Owner).

Firm: _____

By: _____

Title: _____

Date: _____

ENGINEER CERTIFICATION:

Payment of the above AMOUNT DUE THIS APPLICATION is hereby recommended.

Firm: _____

By: _____

Title: _____

Date: _____

OWASA APPROVAL:

Payment of the above AMOUNT DUE THIS APPLICATION is hereby approved.

OWASA Account #: **6000**

By: _____

PO #: _____

Date: _____



Orange Water & Sewer Authority

CIP NO.: 280-17

PROJECT:OWASA Administrative Bldg. Coping and EIFS Improvements

DATE: October 27, 2023

WORK CHANGE DIRECTIVE

PO # _____

WCD # _____

Project: _____ Date: _____

Owner: Orange Water and Sewer Authority Engineer: _____

Contractor: _____

Title: _____

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

If a claim is made that the above change(s) have affected 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
- _____ Inspector's records
- _____ Other: _____

Estimated change in Contract Price:
\$ _____. This estimated change in Contract Price is not to be exceeded without further authorization.

Estimated change in Contract Time:
_____ days. This estimated change in Contract Time is not to be exceeded without further authorization.

RECOMMENDATION OF WORK CHANGE DIRECTIVE

By: _____
Firm: _____
Date: _____

By: _____
Firm: _____
Date: _____

OWASA APPROVAL OF WORK CHANGE DIRECTIVE

By: _____

Date: _____



CIP NO.: 280-17

PROJECT: OWASA Administrative Bldg. Coping and EIFS Improvements

DATE: October 27, 2023

FIELD ORDER

PO # _____

FO # _____

Project: _____ **Date:** _____

Owner: Orange Water and Sewer Authority **Engineer:** _____

Contractor: _____

This Field Order is issued to interpret/clarify the Contractor Documents, order minor changes in the Work, and/or to documents trade-off agreements. Owner and Contractor hereby agree that the work described in this Field Order is to be accomplished without changes in Contract Price, Contract Time, claim or other costs. Contractor is to execute this Field Order and return it to Owner for execution within 48 hours.

Title: _____

Description:

Attachments:

Owner: _____

Contractor: _____

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____



CIP NO.: 280-17

PROJECT:OWASA Administrative Bldg. Coping and EIFS Improvements

DATE: October 27, 2023

CHANGE ORDER

PO # _____

CO # _____

To: _____

From: Orange Water and Sewer Authority
400 Jones Ferry Road
Carrboro, NC 27510

PROJECT: _____

You are hereby notified that OWASA is issuing **Change Order #** _____ for the above referenced contract under the provisions of Article 10 of the General Conditions. This change is subject to all the terms, conditions and provisions of the original contract.

Item #	Description Of Changes (Increases)	Amount
a.	Insert descriptions here	\$0,000.00
b.	Insert descriptions here	\$0,000.00
c.	Insert descriptions here	\$0,000.00
Subtotal of these changes		\$000,000.00
Contract Amount before modified		\$000,000.00
Contract Amount as modified		\$000,000.00

Description of Change: Description of each increase and associated cost breakdowns are attached, along with all related project communications.

Contract performance period changes: _____ (Unchanged / Increased / Decreased)

RECOMMENDATION OF CHANGE ORDER (BY CONSULTANT)

The change described above is hereby recommended:

By: _____ Title: _____
Firm: _____ Date: _____

ACCEPTANCE OF CHANGE ORDER (BY CONTRACTOR)

The change described above is accepted and hereby acknowledged:

By: _____ Title: _____
Firm: _____ Date: _____

APPROVAL OF CHANGE ORDER (BY OWNER)

By: _____ By: _____ By: _____
Date: _____ Date: _____ Date: _____
Title: Finance Officer Title: Executive Director Title: Director of Engineering & Planning

This Instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act

Orange Water and Sewer Authority

Orange Water and Sewer Authority





AIA[®] Document G706A[™] – 1994

Contractor's Affidavit of Release of Liens

OWNER	<input type="checkbox"/>
ARCHITECT	<input type="checkbox"/>
CONTRACTOR	<input type="checkbox"/>
SURETY	<input type="checkbox"/>
OTHER	<input type="checkbox"/>

PROJECT: *(Name and address)*

ARCHITECT'S PROJECT NUMBER:

CONTRACT FOR: General Construction

TO OWNER: *(Name and address)*

CONTRACT DATED:

STATE OF:
COUNTY OF:

The undersigned hereby certifies that to the best of the undersigned's knowledge, information and belief, except as listed below, the Releases or Waivers of Lien attached hereto include the Contractor, all Subcontractors, all suppliers of materials and equipment, and all performers of Work, labor or services who have or may have liens or encumbrances or the right to assert liens or encumbrances against any property of the Owner arising in any manner out of the performance of the Contract referenced above.

EXCEPTIONS:

SUPPORTING DOCUMENTS ATTACHED HERETO:

1. Contractor's Release or Waiver of Liens, conditional upon receipt of final payment.
2. Separate Releases or Waivers of Liens from Subcontractors and material and equipment suppliers, to the extent required by the Owner, accompanied by a list thereof.

CONTRACTOR: *(Name and address)*

BY:

(Signature of authorized representative)

(Printed name and title)

Subscribed and sworn to before me on this date:

Notary Public:
My Commission Expires:

Instructions for AIA Document G706A™

Contractor's Affidavit of Release of Liens - 1994 Edition

A. General Information

1. Purpose

This document is intended for use as companion to AIA Document G706, Contractor's Affidavit of Payment of Debts and Claims.

2. Related Documents

This document may be used with most of AIA's Owner-Contractor agreements and general conditions, such as A201 and its related family of documents. As noted above, this is a companion document to AIA Document G706.

3. Use of Current Documents

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B. Changes From the Previous Edition

A cross reference to AIA Document A201 has been deleted to permit the use of G706A with other families of AIA documents, including construction management, interiors and design/build.

C. Completing the G706A Form

GENERAL: The Owner-Contractor Agreement is the usual source of required information such as the contract date and the names and addresses of the Owner, Project and Contractor.

ARCHITECT'S PROJECT NO.: This information is typically supplied by the Architect and entered on the form by the Contractor.

CONTRACT FOR: This refers to the scope of the contract, such as "General Construction" or "Mechanical Work".

AFFIDAVIT: Indicate the state and county where the Affidavit is made. This is not necessarily the same location as the Project, but should be the location where the notary is authorized to administer sworn oaths. If there are any EXCEPTIONS to the statement, these should be listed in the space provided; otherwise enter as "None". It may be a stipulation of the Contract Documents that the Owner has the right to require the Contractor to furnish a bond to cover each exception listed on the Affidavit.

SUPPORTING DOCUMENTS: The AIA does not publish a "Release or Waiver of Liens" for contractors or subcontractors because of the great diversity of releases or waivers permitted by various state mechanics lien laws. Forms for such purposes may be available from local contractors' associations or may be written with the assistance of legal counsel.

D. Execution of the Document

The Notary Public should administer a sworn oath to the Contractor in reference to the written statements appearing on G706A, and should duly sign and seal this document containing the Contractor's signature. G706A should be signed by the Contractor or the Contractor's authorized representative.



AIA[®] Document G706[™] – 1994

Contractor's Affidavit of Payment of Debts and Claims

OWNER	<input type="checkbox"/>
ARCHITECT	<input type="checkbox"/>
CONTRACTOR	<input type="checkbox"/>
SURETY	<input type="checkbox"/>
OTHER	<input type="checkbox"/>

PROJECT: *(Name and address)*

ARCHITECT'S PROJECT NUMBER:

CONTRACT FOR: General Construction

TO OWNER: *(Name and address)*

CONTRACT DATED: _____

STATE OF:
COUNTY OF:

The undersigned hereby certifies that, except as listed below, payment has been made in full and all obligations have otherwise been satisfied for all materials and equipment furnished, for all work, labor, and services performed, and for all known indebtedness and claims against the Contractor for damages arising in any manner in connection with the performance of the Contract referenced above for which the Owner or Owner's property might in any way be held responsible or encumbered.

EXCEPTIONS:

SUPPORTING DOCUMENTS ATTACHED HERETO:

- Consent of Surety to Final Payment. Whenever Surety is involved, Consent of Surety is required. AIA Document G707, Consent of Surety, may be used for this purpose

Indicate Attachment Yes No

CONTRACTOR: *(Name and address)*

The following supporting documents should be attached hereto if required by the Owner:

- Contractor's Release or Waiver of Liens, conditional upon receipt of final payment.
- Separate Releases or Waivers of Liens from Subcontractors and material and equipment suppliers, to the extent required by the Owner, accompanied by a list thereof.
- Contractor's Affidavit of Release of Liens (AIA Document G706A).

BY: _____
(Signature of authorized representative)

(Printed name and title)

Subscribed and sworn to before me on this date:

Notary Public:
My Commission Expires:

Instructions for AIA Document G706™

Contractor's Affidavit of Payment of Debts and Claims - 1994 Edition

A. General Information

1. Purpose

This document is intended for use when the Contractor is required to provide a sworn statement verifying that debts and claims have been settled, except for those listed by the Contractor under "EXCEPTIONS" in the document. G706 is typically executed as a condition of final payment.

2. Related Documents

This document may be used with most of the AIA's Owner-Contractor agreements and general conditions, such as A201 and its related family of documents. G706 also requires the attachment of several supporting documents, including G706A, Contractor's Affidavit of Release of Liens, and G707, Consent of Surety to Reduction in or Release of Retainage.

3. Use of Current Documents

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B. Changes from the Previous Edition

A cross-reference to AIA Document A201 has been deleted to permit the use of G706 with other families of AIA documents, including construction management, interiors and design/build.

C. Completing the G706 Form

GENERAL: The Owner-Contractor Agreement is the usual source of required information such as the contract date and the names and addresses of the Owner, Project and Contractor.

ARCHITECT'S PROJECT NO.: This information is typically supplied by the Architect and entered on the form by the Contractor.

CONTRACT FOR: This refers to the scope of the contract, such as General Construction or Mechanical Work.

AFFIDAVIT: Indicate the state and county where the Affidavit is made. This is not necessarily the same location as the Project, but should be the location where the notary is authorized to administer sworn oaths. If there are any **EXCEPTIONS** to the statement, these should be listed in the space provided; otherwise enter as "None". It may be a stipulation of the Contract Documents that the Owner has the right to require the Contractor to furnish a bond to cover each exception listed on the Affidavit.

SUPPORTING DOCUMENTS: The AIA documents listed as attachments to the G706 form should be of the same (current) edition date as G706. The AIA does not publish a "Release or Waiver of Liens" for contractors or subcontractors because of the great diversity of releases or waivers permitted by various state mechanics lien laws. Forms for such purposes may be available from local contractors' associations or may be written with the assistance of legal counsel.

D. Execution of the Document

The Notary Public should administer a sworn oath to the Contractor referencing the written statements appearing on G706, and should duly sign and seal this document containing the Contractor's signature. G706 should be signed by the Contractor or the Contractor's authorized representative.

 **AIA** Document G707™ – 1994

Consent Of Surety to Final Payment

OWNER	<input type="checkbox"/>
ARCHITECT	<input type="checkbox"/>
CONTRACTOR	<input type="checkbox"/>
SURETY	<input type="checkbox"/>
OTHER	<input type="checkbox"/>

PROJECT: *(Name and address)*

ARCHITECT'S PROJECT NUMBER:

CONTRACT FOR: General Construction

TO OWNER: *(Name and address)*

CONTRACT DATED:

In accordance with the provisions of the Contract between the Owner and the Contractor as indicated above, the
(Insert name and address of Surety)

on bond of
(Insert name and address of Contractor)

, SURETY,

hereby approves of the final payment to the Contractor, and agrees that final payment to the Contractor shall not relieve the Surety of
any of its obligations to
(Insert name and address of Owner)

, CONTRACTOR,

as set forth in said Surety's bond.

, OWNER,

IN WITNESS WHEREOF, the Surety has hereunto set its hand on this date:
(Insert in writing the month followed by the numeric date and year.)

(Surety)

(Signature of authorized representative)

Attest:
(Seal):

(Printed name and title)

Instructions for AIA Document G707™

Consent of Surety to Final Payment - 1994 Edition

A. General Information

1. Purpose

This document is intended for use as a companion to AIA Document G706, Contractor's Affidavit of Payment of Debts and Claims, on construction projects where the Contractor is required to furnish a bond. By obtaining the Surety's approval of final payment to the Contractor and its agreement that final payment will not relieve the Surety of any of its obligations, the Owner may preserve its rights under the bond.

2. Related Documents

This document may be used with most of the AIA's Owner-Contractor agreements and general conditions, such as A201 and its related family of documents. As noted above, this is a companion document to AIA Document G706.

3. Use of Current Documents

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B. Changes from the Previous Edition

Changes in the location of various items of information were made, without revision to the substance of the document.

C. Completing the G707 Form

GENERAL: The bond form is the usual source of required information such as the contract date and the names and addresses of the Surety, Owner, Contractor and Project.

ARCHITECT'S PROJECT NO.: This information is typically supplied by the Architect and entered on the form by the Contractor.

CONTRACT FOR: This refers to the scope of the contract, such as "General Construction" or "Mechanical Work".

D. Execution of the Document

The G707 form requires both the Surety's seal and the signature of the Surety's authorized representative.

ADDENDA

ADDENDUM NUMBER [_____]

DATE: _____

PROJECT: OWASA Administrative Bldg. Coping and EIFS Improvements

OWASA CIP NUMBER: 280-17

OWNER: ORANGE WATER AND SEWER AUTHORITY

ARCHITECT/ENGINEER: _____

TO: _____

This Addendum forms a part of the Contract Documents and modifies the Bidding Documents dated _____, Addendum Number _____ issued _____, with amendments and additions noted herein below.

Acknowledge receipt of this Addendum in the space provided in the Bid form. Failure to do so may disqualify the Bidder.

This Addendum consists of _____ pages:

CHANGES TO THE SPECIFICATIONS:

1. _____.

CHANGES TO THE DRAWINGS:

1. DRAWING ____ - _____

-END OF DOCUMENT-

Addenda

OWASA Administrative Bldg. Coping and EIFS Improvements



Orange Water & Sewer Authority

*****THIS DOCUMENT HAS BEEN EDITED AND REVISED BY ORANGE WATER AND SEWER
AUTHORITY UNDER PERMISSION FROM THE ENGINEERS JOINT CONTRACT DOCUMENTS
COMMITTEE, MAY 5, 2014*****

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 Laws and Regulations.

STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

Prepared by



Issued and Published Jointly by



These General Conditions have been prepared for use with the Agreement Between Owner and Contractor for Construction Contract (EJCDC® C-520, Stipulated Sum, or C-525, Cost-Plus, 2013 Editions). Their provisions are interrelated and a change in one may necessitate a change in the other.

To prepare supplementary conditions that are coordinated with the General Conditions, use EJCDC's Guide to the Preparation of Supplementary Conditions (EJCDC® C-800, 2013 Edition). The full EJCDC Construction series of documents is discussed in the Commentary on the 2013 EJCDC Construction Documents (EJCDC® C-001, 2013 Edition).

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ARTICLE 1 – DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

- A. Wherever used in the Bidding Requirements or Contract Documents, a term printed with initial capital letters, including the term's singular and plural forms, will have the meaning indicated in the definitions below. In addition to terms specifically defined, terms with initial capital letters in the Contract Documents include references to identified articles and paragraphs, and the titles of other documents or forms.
1. *Addenda*—Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Requirements or the proposed Contract Documents.
 2. *Agreement*—The written instrument, executed by Owner and Contractor, that sets forth the Contract Price and Contract Times, identifies the parties and the Engineer, and designates the specific items that are Contract Documents.
 3. *Application for Payment*—The 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. *Bid*—The offer of a Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.
 5. *Bidder*—An individual or entity that submits a Bid to Owner.
 6. *Bidding Documents*—The Bidding Requirements, the proposed Contract Documents, and all Addenda.
 7. *Bidding Requirements*—The advertisement or invitation to bid, Instructions to Bidders, Bid Bond or other Bid security, if any, the Bid Form, and the Bid with any attachments.
 8. *Change Order*—A document which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the Contract Times, or other revision to the Contract, issued on or after the Effective Date of the Contract.
 9. *Change Proposal*—A written request by Contractor, duly submitted in compliance with the procedural requirements set forth herein, seeking an adjustment in Contract Price or Contract Times, or both; contesting an initial decision by Engineer concerning the requirements of the Contract Documents or the acceptability of Work under the Contract Documents; challenging a set-off against payments due; or seeking other relief with respect to the terms of the Contract.
 10. *Claim*—(a) A demand or assertion by Owner directly to Contractor, duly submitted in compliance with the procedural requirements set forth herein: seeking an adjustment of Contract Price or Contract Times, or both; contesting an initial decision by Engineer concerning the requirements of the Contract Documents or the acceptability of Work under the Contract Documents; contesting Engineer's decision regarding a Change Proposal; seeking resolution of a contractual issue that Engineer has declined to address; or seeking other relief with respect to the terms of the Contract; or (b) a demand or assertion by Contractor directly to Owner, duly submitted in compliance with the procedural requirements set forth herein, contesting Engineer's decision

regarding a Change Proposal; or seeking resolution of a contractual issue that Engineer has declined to address. A demand for money or services by a third party is not a Claim.

11. *Constituent of Concern*—Asbestos, petroleum, radioactive materials, polychlorinated biphenyls (PCBs), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. (“CERCLA”); (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§5501 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. (“RCRA”); (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; or (g) any other federal, state, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.
12. *Contract*—The entire and integrated written contract between the Owner and Contractor concerning the Work.
13. *Contract Documents*—Those items so designated in the Agreement, and which together comprise the Contract.
14. *Contract Price*—The money that Owner has agreed to pay Contractor for completion of the Work in accordance with the Contract Documents. .
15. *Contract Times*—The number of days or the dates by which Contractor shall: (a) achieve Milestones, if any; (b) achieve Substantial Completion; and (c) complete the Work.
16. *Contractor*—The individual or entity with which Owner has contracted for performance of the Work.
17. *Cost of the Work*—See Paragraph 13.01 for definition.
18. *Drawings*—The part of the Contract that graphically shows the scope, extent, and character of the Work to be performed by Contractor.
19. ***Document*** – **A specific section of the Project Manual or a reference to a specific section of the Project Manual as noted with the accompanying numeric reference.**
20. *Effective Date of the Contract*—The date, indicated in the Agreement, on which the Contract becomes effective.
21. *Engineer*—The individual or entity named as such in the Agreement.
22. *Field Order*—A written order issued by Engineer which requires minor changes in the Work but does not change the Contract Price or the Contract Times.
23. ***Geotechnical Data Report (GDR)*** — **The factual report that collects and presents data regarding actual subsurface conditions at or adjacent to the Site, including Technical Data and other geotechnical data, prepared by or for Owner in support of the Geotechnical Baseline Report. The GDR’s content may include logs of borings, trenches, and other site investigations, recorded measurements of subsurface water levels, the results of field and laboratory testing, and descriptions of the investigative and testing programs. The GDR does not include an interpretation of the data. If opinions, or interpretive or speculative non-factual comments or statements appear in a document that is labeled a GDR, such opinions, comments, or statements are not**

operative parts of the GDR and do not have contractual standing. Subject to that exception, the GDR is a Contract Document.

24. *Hazardous Environmental Condition*—The presence at the Site of Constituents of Concern in such quantities or circumstances that may present a danger to persons or property exposed thereto. The presence at the Site of materials that are necessary for the execution of the Work, or that are to be incorporated in the Work, and that are controlled and contained pursuant to industry practices, Laws and Regulations, and the requirements of the Contract, does not establish a Hazardous Environmental Condition.
25. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
26. *Liens*—Charges, security interests, or encumbrances upon Contract-related funds, real property, or personal property.
27. *Milestone*—A principal event in the performance of the Work that the Contract requires Contractor to achieve by an intermediate completion date or by a time prior to Substantial Completion of all the Work.
28. *Notice of Award*—The written notice by Owner to a Bidder of Owner's acceptance of the Bid.
29. *Notice to Proceed*—A written notice by Owner to Contractor fixing the date on which the Contract Times will commence to run and on which Contractor shall start to perform the Work.
30. *Owner*—The individual or entity with which Contractor has contracted regarding the Work, and which has agreed to pay Contractor for the performance of the Work, pursuant to the terms of the Contract.
31. *Progress Schedule*—A schedule, prepared and maintained by Contractor, describing the sequence and duration of the activities comprising the Contractor's plan to accomplish the Work within the Contract Times.
32. *Project*—The total undertaking to be accomplished for Owner by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the Work to be performed under the Contract Documents is a part.
33. *Project Manual*—The written documents prepared for, or made available for, procuring and constructing the Work, including but not limited to the Bidding Documents or other construction procurement documents, geotechnical and existing conditions information, the Agreement, bond forms, General Conditions, ~~Supplementary Conditions~~, and Specifications. The contents of the Project Manual may be bound in one or more volumes.
34. **Property Owner – The individual, partnership, co-partnership, limited liability corporation firm, company, corporation, unincorporated association, organization, joint stock company, trust, estate, institution, governmental entity, or any other entity that owns the property, or controls management or activities of the property where Work or a portion of the Work is performed.**
35. *Resident Project Representative*—The authorized representative of Engineer assigned to assist Engineer at the Site, **or any part thereof to make any and all observations of the Work performed, acting under direct supervision of the Engineer.** As used herein,

the term Resident Project Representative or “RPR” includes any assistants or field staff of Resident Project Representative.

36. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work will be judged.
37. *Schedule of Submittals*—A schedule, prepared and maintained by Contractor, of required submittals and the time requirements for Engineer’s review of the submittals and the performance of related construction activities.
38. *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.
39. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Contract Documents.
40. *Site*—Lands or areas indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements, and such other lands furnished by Owner which are designated for the use of Contractor.
41. *Specifications*—The part of the Contract that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.
42. *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.
43. *Substantial Completion*—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, **and approved by the Owner**, 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.
44. *Successful Bidder*—The Bidder whose Bid the Owner accepts, and to which the Owner makes an award of contract, subject to stated conditions.
45. **Superintendent – The authorized representative of the Contractor who is assigned to oversee the work forces responsible for performing the Work in accordance with the Contract Documents.**
46. *Supplementary Conditions*—The part of the Contract that amends or supplements these General Conditions. **[Supplementary Conditions have been inserted in the EJCDC General Conditions. Any deletions to the standard C-700 language are noted by having a line drawn through them (i.e. interlining; ex. Supplementary. Any added (supplementary) language is noted by the text being in bold font and underlined (this sentence being an example).]**
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 a Subcontractor.

48. *Technical Data*—Those items expressly identified as Technical Data in the Supplementary General Conditions, with respect to either (a) subsurface conditions at the Site, or physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities) or (b) Hazardous Environmental Conditions at the Site. If no such express identifications of Technical Data have been made with respect to conditions at the Site, then the data contained in boring logs, recorded measurements of subsurface water levels, laboratory test results, and other factual, objective information regarding conditions at the Site that are set forth in any geotechnical or environmental report prepared for the Project and made available to Contractor are hereby defined as Technical Data with respect to conditions at the Site under Paragraphs 5.03, 5.04, and 5.06.
49. *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 but not limited to those that convey electricity, gases, steam, liquid petroleum products, telephone or other communications, fiber optic transmissions, cable television, water, wastewater, storm water, other liquids or chemicals, or traffic or other control systems.
50. *Unit Price Work*—Work to be paid for on the basis of unit prices.
51. *Work*—The entire construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction; furnishing, installing, and incorporating all materials and equipment into such construction; and may include related services such as testing, start-up, and commissioning, all as required by the Contract Documents.
52. *Work Change Directive*—A written directive to Contractor issued on or after the Effective Date of the Contract, signed by Owner and recommended by Engineer, ordering an addition, deletion, or revision in the Work.

1.02 Terminology

- A. The words and terms discussed in the following paragraphs 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 Article 10 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 15.03 or 15.04).
- 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. If the Contract Documents establish an obligation of Contractor with respect to specific services, materials, or equipment, but do not expressly use any of the four words “furnish,” “install,” “perform,” or “provide,” then Contractor shall furnish and install said services, materials, or equipment complete and ready for intended use.
- F. 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.
- G. ***Include:***
1. **The word “include” in its various forms and derivatives shall mean ‘without limitation’ unless the context otherwise requires.**
- H. ***Persistently Fails:***
1. **The expression ‘persistently fails’ and other similar expressions, as used in reference to the Contractor, shall mean any act or omission which causes Owner or Engineer to reasonably conclude that Contractor will not complete the Work within the Contract Times or Contract Price, or in substantial compliance with the requirements of the Contract Documents.**
- G. Pronouns, Numbers, and Titles:***
1. **Unless the context otherwise requires all personal pronouns used in the Contract Documents shall include all other genders, and the singular shall include the plural**

and vice versa. Titles and headings of articles, paragraphs, subparagraphs, sections, subsections, parts, subparts, etc., in the Contract Documents are for convenience only, and neither limit nor amplify the provisions.

ARTICLE 2 – PRELIMINARY MATTERS

2.01 *Delivery of Bonds and Evidence of Insurance*

- A. *Bonds*: 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 Contractor's Insurance*: When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner, with copies to each named insured and additional insured (as identified in the Supplementary Conditions or elsewhere in the Contract), the certificates and other evidence of insurance required to be provided by Contractor in accordance with Article 6.~~

***Evidence of Contractor's Insurance*: When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner copies of the policies of insurance (including all endorsements, and identification of applicable self-insured retentions and deductibles) required to be provided by Contractor in Article 6. Contractor may block out (redact) any confidential premium or pricing information contained in any policy or endorsement furnished under this provision.**

- C. *Evidence of Owner's Insurance*: After receipt of the executed counterparts of the Agreement and all required bonds and insurance documentation, Owner shall promptly deliver to Contractor, with copies to each named insured and additional insured (as identified in the Supplementary **General** Conditions or otherwise), the certificates and other evidence of insurance required to be provided by Owner under Article 6.

2.02 *Copies of Documents*

- A. Owner shall furnish to Contractor ~~four printed copies of the Contract~~ **free of charge, 10 copies of the Contract Documents** (including one fully executed counterpart of the Agreement), and one copy in electronic portable document format (PDF). Additional printed copies will be furnished upon request at the cost of reproduction.
- B. Owner shall maintain and safeguard at least one original printed record version of the Contract, including Drawings and Specifications signed and sealed by Engineer and other design professionals. Owner shall make such original printed record version of the Contract available to Contractor for review. Owner may delegate the responsibilities under this provision to Engineer.

2.03 *Before Starting Construction*

- A. *Preliminary Schedules*: Within 10 days after the Effective Date of the Contract (or as otherwise specifically required by the Contract Documents), Contractor shall submit to Engineer for timely review:
 - 1. a preliminary Progress Schedule indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract;
 - 2. a preliminary Schedule of Submittals; and
 - 3. a preliminary Schedule of Values for all of the Work which includes quantities and prices of items which when added together equal the Contract Price and subdivides the Work

into component parts in sufficient detail to serve as the basis for progress payments during performance of the Work. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work.

- B. **Priority List of Sites: The priority list of Sites for the Project shall be approved by the Engineer or the Resident Project Representative. Orange Water and Sewer Authority reserves the right to alter the priority list of Sites. The Contractor will be given notice in writing of any change in the priority list of Sites.**

2.04 *Preconstruction Conference; Designation of Authorized Representatives*

- A. Before any Work at the Site is started, a conference attended by Owner, Contractor, Engineer, and others as appropriate will be held to establish a working understanding among the parties as to the Work and to discuss the schedules referred to in Paragraph 2.03.A, procedures for handling Shop Drawings, Samples, and other submittals, processing Applications for Payment, electronic or digital transmittals, and maintaining required records.
- B. At this conference Owner and Contractor each shall designate, in writing, a specific individual to act as its authorized representative with respect to the services and responsibilities under the Contract. Such individuals shall have the authority to transmit and receive information, render decisions relative to the Contract, and otherwise act on behalf of each respective party.

2.05 *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 2.03.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 the component parts of the Work.

2.06 *Electronic Transmittals*

- A. Except as otherwise stated elsewhere in the Contract, the Owner, Engineer, and Contractor may transmit, and shall accept, Project-related correspondence, text, data, documents, drawings, information, and graphics, including but not limited to Shop Drawings and other submittals, in electronic media or digital format, either directly, or through access to a secure Project website.
- B. If the Contract does not establish protocols for electronic or digital transmittals, then Owner, Engineer, and Contractor shall jointly develop such protocols.

- C. When transmitting items in electronic media or digital format, the transmitting party makes no representations as to long term compatibility, usability, or readability of the items resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the items, or from those established in applicable transmittal protocols.

ARTICLE 3 – DOCUMENTS: INTENT, REQUIREMENTS, 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.
- C. Unless otherwise stated in the Contract Documents, if there is a discrepancy between the electronic or digital versions of the Contract Documents (including any printed copies derived from such electronic or digital versions) and the printed record version, the printed record version shall govern.
- D. The Contract supersedes prior negotiations, representations, and agreements, whether written or oral.
- E. Engineer will issue clarifications and interpretations of the Contract Documents as provided herein.

3.02 *Reference Standards*

- A. Standards Specifications, Codes, Laws and Regulations
 - 1. Reference in the Contract Documents to standard specifications, manuals, reference standards, or codes of any technical society, organization, or association, or to Laws or Regulations, whether such reference be specific or by implication, shall mean the standard specification, manual, reference standard, code, or Laws or Regulations in effect at the time of opening of Bids (or on the Effective Date of the Contract if there were no Bids), except as may be otherwise specifically stated in the Contract Documents.
 - 2. No provision of any such standard specification, manual, reference standard, or code, 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 part of the Contract Documents prepared by or for Engineer. 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 part of the Contract Documents prepared by or for Engineer.

3.03 *Reporting and Resolving Discrepancies*

- A. *Reporting Discrepancies:*
 - 1. *Contractor's Verification of Figures and Field Measurements:* Before undertaking each part of the Work, Contractor shall carefully study the Contract Documents, and check and verify pertinent figures and dimensions therein, particularly with respect to

applicable field measurements. Contractor shall promptly report in writing to Engineer any conflict, error, ambiguity, or discrepancy that Contractor discovers, or has actual knowledge of, and shall not proceed with any Work affected thereby until the conflict, error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract Documents issued pursuant to Paragraph 11.01.

- a. **The accuracy or exactness of grades, elevations, dimensions, or locations given or any Drawings or the Work installed by other contractors, is not guaranteed by Owner.**
- b. **Included under Contractor's duty under the first sentence of Paragraph 3.03.A.1 are:**
 - 1) **to satisfy itself as to the accuracy of all grades, elevations, dimensions, and locations, and**
 - 2) **in all cases of interconnection of the Work to be done by Contractor with the rest of the Project, it shall verify at the Site all dimensions needed to make proper interconnections.**
- c. **Contractor shall promptly rectify all errors due to its failure to so verify all such grades, elevations, locations, or dimensions without additional cost to Owner. No extra charges or compensation shall be allowed on account of differences between actual dimensions and the dimensions indicated on the Drawings.**
- d. **Contractor acknowledges:**
 - 1) **the Contract Documents are sufficient to determine the cost of the Work;**
 - 2) **it has had sufficient opportunity to visit the Site and to examine all conditions, including subsurface and physical conditions affecting the Work;**
 - 3) **it has had sufficient opportunity to examine the Contract Documents for errors, inconsistencies, and omissions;**
 - 4) **the Contract Documents are complete and unambiguous;**
 - 5) **the Contract Times are reasonable and sufficient to complete the Work.**
- e. **If the statements in Paragraph 3.03.A.1.d are not accurate, Contractor accepts any risk in connection with making them.**
- f. **Contractor shall evaluate and satisfy itself as to the conditions and limitations under which the Work is to be performed, including (to the extent they are pertinent):**
 - 1) **the location, condition, layout, and nature of the Site and surrounding area;**
 - 2) **generally prevailing climatic conditions;**
 - 3) **anticipated labor supply costs;**
 - 4) **availability and cost of materials, tools, and equipment, and**
 - 5) **other similar issues.**
- g. **To the extent that it may be appropriate for the proper execution of its subcontract, Contractor shall cause each Subcontractor to do the evaluation described in Paragraph 3.03.A.1.f.**

h. **Owner will not be required to make any adjustment in the Contract Times or the Contract Price in connection with any failure by Contractor to comply with Paragraph 3.03.A.**

2. *Contractor's Review of Contract Documents:* If, before or during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents, or between the Contract Documents and (a) any applicable Law or Regulation, (b) actual field conditions, (c) any standard specification, manual, reference standard, or code, or (d) any instruction of any Supplier, then Contractor shall promptly report it to Engineer in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Paragraph 7.15) until the conflict, error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract Documents issued pursuant to Paragraph 11.01.
3. Contractor shall not be liable to Owner or Engineer for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless Contractor had actual knowledge thereof, **unless otherwise provided in the Contract Documents, or by Laws or Regulations, or common law.**

B. *Resolving Discrepancies:*

1. Except as may be otherwise specifically stated in the Contract Documents, the provisions of the part of the Contract Documents prepared by or for Engineer shall take precedence in resolving any conflict, error, ambiguity, or discrepancy between such provisions of the Contract Documents and:
 - a. the provisions of any standard specification, manual, reference standard, or code, or the instruction of any Supplier (whether or not specifically incorporated by reference as a Contract Document); or
 - b. the provisions of any Laws or Regulations applicable to the performance of the Work (unless such an interpretation of the provisions of the Contract Documents would result in violation of such Law or Regulation).
2. **Owner and Contractor shall do all acts, and shall make, execute, and deliver such written instruments, as shall from time to time be reasonably required to carry out the provisions of the Contract Documents, or between the Contract Documents and applicable standards, specifications, manuals, or Laws or Regulations cannot be resolved by use of provisions of the Contract Documents as described in Paragraph 3.03.B.1, Contractor shall:**
 - a. **provide the better quality or greater quantity of Work or**
 - b. **comply with the more stringent requirement**
3. **Paragraph 3.03.B.2 shall not relieve the Contractor of any obligations otherwise imposed on it.**

3.04 *Requirements of the Contract Documents*

- A. During the performance of the Work and until final payment, Contractor and Owner shall submit to the Engineer all matters in question concerning the requirements of the Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Contract Documents, as soon as possible after such matters arise. Engineer will be the initial interpreter of the requirements of the Contract Documents, and judge of the acceptability of the Work thereunder.

- B. Engineer will, with reasonable promptness, render a written clarification, interpretation, or decision on the issue submitted, or initiate an amendment or supplement to the Contract Documents. Engineer's written clarification, interpretation, or decision will be final and binding on Contractor, unless it appeals by submitting a Change Proposal, and on Owner, unless it appeals by filing a Claim.
- C. If a submitted matter in question concerns terms and conditions of the Contract Documents that do not involve (1) the performance or acceptability of the Work under the Contract Documents, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, then Engineer will promptly give written notice to Owner and Contractor that Engineer is unable to provide a decision or interpretation. If Owner and Contractor are unable to agree on resolution of such a matter in question, either party may pursue resolution as provided in Article 12.

3.05 *Reuse of Documents*

- A. Contractor and its Subcontractors and Suppliers shall not:
 - 1. have or acquire any title to or ownership rights in any of the Drawings, Specifications, or other documents (or copies of any thereof) prepared by or bearing the seal of Engineer or its consultants, including electronic media editions, or reuse any such Drawings, Specifications, other documents, or copies thereof on extensions of the Project or any other project without written consent of Owner and Engineer and specific written verification or adaptation by Engineer; or
 - 2. have or acquire any title or ownership rights in any other Contract Documents, reuse any such Contract Documents for any purpose without Owner's express written consent, or violate any copyrights pertaining to such Contract Documents.
- B. The prohibitions of this Paragraph 3.05 will survive final payment, or termination of the Contract. Nothing herein shall preclude Contractor from retaining copies of the Contract Documents for record purposes.

ARTICLE 4 – COMMENCEMENT AND PROGRESS OF THE WORK

4.01 *Commencement of Contract Times; Notice to Proceed*

- A. The Contract Times will commence to run on the thirtieth day after the Effective Date of the Contract or, if a Notice to Proceed is given, on the day indicated in the Notice to Proceed. A Notice to Proceed may be given at any time within 30 days after the Effective Date of the Contract. In no event will the Contract Times commence to run later than the sixtieth day after the day of Bid opening or the thirtieth day after the Effective Date of the Contract, whichever date is earlier.

4.02 *Starting the Work*

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

4.03 *Reference Points*

- A. Owner shall provide engineering surveys to establish reference points for construction which in Engineer's judgment are necessary to enable Contractor to proceed with the Work. Contractor shall be responsible for laying out the Work, shall protect and preserve the established reference points and property monuments, and shall make no changes or relocations without the prior written approval of Owner. Contractor shall report to Engineer

whenever any reference point or property monument is lost or destroyed or requires relocation because of necessary changes in grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points or property monuments by professionally qualified personnel.

4.04 *Progress Schedule*

- A. Contractor shall adhere to the Progress Schedule established in accordance with Paragraph 2.05 as it may be adjusted from time to time as provided below.
 - 1. Contractor shall submit to Engineer for acceptance (to the extent indicated in Paragraph 2.05) proposed adjustments in the Progress Schedule that will not result in changing the Contract Times.
 - 2. Proposed adjustments in the Progress Schedule that will change the Contract Times shall be submitted in accordance with the requirements of Article 11.
- B. Contractor shall carry on the Work and adhere to the Progress Schedule during all disputes or disagreements with Owner. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, or during any appeal process, except as permitted by Paragraph 16.04, or as Owner and Contractor may otherwise agree in writing.

4.05 *Delays in Contractor's Progress*

- A. If Owner, Engineer, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress of the Work, then Contractor shall be entitled to an equitable adjustment in the Contract Times and Contract Price. 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.
- B. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delay, disruption, or interference caused by or within the control of Contractor. Delay, disruption, and interference attributable to and within the control of a Subcontractor or Supplier shall be deemed to be within the control of Contractor.
- C. If Contractor's performance or progress is delayed, disrupted, or interfered with by unanticipated causes not the fault of and beyond the control of Owner, Contractor, and those for which they are responsible, then Contractor shall be entitled to an equitable adjustment in Contract Times. 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. Such an adjustment shall be Contractor's sole and exclusive remedy for the delays, disruption, and interference described in this paragraph. Causes of delay, disruption, or interference that may give rise to an adjustment in Contract Times under this paragraph include but are not limited to the following:
 - 1. severe and unavoidable natural catastrophes such as fires, floods, epidemics, and earthquakes;
 - 2. abnormal weather conditions;
 - 3. acts or failures to act of utility owners (other than those performing other work at or adjacent to the Site by arrangement with the Owner, as contemplated in Article 8); and
 - 4. acts of war or terrorism.
- D. Delays, disruption, and interference to the performance or progress of the Work resulting from the existence of a differing subsurface or physical condition, an Underground Facility that was not shown or indicated by the Contract Documents, or not shown or indicated with

reasonable accuracy, and those resulting from Hazardous Environmental Conditions, are governed by Article 5.

- E. Paragraph 8.03 governs delays, disruption, and interference to the performance or progress of the Work resulting from the performance of certain other work at or adjacent to the Site.
- F. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for any delay, disruption, or interference if such delay is concurrent with a delay, disruption, or interference caused by or within the control of Contractor.
- G. Contractor must submit any Change Proposal seeking an adjustment in Contract Price or Contract Times under this paragraph within 30 days of the commencement of the delaying, disrupting, or interfering event.

ARTICLE 5 – AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS

5.01 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.
- B. Upon reasonable written request, Owner shall furnish Contractor with a current statement of record legal title and legal description of the lands upon which permanent improvements are to be made and Owner's interest therein as necessary for giving notice of or filing a mechanic's or construction lien against such lands in accordance with applicable Laws and Regulations.
- C. Contractor shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.
- D. **The Owner will obtain a right-of-entry for each Site located on private property. No Work shall commence on a private property Site until the Contractor has been given a copy of the executed right-of-entry for that Site and the Contractor has been given permission to begin Work on the Site from the Engineer or Resident Project Representative. The Owner is solely responsible for obtaining rights-of-entry.**
- E. **The Contractor shall have no more than one (1) uncompleted Site ongoing at any time, unless authorized by the Engineer or Resident Project Representative. Prior to moving to the next Site, the Contractor shall receive permission from the Engineer or Resident Project Representative.**
- F. **The Owner will obtain all encroachment agreements necessary for the completion of the Work. The Contractor shall become familiarized with all the provisions of the encroachment agreements, if any, required for the Contract. The Engineer or Resident Project Representative will provide copies of the encroachment agreements. The Owner is solely responsible for obtaining encroachment agreements.**
- G. **Public Notice and Advisory: The Contractor shall notify individual or entities anticipated to be affected by the Work. Notice shall be written and provided to the recipient no less than two (2) days prior to commencing Site construction. Notice shall be delivered in person, door knob hanger, or letter and shall include the following information:**
 - 1. **nature and schedule of the Work;**
 - 2. **name and telephone number of a contact person; and**

3. any additional necessary information or instructions.

H. The Engineer or Resident Project Representative will approve any notice prior to commencement of construction.

5.02 *Use of Site and Other Areas*

A. *Limitation on Use of Site and Other Areas:*

1. Contractor shall confine construction equipment, temporary construction facilities, the storage of materials and equipment, and the operations of workers to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and such other adjacent areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility for (a) damage to the Site; (b) damage to any such other adjacent areas used for Contractor's operations; (c) damage to any other adjacent land or areas; and (d) for injuries and losses sustained by the owners or occupants of any such land or areas; provided that such damage or injuries result from the performance of the Work or from other actions or conduct of the Contractor or those for which Contractor is responsible.
 2. If a damage or injury claim is made by the owner or occupant of any such land or area because of the performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible, Contractor shall (a) take immediate corrective or remedial action as required by Paragraph 7.12, or otherwise; (b) promptly attempt to settle the claim as to all parties through negotiations with such owner or occupant, or otherwise resolve the claim by arbitration or other dispute resolution proceeding, or at law; and (c) to the fullest extent permitted by Laws and Regulations, indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against any such claim, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable, brought by any such owner or occupant against Owner, Engineer, or any other party indemnified hereunder to the extent caused directly or indirectly, in whole or in part by, or based upon, Contractor's performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible.
- B. *Removal of Debris During Performance of the Work:* During the progress of the Work the Contractor shall keep the Site and other adjacent areas free from accumulations of waste materials, rubbish, and other debris. Removal and disposal of such waste materials, rubbish, and other debris 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 and adjacent areas all tools, appliances, construction equipment and machinery, and surplus materials and shall restore to original condition all property not designated for alteration by the Contract Documents.
- D. *Loading of Structures:* Contractor shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall Contractor subject any part of the Work or adjacent structures or land to stresses or pressures that will endanger them.

5.03 *Subsurface and Physical Conditions*

A. *Reports and Drawings:* The ~~Supplementary~~ **General** Conditions identify:

1. those reports known to Owner of explorations and tests of subsurface conditions at or adjacent to the Site;
2. those drawings known to Owner of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities); and
3. Technical Data contained in such reports and drawings.

B. *Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the accuracy of the Technical Data expressly identified in the ~~Supplementary~~ **General** Conditions with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely upon the accuracy of the Technical Data (as defined in Article 1) contained in any geotechnical or environmental report prepared for the Project and made available to Contractor. Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, with respect to:

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

C. **The following reports of explorations and tests of subsurface conditions at or adjacent to the Site are known to Owner:**

1. **Not Applicable.**

D. **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. Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, with respect to:

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

5.04 *Differing Subsurface or Physical Conditions*

- A. *Notice by Contractor:* If Contractor believes that any subsurface or physical condition that is uncovered or revealed at the Site 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 5.03 is materially inaccurate; or
 2. is of such a nature as to require a change in the Drawings or Specifications; 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 7.15), notify Owner and Engineer in writing about such condition. Contractor shall not further disturb such condition or perform any Work in connection therewith (except with respect to an emergency) until receipt of a written statement permitting Contractor to do so.

- B. *Engineer's Review:* After receipt of written notice as required by the preceding paragraph, Engineer will promptly review the subsurface or physical condition in question; determine the necessity of Owner's obtaining additional exploration or tests with respect to the condition; conclude whether the condition falls within any one or more of the differing site condition categories in Paragraph 5.04.A above; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the Contractor's resumption of Work in connection with the subsurface or physical condition in question and the need for any change in the Drawings or Specifications; and advise Owner in writing of Engineer's findings, conclusions, and recommendations.
- C. *Owner's Statement to Contractor Regarding Site Condition:* After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the subsurface or physical condition in question, addressing the resumption of Work in connection with such condition, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations, in whole or in part.
- D. *Possible Price and Times Adjustments:*
1. Contractor shall be entitled to an equitable adjustment in Contract Price or Contract Times, or both, to the extent that the existence of a differing subsurface or physical condition, or any related delay, disruption, or interference, causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:
 - a. such condition must fall within any one or more of the categories described in Paragraph 5.04.A;
 - b. with respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03; and,
 - c. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.

2. Contractor shall not be entitled to any adjustment in the Contract Price or Contract Times with respect to a subsurface or physical condition if:
 - a. Contractor knew of the existence of such condition at the time Contractor made a commitment to Owner with respect to Contract Price and Contract Times by the submission of a Bid or becoming bound under a negotiated contract, or otherwise; or
 - b. the existence of such condition reasonably could have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site and contiguous areas expressly required by the Bidding Requirements or Contract Documents to be conducted by or for Contractor prior to Contractor's making such commitment; or
 - c. Contractor failed to give the written notice as required by Paragraph 5.04.A.
3. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Price or Contract Times, or both, then any such adjustment shall be set forth in a Change Order.
4. Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Price or Contract Times, or both, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the subsurface or physical condition in question.

5.05 *Underground Facilities*

- A. *Contractor's Responsibilities:* The information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or adjacent 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~~ **General** Conditions:
 1. Owner and Engineer do not warrant or guarantee 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 information and data regarding existing Underground Facilities at the Site;
 - b. locating all Underground Facilities shown or indicated in the Contract Documents as being at the Site;
 - c. coordination of the Work with the owners (including Owner) of such Underground Facilities, during construction; and
 - d. the safety and protection of all existing Underground Facilities at the Site, and repairing any damage thereto resulting from the Work.
- B. *Notice by Contractor:* If Contractor believes that an Underground Facility that is uncovered or revealed at the Site was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy, then Contractor shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), identify the owner of such Underground Facility and give written notice to that owner and to Owner and Engineer.

- C. *Engineer's Review:* Engineer will promptly review the Underground Facility and conclude whether such Underground Facility was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the Contractor's resumption of Work in connection with the Underground Facility in question; determine the extent, if any, to which a change is required in the Drawings or Specifications to reflect and document the consequences of the existence or location of the Underground Facility; and advise Owner in writing of Engineer's findings, conclusions, and recommendations. During such time, Contractor shall be responsible for the safety and protection of such Underground Facility.
- D. *Owner's Statement to Contractor Regarding Underground Facility:* After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the Underground Facility in question, addressing the resumption of Work in connection with such Underground Facility, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations in whole or in part.
- E. *Possible Price and Times Adjustments:*
1. Contractor shall be entitled to an equitable adjustment in the Contract Price or Contract Times, or both, to the extent that any existing Underground Facility at the Site that was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy, or any related delay, disruption, or interference, causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:
 - a. Contractor did not know of and could not reasonably have been expected to be aware of or to have anticipated the existence or actual location of the Underground Facility in question;
 - b. With respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03;
 - c. 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; and
 - d. Contractor gave the notice required in Paragraph 5.05.B.
 2. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Price or Contract Times, or both, then any such adjustment shall be set forth in a Change Order.
 3. Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Price or Contract Times, or both, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the Underground Facility in question.

5.06 *Hazardous Environmental Conditions at Site*

- A. *Reports and Drawings:* The ~~Supplementary~~ General Conditions identify:
- ~~1. those reports and drawings known to Owner relating to Hazardous Environmental Conditions that have been identified at or adjacent to the Site; and~~
 - ~~2. Technical Data contained in such reports and drawings.~~

No reports or drawings related to Hazardous Environmental Conditions at the Site are known to Owner.

- B. ~~*Reliance by Contractor on Technical Data Authorized:*~~ Contractor may rely upon the accuracy of the Technical Data expressly identified in the Supplementary Conditions with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely on the accuracy of the Technical Data (as defined in Article 1) contained in any geotechnical or environmental report prepared for the Project and made available to Contractor. Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors with respect to:
- ~~1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences and procedures of construction to be employed by Contractor and safety precautions and programs incident thereto; or~~
 - ~~2. other data, interpretations, opinions and information contained in such reports or shown or indicated in such drawings; or~~
 - ~~3. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions or information.~~
- C. Contractor shall not be responsible for removing or remediating any Hazardous Environmental Condition encountered, uncovered, or revealed at the Site unless such removal or remediation is expressly identified in the Contract Documents to be within the scope of the Work.
- D. Contractor shall be responsible for controlling, containing, and duly removing all Constituents of Concern brought to the Site by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible, and for any associated costs; and for the costs of removing and remediating any Hazardous Environmental Condition created by the presence of any such Constituents of Concern.
- E. If Contractor encounters, uncovers, or reveals a Hazardous Environmental Condition whose removal or remediation is not expressly identified in the Contract Documents as being within the scope of the Work, or if Contractor or anyone for whom Contractor is responsible creates a Hazardous Environmental Condition, then Contractor shall immediately: (1) secure or otherwise isolate such condition; (2) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by Paragraph 7.15); and (3) notify Owner and Engineer (and promptly thereafter confirm such notice in writing). Owner shall promptly consult with Engineer concerning the necessity for Owner to retain a qualified expert to evaluate such condition or take corrective action, if any. Promptly after consulting with Engineer, Owner shall take such actions as are necessary to permit Owner to timely obtain required permits and provide Contractor the written notice required by Paragraph 5.06.F. If Contractor or anyone for whom Contractor is responsible created the Hazardous Environmental Condition in question, then Owner may remove and remediate the Hazardous Environmental Condition, and impose a set-off against payments to account for the associated costs.
- F. Contractor shall not resume Work in connection with such Hazardous Environmental Condition or in any affected area until after Owner has obtained any required permits related thereto, and delivered written notice to Contractor either (1) specifying that such condition

- and any affected area is or has been rendered safe for the resumption of Work, or (2) specifying any special conditions under which such Work may be resumed safely.
- G. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, or both, as a result of such Work stoppage or such special conditions under which Work is agreed to be resumed by Contractor, then within 30 days of Owner's written notice regarding the resumption of Work, Contractor may submit a Change Proposal, or Owner may impose a set-off.
 - H. If after receipt of such written notice Contractor does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special conditions, then Owner may order the portion of the Work that is in the area affected by such condition to be deleted from the Work, following the contractual change procedures in Article 11. Owner may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Article 8.
 - I. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition, provided that such Hazardous Environmental Condition (1) was not shown or indicated in the Drawings, Specifications, or other Contract Documents, identified as Technical Data entitled to limited reliance pursuant to Paragraph 5.06.B, or identified in the Contract Documents to be included within the scope of the Work, and (2) was not created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.H shall obligate Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.
 - J. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the failure to control, contain, or remove a Constituent of Concern brought to the Site by Contractor or by anyone for whom Contractor is responsible, or to a Hazardous Environmental Condition created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.J shall obligate Contractor to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.
 - K. The provisions of Paragraphs 5.03, 5.04, and 5.05 do not apply to the presence of Constituents of Concern or to a Hazardous Environmental Condition uncovered or revealed at the Site.

ARTICLE 6 – BONDS AND INSURANCE

6.01 *Performance, Payment, and Other Bonds*

- A. Contractor shall furnish a performance bond and a payment bond, each in an amount at least equal to the Contract Price, as security for the faithful performance and payment of all of Contractor's obligations under the Contract. 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 15.08, whichever is later, except as provided otherwise by Laws or Regulations, ~~the Supplementary Conditions~~, or other specific provisions of the Contract. Contractor shall also furnish such other bonds as are required by the ~~Supplementary~~ **General** Conditions or other specific provisions of the Contract.

- B. All bonds shall be in the form prescribed by the Contract except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (as amended and supplemented) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. A bond signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual's authority to bind the surety. The evidence of authority shall show that it is effective on the date the agent or attorney-in-fact signed the accompanying bond.
- C. Contractor shall obtain the required bonds from surety companies that are duly licensed or authorized in the jurisdiction in which the Project is located to issue bonds in the required amounts.
- D. If the surety on a bond furnished by Contractor is declared bankrupt or becomes insolvent, or its right to do business is terminated in any state or jurisdiction where any part of the Project is located, or the surety ceases to meet the requirements above, then Contractor shall promptly notify Owner and Engineer and shall, within ~~20~~ **five (5)** days after the event giving rise to such notification, provide another bond and surety, both of which shall comply with the bond and surety requirements above.
- E. If Contractor has failed to obtain a required bond, Owner may exclude the Contractor from the Site and exercise Owner's termination rights under Article 16.
- F. Upon request, Owner shall provide a copy of the payment bond to any Subcontractor, Supplier, or other person or entity claiming to have furnished labor or materials used in the performance of the Work.

6.02 Insurance—General Provisions

- A. ~~Owner and Contractor shall obtain and maintain insurance as required in this Article and in the Supplementary Conditions.~~ **Wherever in this Article the terms "The Insured" and Owner occurs with respect to coverage in a policy, it shall mean the Owner and its agent and agencies, all municipalities where Work is being performed under the Contract, the Engineer, and any other parties specifically designated herein, who shall be named as insured in each policy issued. The insurance policies required herein shall not contain any Third Party Beneficiary Exclusion.**
- B. All insurance required by the Contract to be purchased and maintained by ~~Owner or Contractor~~ shall be obtained from insurance companies that are duly licensed or authorized, in the state **of North Carolina**, or jurisdiction in which the Project is located, to issue insurance policies for the required limits and coverages. Unless a different standard is indicated in the ~~Supplementary~~ **General** Conditions, all companies that provide insurance policies required under this Contract shall have an A.M. Best rating of A-VII or better.
 - 1. **Contractor may obtain worker's compensation insurance from an insurance company that has not been rated by A.M. Best, provided that such company (a) is domiciled in the state in which the project is located, (b) is certified or authorized as a worker's compensation insurance provider by the appropriate state agency, and (c) has been accepted to provide worker's compensation insurance for similar projects by the state within the last 12 months.**

2. **Both the certificates of insurance and additional insured endorsement shall be originals and shall be approved by the Owner's Finance Director before Contractor can begin Work under this Contract.**
- C. Contractor shall deliver to Owner, with copies to each named insured and additional insured (as identified in this Article, ~~in the Supplementary Conditions, or elsewhere in the Contract~~), certificates of insurance establishing that Contractor has obtained and is maintaining the policies, coverages, and endorsements required by the Contract. Upon request by Owner or any other insured, Contractor shall also furnish other evidence of such required insurance, including but not limited to copies of policies and endorsements, and documentation of applicable self-insured retentions and deductibles. Contractor may block out (redact) any confidential premium or pricing information contained in any policy or endorsement furnished under this provision.
- D. ~~Owner shall deliver to Contractor, with copies to each named insured and additional insured (as identified in this Article, the Supplementary Conditions, or elsewhere in the Contract), certificates of insurance establishing that Owner has obtained and is maintaining the policies, coverages, and endorsements required of Owner by the Contract (if any). Upon request by Contractor or any other insured, Owner shall also provide other evidence of such required insurance (if any), including but not limited to copies of policies and endorsements, and documentation of applicable self-insured retentions and deductibles. Owner may block out (redact) any confidential premium or pricing information contained in any policy or endorsement furnished under this provision.~~
- E. ~~Failure of Owner or Contractor to demand such certificates or other evidence of the other party's Contractor's full compliance with these insurance requirements, or failure of Owner or Contractor to identify a deficiency in compliance from the evidence provided, shall not be construed as a waiver of the Contractor's other party's obligation to obtain and maintain such insurance.~~
- F. ~~If either party Contractor does not purchase or maintain all of the insurance required of such party by the Contract, such party Contractor shall notify the other party Owner 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.~~
- G. If Contractor has failed to obtain and maintain required insurance, Owner may exclude the Contractor from the Site, impose an appropriate set-off against payment, and exercise Owner's termination rights under Article 16.
- H. Without prejudice to any other right or remedy, if a party has failed to obtain required insurance, the other party may elect to obtain equivalent insurance to protect such other party's interests at the expense of the party who was required to provide such coverage, and the Contract Price shall be adjusted accordingly.
- I. Owner does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect Contractor or Contractor's interests.
- J. The insurance and insurance limits required herein shall not be deemed as a limitation on Contractor's liability under the indemnities granted to Owner and other individuals and entities in the Contract.
- K. **The Contractor shall not commence Work under the Contract until it has obtained all insurance required under this Article and the Owner has approved such insurance, nor shall the Contractor allow any Subcontractor to commence Work on its Subcontract until all similar insurance required of the Subcontractor has been so obtained and approved.**

Evidence of the required coverage shall be submitted not later than fifteen (15) days from delivery of the Notice of Award to Contractor.

- L. Provision of some types of insurance by a Subcontractor may be waived, at the option of the Owner, where it is deemed that adequate coverage is provided by the Contractor's insurance.
- M. Subcontractors must, in all cases, provide Workers' Compensation and Employer's Liability Insurance and Motor Vehicle Liability Insurance.
- N. One (1) copy of each such insurance policy and certificates indicating each type of coverage mentioned, and the correlation between the insurance furnished and that required, shall be filed with each of The Insured.
- O. All policies relating to this Contract shall be so written that each of The Insured shall be notified by the carrier of cancellation or change at least thirty (30) days prior to the effective date of such cancellation or change. Renewal certificates covering the renewal of all policies expiring during the life of the Contract shall be filed with each of The Insured not less than sixty days before the expiration of such policies.
- P. Contractor shall notify Owner of the filing of any claim arising from Work under the Contract within thirty (30) days of the filing of such claim.

6.03 *Contractor's Insurance*

- A. *Workers' Compensation:* Contractor shall purchase and maintain workers' compensation and employer's liability insurance for:
 - 1. claims under workers' compensation, disability benefits, and other similar employee benefit acts.
 - 2. ~~United States Longshoreman and Harbor Workers' Compensation Act and Jones Act coverage (if applicable).~~
 - 3. claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees (by stop-gap endorsement in monopolist worker's compensation states).
 - 4. Foreign voluntary worker compensation (if applicable).
- B. *Commercial General Liability—Claims Covered:* Contractor shall purchase and maintain commercial general liability insurance, covering all operations by or on behalf of Contractor, on an occurrence basis, against:
 - 1. claims for damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees.
 - 2. claims for damages insured by reasonably available personal injury liability coverage.
 - 3. 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.
- C. *Commercial General Liability—Form and Content:* Contractor's commercial liability policy shall be written on a 1996 (or later) ISO commercial general liability form (occurrence form) and include the following coverages and endorsements:
 - 1. Products and completed operations coverage:
 - a. ~~Such insurance shall be maintained for three years after final payment.~~

- b. Contractor shall furnish Owner and each other additional insured (as identified in the Supplementary General Conditions or elsewhere in the Contract) evidence of continuation of such insurance at final payment and three years thereafter.
 - 2. Blanket contractual liability coverage, to the extent permitted by law, including but not limited to coverage of Contractor's contractual indemnity obligations in Paragraph 7.18.
 - 3. Broad form property damage coverage.
 - 4. Severability of interest.
 - 5. Underground, explosion, and collapse coverage.
 - 6. Personal injury coverage.
 - ~~7. Additional insured endorsements that include both ongoing operations and products and completed operations coverage through ISO Endorsements CG 20 10 10 01 and CG 20 37 10 01 (together); or CG 20 10 07 04 and CG 20 37 07 04 (together); or their equivalent.~~
 - ~~8. For design professional additional insureds, ISO Endorsement CG 20 32 07 04, "Additional Insured—Engineers, Architects or Surveyors Not Engaged by the Named Insured" or its equivalent.~~
- D. *Automobile liability:* Contractor shall purchase and maintain automobile liability insurance against claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance, or use of any motor vehicle. The automobile liability policy shall be written on an occurrence basis.
- E. *Umbrella or excess liability:* Contractor shall purchase and maintain umbrella or excess liability insurance written over the underlying employer's liability, commercial general liability, and automobile liability insurance described in the paragraphs above. Subject to industry-standard exclusions, the coverage afforded shall follow form as to each and every one of the underlying policies.
- F. *Contractor's pollution liability insurance:* Contractor shall purchase and maintain a policy covering third-party injury and property damage claims, including clean-up costs, as a result of pollution conditions arising from Contractor's operations and completed operations. This insurance shall be maintained for no less than three years after final completion.
- G. *Additional insureds:* The Contractor's commercial general liability, automobile liability, umbrella or excess, and pollution liability policies shall include and list as additional insureds Owner and Engineer, and any individuals or entities identified in the Supplementary General Conditions; include coverage for the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of all such additional insureds; and the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby (including as applicable those arising from both ongoing and completed operations) on a non-contributory basis. Contractor shall obtain all necessary endorsements to support these requirements.
- H. *Contractor's professional liability insurance:* If Contractor will provide or furnish professional services under this Contract, through a delegation of professional design services or otherwise, then Contractor shall be responsible for purchasing and maintaining applicable professional liability insurance. This insurance shall provide protection against claims arising out of performance of professional design or related services, and caused by a negligent error, omission, or act for which the insured party is legally liable. It shall be maintained throughout the duration of the Contract and for a minimum of two years after Substantial

Completion. If such professional design services are performed by a Subcontractor, and not by Contractor itself, then the requirements of this paragraph may be satisfied through the purchasing and maintenance of such insurance by such Subcontractor.

- I. *General provisions:* The policies of insurance required by this Paragraph 6.03 shall:
1. include at least the specific coverages provided in this Article.
 2. be written for not less than the limits of liability provided in this Article ~~and in the Supplementary Conditions~~, or required by Laws or Regulations, whichever is greater.
 3. contain a provision or endorsement that the coverage afforded will not be canceled, materially changed, or renewal refused until at least 10 days prior written notice has been given to Contractor. Within three days of receipt of any such written notice, Contractor shall provide a copy of the notice to Owner, Engineer, and each other insured under the policy.
 4. remain in effect at least until final payment (and longer if expressly required in this Article) and at all times thereafter when Contractor may be correcting, removing, or replacing defective Work as a warranty or correction obligation, or otherwise, or returning to the Site to conduct other tasks arising from the Contract Documents.
 5. be appropriate for the Work being performed and provide protection from claims that 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.
- J. The coverage requirements for specific policies of insurance must be met by such policies, and not by reference to excess or umbrella insurance provided in other policies.
- K. **The limits of liability for the insurance required by Paragraph 6.03 of the General Conditions shall provide coverage for not less than the following amounts or greater where required by Laws and Regulations:**
1. **Workers' Compensation, and related coverages under Paragraphs 6.03.A.1 and A.2 of the General Conditions:**

<u>State:</u>	<u>Statutory</u>
<u>Federal, if applicable (e.g., Longshoreman's):</u>	<u>Statutory</u>
<u>Jones Act coverage, if applicable:</u>	
<u>Bodily injury by accident, each accident</u>	\$ <u>N/A</u>
<u>Bodily injury by disease, aggregate</u>	\$ <u>N/A</u>
 <u>Employer's Liability:</u>	
<u>Bodily injury, each accident</u>	\$ <u>500,000</u>
<u>Bodily injury by disease, each employee</u>	\$ <u>500,000</u>
<u>Bodily injury/disease aggregate</u>	\$ <u>500,000</u>
 <u>For Work performed in monopolistic states, stop-gap liability coverage shall be endorsed</u>	
	\$ <u>N/A</u>

to either the worker's compensation or commercial general liability policy with a minimum limit of:

Foreign voluntary worker compensation

Statutory

2. Contractor's Commercial General Liability under Paragraphs 6.03.B and 6.03.C of the General Conditions:

General Aggregate \$ 2,000,000

Products - Completed Operations Aggregate \$ 2,000,000

Personal and Advertising Injury \$ 1,000,000

Each Occurrence (Bodily Injury and Property Damage) \$ 1,000,000

3. Automobile Liability under Paragraph 6.03.D. of the General Conditions:

Bodily Injury:

Each person \$ 1,000,000

Each accident \$ 1,000,000

Property Damage:

Each accident \$ 1,000,000

Combined Single Limit of \$ 2,000,000

4. Excess or Umbrella Liability:

Per Occurrence \$ 5,000,000

General Aggregate \$ 5,000,000

5. Contractor's Pollution Liability:

Each Occurrence \$ 1,000,000

General Aggregate \$ 1,000,000

If box is checked, Contractor is not required to provide Contractor's Pollution Liability insurance under this Contract

6. Additional Insureds: In addition to Owner and Engineer, include as additional insured the following: [INSERT ADDITIONAL NAMES]

7. Contractor's Professional Liability:

<u>Each Claim</u>	<u>\$ 500,000</u>
<u>Annual Aggregate</u>	<u>\$ 500,000</u>

6.04 *Owner's Liability Insurance*

- A. In addition to the insurance required to be provided by Contractor under Paragraph 6.03, 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.
- B. Owner's liability policies, if any, operate separately and independently from policies required to be provided by Contractor, and Contractor cannot rely upon Owner's liability policies for any of Contractor's obligations to the Owner, Engineer, or third parties.

6.05 *Property Insurance*

- A. *Builder's Risk*: Unless otherwise provided in the ~~Supplementary~~ **General** Conditions, Contractor shall purchase and maintain builder's risk insurance upon the Work on a completed value basis, in the amount of the full insurable replacement cost thereof (subject to such deductible amounts as may be provided in the ~~Supplementary~~ **General** Conditions or required by Laws and Regulations). This insurance shall:
 - 1. include the Owner and Contractor as named insureds, and all Subcontractors, and any individuals or entities required by the ~~Supplementary~~ **General** Conditions to be insured under such builder's risk policy, as insureds or named insureds. For purposes of the remainder of this Paragraph 6.05, Paragraphs 6.06 and 6.07, ~~and any corresponding Supplementary Conditions~~, the parties required to be insured shall collectively be referred to as "insureds."
 - 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; windstorm; riot; civil commotion; terrorism; vehicle impact; aircraft; smoke; theft; vandalism and malicious mischief; mechanical breakdown, boiler explosion, and artificially generated electric current; ~~earthquake; volcanic activity, and other earth movement; flood~~; collapse; explosion; 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~~ **General** Conditions. If insurance against mechanical breakdown, boiler explosion, and artificially generated electric current; earthquake; volcanic activity, and other earth movement; or flood, are not commercially available under builder's risk policies, by endorsement or otherwise, such insurance may be provided through other insurance policies acceptable to Owner and Contractor.
 - 3. cover, as insured property, at least the following: (a) the Work and all materials, supplies, machinery, apparatus, equipment, fixtures, and other property of a similar nature that are to be incorporated into or used in the preparation, fabrication, construction, erection, or completion of the Work, including Owner-furnished or assigned property; (b) spare parts inventory required within the scope of the Contract; and (c) temporary works which are not intended to form part of the permanent constructed Work but which are intended to provide working access to the Site, or to the Work under construction, or which are intended to provide temporary support for the Work under construction, including scaffolding, form work, fences, shoring, falsework, and temporary structures.

4. cover expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers and architects).
 5. extend to cover damage or loss to insured property while in temporary storage at the Site or in a storage location outside the Site (but not including property stored at the premises of a manufacturer or Supplier).
 6. extend to cover damage or loss to insured property while in transit.
 7. allow for partial occupation or use of the Work by Owner, such that those portions of the Work that are not yet occupied or used by Owner shall remain covered by the builder's risk insurance.
 8. allow for the waiver of the insurer's subrogation rights, as set forth below.
 9. provide primary coverage for all losses and damages caused by the perils or causes of loss covered.
 10. not include a co-insurance clause.
 11. include an exception for ensuing losses from physical damage or loss with respect to any defective workmanship, design, or materials exclusions.
 - ~~12. include performance/hot testing and start-up.~~
 13. be maintained in effect, subject to the provisions herein regarding Substantial Completion and partial occupancy or use of the Work by Owner, until the Work is complete.
 14. **include for the benefit of Owner loss of profits and soft cost coverage including, without limitation, fixed expenses and debt service for a minimum of 12 months with a maximum deductible of 30 days, plus attorney's fees and engineering or other consultants' fees, if not otherwise covered.**
- B. *Notice of Cancellation or Change:* All the policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained in accordance with this Paragraph 6.05 will contain a provision or endorsement that the coverage afforded will not be canceled or materially changed or renewal refused until at least **thirty (30)** ~~10~~ days prior written notice has been given to the purchasing policyholder. Within three days of receipt of any such written notice, the purchasing policyholder shall provide a copy of the notice to each other insured.
- C. *Deductibles:* The purchaser of any required builder's risk or property insurance shall pay for costs not covered because of the application of a policy deductible.
- D. *Partial Occupancy or Use by Owner:* If Owner will occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work as provided in Paragraph 15.04, then Owner (directly, if it is the purchaser of the builder's risk policy, or through Contractor) will provide notice of such occupancy or use to the builder's risk insurer. The builder's risk insurance shall not be canceled or permitted to lapse on account of any such partial use or occupancy; rather, those portions of the Work that are occupied or used by Owner may come off the builder's risk policy, while those portions of the Work not yet occupied or used by Owner shall remain covered by the builder's risk insurance.

- E. *Additional Insurance*: If Contractor elects to obtain other special insurance to be included in or supplement the builder's risk or property insurance policies provided under this Paragraph 6.05, it may do so at Contractor's expense.
- F. *Insurance of Other Property*: If the express insurance provisions of the Contract do not require or address the insurance of a property item or interest, such as tools, construction equipment, or other personal property owned by Contractor, a Subcontractor, or an employee of Contractor or a Subcontractor, then the entity or individual owning such property item will be responsible for deciding whether to insure it, and if so in what amount.

6.06 *Waiver of Rights*

- A. ~~All policies purchased in accordance with Paragraph 6.05, expressly including the builder's risk policy, 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 any insureds thereunder, or against Engineer or its consultants, or their officers, directors, members, partners, employees, agents, consultants, or subcontractors. Owner and Contractor waive all rights against each other and the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work; and, in addition, waive all such rights against Engineer, its consultants, all Subcontractors, all individuals or entities identified in the Supplementary Conditions as insureds, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, under such policies for losses and damages so caused. 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 or Contractor as trustee or fiduciary, or otherwise payable under any policy so issued.~~
- B. Owner waives all rights against Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, for:
 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; and
 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 occupancy or use pursuant to Paragraph 15.04, after Substantial Completion pursuant to Paragraph 15.03, or after final payment pursuant to Paragraph 15.06.
- C. Any insurance policy maintained by Owner covering any loss, damage or consequential loss referred to in Paragraph 6.06.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, or the officers, directors, members, partners, employees, agents, consultants, or subcontractors of each and any of them.
- D. Contractor shall be responsible for assuring that the agreement under which a Subcontractor performs a portion of the Work contains provisions whereby the Subcontractor waives all rights against Owner, Contractor, all individuals or entities identified in the ~~Supplementary~~

General Conditions as insureds, the Engineer and its consultants, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, relating to, or resulting from any of the perils or causes of loss covered by builder's risk insurance and any other property insurance applicable to the Work.

6.07 *Receipt and Application of Property Insurance Proceeds*

- A. Any insured loss under the builder's risk and other policies of insurance required by Paragraph 6.05 will be adjusted and settled with the named insured that purchased the policy. Such named insured shall act as fiduciary for the other insureds, and give notice to such other insureds that adjustment and settlement of a claim is in progress. Any other insured may state its position regarding a claim for insured loss in writing within 15 days after notice of such claim.
- B. Proceeds for such insured losses may be made payable by the insurer either jointly to multiple insureds, or to the named insured that purchased the policy in its own right and as fiduciary for other insureds, subject to the requirements of any applicable mortgage clause. A named insured receiving insurance proceeds under the builder's risk and other policies of insurance required by Paragraph 6.05 shall distribute such proceeds in accordance with such agreement as the parties in interest may reach, or as otherwise required under the dispute resolution provisions of this Contract or applicable Laws and Regulations.
- C. If no other special agreement is reached, the damaged Work shall be repaired or replaced, the money so received applied on account thereof, and the Work and the cost thereof covered by Change Order, if needed.

ARTICLE 7 – CONTRACTOR'S RESPONSIBILITIES

7.01 *Supervision and Superintendence*

- A. Contractor shall supervise, inspect, and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction.
- 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.
- C. **Except as otherwise provided in the Contract Documents or when direct communications have been specifically authorized, Owner and Contractor shall communicate through Engineer. Communications by and with Engineer's consultants shall be through Engineer.**

7.02 *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, Monday through Friday. Contractor will not perform Work on a Saturday, Sunday, or any legal holiday. Contractor may perform Work outside regular working hours or on Saturdays, Sundays, or legal holidays only with Owner's written consent, which will not be unreasonably withheld.

1. Regular working hours will be Regular working hours shall not exceed 40 hours per week, 8 hours per day (between 7:00 a.m. and 6:00 p.m.), Monday through Friday. No Work shall be done between 6:00 p.m. and 7:00 a.m. without prior written permission from the Owner. Requests to Work during other than regular working hours or on legal holidays must be submitted to the Owner at least 48 hours in advance of the period proposed for such Work and shall set forth the proposed schedule for such Work to give the Owner ample time to arrange for appropriate personnel to be at the site of the Work.
 2. Owner's legal holidays are New Year's Day, Martin Luther King, Jr. Day, Good Friday, Memorial Day, Juneteenth, Independence Day, Labor Day, Thanksgiving (2 days) and Christmas (3 days) for a total of 12 holidays. However, emergency work may be done without prior permission.
- C. Contractor shall be responsible for the cost of any overtime pay or other expense incurred by the Owner for Engineer's services (including those of the Resident Project Representative, if any), Owner's representative, and construction observation services, occasioned by the performance of Work on Saturday, Sunday, any legal holiday, or as overtime on any regular work day. If Contractor is responsible but does not pay, or if the parties are unable to agree as to the amount owed, then Owner may impose a reasonable set-off against payments due under Article 15.
1. For purposes of administering the foregoing requirement, additional overtime costs are defined as charges calculated in accordance with the terms of Engineer's Agreements with Owner.

7.03 *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, whether or not such items are specifically called for in the Contract Documents.
- B. All materials and equipment incorporated into the Work 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. Engineer may reject any material and equipment delivered to the Site without the approval of satisfactory evidence required by the Contract Documents.
- 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.

7.04 *"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 Contract Price has been based upon Contractor furnishing such item as specified. The specification or description of such an item is intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or is followed by words reading that no like, equivalent, or "or equal" item is permitted,

Contractor may request that Engineer authorize the use of other items of material or equipment, or items from other proposed suppliers under the circumstances described below.

1. If Engineer in its sole discretion determines that 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, Engineer shall deem it an “or equal” item. For the purposes of this paragraph, 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;
 - 3) it has a proven record of performance and availability of responsive service; and
 - 4) it is not objectionable to Owner.
 - 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.
- B. *Contractor’s Expense:* Contractor shall provide all data in support of any proposed “or equal” item at Contractor’s expense.
- C. *Engineer’s Evaluation and Determination:* Engineer will be allowed a reasonable time to evaluate each “or-equal” request. Engineer may require Contractor to furnish additional data about the proposed “or-equal” item. Engineer will be the sole judge of acceptability. No “or-equal” item will be ordered, furnished, installed, or utilized until Engineer’s review is complete and Engineer determines that the proposed item is an “or-equal”, which will be evidenced by an approved Shop Drawing or other written communication. Engineer will advise Contractor in writing of any negative determination.
- D. *Effect of Engineer’s Determination:* Neither approval nor denial of an “or-equal” request shall result in any change in Contract Price. The Engineer’s denial of an “or-equal” request shall be final and binding, and may not be reversed through an appeal under any provision of the Contract Documents.
- E. *Treatment as a Substitution Request:* If Engineer determines that an item of material or equipment proposed by Contractor does not qualify as an “or-equal” item, Contractor may request that Engineer consider the proposed item as a substitute pursuant to Paragraph 7.05.

7.05 Substitutes

- A. Unless the specification or description of an item of material or equipment required to be furnished under the Contract Documents contains or is followed by words reading that no substitution is permitted, Contractor may request that Engineer authorize the use of other

items of material or equipment under the circumstances described below. To the extent possible such requests shall be made before commencement of related construction at the Site.

1. Contractor shall submit sufficient information as provided below to allow Engineer to determine if the item of material or equipment proposed is functionally equivalent to that named and an acceptable substitute therefor. Engineer will not accept requests for review of proposed substitute items of material or equipment from anyone other than Contractor.
 2. The requirements for review by Engineer will be as set forth in Paragraph 7.05.B, as supplemented by the Specifications, and as Engineer may decide is appropriate under the circumstances.
 3. Contractor shall make written application to Engineer for review of a proposed substitute item of material or equipment that Contractor seeks to furnish or use. The application:
 - a. shall certify that the proposed substitute item will:
 - 1) perform adequately the functions and achieve the results called for by the general design,
 - 2) be similar in substance to that specified, and
 - 3) be suited to the same use as that specified.
 - b. will state:
 - 1) the extent, if any, to which the use of the proposed substitute item will necessitate a change in Contract Times,
 - 2) whether use of the proposed substitute item in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with Owner for other work on the Project) to adapt the design to the proposed substitute item, and
 - 3) whether incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty.
 - c. will identify:
 - 1) all variations of the proposed substitute item from that specified, and
 - 2) available engineering, sales, maintenance, repair, and replacement services.
 - d. shall contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including but not limited to changes in Contract Price, shared savings, costs of redesign, and claims of other contractors affected by any resulting change.
- B. *Engineer's Evaluation and Determination:* Engineer will be allowed a reasonable time to evaluate each substitute request, and to obtain comments and direction from Owner. Engineer may require Contractor to furnish additional data about the proposed substitute item. Engineer will be the sole judge of acceptability. No substitute will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an acceptable substitute. Engineer's determination will be evidenced by a Field Order or a proposed Change Order accounting for the substitution itself

and all related impacts, including changes in Contract Price or Contract Times. Engineer will advise Contractor in writing of any negative determination.

- C. *Special Guarantee*: Owner may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute.
- D. *Reimbursement of Engineer's Cost*: Engineer will record Engineer's costs in evaluating a substitute proposed or submitted by Contractor. Whether or not Engineer approves a substitute so proposed or submitted by Contractor, Contractor shall reimburse Owner for the reasonable charges of Engineer for evaluating each such proposed substitute. Contractor shall also reimburse Owner for the reasonable charges of Engineer for making changes in the Contract Documents (or in the provisions of any other direct contract with Owner) resulting from the acceptance of each proposed substitute.
- E. *Contractor's Expense*: Contractor shall provide all data in support of any proposed substitute at Contractor's expense.
- F. *Effect of Engineer's Determination*: If Engineer approves the substitution request, Contractor shall execute the proposed Change Order and proceed with the substitution. The Engineer's denial of a substitution request shall be final and binding, and may not be reversed through an appeal under any provision of the Contract Documents. Contractor may challenge the scope of reimbursement costs imposed under Paragraph 7.05.D, by timely submittal of a Change Proposal.
- G. **Any materials and equipment required to be approved by the Engineer that is installed on the Project without such approval is subject to removal, disposal, and replacement by the Contractor as Contractor's expense.**

7.06 *Concerning Subcontractors, Suppliers, and Others*

- A. Contractor may retain Subcontractors and Suppliers for the performance of parts of the Work. Such Subcontractors and Suppliers must be acceptable to Owner.
- B. Contractor shall retain specific Subcontractors, Suppliers, or other individuals or entities for the performance of designated parts of the Work if required by the Contract to do so.
- C. Subsequent to the submittal of Contractor's Bid or final negotiation of the terms of the Contract, Owner may not require Contractor to retain any Subcontractor, Supplier, or other individual or entity to furnish or perform any of the Work against which Contractor has reasonable objection.
- D. Prior to entry into any binding subcontract or purchase order, Contractor shall submit to Owner the identity of the proposed Subcontractor or Supplier (unless Owner has already deemed such proposed Subcontractor or Supplier acceptable, during the bidding process or otherwise). Such proposed Subcontractor or Supplier shall be deemed acceptable to Owner unless Owner raises a substantive, reasonable objection within five days.
- E. Owner may require the replacement of any Subcontractor, Supplier, or other individual or entity retained by Contractor to perform any part of the Work. Owner also may require Contractor to retain specific replacements; provided, however, that Owner may not require a replacement to which Contractor has a reasonable objection. If Contractor has submitted the identity of certain Subcontractors, Suppliers, or other individuals or entities for acceptance by Owner, and Owner has accepted it (either in writing or by failing to make written objection thereto), then Owner may subsequently revoke the acceptance of any such Subcontractor, Supplier, or other individual or entity so identified solely on the basis of substantive, reasonable objection after due investigation. Contractor shall submit an

acceptable replacement for the rejected Subcontractor, Supplier, or other individual or entity.

- F. If Owner requires the replacement of any Subcontractor, Supplier, or other individual or entity retained by Contractor to perform any part of the Work, then Contractor shall be entitled to an adjustment in Contract Price or Contract Times, or both, with respect to the replacement; and Contractor shall initiate a Change Proposal for such adjustment within 30 days of Owner's requirement of replacement.
- G. No acceptance by Owner of any such Subcontractor, Supplier, or other individual or entity, whether initially or as a replacement, shall constitute a waiver of the right of Owner to the completion of the Work in accordance with the Contract Documents.
- H. On a monthly basis Contractor shall submit to Engineer a complete list of all Subcontractors and Suppliers having a direct contract with Contractor, and of all other Subcontractors and Suppliers known to Contractor at the time of submittal.
- I. Contractor shall be 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.
- J. Contractor shall be solely responsible for scheduling and coordinating the work of Subcontractors, Suppliers, and all other individuals or entities performing or furnishing any of the Work.
- K. Contractor shall restrict all Subcontractors, Suppliers, and such other individuals or entities performing or furnishing any of the Work from communicating with Engineer or Owner, except through Contractor or in case of an emergency, or as otherwise expressly allowed herein.
- L. 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.
- M. All Work performed for Contractor by a Subcontractor or Supplier shall be pursuant to an appropriate **written** contractual agreement that specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract Documents for the benefit of Owner and Engineer.
- N. Owner may furnish to any Subcontractor or Supplier, to the extent practicable, information about amounts paid to Contractor on account of Work performed for Contractor by the particular Subcontractor or Supplier.
- O. 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 money due any such Subcontractor, Supplier, or other individual or entity except as may otherwise be required by Laws and Regulations.

7.07 *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, **trade secrets, proprietary**

information, or copyrights held by others, whether or not particular invention, design, process, product, or device is specified in the Contract Documents for use in the performance of the Work, and whether or not Engineer, or Owner, or consultants, contractors, agents, and employees of either of them are aware of such patent rights, trade secrets, proprietary information, and copyrights. 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.

7.08 *Permits*

- A. Unless otherwise provided in the Contract Documents, 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 the submission of Contractor's Bid (or when Contractor became bound under a negotiated contract). Owner shall pay all charges of utility owners for connections for providing permanent service to the Work.

7.09 *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.
- B. **Owner must comply with the "Procedures for Reporting North Carolina Sales Tax Expenditures. The following procedure in handling the North Carolina Sales Tax is applicable to this Project.**
 - 1. **It shall be the Contractor's responsibility to furnish the Owner documentary evidence showing the materials used and sales tax paid by the Contractor and each of its Subcontractors with each payment request in a format approved by the Owner.**

- 2. The documentary evidence shall consist of a certified statement, by the Contractor and each of its Subcontractors individually, showing total purchases of materials from each separate vendor and total sales taxes paid each vendor. Certified statements must show the invoice number or numbers, covered and inclusive dates of such invoices.**
- 3. Materials used from the Contractor's or Subcontractor's warehouse stock shall be shown in a certified statement at warehouse stock prices.**
- 4. The Contractor shall not be required to certify the Subcontractor's statements.**
- 5. The documentary evidence to be furnished to Owners eligible for sales or use tax refunds covers sales and/or use taxes paid on building materials used by Contractor(s) and Subcontractors in the performance of Contracts with churches, orphanages, hospitals not operated for profit and other charitable or religious institutions or organizations not operated for profit and, incorporated cities, towns, and counties in this State. The documentary evidence is to be submitted to the above-named institutions, organizations and governmental units to be included in claims for refunds to be prepared and submitted by them to obtain refunds provided by G.S. 105-164.14(2) and (3) of the 1961 Statute, and is to include the purchases of building materials, supplies, fixtures, and equipment which become a part of or annex to buildings or structures being erected, altered or repaired under Contracts with such institutions, organizations or governmental units.**

7.10 *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 or takes any other action knowing or having reason to know that it is contrary to Laws or Regulations, Contractor shall bear all resulting costs and losses, and shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work or other action. ~~It shall not be Contractor's responsibility to make certain that the Work described in the Contract Documents is in accordance with Laws and Regulations, but this shall not relieve Contractor of Contractor's obligations under Paragraph 3.03.~~
- C. Owner or Contractor may give notice to the other party of any changes after the submission of Contractor's Bid (or after the date when Contractor became bound under a negotiated contract) in Laws or Regulations having an effect on the cost or time of performance of the Work, including but not limited to changes in Laws or Regulations having an effect on procuring permits and on sales, use, value-added, consumption, and other similar taxes. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times resulting from such changes, then within 30 days of such notice Contractor may submit a Change Proposal, or Owner may initiate a Claim.

7.11 *Record Documents*

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

7.12 *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, other work in progress, 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 Owner; the owners of adjacent property, Underground Facilities, and other utilities; and other contractors and utility owners performing Work at or adjacent to the Site, when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property or Work in progress.
- C. Contractor shall comply with the applicable requirements of Owner's safety programs, if any. The ~~Supplementary~~ **General** Conditions identify any Owner's safety programs that are applicable to the Work. **The following Owner safety programs are applicable to the Work: Not Applicable.**
- 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 7.12.A.2 or 7.12.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 at its expense (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of Owner or Engineer or anyone employed by any of them, or anyone for whose acts any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them).

- F. Contractor's duties and responsibilities for safety and protection 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 15.06.B that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion).
- G. Contractor's duties and responsibilities for safety and protection shall resume whenever Contractor or any Subcontractor or Supplier returns to the Site to fulfill warranty or correction obligations, or to conduct other tasks arising from the Contract Documents.
- H. **Existing Utilities**
 - 1. **The Owner and Engineer have, to the best of their ability, shown the existing utilities and obstructions (water, sewer, electrical, gas, telephone, cable TV, storm drainage, etc.) that may be affected by the Work. Contractor shall, at Contractor's expense, locate all existing utilities that may be encountered during the Work. Contractor shall make every effort to avoid damage or disruption of services during the Work.**
 - 2. **Contractor shall contact the North Carolina One-Call Center to coordinate existing utility location prior to commencement of any Work. North Carolina On-Call Center (800) 632-4949. www.ncocc.org**

7.13 *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.

7.14 *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.

7.15 *Emergencies*

- A. In emergencies affecting the safety or protection of persons or the Work or property at the Site or adjacent thereto, Contractor is obligated to act to prevent 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.
- B. **Contractor shall promptly report in writing to Owner and Engineer all accidents or incidents arising out of or in connection with the Work which cause death, personal injury, or property damage, giving full details and statements of any witnessed. In addition, if death, serious personal injury, or serious property damage is caused, Contractor shall report the accident or incident immediately by telephone or messenger to Owner and Engineer. Contractor shall give Owner and Engineer reasonable advanced notice before using or placing explosives or other hazardous materials or equipment on Site.**
- C. **Notwithstanding anything else in this Contract, while federal, state, or local state(s) of emergency are in effect, or when a public health emergency has been declared, Contractor shall comply with all guidance and recommendations of the Centers for Disease Control, the**

State of North Carolina, Town of Carrboro, Town of Chapel Hill, or Orange County, unless mutually agreed to by Owner and Contractor.

7.16 *Shop Drawings, Samples, and Other Submittals*

A. *Shop Drawing and Sample Submittal Requirements:*

1. Before submitting a Shop Drawing or Sample, Contractor shall have:
 - a. reviewed and coordinated the 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 and equipment 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 of that submittal, and that Contractor approves the 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 set forth in a written communication separate from the Shop Drawings or Sample submittal; and, in addition, in the case of Shop Drawings by a specific notation made on each Shop Drawing submitted to Engineer for review and approval of each such variation.

B. *Submittal Procedures for Shop Drawings and Samples:* Contractor shall submit Shop Drawings and Samples to Engineer for review and approval in accordance with the accepted Schedule of Submittals. Each submittal will be identified as Engineer may require.

1. *Shop Drawings:*

- a. Contractor shall submit the number of copies required in the Specifications.
- 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 7.16.D.

2. *Samples:*

- a. Contractor shall submit the number of Samples required in the Specifications.
- b. Contractor shall clearly identify each Sample as to material, Supplier, pertinent data such as catalog numbers, the use for which intended and other data as Engineer may require to enable Engineer to review the submittal for the limited purposes required by Paragraph 7.16.D.

3. Where a Shop Drawing or Sample is required by the Contract Documents or the Schedule of Submittals, any related Work performed prior to Engineer's review and approval of the pertinent submittal will be at the sole expense and responsibility of Contractor.
- C. *Other Submittals:* Contractor shall submit other submittals to Engineer in accordance with the accepted Schedule of Submittals, and pursuant to the applicable terms of the Specifications.
- 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 or to safety precautions or programs incident thereto.
 3. Engineer's review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.
 4. Engineer's review and approval of a Shop Drawing or Sample 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 7.16.A.3 and Engineer has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample. Engineer will document any such approved variation from the requirements of the Contract Documents in a Field Order.
 5. Engineer's review and approval of a Shop Drawing or Sample shall not relieve Contractor from responsibility for complying with the requirements of Paragraph 7.16.A and B.
 6. Engineer's review and approval of a Shop Drawing or Sample, or of a variation from the requirements of the Contract Documents, shall not, under any circumstances, change the Contract Times or Contract Price, unless such changes are included in a Change Order.
 7. Neither Engineer's receipt, review, acceptance or approval of a Shop Drawing, Sample, or other submittal shall result in such item becoming a Contract Document.
 8. Contractor shall perform the Work in compliance with the requirements and commitments set forth in approved Shop Drawings and Samples, subject to the provisions of Paragraph 7.16.D.4.
- 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.
 2. Contractor shall furnish required submittals with sufficient information and accuracy to obtain required approval of an item with no more than three submittals. Engineer will

record Engineer's time for reviewing a fourth or subsequent submittal of a Shop Drawings, sample, or other item requiring approval, and Contractor shall be responsible for Engineer's charges to Owner for such time. Owner may impose a set-off against payments due to Contractor to secure reimbursement for such charges.

3. If Contractor requests a change of a previously approved submittal item, Contractor shall be responsible for Engineer's charges to Owner for its review time, and Owner may impose a set-off against payments due to Contractor to secure reimbursement for such charges, unless the need for such change is beyond the control of Contractor.

7.17 *Contractor's General Warranty and Guarantee*

- A. Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective. Engineer and its officers, directors, members, partners, employees, agents, consultants, and subcontractors shall be entitled to rely on 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;
 6. the issuance of a notice of acceptability by Engineer;
 7. any inspection, test, or approval by others; or
 8. any correction of defective Work by Owner.
- D. If the Contract requires the Contractor to accept the assignment of a contract entered into by Owner, then the specific warranties, guarantees, and correction obligations contained in the assigned contract shall govern with respect to Contractor's performance obligations to Owner for the Work described in the assigned contract.

7.18 *Indemnification*

- A. ~~To the fullest extent permitted by Laws and Regulations, and in addition to any other obligations of Contractor under the Contract or otherwise, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other~~

~~dispute resolution costs) arising out of or relating to the performance of the Work, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom but only to the extent caused by any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts any of them may be liable.~~

To the maximum extent allowed by Laws and regulations, Contractor shall defend, indemnify, and save harmless Indemnitees from and against all Charges that arise in any manner from, in connection with, or out of, performance of the Work as a result of acts or omissions of Contractor, any Subcontractor, any Supplier, or any person or organization directly or indirectly employed by any of them or any entity for whose acts any of them may be liable. In performing its duties under Paragraph 7.18.A, Contractor shall at its sole expense defend Indemnitees with legal counsel reasonably acceptable to Owner.

- B. ~~In any and all claims against Owner or Engineer or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors by any employee (or the survivor or personal representative of such employee) of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 7.18.A 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.~~

Definitions: As used in Paragraph 7.18.A above and Paragraphs 7.18.C and 7.18.D below:

1. **'Charges' means claims, judgments, costs, damages, losses, demands, liabilities, obligations, fines, penalties, royalties, settlements, and expenses. Included within 'Charges' are:**
 - a. **interest and reasonable attorney's fees assessed as part of any such item;**
 - b. **amounts for alleged violations of sedimentation pollution or other environmental or pollution laws or regulations – including any such alleged violations that arises out of the handling, transportation, deposit, or delivery of the items or materials that are involved in performance of the Work.**
 - c. **amounts related to Hazardous Environmental Conditions; and**
 - d. **amounts related to alleged infringement of patent rights, trade secrets, proprietary information, or copyrights.**
 2. **'Indemnitees' means Owner and Engineer and officers, officials, independent contractors, agents, and employees of Owner and Engineer, but does not include Contractor.**
- C. ~~The indemnification obligations of Contractor under Paragraph 7.18.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.~~

Limitations of Contractor's Obligation: Neither Paragraph 7.18.A nor any other provision of the Contract Documents shall be construed to require Contractor to indemnify or hold harmless Indemnitees against liability for damages arising out of bodily injury to persons or damage to property proximately caused by or resulting from the negligence, in whole or in part, of Indemnitees.

- D. **Nothing in Paragraphs 7.18.A, 7.18.B, or 7.18.C shall affect any warranties in favor of the Owner. This Paragraph 7.18.D is in addition to, and Paragraphs 7.18.A and 7.18.B above shall be construed separately from, any other indemnification provisions that may be in the Contract Documents. This Paragraph 7.18 shall remain in force despite termination of this Agreement (whether by expiration of the term or otherwise) and termination of the services of the Contractor under this Contract, but this sentence does not imply that other provisions in the Contract Documents do not survive termination.**

7.19 *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 Laws and Regulations.
- 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, 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, 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 7.16.D.1.
- E. Contractor shall not be responsible for the adequacy of the performance or design criteria specified by Owner or Engineer.

7.20 **NSF Requirements**

- A. **The following materials which will be in contact with water before or during the treatment process, water to be added, or returned to the treatment process, or potable water, shall have been tested and certified to meet the requirements of ANSI/NSF 60 or ANSI/NSF 61. The materials shall be guaranteed by the manufacturer to have the required certification and to be suitable for the intended service. Evidence of the certification shall be submitted to the Engineer with the appropriate drawings and data. Any materials which cannot be so**

guaranteed, whether or not specified by manufacturer and product designation, shall not be used.

1. **Chemical treatment additives.**
2. **Pipes and related products (including coated and uncoated pipe, fittings, small storage devices, tubing, and screens).**
3. **Protective (barrier) materials (including paints, coatings, linings, and diaphragms).**
4. **Joints and sealing materials (including gaskets, sealing materials, and lubricants).**
5. **Process media (including media used in ion exchange, aeration, adsorption, oxidation, and filter operations).**
6. **Mechanical devices (including chemical feeders, pumps, valves, aeration equipment, clarifiers, mixers, strainers, and other water treatment process devices).**
7. **Mechanical plumbing products.**

ARTICLE 8 – OTHER WORK AT THE SITE

8.01 *Other Work*

- A. In addition to and apart from the Work under the Contract Documents, the Owner may perform other work at or adjacent to the Site. Such other work may be performed by Owner's employees, or through contracts between the Owner and third parties. Owner may also arrange to have third-party utility owners perform work on their utilities and facilities at or adjacent to the Site.
- B. If Owner performs other work at or adjacent to the Site with Owner's employees, or through contracts for such other work, then Owner shall give Contractor written notice thereof prior to starting any such other work. If Owner has advance information regarding the start of any utility work at or adjacent to the Site, Owner shall provide such information to Contractor.
- C. Contractor shall afford each other contractor that performs such other work, each utility owner performing other work, and Owner, if Owner is performing other work with Owner's employees, proper and safe access to the Site, and provide a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work. 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.
- D. If the proper execution or results of any part of Contractor's Work depends upon work performed by others under this Article 8, 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.

8.02 *Coordination*

- A. If Owner intends to contract with others for the performance of other work at or adjacent to the Site, to perform other work at or adjacent to the Site with Owner's employees, or to arrange to have utility owners perform work at or adjacent to the Site, the following will be set forth in the ~~Supplementary Conditions~~ Article 8, or provided to Contractor prior to the start of any such other work:
1. the identity of the individual or entity that will have authority and responsibility for coordination of the activities among the various contractors;
 2. an itemization of the specific matters to be covered by such authority and responsibility; and
 3. the extent of such authority and responsibilities.
- B. Unless otherwise provided in the Article 8, Owner shall have sole authority and responsibility for such coordination.

8.03 *Legal Relationships*

- A. If, in the course of performing other work at or adjacent to the Site for Owner, the Owner's employees, any other contractor working for Owner, or any utility owner causes damage to the Work or to the property of Contractor or its Subcontractors, or delays, disrupts, interferes with, or increases the scope or cost of the performance of the Work, through actions or inaction, then Contractor shall be entitled to an equitable adjustment in the Contract Price or the Contract Times, or both. Contractor must submit any Change Proposal seeking an equitable adjustment in the Contract Price or the Contract Times under this paragraph within 30 days of the damaging, delaying, disrupting, or interfering event. The entitlement to, and extent of, any such equitable adjustment shall take into account information (if any) regarding such other work that was provided to Contractor in the Contract Documents prior to the submittal of the Bid or the final negotiation of the terms of the Contract. When applicable, any such equitable adjustment in Contract Price shall be conditioned on Contractor assigning to Owner all Contractor's rights against such other contractor or utility owner with respect to the damage, delay, disruption, or interference that is the subject of the adjustment. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.
- B. Contractor shall take reasonable and customary measures to avoid damaging, delaying, disrupting, or interfering with the work of Owner, any other contractor, or any utility owner performing other work at or adjacent to the Site. If Contractor fails to take such measures and as a result damages, delays, disrupts, or interferes with the work of any such other contractor or utility owner, then Owner may impose a set-off against payments due to Contractor, and assign to such other contractor or utility owner the Owner's contractual rights against Contractor with respect to the breach of the obligations set forth in this paragraph.
- C. When Owner is performing other work at or adjacent to the Site with Owner's employees, Contractor shall be liable to Owner for damage to such other work, and for the reasonable direct delay, disruption, and interference costs incurred by Owner as a result of Contractor's failure to take reasonable and customary measures with respect to Owner's other work. In response to such damage, delay, disruption, or interference, Owner may impose a set-off against payments due to Contractor.

- D. If Contractor damages, delays, disrupts, or interferes with the work of any other contractor, or any utility owner performing other work at or adjacent to the Site, through Contractor's failure to take reasonable and customary measures to avoid such impacts, or if any claim arising out of Contractor's actions, inactions, or negligence in performance of the Work at or adjacent to the Site is made by any such other contractor or utility owner against Contractor, Owner, or Engineer, then Contractor shall (1) promptly attempt to settle the claim as to all parties through negotiations with such other contractor or utility owner, or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law, and (2) indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against any such claims, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such damage, delay, disruption, or interference.

ARTICLE 9 – OWNER'S RESPONSIBILITIES

9.01 ~~Communications to Contractor~~

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

9.02 *Replacement of Engineer*

- A. ~~Owner may at its discretion appoint an engineer to replace Engineer, provided Contractor makes no reasonable objection to the replacement engineer. The replacement engineer's status under the Contract Documents shall be that of the former Engineer.~~

If Owner appoints a substitute Engineer, the substitute Engineer shall have the same status under the Contract Documents as the former Engineer.

9.03 *Furnish Data*

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

9.04 *Pay When Due*

- A. Owner shall make payments to Contractor when they are due as provided in the Agreement.

9.05 *Lands and Easements; Reports, Tests, and Drawings*

- A. Owner's duties with respect to providing lands and easements are set forth in Paragraph 5.01.
- B. Owner's duties with respect to providing engineering surveys to establish reference points are set forth in Paragraph 4.03.
- C. Article 5 refers to Owner's identifying and making available to Contractor copies of reports of explorations and tests of conditions at the Site, and drawings of physical conditions relating to existing surface or subsurface structures at the Site.

9.06 *Insurance*

- A. Owner's responsibilities, if any, with respect to purchasing and maintaining liability and property insurance are set forth in Article 6.

9.07 *Change Orders*

- A. Owner's responsibilities with respect to Change Orders are set forth in Article 11.

9.08 *Inspections, Tests, and Approvals*

- A. Owner's responsibility with respect to certain inspections, tests, and approvals is set forth in Paragraph 14.02.B.

9.09 *Limitations on Owner's Responsibilities*

- A. The Owner shall not supervise, direct, or have control or authority over, nor be responsible for, Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Owner will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.

9.10 *Undisclosed Hazardous Environmental Condition*

- A. Owner's responsibility in respect to an undisclosed Hazardous Environmental Condition is set forth in Paragraph 5.06.

9.11 *Evidence of Financial Arrangements*

- A. Upon request of Contractor, Owner shall furnish Contractor reasonable evidence that financial arrangements have been made to satisfy Owner's obligations under the Contract Documents (including obligations under proposed changes in the Work).

9.12 *Safety Programs*

- A. While at the Site, Owner's employees and representatives shall comply with the specific applicable requirements of Contractor's safety programs of which Owner has been informed.
B. Owner shall furnish copies of any applicable Owner safety programs to Contractor.

9.13 **Owner will furnish an "Owner's Site Representative" to represent Owner at the Site and assist Owner in observing the progress and quality of the Work**

ARTICLE 10 – ENGINEER'S STATUS DURING CONSTRUCTION

10.01 *Owner's Representative*

- A. Engineer will be Owner's representative during the construction period. The duties and responsibilities and the limitations of authority of Engineer as Owner's representative during construction are set forth in the Contract. **The action of the Engineer in performance of these duties shall not be construed to make the Engineer the agent for the Owner with respect to changes in the Cost of Work or changes in the Contract Documents.**

10.02 *Visits to Site*

- A. Engineer will make visits to the Site at intervals appropriate to the various stages of construction as Engineer deems necessary in order to observe as an experienced and qualified design professional the progress that has been made and the quality of the various aspects of Contractor's executed Work. Based on information obtained during such visits and observations, Engineer, for the benefit of Owner, will determine, in general, if the Work is proceeding in accordance with the Contract Documents. Engineer will not be required to make exhaustive or continuous inspections on the Site to check the quality or quantity of the Work. Engineer's efforts will be directed toward providing for Owner a greater degree of confidence that the completed Work will conform generally to the Contract Documents. On the basis of such visits and observations, Engineer will keep Owner informed of the progress of the Work and will endeavor to guard Owner against defective Work.

- B. Engineer's visits and observations are subject to all the limitations on Engineer's authority and responsibility set forth in Paragraph 10.08. Particularly, but without limitation, during or as a result of Engineer's visits or observations of Contractor's Work, Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work.

10.03 *Project Representative*

- A. If Owner and Engineer have agreed that Engineer will furnish a Resident Project Representative to represent Engineer at the Site and assist Engineer in observing the progress and quality of the Work, then the authority and responsibilities of any such Resident Project Representative will be as provided in the Supplementary **General** Conditions, and limitations on the responsibilities thereof will be as provided in Paragraph 10.08. 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 **General** Conditions.
- B. **The Resident Project Representative (RPR) will be Engineer's representative at the Site, will act as directed by and under the supervision of Engineer, and will confer with Engineer regarding RPR's actions.**
1. **General: RPR's dealings in matters pertaining to the Work in general shall be with Engineer and Contractor. RPR's dealings with Subcontractors shall only be through or with the full knowledge and approval of Contractor. RPR shall generally communicate with Owner only with the knowledge of and under the direction of Engineer.**
 2. **Schedules: Review the progress schedule, schedule of Shop Drawing and Sample submittals, and Schedule of Values prepared by Contractor and consult with Engineer concerning acceptability.**
 3. **Conferences and Meetings: Attend meetings with Contractor, such as preconstruction conferences, progress meetings, job conferences, and other Project-related meetings, and prepare and circulate copies of minutes thereof.**
 4. **Liaison:**
 - a. **Serve as Engineer's liaison with Contractor. Working principally through Contractor's authorized representative or designee, assist in providing information regarding the provisions and intent of the Contract Documents.**
 - b. **Assist Engineer in serving as Owner's liaison with Contractor when Contractor's operations affect Owner's on-Site operations.**
 - c. **Assist in obtaining from Owner additional details or information, when required for proper execution of the Work.**
 5. **Interpretation of Contract Documents: Report to Engineer when clarifications and interpretations of the Contract Documents are needed and transmit to Contractor clarifications and interpretations as issued by Engineer.**
 6. **Shop Drawings and Samples:**
 - a. **Record date of receipt of Samples and Contractor-approved Shop Drawings.**
 - b. **Receive Samples which are furnished at the Site by Contractor, and notify Engineer of availability of Samples for examination.**

- c. Advise Engineer and Contractor of the commencement of any portion of the Work requiring a Shop Drawing or Sample submittal for which RPR believes that the submittal has not been approved by Engineer.
- 7. Modifications: Consider and evaluate Contractor's suggestions for modifications in Drawings or Specifications and report such suggestions, together with RPR's recommendations, if any, to Engineer. Transmit to Contractor in writing decisions as issued by Engineer.
- 8. Review of Work and Rejection of Defective Work:
 - a. Conduct on-Site observations of Contractor's work in progress to assist Engineer in determining if the Work is in general proceeding in accordance with the Contract Documents.
 - b. Report to Engineer whenever RPR believes that any part of Contractor's work in progress is defective, will not produce a completed Project that conforms generally to the Contract Documents, or will imperil the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents, or has been damaged, or does not meet the requirements of any inspection, test or approval required to be made; and advise Engineer of that part of work in progress that RPR believes should be corrected or rejected or should be uncovered for observation, or requires special testing, inspection or approval.
- 9. Inspections, Tests, and System Start-ups:
 - a. Verify that tests, equipment, and systems start-ups and operating and maintenance training are conducted in the presence of appropriate Owner's personnel, and that Contractor maintains adequate records thereof.
 - b. Observe, record, and report to Engineer appropriate details relative to the test procedures and systems start-ups.
- 10. Records:
 - a. Prepare a daily report or keep a diary or log book, recording Contractor's hours on the Site, Subcontractors present at the Site, weather conditions, data relative to questions of Change Orders, Field Orders, Work Change Directives, or changed conditions, Site visitors, deliveries of equipment or materials, daily activities, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures; and send copies to Engineer.
 - b. Record names, addresses, fax numbers, e-mail addresses, web site locations, and telephone numbers of all Contractors, Subcontractors, and major Suppliers of materials and equipment.
 - c. Maintain records for use in preparing Project documentation.
- 11. Reports:
 - a. Furnish to Engineer periodic reports as required of progress of the Work and of Contractor's compliance with the Progress Schedule and schedule of Shop Drawing and Sample submittals.
 - b. Draft and recommend to Engineer proposed Change Orders, Work Change Directives, and Field Orders. Obtain backup material from Contractor.

c. Immediately notify Engineer of the occurrence of any Site accidents, emergencies, acts of God endangering the Work, force majeure or delay events, damage to property by fire or other causes, or the discovery of any Constituent of Concern or Hazardous Environmental Condition.

12. Payment Requests: Review applications for payment with Contractor for compliance with the established procedure for their submission and forward with recommendations to Engineer, noting particularly the relationship of the payment requested to the Schedule of Values, Work completed, and materials and equipment delivered at the Site but not incorporated in the Work.

13. Certificates, Operation and Maintenance Manuals: During the course of the Work, verify that materials and equipment certificates, operation and maintenance manuals and other data required by the Contract Documents to be assembled and furnished by Contractor are applicable to the items actually installed and in accordance with the Contract Documents, and have these documents delivered to Engineer for review and forwarding to Owner prior to payment for that part of the Work.

14. Completion:

a. Participate in Engineer's visits to the Site to determine Substantial Completion, assist in the determination of Substantial Completion and the preparation of a punch list of items to be completed or corrected.

b. Participate in Engineer's final visit to the Site to determine completion of the Work, in the company of Owner and Contractor, and prepare a final punch list of items to be completed and deficiencies to be remedied.

c. Observe whether all items on the final list have been completed or corrected and make recommendations to Engineer concerning acceptance and issuance of the notice of acceptability of the Work.

C. The RPR shall not:

1. Authorize any deviation from the Contract Documents or substitution of materials or equipment (including "or-equal" items).

2. Exceed limitations of Engineer's authority as set forth in the Contract Documents.

3. Undertake any of the responsibilities of Contractor, Contractor's Superintendent, Subcontractors, Suppliers, or expedite the Work.

4. Advise on, issue directions relative to, or assume control over any aspect of the means, methods, techniques, sequences or procedures of Contractor's Work.

5. Advise on, issue directions regarding, or assume control over security or safety practices, precautions, and programs in connection with the activities or operations of Owner or Contractor.

6. Participate in specialized field or laboratory tests or inspections conducted off-site by others except as specifically authorized by Engineer.

7. Accept Shop Drawing or Sample submittals from anyone other than Contractor.

8. Authorize Owner to occupy the Project in whole or in part.

D. Paragraph 10.03.C shall not be construed to expand the Resident Project Representative's authority.

10.04 *Rejecting Defective Work*

- A. Engineer has the authority to reject Work in accordance with Article 14.

10.05 *Shop Drawings, Change Orders and Payments*

- A. Engineer's authority, and limitations thereof, as to Shop Drawings and Samples, are set forth in Paragraph 7.16.
- B. 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, are set forth in Paragraph 7.19.
- C. Engineer's authority as to Change Orders is set forth in Article 11.
- D. Engineer's authority as to Applications for Payment is set forth in Article 15.

10.06 *Determinations for Unit Price Work*

- A. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor as set forth in Paragraph 13.03.

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

- A. Engineer will render decisions regarding the requirements of the Contract Documents, and judge the acceptability of the Work, pursuant to the specific procedures set forth herein for initial interpretations, Change Proposals, and acceptance of the Work. In rendering such decisions and judgments, Engineer will not show partiality to Owner or Contractor, and will not be liable to Owner, Contractor, or others in connection with any proceedings, interpretations, decisions, or judgments conducted or rendered in good faith.

10.08 *Limitations on Engineer's Authority and Responsibilities*

- A. Neither Engineer's authority or responsibility under this Article 10 or under any other provision of the Contract, nor any decision made by Engineer in good faith either to exercise or not exercise such authority or responsibility or the undertaking, exercise, or performance of any authority or responsibility by Engineer, 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. Engineer will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.
- C. Engineer will not be responsible for the acts or omissions of Contractor or of any Subcontractor, any Supplier, or of any other individual or entity performing any of the Work.
- D. Engineer's review of the final Application for Payment and accompanying documentation and all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by Paragraph 15.06.A will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals, that the results certified indicate compliance with the Contract Documents.

- E. The limitations upon authority and responsibility set forth in this Paragraph 10.08 shall also apply to the Resident Project Representative, if any.

10.09 *Compliance with Safety Program*

- A. While at the Site, Engineer's employees and representatives will comply with the specific applicable requirements of Owner's and Contractor's safety programs (if any) of which Engineer has been informed.

ARTICLE 11 – AMENDING THE CONTRACT DOCUMENTS; CHANGES IN THE WORK

11.01 *Amending and Supplementing Contract Documents*

- A. The Contract Documents may be amended or supplemented by a Change Order, a Work Change Directive, or a Field Order.

1. *Change Orders:*

- a. If an amendment or supplement to the Contract Documents includes a change in the Contract Price or the Contract Times, such amendment or supplement must be set forth in a Change Order. A Change Order also may be used to establish amendments and supplements of the Contract Documents that do not affect the Contract Price or Contract Times.
- b. Owner and Contractor may amend those terms and conditions of the Contract Documents that do not involve (1) the performance or acceptability of the Work, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, without the recommendation of the Engineer. Such an amendment shall be set forth in a Change Order.

- 2. *Work Change Directives:* A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the modification ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order, following negotiations by the parties as to the Work Change Directive's effect, if any, on the Contract Price and Contract Times; or, if negotiations are unsuccessful, by a determination under the terms of the Contract Documents governing adjustments, expressly including Paragraph 11.04 regarding change of Contract Price. Contractor must submit any Change Proposal seeking an adjustment of the Contract Price or the Contract Times, or both, no later than 30 days after the completion of the Work set out in the Work Change Directive. Owner must submit any Claim seeking an adjustment of the Contract Price or the Contract Times, or both, no later than 60 days after issuance of the Work Change Directive.

- 3. *Field Orders:* Engineer may authorize minor changes in the Work if the changes do not involve an adjustment in the Contract Price or the Contract Times and are compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Such changes will be accomplished by a Field Order and will be binding on Owner and also on Contractor, which shall perform the Work involved promptly. If Contractor believes that a Field Order justifies an adjustment in the Contract Price or Contract Times, or both, then before proceeding with the Work at issue, Contractor shall submit a Change Proposal as provided herein.

11.02 *Owner-Authorized Changes in the Work*

- A. Without invalidating the Contract and without notice to any surety, Owner may, at any time or from time to time, order additions, deletions, or revisions in the Work. Such changes shall

be supported by Engineer's recommendation, to the extent the change involves the design (as set forth in the Drawings, Specifications, or otherwise), or other engineering or technical matters. Such changes may be accomplished by a Change Order, if Owner and Contractor have agreed as to the effect, if any, of the changes on Contract Times or Contract Price; or by a Work Change Directive. Upon receipt of any such document, Contractor shall promptly proceed with the Work involved; or, in the case of a deletion in the Work, promptly cease construction activities with respect to such deleted Work. Added or revised Work shall be performed under the applicable conditions of the Contract Documents. Nothing in this paragraph shall obligate Contractor to undertake Work that Contractor reasonably concludes cannot be performed in a manner consistent with Contractor's safety obligations under the Contract Documents or Laws and Regulations.

- B. **The Owner reserves the right to add to the original scope of Unit Price Work of the Contract upon the same terms and at the same unit prices included in the Agreement for all unit item additions, provided that such additions will not result in an increase of more than fifty percent (50%) of the Original Contract Price. The Contractor may be entitled to an extension in the Contract Times with the addition of Unit Price Work.**
- C. **The Contractor shall perform emergency Work as required by the Owner. In such instances, the Engineer or Resident Project Representative will give written notice to the Contractor for each instance of emergency Work. The Contractor shall perform all emergency Work within seventy-two (72) hours of the written notice. The Owner may perform (or engage another Contractor to perform) emergency Work, at the Contractor's expense, if the Contractor fails to perform emergency Work within the time limit. If the Owner performs (or engages another Contractor to perform) the following conditions apply:**
 - 1. **if emergency Work is not a Unit Price Work item, the Owner shall charge all costs and expenses of the emergency Work, plus the Owner's then-current overhead charge to the Contractor and deduct those amounts from any monies due to Contractor on the then-current or then-future Application for Payment; and**
 - 2. **if emergency Work is a Unit Price Work item, the Owner will charge all applicable emergency Work unit costs, plus an administrative and overhead charge of one hundred dollars (\$100.00) per instance to the Contractor and deduct those amounts from any monies due the Contractor on the then-current or then-future Application for Payment.**

11.03 *Unauthorized Changes in the Work*

- A. Contractor shall not be entitled to an increase in the Contract Price or an extension of the Contract Times with respect to any Work performed that is not required by the Contract Documents, as amended, modified, or supplemented, except in the case of an emergency as provided in Paragraph 7.15 or in the case of uncovering Work as provided in Paragraph 14.05.

11.04 *Change of Contract Price*

- A. The Contract Price may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Price shall comply with the provisions of Paragraph 11.06. Any Claim for an adjustment of Contract Price shall comply with the provisions of Article 12.
- B. An adjustment in the Contract Price will be determined as follows:
 - 1. where the Work involved is covered by unit prices contained in the Contract Documents, then by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 13.03); or

2. where the Work involved is not covered by unit prices contained in the Contract Documents, then by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 11.04.C.2); or
 3. where the Work involved is not covered by unit prices contained in the Contract Documents and the parties do not reach mutual agreement to a lump sum, then on the basis of the Cost of the Work (determined as provided in Paragraph 13.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 11.04.C).
- C. *Contractor's Fee*: When applicable, 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 13.01.B.1 and 13.01.B.2, the Contractor's fee shall be ~~15 percent~~ ten percent (10%) and shall not be applied to payroll taxes, social security contributions, or unemployment taxes;
 - b. for costs incurred under Paragraph 13.01.B.3, the Contractor's fee shall be five percent (5%);
 - c. where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of Paragraphs 11.01.C.2.a and 11.01.C.2.b is that the Contractor's fee shall be based on: (1) a fee of ~~15 percent~~ **ten percent (10%)** of the costs incurred under Paragraphs 13.01.A.1 and 13.01.A.2 **(excluding payroll taxes, security contributions, or unemployment taxes)** by the Subcontractor that actually performs the Work, at whatever tier, and (2) with respect to Contractor itself and to any Subcontractors of a tier higher than that of the Subcontractor that actually performs the Work, a fee of five percent (5%) of the amount (fee plus underlying costs incurred) attributable to the next lower tier Subcontractor; ~~provided, however, that for any such subcontracted work the maximum total fee to be paid by Owner shall be no greater than 27 percent of the costs incurred by the Subcontractor that actually performs the Work;~~
 - d. no fee shall be payable on the basis of costs itemized under Paragraphs 13.01.B.4, 13.01.B.5, and 13.01.C;
 - e. the amount of credit to be allowed by Contractor to Owner for any change which results in a net decrease in cost 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 11.04.C.2.a through 11.04.C.2.e, inclusive.

11.05 *Change of Contract Times*

- A. The Contract Times may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Times shall comply with the provisions of Paragraph 11.06. Any Claim for an adjustment in the Contract Times shall comply with the provisions of Article 12.
- B. An adjustment of the Contract Times shall be subject to the limitations set forth in Paragraph 4.05, concerning delays in Contractor's progress.

11.06 *Change Proposals*

- A. Contractor shall submit a Change Proposal to Engineer to request an adjustment in the Contract Times or Contract Price; appeal an initial decision by Engineer concerning the requirements of the Contract Documents or relating to the acceptability of the Work under the Contract Documents; contest a set-off against payment due; or seek other relief under the Contract. The Change Proposal shall specify any proposed change in Contract Times or Contract Price, or both, or other proposed relief, and explain the reason for the proposed change, with citations to any governing or applicable provisions of the Contract Documents.
1. *Procedures:* Contractor shall submit each Change Proposal to Engineer promptly (but in no event later than 30 days) after the start of the event giving rise thereto, or after such initial decision. The Contractor shall submit supporting data, including the proposed change in Contract Price or Contract Time (if any), to the Engineer and Owner within 15 days after the submittal of the Change Proposal. The supporting data shall be accompanied by a written statement that the supporting data are accurate and complete, and that any requested time or price adjustment is the entire adjustment to which Contractor believes it is entitled as a result of said event. Engineer will advise Owner regarding the Change Proposal, and consider any comments or response from Owner regarding the Change Proposal.
 2. *Engineer's Action:* Engineer will review each Change Proposal and, within 30 days after receipt of the Contractor's supporting data, either deny the Change Proposal in whole, approve it in whole, or deny it in part and approve it in part. Such actions shall be in writing, with a copy provided to Owner and Contractor. If Engineer does not take action on the Change Proposal within 30 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of Engineer's inaction the Change Proposal is deemed denied, thereby commencing the time for appeal of the denial under Article 12.
 3. *Binding Decision:* Engineer's decision will be final and binding upon Owner and Contractor, unless Owner or Contractor appeals the decision by filing a Claim under Article 12.
- B. *Resolution of Certain Change Proposals:* If the Change Proposal does not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters, then Engineer will notify the parties that the Engineer is unable to resolve the Change Proposal. For purposes of further resolution of such a Change Proposal, such notice shall be deemed a denial, and Contractor may choose to seek resolution under the terms of Article 12.

11.07 *Execution of Change Orders*

- A. Owner and Contractor shall execute appropriate Change Orders covering:
1. 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;
 2. changes in Contract Price resulting from an Owner set-off, unless Contractor has duly contested such set-off;
 3. changes in the Work which are: (a) ordered by Owner pursuant to Paragraph 11.02, (b) required because of Owner's acceptance of defective Work under Paragraph 14.04 or Owner's correction of defective Work under Paragraph 14.07, or (c) agreed to by the parties, subject to the need for Engineer's recommendation if the change in the Work

involves the design (as set forth in the Drawings, Specifications, or otherwise), or other engineering or technical matters; and

4. changes in the Contract Price or Contract Times, or other changes, which embody the substance of any final and binding results under Paragraph 11.06, or Article 12.
- B. If Owner or Contractor refuses to execute a Change Order that is required to be executed under the terms of this Paragraph 11.07, it shall be deemed to be of full force and effect, as if fully executed.

11.08 *Notification to Surety*

- A. If the provisions of any bond require notice to be given to a surety of any change affecting the general scope of the Work or the provisions of the Contract Documents (including, but not limited to, Contract Price or Contract Times), the giving of any such notice will be Contractor's responsibility. The amount of each applicable bond will be adjusted to reflect the effect of any such change.

ARTICLE 12 – CLAIMS

12.01 *Claims*

- A. *Claims Process:* The following disputes between Owner and Contractor shall be submitted to the Claims process set forth in this Article:
1. Appeals by Owner or Contractor of Engineer's decisions regarding Change Proposals;
 2. Owner demands for adjustments in the Contract Price or Contract Times, or other relief under the Contract Documents; and
 3. Disputes that Engineer has been unable to address because they do not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters.
- B. *Submittal of Claim:* The party submitting a Claim shall deliver it directly to the other party to the Contract promptly (but in no event later than 30 days) after the start of the event giving rise thereto; in the case of appeals regarding Change Proposals within 30 days of the decision under appeal. The party submitting the Claim shall also furnish a copy to the Engineer, for its information only. The responsibility to substantiate a Claim shall rest with the party making the Claim. In the case of a Claim by Contractor seeking an increase in the Contract Times or Contract Price, or both, Contractor shall certify that the Claim is made in good faith, that the supporting data are accurate and complete, and that to the best of Contractor's knowledge and belief the amount of time or money requested accurately reflects the full amount to which Contractor is entitled.
- C. *Review and Resolution:* The party receiving a Claim shall review it thoroughly, giving full consideration to its merits. The two parties shall seek to resolve the Claim through the exchange of information and direct negotiations. The parties may extend the time for resolving the Claim by mutual agreement. All actions taken on a Claim shall be stated in writing and submitted to the other party, with a copy to Engineer.
- D. *Mediation:*
1. At any time after initiation of a Claim, Owner and Contractor may mutually agree to mediation of the underlying dispute. The agreement to mediate shall stay the Claim submittal and response process.

2. If Owner and Contractor agree to mediation, then after 60 days from such agreement, either Owner or Contractor may unilaterally terminate the mediation process, and the Claim submittal and decision process shall resume as of the date of the termination. If the mediation proceeds but is unsuccessful in resolving the dispute, the Claim submittal and decision process shall resume as of the date of the conclusion of the mediation, as determined by the mediator.
 3. Owner and Contractor shall each pay one-half of the mediator's fees and costs.
- E. *Partial Approval*: If the party receiving a Claim approves the Claim in part and denies it in part, such action shall be final and binding unless within 30 days of such action the other party invokes the procedure set forth in Article 17 for final resolution of disputes.
- F. *Denial of Claim*: If efforts to resolve a Claim are not successful, the party receiving the Claim may deny it by giving written notice of denial to the other party. If the receiving party does not take action on the Claim within 90 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of the inaction, the Claim is deemed denied, thereby commencing the time for appeal of the denial. A denial of the Claim shall be final and binding unless within 30 days of the denial the other party invokes the procedure set forth in Article 17 for the final resolution of disputes.
- G. *Final and Binding Results*: If the parties reach a mutual agreement regarding a Claim, whether through approval of the Claim, direct negotiations, mediation, or otherwise; or if a Claim is approved in part and denied in part, or denied in full, and such actions become final and binding; then the results of the agreement or action on the Claim shall be incorporated in a Change Order to the extent they affect the Contract, including the Work, the Contract Times, or the Contract Price.

ARTICLE 13 – COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK

13.01 Cost of the Work

- A. *Purposes for Determination of Cost of the Work*: The term Cost of the Work means the sum of all costs necessary for the proper performance of the Work at issue, as further defined below. The provisions of this Paragraph 13.01 are used for two distinct purposes:
1. To determine Cost of the Work when Cost of the Work is a component of the Contract Price, under cost-plus-fee, time-and-materials, or other cost-based terms; or
 2. To determine the value of a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price. When the value of any such adjustment is determined on the basis of Cost of the Work, Contractor is entitled only to those additional or incremental costs required because of the change in the Work or because of the event giving rise to the adjustment.
- B. *Costs Included*: Except as otherwise may be agreed to in writing by Owner, costs included in the Cost of the Work 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 13.01.C, 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, and 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 13.01.
- ~~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.~~

Construction Equipment and Machinery:

- 1) Rentals of all construction equipment and machinery, and the parts thereof, 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.

2) Costs for equipment and machinery owned by Contractor will be paid at a rate shown for such equipment in the current edition of the 'Compilation' of Rental Rates for Construction Equipment as published by the Associated Equipment Distributors. An hourly rate will be computed by dividing the monthly rates by 176. These computed rates will include all operating costs. Costs will include the time the equipment or machinery is in use on the changed Work and the costs of transportation, loading, unloading, assembly, dismantling, and removal when directly attributable to the changed Work. The cost of any such equipment or machinery, or parts thereof, shall cease to accrue when the use thereof is no longer necessary for the changed Work. Equipment or machinery with a value of less than \$1,000 will be considered small tools.

- 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 6.05), 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 communication service at the Site, express and courier services, and similar petty cash items in connection with the Work.~~
- i. The costs of premiums for all bonds and insurance that Contractor is required by the Contract Documents to purchase and maintain.

C. *Costs Excluded:* The term Cost of the Work 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 13.01.B.1 or specifically covered by Paragraph 13.01.B.4. The payroll costs and other compensation excluded here are to be considered administrative costs covered by the Contractor's fee.
- 2. 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 Paragraph 13.01.B.
- D. *Contractor's Fee*: When the Work as a whole 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, Change Proposal, Claim, set-off, or other 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 11.04.C.
- E. *Documentation*: Whenever the Cost of the Work for any purpose is to be determined pursuant to this Article 13, Contractor will establish and maintain records thereof in accordance with generally accepted accounting, **and in accordance with Owner's and Engineer's instructions**, practices and submit in a form acceptable to Engineer an itemized cost breakdown together with supporting data. **The Owner and Engineer may specify additional or different requirements in accordance with the preceding sentence, but unless they so specify, the following is required in order to support a determination of cost of Work pursuant to Paragraph 13.01:**
1. **for costs under Paragraph 13.01.B.1, for each person who worked on the additional Work: a statement showing their job title, hourly rate paid or other method of compensation, other amounts described under Paragraph 13.01.B.1 that were paid, and the net change in the number of hours worked attributable to the change in the Work;**
 2. **for costs under Paragraph 13.01.B.2, dated receipts from the Subcontractors and/or Sub-subcontractors. The receipts must acknowledge the Contractor's payment, identify the materials, supplies, equipment, and show the name of the Owner's Project.**
 3. **for costs under Paragraph 13.01.B.5.c, dated receipts from the rental the Subcontractors and/or Sub-subcontractors. The receipts must acknowledge the Contractor's payment, identify the machinery and equipment, and show the name of the Owner's Project, the rental rate, and the number of hours, days, miles, or other basis of the charge. If the Contractor supplies the machinery or equipment, the statement must show the rental rate and the number of hours, days, miles, or other basis of the charge, and the rental rate must not exceed the market rental rate.**
 4. **for costs under Paragraph 13.01.B.5.i, written proof of a net change in the amount paid by the Contractor attributable to the change in the Work. For bonds, the proof must include the invoice or statement for the surety or its agent showing that it is attributable to the change in the Work.**

13.02 Allowances

- A. It is understood that Contractor has included in the Contract Price all allowances so named in the Contract Documents and shall cause the Work so covered to be performed for such sums and by such persons or entities as may be acceptable to Owner and Engineer.

- B. *Cash Allowances*: Contractor agrees that:
 - 1. the cash allowances include the cost to Contractor (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the Site, and all applicable taxes; and
 - 2. Contractor's costs for unloading and handling on the Site, labor, installation, overhead, profit, and other expenses contemplated for the cash allowances have been included in the Contract Price and not in the allowances, and no demand for additional payment on account of any of the foregoing will be valid.
- C. *Contingency Allowance*: 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.

13.03 *Unit Price Work*

- A. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement.
- B. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. **If Owner changes any estimate of quantity before the Agreement is executed, it may substitute the new estimated quantity in those calculations.** Payments to Contractor for Unit Price Work will be based on actual quantities.
- C. Each unit price will be deemed to include an amount considered by Contractor to be adequate to cover Contractor's overhead, and profit, **and cost for coordinating the Work with the Owner** for each separately identified item.
- D. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor. Engineer will review with Contractor the Engineer's preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise). Engineer's written decision thereon will be final and binding (except as modified by Engineer to reflect changed factual conditions or more accurate data) upon Owner and Contractor, subject to the provisions of the following paragraph.
- E. Within 30 days of Engineer's written decision under the preceding paragraph, Contractor may submit a Change Proposal, or Owner may file a Claim, seeking an adjustment in the Contract Price 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;
 - 2. there is no corresponding adjustment with respect to any other item of Work; and
 - 3. Contractor believes that it 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.

- F. Each unit price shall be deemed to include an amount considered by the Contractor to be adequate to cover all construction surveying and existing utility location required to complete the Work as specified, or as directed by the Engineer, for each separately identified item.
- G. This Paragraph 13.03.G applies except to the extent if any that the Contract Documents specify otherwise:
1. Unit prices, if any, shall apply to Work done pursuant to Change Orders and to Work Change Directives.
 2. In addition to Paragraph 13.03.G.1, it is agreed:
 - a. If unit price items are included in the Contract Documents for Work other than Work done pursuant to Change Orders and to Work Change Directives, it is also agreed that the Contract Price was calculated on the assumption that certain estimated quantities of unit price items will be used in the Work. Those estimated quantities are stated in the Contract Documents. The unit price multiplied by the quantity is referred to as the 'extension';
 - b. It the actual extension of a unit price item is less than the estimated extension, the Contract Price shall be reduced accordingly;
 - c. The actual extension of each unit price item shall not exceed the estimated extension for that item unless the Contractor has received advance written approval from the Engineer to exceed the estimated quantity for that item. That approval may be limited in the Engineer's discretion. If that approval is given, the Contract Price shall be adjusted as follows:
 1. If the actual quantity of a unit price item is more than the estimated quantity, the Contract Price shall be increased to reflect the difference between the actual and the estimated quantities.
 2. If approval is not given, the Contractor shall not be obligated to use the quantity of that unit price item that exceeds the approved quantity, and a Change Order or Work Change Directive shall be executed to reflect the changes in the Work resulting from the actual quantity of the item that is used.
 3. If the Contract Documents explicitly and clearly state that no further approval from the Engineer or the Owner is required for the Contractor to exceed the estimated quantity of specified unit price items, then it is agreed that the Contract Price shall be adjusted to reflect the actual quantities of those items without the necessity of further approval.

ARTICLE 14 – TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK

14.01 *Access to Work*

- A. Owner, Engineer, their consultants and other representatives and personnel of Owner, independent testing laboratories, and authorities having jurisdiction 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.

14.02 *Tests, Inspections, and Approvals*

- A. Contractor shall give Engineer timely notice of readiness of the Work (or specific parts thereof) for all required inspections and tests, and shall cooperate with inspection and testing personnel to facilitate required inspections and tests.
- B. Owner shall retain and pay for the services of an independent inspector, testing laboratory, or other qualified individual or entity to perform ~~all~~ **the** inspections and tests expressly required by the Contract Documents to be furnished and paid for by Owner, except that costs incurred in connection with tests or inspections of covered Work shall be governed by the provisions of Paragraph 14.05.
- C. If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) specifically to be inspected, tested, or approved by an employee or other representative of such public body, Contractor shall assume full responsibility for arranging and obtaining such inspections, tests, or approvals, pay all costs in connection therewith, and furnish Engineer the required certificates of inspection or approval.
- D. Contractor shall be responsible for arranging, obtaining, and paying for all inspections and tests required:
 - 1. by the Contract Documents, unless the Contract Documents expressly allocate responsibility for a specific inspection or test to Owner;
 - 2. to attain Owner's and Engineer's acceptance of materials or equipment to be incorporated in the Work;
 - 3. by manufacturers of equipment furnished under the Contract Documents;
 - 4. for testing, adjusting, and balancing of mechanical, electrical, and other equipment to be incorporated into the Work; and
 - 5. for acceptance of materials, mix designs, or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work.

Such inspections and tests shall be performed by independent inspectors, testing laboratories, or other qualified individuals or entities acceptable to Owner and Engineer.

- E. If the Contract Documents require the Work (or part thereof) to be approved by Owner, Engineer, or another designated individual or entity, then Contractor shall assume full responsibility for arranging and obtaining such approvals.
- F. If any Work (or the work of others) that is to be inspected, tested, or approved is covered by Contractor without written concurrence of Engineer, Contractor shall, if requested by Engineer, uncover such Work for observation. Such uncovering shall be at Contractor's expense unless Contractor had given Engineer timely notice of Contractor's intention to cover the same and Engineer had not acted with reasonable promptness in response to such notice.
- G. **The Owner may engage an independent consultant for the direct inspection and administration of any or all of the Work to be performed in the Contract. This consultant shall act on the behalf of the Owner.**

14.03 *Defective Work*

- A. *Contractor's Obligation:* It is Contractor's obligation to assure that the Work is not defective.
- B. *Engineer's Authority:* Engineer has the authority to determine whether Work is defective, and to reject defective Work.

- C. *Notice of Defects*: Prompt notice of all defective Work of which Owner or Engineer has actual knowledge will be given to Contractor.
- D. *Correction, or Removal and Replacement*: Promptly after receipt of written notice of defective Work, **but in any event commencing within thirty (30) days after receipt of said instruction and proceeding promptly to completion**, Contractor shall correct all such defective Work, whether or not fabricated, installed, or completed, or, if Engineer has rejected the defective Work, remove it from the Project and replace it with Work that is not defective. **Engineer and Owner may reject any defective Work, even if inspected and paid for, except to the extent accepted under Paragraph 14.04. A failure to disapprove or reject such defective Work does not constitute an acceptance.**
- E. *Preservation of Warranties*: When correcting defective Work, Contractor shall take no action that would void or otherwise impair Owner's special warranty and guarantee, if any, on said Work.
- F. *Costs and Damages*: In addition to its correction, removal, and replacement obligations with respect to defective Work, Contractor shall pay all claims, costs, losses, and damages arising out of or relating to defective Work, including but not limited to the cost of the inspection, testing, correction, removal, replacement, or reconstruction of such defective Work, fines levied against Owner by governmental authorities because the Work is defective, and the costs of repair or replacement of work of others resulting from defective Work. Prior to final payment, if Owner and Contractor are unable to agree as to the measure of such claims, costs, losses, and damages resulting from defective Work, then Owner may impose a reasonable set-off against payments due under Article 15.

14.04 *Acceptance of Defective Work*

- A. If, instead of requiring correction or removal and replacement of defective Work, Owner prefers to accept it, Owner may do so (subject, if such acceptance occurs prior to final payment, to Engineer's confirmation that such acceptance is in general accord with the design intent and applicable engineering principles, and will not endanger public safety). Contractor shall pay all claims, costs, losses, and damages attributable to Owner's evaluation of and determination to accept such defective Work (such costs to be approved by Engineer as to reasonableness), and for the diminished value of the Work to the extent not otherwise paid by Contractor. If any such acceptance occurs prior to final payment, the necessary revisions in the Contract Documents with respect to the Work shall be incorporated in a Change Order. If the parties are unable to agree as to the decrease in the Contract Price, reflecting the diminished value of Work so accepted, then Owner may impose a reasonable set-off against payments due under Article 15. If the acceptance of defective Work occurs after final payment, Contractor shall pay an appropriate amount to Owner.
- B. **An acceptance of defective Work is not effective as an acceptance unless it specifically describes the condition that is defective and contains substantially the following statement: 'The Owner accepts [such condition] despite its being defective.'**

14.05 *Uncovering Work*

- A. Engineer has the authority to require special inspection or testing of the Work, whether or not the Work is fabricated, installed, or completed.
- B. If any Work is covered contrary to the written request of Engineer, then Contractor shall, if requested by Engineer, **or contrary to the Contract Documents, or before required inspections, test, or approvals**, uncover such Work for Engineer's observation, and then replace the covering, all at Contractor's expense.

- C. If Engineer considers it necessary or advisable that covered Work be observed by Engineer or inspected or tested by others, then Contractor, at Engineer's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as Engineer may require, that portion of the Work in question, and provide all necessary labor, material, and equipment.
1. If it is found that the uncovered Work is defective, Contractor shall be responsible for all claims, costs, losses, and damages arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); **and Contractor shall not be entitled to any increase in Contract Times because of the time involved in such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction:** and pending Contractor's full discharge of this responsibility the Owner shall be entitled to impose a reasonable set-off against payments due under Article 15.
 2. If the uncovered Work is not found to be defective, Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Times, 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, then Contractor may submit a Change Proposal within 30 days of the determination that the Work is not defective. **However, if such Work had been prematurely covered, the preceding sentence shall not apply, and Contractor shall have no such rights.**

14.06 *Owner May Stop the Work*

- A. If the Work is defective, or Contractor fails to supply sufficient skilled workers or suitable materials or equipment, or fails to perform the Work in such a way that the completed Work will conform to the Contract Documents, **or persistently fails to carry out the Work in accordance with the Contract Documents, or if Work interferes with the operation of the existing facility,** then Owner may order Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of Owner to stop the Work 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.

14.07 *Owner May Correct Defective Work*

- A. If Contractor fails ~~within a reasonable time~~ after written notice from Engineer to correct defective Work, or to remove and replace rejected Work as required by Engineer, 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, then 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 14.07, Owner shall proceed expeditiously. In connection with such corrective or remedial action, Owner may exclude Contractor from all or part of the Site, take possession of all or part of the Work and suspend Contractor's services related thereto, and incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere. Contractor shall allow **and provide** Owner, Owner's representatives, agents and employees, Owner's other contractors, and Engineer and Engineer's consultants access to the Site **and storage locations referred to in the preceding sentence** to enable Owner to exercise the rights and remedies under this paragraph.

- C. All claims, costs, losses, and damages incurred or sustained by Owner in exercising the rights and remedies under this Paragraph 14.07 will be charged against Contractor as set-offs against payments due under Article 15. Such claims, costs, losses and damages will include but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of Contractor's defective Work.
- D. Contractor shall not be allowed an extension of the Contract Times because of any delay in the performance of the Work attributable to the exercise by Owner of Owner's rights and remedies under this Paragraph 14.07.

ARTICLE 15 – PAYMENTS TO CONTRACTOR; SET-OFFS; COMPLETION; CORRECTION PERIOD

15.01 Progress Payments

- A. *Basis for Progress Payments:* The Schedule of Values established as provided in Article 2 will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to Engineer. Progress payments on account of Unit Price Work will be based on the number of units completed during the pay period, as determined under the provisions of Paragraph 13.03. Progress payments for cost-based Work will be based on Cost of the Work completed by Contractor during the pay period.
- B. *Applications for Payments:*
 - 1. At least 20 days before the date established in the Agreement for each progress payment (but not more often than once a month), Contractor shall submit to Engineer for review an Application for Payment filled out and signed by Contractor covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents. 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, a warehouse bond, or other arrangements to protect Owner's interest therein, **including the transportation to the Work Site**, 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.
- C. *Review of Applications:*
 - 1. Engineer will, within **ten (10)** days after receipt of each Application for Payment, including each resubmittal, either indicate in writing a recommendation of payment and present the Application to Owner, or return the Application to Contractor indicating in writing Engineer's reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.
 - 2. Engineer's recommendation of any payment requested in an Application for Payment will constitute a representation by Engineer to Owner, based on Engineer's observations

of the executed Work as an experienced and qualified design professional, and on Engineer's review of the Application for Payment and the accompanying data and schedules, that to the best of Engineer's knowledge, information and belief:

- a. the Work has progressed to the point indicated;
 - b. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, the results of any subsequent tests called for in the Contract Documents, a final determination of quantities and classifications for Unit Price Work under Paragraph 13.03, and any other qualifications stated in the recommendation); and
 - c. the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work.
3. By recommending any such payment Engineer will not thereby be deemed to have represented that:
- a. inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in the Contract; or
 - b. there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by Owner or entitle Owner to withhold payment to Contractor.
4. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment, including final payment, will impose responsibility on Engineer:
- a. to supervise, direct, or control the Work, 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 money 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 15.01.C.2.
6. Engineer will recommend reductions in payment (set-offs) necessary in Engineer's opinion to protect Owner from loss because:
- a. ~~the Work is defective~~ **any of the Work, whether or not paid for, is defective, except to the extent acceptable under Paragraph 14.04, 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 in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;
- d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible; or
- e. Engineer has actual knowledge of **or reasonable grounds to believe in** the occurrence of any of the events that would constitute a default by Contractor and therefore justify termination for cause under the Contract Documents.
- f. **there are reasonable grounds to believe that the Work cannot be completed for the unpaid balance of the Contract Price; or**
- g. **Contractor anticipates to owe damages or other amounts to Owner.**

D. *Payment Becomes Due:*

- 1. ~~Ten~~**Thirty (30)** days after presentation of the Application for Payment to Owner with Engineer's recommendation, the amount recommended (subject to any Owner set-offs) will become due, and when due will be paid by Owner to Contractor.

E. *Reductions in Payment by Owner:*

- 1. In addition to any reductions in payment (set-offs) recommended by Engineer, Owner is entitled to impose a set-off against payment based on any of the following:
 - a. claims have been made against Owner on account of Contractor's conduct in the performance or furnishing of the Work, or Owner has incurred costs, losses, or damages on account of Contractor's conduct in the performance or furnishing of the Work, including but not limited to claims, costs, losses, or damages from workplace injuries, adjacent property damage, non-compliance with Laws and Regulations, and patent infringement;
 - b. Contractor has failed to take reasonable and customary measures to avoid damage, delay, disruption, and interference with other work at or adjacent to the Site;
 - c. Contractor has failed to provide and maintain required bonds or insurance;
 - d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible;
 - e. Owner has incurred extra charges or engineering costs related to submittal reviews, evaluations of proposed substitutes, tests and inspections, or return visits to manufacturing or assembly facilities;
 - f. the Work is defective, requiring correction or replacement;
 - g. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;
 - h. the Contract Price has been reduced by Change Orders;
 - i. an event that would constitute a default by Contractor and therefore justify a termination for cause has occurred;
 - j. liquidated damages have accrued as a result of Contractor's failure to achieve Milestones, Substantial Completion, or final completion of the Work;
 - k. Liens have been filed in connection with the Work, except where Contractor has delivered a specific bond satisfactory to Owner to secure the satisfaction and discharge of such Liens;

- I. there are other items entitling Owner to a set off against the amount recommended.
2. If Owner imposes any set-off against payment, whether based on its own knowledge or on the written recommendations of Engineer, Owner will give Contractor immediate written notice (with a copy to Engineer) stating the reasons for such action and the specific amount of the reduction, and promptly pay Contractor any amount remaining after deduction of the amount so withheld. Owner shall promptly pay Contractor the amount so withheld, or any adjustment thereto agreed to by Owner and Contractor, if Contractor remedies the reasons for such action. The reduction imposed shall be binding on Contractor unless it duly submits a Change Proposal contesting the reduction.
3. Upon a subsequent determination that Owner's refusal of payment was not justified, the amount wrongfully withheld, **as determined in a competent jurisdiction having binding authority**, shall be treated as an amount due as determined by Paragraph 15.01.C.1 and subject to interest as provided in the Agreement.
4. **Failure of Owner to refuse to make payment does not waive Owner's rights under the Contract Documents.**

15.02 *Contractor's Warranty of Title*

- A. Contractor warrants and guarantees that title to all Work, materials, and equipment furnished under the Contract will pass to Owner free and clear of (1) all Liens and other title defects, and (2) all patent, licensing, copyright, or royalty obligations, no later than seven days after the time of payment by Owner.
- B. **The Application of Payment shall be accompanied by such data, satisfactory to Owner, as will establish Owner's title to the material and equipment and protect its interest therein, including applicable insurance. Each subsequent Application for Payment shall include an Affidavit of Contractor stating that all previous progress payments received on account of the Work have been applied to discharge in full all of Contractor's obligations reflected in prior Applications for Payment.**

15.03 *Substantial Completion*

- A. When Contractor considers the entire Work ready for its intended use Contractor shall notify Owner and Engineer in writing that the entire Work is substantially complete and request that Engineer issue a certificate of Substantial Completion. Contractor shall at the same time submit to Owner and Engineer an initial draft of punch list items to be completed or corrected before final payment.
- B. Promptly after Contractor's notification, Owner, Contractor, and Engineer shall make an inspection of the Work to determine the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify Contractor in writing giving the reasons therefor.
 1. **If some or all of the Work has been determined not to be at a point of Substantial Completion and will require re-inspection or re-testing by Engineer, the cost of such re-inspection or re-testing, including the cost of time, travel and living expenses, shall be paid by Contractor to Owner. If Contractor does not pay, or the parties are unable to agree as to the amount owed, then Owner may impose a reasonable set-off against payments due under Article 15.**

2. **“Substantial Completion” means that the Work is complete to the point that the facility can properly operate, to the satisfaction of Owner, and Engineer. All process equipment shall be installed and operational. All work such as architectural, painting, final cleaning, rough site grading, sidewalks, etc. shall also be complete. Manufacturer’s field services and performance testing shall have been provided in accordance with the contract requirements. The intent of “Substantial Completion” is for all contract work to be complete except for minor punch list work.**
 3. **Punch list work includes minor portions of the Work not essential to operation of the facility. Completion of this work can be accomplished without interruption to facility operations. Any such Work will be listed on an attachment to the certificate of Substantial Completion and could include such items as permanent fencing, finish grading, seeding and the removal of temporary access roads and contractor’s mobilization areas.**
- C. If Engineer considers the Work substantially complete, Engineer will deliver to Owner a preliminary certificate of Substantial Completion which shall fix the date of Substantial Completion. Engineer shall attach to the certificate a punch list of items to be completed or corrected before final payment. Owner shall have seven days after receipt of the preliminary certificate during which to make written objection to Engineer as to any provisions of the certificate or attached punch list. If, after considering the objections to the provisions of the preliminary certificate, Engineer concludes that the Work is not substantially complete, Engineer will, within 14 days after submission of the preliminary certificate to Owner, notify Contractor in writing that the Work is not substantially complete, stating the reasons therefor. If Owner does not object to the provisions of the certificate, or if despite consideration of Owner’s objections Engineer concludes that the Work is substantially complete, then Engineer will, within said 14 days, execute and deliver to Owner and Contractor a final certificate of Substantial Completion (with a revised punch list of items to be completed or corrected), **including the time within each of those items shall be completed or corrected**, reflecting such changes from the preliminary certificate as Engineer believes justified after consideration of any objections from Owner.
- D. At the time of receipt of the preliminary certificate of Substantial Completion, Owner and Contractor will confer regarding Owner’s use or occupancy of the Work following Substantial Completion, review the builder’s risk insurance policy with respect to the end of the builder’s risk coverage, and confirm the transition to coverage of the Work under a permanent property insurance policy held by Owner. Unless Owner and Contractor agree otherwise in writing, Owner shall bear responsibility for security, operation, protection of the Work, property insurance, maintenance, heat, and utilities upon Owner’s use or occupancy of the Work.
- E. After Substantial Completion the Contractor shall promptly begin Work on the punch list of items to be completed or corrected prior to final payment. In appropriate cases Contractor may submit monthly Applications for Payment for completed punch list items, following the progress payment procedures set forth above.
- F. Owner shall have the right to exclude Contractor from the Site after the date of Substantial Completion subject to allowing Contractor reasonable access to remove its property and complete or correct items on the punch list.

15.04 *Partial Use or Occupancy*

- A. Prior to Substantial Completion of all the Work, Owner may use or occupy any substantially completed part of the Work which has specifically been identified in the Contract

Documents, or which Owner, Engineer, and Contractor agree constitutes a separately functioning and usable part of the Work that can be used by Owner for its intended purpose without significant interference with Contractor's performance of the remainder of the Work, subject to the following conditions:

1. At any time Owner may request in writing that Contractor permit Owner to use or occupy any such part of the Work that Owner believes to be substantially complete. If and when Contractor agrees that such part of the Work is substantially complete, Contractor, Owner, and Engineer will follow the procedures of Paragraph 15.03.A through E for that part of the Work.
2. At any time Contractor may notify Owner and Engineer in writing that Contractor considers any such part of the Work substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work.
3. Within a reasonable time after either such request, Owner, Contractor, and Engineer shall make an inspection of that part of the Work to determine its status of completion. If Engineer does not consider that part of the Work to be substantially complete, Engineer will notify Owner and Contractor in writing giving the reasons therefor. If Engineer considers that part of the Work to be substantially complete, the provisions of Paragraph 15.03 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.
4. No use or occupancy or separate operation of part of the Work may occur prior to compliance with the requirements of Paragraph 6.05 regarding builder's risk or other property insurance.

15.05 *Final Inspection*

- A. Upon written notice from Contractor that the entire Work or an agreed portion thereof is complete, Engineer will promptly make a final inspection with Owner and Contractor and will notify Contractor in writing of all particulars in which this inspection reveals that the Work, or agreed portion thereof, is incomplete or defective. Contractor shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.

15.06 *Final Payment*

A. *Application for Payment:*

1. After Contractor has, in the opinion of Engineer, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of inspection, annotated record documents (as provided in Paragraph 7.11), and other documents, Contractor may make application for final payment.
2. The final Application for Payment shall be accompanied (except as previously delivered) by:
 - a. all documentation called for in the Contract Documents;
 - b. consent of the surety, if any, to final payment;
 - c. satisfactory evidence that all title issues have been resolved such that title to all Work, materials, and equipment has passed to Owner free and clear of any Liens or other title defects, or will so pass upon final payment.
 - d. a list of all disputes that Contractor believes are unsettled; and

- e. complete and legally effective releases or waivers (satisfactory to Owner) of all Lien rights arising out of the Work, and of Liens filed in connection with the Work.
3. In lieu of the releases or waivers of Liens specified in Paragraph 15.06.A.2 and as approved by Owner, Contractor may furnish receipts or releases in full and an affidavit of Contractor that: (a) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (b) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which Owner might in any way be responsible, or which might in any way result in liens or other burdens on Owner's property, have been paid or otherwise satisfied. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, Contractor may furnish a bond or other collateral satisfactory to Owner to indemnify Owner against any Lien, or Owner at its option may issue joint checks payable to Contractor and specified Subcontractors and Suppliers.
- B. *Engineer's Review of 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 have been fulfilled, Engineer will, within ten days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of final payment and present the Application for Payment to Owner for payment. Such recommendation shall account for any set-offs against payment that are necessary in Engineer's opinion to protect Owner from loss for the reasons stated above with respect to progress payments. 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 15.07. 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.
 2. **Without extra charge to Contractor, Engineer will make only two (2) such inspections to determine final completion. If Engineer is not able to make the representation and findings required to recommend final payment, successive inspections requested by Contractor shall be charged to Contractor.**
- C. *Completion of Work:* The Work is complete (subject to surviving obligations) when it is ready for final payment as established by the Engineer's written recommendation of final payment.
- D. *Payment Becomes Due:* Thirty days after the presentation to Owner of the final Application for Payment and accompanying documentation, the amount recommended by Engineer (less any further sum Owner is entitled to set off against Engineer's recommendation, including but not limited to set-offs for liquidated damages and set-offs allowed under the provisions above with respect to progress payments) will become due and shall be paid by Owner to Contractor.

15.07 *Waiver of Claims*

- A. The making of final payment will not constitute a waiver by Owner of claims or rights against Contractor. Owner expressly reserves claims and rights arising from unsettled Liens, from defective Work appearing after final inspection pursuant to Paragraph 15.05, from Contractor's failure to comply with the Contract Documents or the terms of any special

guarantees specified therein, from outstanding Claims by Owner, or from Contractor's continuing obligations under the Contract Documents.

- B. The acceptance of final payment by Contractor will constitute a waiver by Contractor of all claims and rights against Owner other than those pending matters that have been duly submitted or appealed under the provisions of Article 17.

15.08 *Correction Period*

- A. If within one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the 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 Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas used by Contractor as permitted by Laws and Regulations, is found to be defective, then Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:
 - 1. correct the defective repairs to the Site or such other adjacent areas;
 - 2. correct such defective Work;
 - 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 to 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. 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 repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others).
- 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, 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 are in addition to all other obligations and warranties. The provisions of this paragraph shall not be construed as a substitute for, or a waiver of, the provisions of any applicable statute of limitation or repose.

ARTICLE 16 – SUSPENSION OF WORK AND TERMINATION

16.01 *Owner May Suspend Work*

- A. At any time and without cause, Owner may suspend the Work or any portion thereof for a period of not more than 90 consecutive days by written notice to Contractor and Engineer.

Such notice will fix the date on which, **or the event after which**, Work will be resumed. Contractor shall resume the Work on the date so fixed. Contractor shall be entitled to an adjustment in the Contract Price or an extension of the Contract Times, or both, directly attributable to any such suspension. Any Change Proposal seeking such adjustments shall be submitted no later than 30 days after the date fixed for resumption of Work.

- B. **No adjustment shall be made to the extent that performance is, was, or would have been suspended, delayed, or interrupted directly or indirectly by Contractor or any Entity for which Contractor is responsible. The Contract Price shall not be adjusted except to the extent that the total of such suspensions exceed thirty (30) days and after excluding such thirty (30) day period.**

16.02 *Owner May Terminate for Cause*

- A. The occurrence of any one or more of the following events will constitute a default by Contractor and justify termination for cause:
1. Contractor's persistent failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the Progress Schedule);
 2. Failure of Contractor to perform or otherwise to comply with a material term of the Contract Documents;
 3. Contractor's disregard of Laws or Regulations of any public body having jurisdiction; or
 4. Contractor's repeated disregard of the authority of Owner or Engineer.
- B. If one or more of the events identified in Paragraph 16.02.A occurs, then after giving Contractor (and any surety) ten days written notice that Owner is considering a declaration that Contractor is in default and termination of the contract, Owner may proceed to:
1. declare Contractor to be in default, and give Contractor (and any surety) notice that the Contract is terminated; and
 2. enforce the rights available to Owner under any applicable performance bond.
- C. Subject to the terms and operation of any applicable performance bond, if Owner has terminated the Contract for cause, Owner may exclude Contractor from the Site, take possession of the Work, incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere, and complete the Work as Owner may deem expedient.
- D. Owner may not proceed with termination of the Contract under Paragraph 16.02.B if Contractor within seven days of receipt of notice of intent to terminate begins to correct its failure to perform and proceeds diligently to cure such failure.
- E. If Owner proceeds as provided in Paragraph 16.02.B, Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price exceeds the cost to complete the Work, including all related claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals) sustained by Owner, such excess will be paid to Contractor. If the cost to complete the Work including such related claims, costs, losses, and damages exceeds such unpaid balance, Contractor shall pay the difference to Owner. Such claims, costs, losses, and damages incurred by Owner will be reviewed by Engineer as to their reasonableness and, when so approved by Engineer, incorporated in a Change Order. When

exercising any rights or remedies under this paragraph, Owner shall not be required to obtain the lowest price for the Work performed.

- F. Where Contractor's services have been so terminated by Owner, the termination will not affect any rights or remedies of Owner against Contractor then existing or which may thereafter accrue, or any rights or remedies of Owner against Contractor or any surety under any payment bond or performance bond. Any retention or payment of money due Contractor by Owner will not release Contractor from liability.
- G. If and to the extent that Contractor has provided a performance bond under the provisions of Paragraph 6.01.A, the provisions of that bond shall govern over any inconsistent provisions of Paragraphs 16.02.B and 16.02.D.

16.03 *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;~~ **as determined in Article 13;**
 - 2. expenses sustained prior to the effective date of termination in ~~performing services and furnishing labor,~~ **ordering** materials, ~~or equipment~~ as required by the Contract Documents in connection with uncompleted Work, ~~plus fair and reasonable sums for overhead and profit on such expenses;~~ and, **the Owner shall have the options detailed in Paragraphs 16.03.A.2.a through 16.03.A.2.d;**
 - a. **Upon seven (7) days of receipt of the notice of termination for convenience Contractor shall provide evidence of materials ordered as described in Paragraph 16.03.A.2, including an itemized list, cost, order, and delivery dates, and all terms or conditions (including ordering, canceling, or restocking charges).**
 - b. **Owner may direct Contractor to cancel any one or more orders, in which case the Owner shall be liable for cancellation and restocking charges and other charges properly attributable to the cancellation: or**
 - c. **Owner may direct the Contractor to keep any one or more orders in effect and/or to assign any one or more orders to the Owner, in which case the Owner shall be responsible for bearing the costs of the order.**
 - d. **Within ten (10) days of the Owner's receiving the evidence described in Paragraph 16.03.A.2.a, the Owner shall give the Contractor notice of which options it exercises under Paragraphs 16.03.A.2.b or 16.03.A.2.c.**
 - 3. ~~other reasonable expenses directly attributable to termination, including costs incurred to prepare a termination for convenience cost proposal.~~
The Owner shall pay the Contractor a termination fee of one hundred dollars (\$100.00) in addition to other amounts due pursuant to this Paragraph 16.03.
- B. Contractor shall not be paid on account of loss of anticipated overhead, profits, or revenue, or other economic loss arising out of or resulting from such termination.

16.04 *Contractor May Stop Work or Terminate*

- A. If, through no act or fault of Contractor, (1) the Work is suspended for more than 90 consecutive days by Owner or under an order of court or other public authority, or (2) Engineer fails to act on any Application for Payment within 30 days after it is submitted, or (3) Owner fails for 30 days to pay Contractor any sum finally determined to be due, then Contractor may, upon 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 16.03.
- B. In lieu of terminating the Contract and without prejudice to any other right or remedy, if Engineer has failed to act on an Application for Payment within 30 days after it is submitted, or Owner has failed for 30 days to pay Contractor any sum finally determined to be due, Contractor may, 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 are not intended to preclude Contractor from submitting a Change Proposal for an adjustment in Contract Price or Contract Times or otherwise for expenses or damage directly attributable to Contractor's stopping the Work as permitted by this paragraph.

16.05 **Protection and Preservation of the Work**

- A. **Upon suspension (Paragraph 16.01), termination (Paragraphs 16.02, 16.03 and 16.04), or stopping Work (Paragraph 16.04):**
 - 1. **Contractor shall take actions necessary for the protection and preservation of the Work, and Site, including those actions required by the Contract, except to the extent otherwise directed by the Engineer; and**
 - 2. **Contractor shall erect and leave in place barricades, lights, and other safety devices as are appropriate for the protection of the public, including those devices required by the Contract, except to the extent otherwise directed by the Engineer.**
- B. **If the Contractor performs Work pursuant to directions given by the Engineer as described in Paragraph 16.05.A for the protection and preservation of the Work or of the public, Owner shall pay the Contractor for such protection and preservation of Work to the extent that it is greater than the Contractor would have done during or at the end of a workday had the Contract not been suspended or terminated or the Work stopped.**

ARTICLE 17 – FINAL RESOLUTION OF DISPUTES

17.01 *Methods and Procedures*

- A. *Disputes Subject to Final Resolution:* The following disputed matters are subject to final resolution under the provisions of this Article:
 - 1. A timely appeal of an approval in part and denial in part of a Claim, or of a denial in full; and
 - 2. Disputes between Owner and Contractor concerning the Work or obligations under the Contract Documents, and arising after final payment has been made.

- B. *Final Resolution of Disputes*: For any dispute subject to resolution under this Article, Owner or Contractor may:
- ~~1. elect in writing to invoke the dispute resolution process provided for in the Supplementary Conditions; or~~
 - ~~2. agree with the other party to submit the dispute to another dispute resolution process; or~~
 - ~~3. if no dispute resolution process is provided for in the Supplementary Conditions or mutually agreed to, give written notice to the other party of the intent to submit the dispute to a court of competent jurisdiction.~~
 4. **Any party allowed to use the dispute resolution process adopted by the State Building Commission pursuant to G.S. 143-135.26(11) and G.S. 143-128(F1) may participate in mediation pursuant to the dispute resolution process as a precondition to initiating litigation concerning the dispute. The amount of \$15,000 or more must be at issue before a party may require other parties to participate in the dispute resolution process. The costs of the dispute resolution process shall be divided between the parties to the dispute with at least one-third of the cost to be paid by the Owner, if Owner is a party to the dispute.**

ARTICLE 18 – MISCELLANEOUS

18.01 *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 **by email**, in person, by a commercial courier service or otherwise, to the individual or to a member of the firm or to an officer of the corporation for which it is intended; or
 2. delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the sender of the notice.
- B. **If a party is notified of a replacement person for purpose of getting notice, then notices afterwards shall be directed to the replacement person. Written notices shall be deemed to have been duly served, made, and received, and receipt thereof completed, if:**
1. **delivered in person to the individual or to that individual's receptionist; or**
 2. **mailed by registered or certified mail to the last business address known to the party giving notice; or**
 3. **emailed to the last email address known to the party giving notice, provided that the email transmission must be completed.**
- C. **Written notices to the Owner must be directed to the Owner's representative, provided that if no individual is designated as the Owner's representative, then written notices must be directed to the Executive Director. As used in this Paragraph 18.01, the word 'notice' includes 'request'.**
- D. **The notice will be deemed served, made, and received, and receipt thereof completed, on the earlier of:**
1. **the date delivered in person: or**
 2. **three (3) days after placing in the custody of the U.S. Postal Service; or**

3. the date of the email transmission was completed.

- E. Address of Surety: Unless the surety provides a different address as provided in Paragraph 18.01, notice to a surety may be sent to the address shown on the performance bond; if no address for the surety's address provided by the N. C. Department of Insurance shall suffice; and if the Department of Insurance lacks an address, the last-known address of the attorney-in-fact who signed the performance bond shall suffice.

18.02 *Computation of Times*

- A. When any period of time is referred to in the Contract by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day will be omitted from the computation.
- B. As used in the preceding sentence, a 'legal holiday by law of the appropriate jurisdiction' is a holiday observed by the Owner.

18.03 *Cumulative Remedies*

- A. The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee, or by other provisions of the Contract. The provisions of this paragraph will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right, and remedy to which they apply.

18.04 *Limitation of Damages*

- A. With respect to any and all Change Proposals, Claims, disputes subject to final resolution, and other matters at issue, neither Owner nor Engineer, nor any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, shall be liable to Contractor for any claims, costs, losses, or damages sustained by Contractor on or in connection with any other project or anticipated project.

18.05 *No Waiver*

- A. A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Contract.

18.06 *Survival of Obligations*

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

18.07 *Controlling Law*

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

18.08 *Headings*

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

18.09 Effect on Other Rights

- A. The Contract Documents shall not be construed to create a cause of action against Owner and in favor of any person, firm, or corporation, other than Contractor. The Contract Documents shall not be construed to create a cause of action against Engineer and in favor of any person, firm or corporation, other than Owner. The Contract Documents are not intended to create a defense, except by Contractor, to any cause of action that may be brought by Owner. The recitation of duties, or limitations of duties, in the Contract Documents of Engineer or Engineer's consultants, representatives, and assistants, shall not be construed to reduce Owner's rights against Engineer, or to reduce Engineer's duties to Owner. No action or failure to act by Owner shall constitute a waiver of a right except to the extent specifically agreed in writing. If Owner waives a right, that waiver shall not imply other waivers of that right. If liquidated damages are assessable against the Contractor, Owner may, in its discretion, waive the imposition of some or all of the liquidated damages against the Contractor. That waiver shall be valid only if done by a writing signed by the Executive Director, and the waiver must refer specifically to 'liquidated damages'. That waiver shall not constitute an extension of the Contract Times.
- B. The agreement represents the entire and integrated agreement between the parties hereto and superseded prior negotiations and representations. Except as specifically otherwise provided, the Agreement is not intended to benefit, or to create a cause of action in favor of, any person, firm, or corporation, other than Owner and Contractor. Oral statements by anyone, including Owner's employees, agents, and Engineer, whether made before or after the execution of the Agreement, shall not be binding on Owner and shall not reduce Owner's rights under the Contract Documents.

18.10 Place of Project

- A. Choice of Law and Forum: The place of the Project is North Carolina. This Contract shall be deemed made in Carrboro, North Carolina. This Contract shall be governed by and construed in accordance with the laws of North Carolina. The exclusive forum and venue for all actions arising out of this Contract shall be the North Carolina General Court of Justice, in Orange County. Such actions shall neither be commenced in nor removed to federal court. This Paragraph shall not apply to subsequent actions to enforce a judgment entered in actions heard pursuant to this Paragraph.

END OF DOCUMENT



SECTION 01 0000

GENERAL REQUIREMENTS

- 1.1 Related Documents
- 1.2 Summary of Work
- 1.3 Phased Work
- 1.4 Site Access and Coordination
- 1.5 Specifications Information
- 1.6 Definitions
- 1.7 Industry Standards
- 1.8 Codes and Regulations
- 1.9 Progress Schedule
- 1.10 Schedule of Values
- 1.11 Payment Requests
- 1.12 Procedures and Controls
- 1.13 Submittals
- 1.14 Warranties
- 1.15 Cutting and Patching
- 1.16 Products and Substitutions
- 1.17 Field Samples and Mockups
- 1.18 Labels
- 1.19 Record Documents
- 1.20 Project Close Out
- 1.21 Final Cleaning and Repairs

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. Attention is directed to the CONTRACT AND GENERAL CONDITIONS and all Sections within DIVISION 01 - GENERAL REQUIREMENTS which are hereby made a part of this Section of the Specifications.

1.2 SUMMARY OF WORK

- A. Demolition: Removal of roof coping from point of termination bar over parapet (do not remove roofing termination bar). Removal of awning where indicated. Removal of plants and soils in planter and peeling membranes where necessary.
- B. Finishes: Install new coping, repair and recoat EIFS.
- C. Patching: All surfaces as necessary and indicated.

1.3 PHASED WORK

- A. The Work shall be completed in one phase.

1.4 SITE ACCESS AND COORDINATION

- A. Contractor shall coordinate access, keys, hours, and parking with Owner.

1.5 SPECIFICATIONS INFORMATION

- A. These specifications are a specialized form of technical writing edited from master specifications and contain deviations from traditional writing formats. Capitalization, underlining and bold print is only used to assist reader in finding information and no other meaning is implied.



- B. Except where specifically indicated otherwise, the subject of all imperative statements is the Contractor.
- C. Sections are generally numbered in conformance with Construction Specifications Institute Masterformat System. Numbering sequence is not consecutive. Refer to the Table of Contents for names and numbers of sections included in this Project.
- D. Pages are numbered separately for each section. Each section is noted with "End of Section" to indicate the last page of a section.
- E. This Project includes Specifications located on Drawings and in Finish Legends. All items, regardless of location, shall comply with the Project's General Conditions and Requirements.

1.6 DEFINITIONS

- A. General: Basic Contract definitions are included in the Conditions of the Contract.
- B. "Approved": When used to convey Architect's action on Contractor's submittals, applications, and requests, "approved" is limited to Architect's duties and responsibilities as stated in the Conditions of the Contract.
- C. "Directed": A command or instruction by Architect. Other terms including "requested," "authorized," "selected," "approved," "required," and "permitted" have the same meaning as "directed."
- D. "Indicated": Requirements expressed by graphic representations or in written form on Drawings, in Specifications, and in other Contract Documents. Other terms including "shown," "noted," "scheduled," and "specified" have the same meaning as "indicated."
- E. "Regulations": Laws, ordinances, statutes, and lawful orders issued by authorities having jurisdiction, and rules, conventions, and agreements within the construction industry that control performance of the Work.
- F. "Furnish": Supply and deliver to Project site, ready for unloading, unpacking, assembly, installation, and similar operations.
- G. "Install": Operations at Project site including unloading, temporarily storing, unpacking, assembling, erecting, placing, anchoring, applying, working to dimension, finishing, curing, protecting, cleaning, and similar operations.
- H. "Provide": Furnish and install, complete and ready for the intended use.
- I. "Project Site": Space available for performing construction activities. The extent of Project site is shown on Drawings and may or may not be identical with the description of the land on which Project is to be built.

1.7 INDUSTRY STANDARDS

- A. Referenced standards are part of the Contract Documents and have the same force and effect as if bound with these specifications.
- B. Except where specifically indicated otherwise, comply with the current standard in effect as of the date of the Owner/Contractor Agreement. Obtain copies of industry standards directly from publisher.



- C. The titles of industry standard organizations are commonly abbreviated; full titles may be found in Encyclopedia of Associations or consult Architect.

1.8 CODES AND REGULATIONS

- A. Comply with all applicable codes, ordinances, regulations and requirements of authorities having jurisdiction.
- B. Submit copies of all permits, licenses, certifications, inspection reports, releases, notices, judgments, and communications from authorities having jurisdiction to the Architect.

1.9 PROGRESS SCHEDULE – **See also Section 01 32 00 Construction Progress Schedule**

- A. Provide comprehensive bar chart schedule showing all major and critical minor portions of the work, sequence of work and duration of each activity. Update and reissue regularly, but not less than monthly.

1.10 SCHEDULE OF VALUES

- A. Prepare Schedule of Values to coordinate with application for payment breakdown. Update and reissue regularly, but not less than monthly.

1.11 PAYMENT REQUESTS – **See also Section 01 29 76 Progress Payment Procedures**

- A. Provide completely filled out OWASA pay application, unless directed otherwise in writing by the Owner. Substantiate requests with complete documentation; include change orders to date. Provide partial lien waivers for work in progress and full lien waivers for completed work. Refer to Contract General Conditions for additional information.
- B. Before first payment application, provide the following:
 - 1. List of subcontractors, suppliers and fabricators.
 - 2. Schedule of values.
 - 3. Progress schedule.
 - 4. Submittal schedule keyed to project schedule.
 - 5. List of Contractor's key project personnel.
 - 6. Emergency Contacts.
 - 7. Copies of permits and other communications from authorities.
 - 8. Contractor's certificate of insurance.
 - 9. Performance and payment bonds if required.
 - 10. Unit price schedule if required.
- C. Before final payment application, provide and complete the following:
 - 1. Complete closeout requirements.
 - 2. Complete punch list items.
 - 3. Settle all claims.
 - 4. Prove that all taxes, fees and similar obligations have been paid.
 - 5. Remove temporary facilities and surplus materials.
 - 6. Change lock cylinders or cores and key per Owner match key requests.
 - 7. Clean the work.
 - 8. Submit marked up as-built drawings and specifications.
 - 9. Submit notarized Contractor's affidavit and final pay request. SEE GENERAL CONDITIONS FOR REQUIRED STATEMENT.
 - 10. Submit consent of surety, if any, for final payment.



- 1.12 PROCEDURES AND CONTROLS – **See also 01 14 00 Coordination with Owner’s Operations**
- A. Project Meetings: Arrange for and attend meetings with the Architect and such other persons as the Architect requests to have present. The Contractor shall be represented by a principal, project manager, general superintendent or other authorized main office representative, as well as by the Contractor's field superintendent. An authorized representative of any subcontractor or sub-subcontractor shall attend such meetings if the representative's presence is requested by the Architect. Such representatives shall be empowered to make binding commitments on all matters to be discussed at such meetings, including costs, payments, change orders, time schedules and manpower. Any notices required under the Contract may be served on such representatives. Written reports of meeting minutes shall be prepared by the Contractor and distributed by the Contractor to attendees, the Architect, and Owner within three business days.
 - 1. Pre-Construction Conference: Attendance by Architect, Contractor, major subcontractors. Agenda shall include: Quality of workmanship, coordination, interpretations, job schedule, submittals, approvals, requisition procedures, testing, protection of construction, security, and construction waste management.
 - 2. Progress Meetings: Hold regularly before preparation of payment requests and additional meetings as requested by the Architect. Attendance by Architect, Contractor, and others as determined by Contractor and Owner. Agenda shall include work in progress and payment requests.
 - 3. Preinstallation Conferences: Conduct a preinstallation conference at Project site before each construction activity that requires coordination with other construction, as specified. Preinstallation Conferences may be part of Progress Meeting agenda. Attendance by Installer and representatives of manufacturers and fabricators involved in or affected by the installation and its coordination or integration with other materials and installations that have preceded or will follow. Agenda shall include a review of progress of other construction activities and preparations for the particular activity under consideration.
 - B. Emergency Contacts: Furnish the Owner and Architect, in writing, the names and telephone numbers of individuals to be contacted in the event of an out-of-hours emergency at the building site. Post a similar list readily visible from a location acceptable to the Architect and Owner.
 - C. Field Measurements: Verify measurements at the building prior to ordering materials or commencing work. No extra charge or compensation will be allowed because of differences between actual dimensions and measurements indicated on the Drawings. Differences which may be found shall be submitted to the Architect for decision before proceeding with the work.
 - D. Field Measurements for Fixed Equipment: Dimensions for fixed equipment to be supplied under this Contract or separate contracts shall be determined by field measurements taken jointly by the Contractor and the equipment supplier involved. A record of the field measurements shall be kept until time of substantial completion of the project, or until the equipment has been fully installed and accepted by the Owner, whichever is later. Responsibility for fixed equipment fabricated accurately to field measurements for proper fit and operation shall be that of the Contractor. Contractor shall pay all costs involved in correcting any misfitting fixed equipment as fabricated.
 - E. Matching: Where matching is indicated, the Architect and Owner shall be the final judge of what is an acceptable match. Mockups and sample submissions are required.
 - F. Observation: Notify the Architect and authorities having jurisdiction at least thirty-six hours in advance of concealing any work.
 - G. Utilities: Prior to interrupting utilities, services, or facilities, notify the utility owner and the Owner and obtain their written approval. See owner requirements for minimum advanced notification periods.



- H. Furnishings, Fixtures, and Equipment: Cooperate and permit the Owner to install their furnishings and equipment during the progress of the work. Owner's installation of furnishings or equipment does not signify Owner's acceptance of any portion of the work.
- I. Clean-Up: Frequently clean-up all waste, remove from site regularly, and legally dispose of offsite.
- J. Installer's Acceptance of Conditions: All installers shall inspect substrates and conditions under which work is to be executed and shall report in writing to the Contractor all conditions detrimental to the proper execution and completion of the work. Do not proceed with work until unsatisfactory conditions are corrected. Beginning work means installer accepts previous work and conditions.
- K. Coordination: The Contractor shall be fully responsible for coordinating all trades, coordinating construction sequences and schedules, and coordinating the actual installed location and interface of all work.
 - 1. Prior to beginning mechanical, and electrical work as may be required, the Contractor shall prepare coordination drawings showing the exact alignment, physical location and configuration of the mechanical, electrical and fire protection installations and demonstrating to the Contractor's satisfaction that the installations will clear all obstructions, permit proper clearances for the Work of other trades, and present an orderly appearance where exposed. The Contractor shall be solely liable and responsible for any costs and delays resulting from the Contractor's failure to prepare such coordination drawings or from the negligent preparation of such coordination drawings.
 - 2. Exact locations and groupings of mechanical, electrical, switches, and outlets shall be obtained from the Architect before the Work is roughed in. Work installed without such information from the Architect shall be relocated at the Contractor's expense if the Architect so requests.
- L. Requests For Information (RFIs):
 - 1. Procedure: Immediately on discovery of the need for interpretation of the Contract Documents, and if not possible to request interpretation at Project meeting, prepare and submit an RFI in the form specified.
 - a. RFIs shall originate with Contractor. RFIs submitted by entities other than Contractor will be returned with no response.
 - 2. Content of the RFI: Include a detailed, legible description of item needing interpretation.
 - 3. Architect's Action: Architect will review each RFI, determine action required, and return it. Allow three working days for Architect's response for each RFI. RFIs received after 1:00 p.m. will be considered as received the following working day.
 - 4. The following RFIs will be returned without action:
 - a. Requests for approval of submittals.
 - b. Requests for approval of substitutions.
 - c. Requests for coordination information already indicated in the Contract Documents.
 - d. Requests for adjustments in the Contract Time or the Contract Sum.
 - e. Requests for interpretation of Architect's actions on submittals.
 - f. Incomplete RFIs or RFIs with numerous errors.
- M. Existing Articles of Value: If during the course of work articles of value or of historical or archaeological significance are encountered, the ownership of such articles is retained by the Owner, and information regarding their discovery shall be immediately furnished to the Architect. If the nature of the article is such that work cannot proceed without danger of damage, work in the area shall be immediately discontinued until the Architect has determined the proper procedure to be followed. Delays in time thereby shall be a condition for which the time of the Contract may be extended. Costs incurred after discovery in the salvaging of such articles shall be borne by the Owner.



1.13 SUBMITTALS

- A. Required Submittals: Submit shop drawings, product data, initial selection samples, verification samples, calculations, coordination drawings, schedules, and all other submittals as specified in individual specification sections and/or shown or indicated on the drawings.
 - 1. Provide Submittals for all products and items specified on Drawings as well as those within Project Manual. Include product data, warranty sample, certifications, test reports, and samples.
- B. Submittal Schedule: Within 10 days after award of contract and before first application for payment, prepare list of submittals in chronological sequence showing all submittals and proposed date first due at Architect's office and proposed date due to be returned to Contractor. Note relevant specification section number.
- C. Contractor's Preparation of Submittals: Modify and customize all submittals to show interface with adjacent work and attachment to building. Identify each submittal with name of project, date, Contractor's name, subcontractor's name, manufacturer's name, submittal name, relevant specification section numbers, and Submittal Schedule reference number. Stamp and sign each submittal to show the Contractor's review and approval of each submittal before delivery to Architect's office; **unstamped and unsigned submittals will be returned without action by the Architect.** Leave 4" x 6" open space for Architect's "action" stamp.
 - 1. Electronic Submittals: Provide a copy of all submittals in electronic format to the Architect. Architect will return a file of reviewed submittal in electronic format to the Contractor for distribution to subcontractors, suppliers, fabricators, governing authorities and others as necessary for proper performance of the Work. Unless otherwise amenable to the Architect, additional hard copies of submittals will not be reviewed by the Architect (or Consultant) and will not be returned to the Contractor.
 - 2. Assemble complete submittal package into a single indexed file incorporating submittal requirements of a single Specification Section and transmittal form with links enabling navigation to each item.
 - 3. Name file with submittal number or other unique identifier, including revision identifier.
 - 4. Provide means for insertion to permanently record Contractor's review and approval markings and action taken by Architect and Construction Manager.
 - 5. Transmittal Form for Electronic Submittals: Use electronic form acceptable to Architect.
- D. Product Data: Provide manufacturer's preprinted literature including, without limitation, manufacturer's standard printed description of product, materials and construction, recommendations for application and use, certification of compliance with standards, instructions for installation, and special coordination requirements. Collect data into one submittal for each unit of work or system; mark each copy to show which choices and options are applicable to project.
 - 1. Installer Copy: Verify that the Installer has a current copy of the relevant product data, including installation instructions, before permitting installation to begin.
- E. Shop Drawings: Provide accurately prepared, large scale and detailed shop drawings prepared specifically for this project. Show adjacent conditions and related work. Show accurate field dimensions and clearly note field conditions. Identify materials and products in the work shown. Note special coordination required.
 - 1. After Architect's action, follow specified distribution procedure.
- F. Samples: Provide units identical with final materials and products to be installed in the work. Where indicated, prepare samples to match Architect's sample. Label each sample with description, source, generic name or manufacturer's name and model number. Architect will review samples for confirmation of visual design intent, color, pattern, texture and type only; Architect will not test samples for compliance with other Contract requirements which shall remain the exclusive responsibility of the Contractor.



1. Initial Selection Samples Submittal Quantities: For initial selection purposes, submit 1 set of samples showing the complete range of colors and finishes available.
 2. Verification Samples Submittal Quantities: For verification of an initial selection, submit 2 sets of samples; one set will be returned to Contractor to be maintained at project site for quality control comparisons.
- G. Timing of Submittals: Submit submittals in a timely fashion to allow at least 5 business days for each office's review and handling. This means that submittals which have to be reviewed by the Architect and one of their consultants require at least 10 business days for review and handling. Add five business days for each additional consultant who must review a submission.
- H. Architect's Action on Submittals: Architect will review submittals, stamp with "action stamp", mark action, and return to Contractor. Architect will review submittals only for conformance with the design concept of the project. The Contractor is responsible for confirming compliance with other Contract requirements, including without limitation, performance requirements, field dimensions, fabrication methods, means, methods, techniques, sequences and procedures of construction, coordination with other work. The Architect's review and approval of submittals shall be held to the limitations stated in the Owner/Architect Agreement and the Conditions of the Contract. In no case shall approval or acceptance by the Architect be interpreted as a release of Contractor of their responsibilities to fulfill all of the requirements of the Contract Documents.
1. Required Resubmittal: Unless submittal is noted "reviewed" or "reviewed except as noted, resubmission not required," make corrections or changes to original and resubmit to Architect.
 2. Distribution: When submittal is noted "reviewed" or "reviewed as noted, resubmittal not required," make prints or copies and distribute to Owner, Subcontractors involved, and to all other parties requiring information from the submittal for performance or coordination of related work.

1.14 WARRANTIES

- A. Warranties Required: Refer to individual trade sections for specific product warranty requirements.
- B. Procurement: Where a warranty is required, do not purchase or subcontract for materials or work until it has been determined that parties required to countersign warranties are willing to do so.
- C. Warranty Forms: Submit written warranty to Owner through Architect for approval prior to execution. Furnish two copies of executed warranty to Owner for their records; furnish two additional conformed copies where required for maintenance manual.
- D. Work Covered: Contractor shall remove and replace other work of project which has been damaged as a result of failure of warranted work or equipment, or which must be removed and replaced to provide access to work under warranty. Unless otherwise specified, warranty shall cover full cost of replacement or repair, and shall not be pro-rated on basis of useful service life.
- E. Warranty Extensions: Work repaired or replaced under warranty shall be warranted until the original warranty expiration date or for ninety days whichever is later in time.
- F. Warranty Effective Starting Date: Guarantee period for all work, material and equipment shall begin on the date of substantial completion of the Project, not when subcontractor has completed their work nor when equipment is turned on. In addition to the one-year guarantees for the entire work covered by these Contract Documents, refer to the various sections of the specifications for extended guarantee or maintenance requirements for various material and equipment.



1.15 CUTTING AND PATCHING

- A. Limitations: Do not cut and patch any work in a manner that would result in a failure of the work to perform as intended, decreased energy performance, increased maintenance, decreased operational life, or decreased safety.
 - 1. Structural Work: Do not cut structural work or bearing walls without written approval from Architect. Where cutting and patching of structural work is necessary and approved by Architect, perform work in a manner that will not diminish structural capacity nor increase deflection of member. Provide temporary shoring and bracing as necessary. Ensure the safety of people and property at all times.
- B. Cutting and Patching Materials: Use materials identical to materials to be cut and patched. If identical materials are not available or cannot be used, use materials that match existing materials to the greatest extent possible. Provide finished work that will result in equal to or better than existing performance characteristics.
- C. Inspection: Before cutting and patching, examine surfaces and conditions under which work is to be performed and correct unsafe and unsatisfactory conditions prior to proceeding.
- D. Protection: Protect adjacent work from damage. Protect the work from adverse conditions.
- E. Cutting: Cut work using methods least likely to damage adjoining work. Use tools designed for sawing or grinding, not hammering or chopping. Use saws or drills to ensure neat, accurately formed holes to sizes required with minimum disturbance to adjacent work. Temporarily cover openings; maintain weather tightness and safety.
 - 1. Utilities: Locate utilities before cutting. Provide temporary utilities as needed. Cap, valve, or plug and seal ends of abandoned utilities to prevent entrance of moisture or other foreign matter.
- F. Patching: Patch with seams and joints that are durable and not visible. Comply with specified tolerances for similar new work; create true even planes with uniform continuous appearance. Restore finishes of patched areas and, if necessary, extend finish restoration onto adjoining unpatched area to eliminate evidence of patching and refinishing. Repaint entire assemblies, not just patched area. Remove and replace work that has been cut and patched in a visually unsatisfactory manner as determined by the Architect.
- G. Qualifications: Retain experienced and specialized firms, original installers if possible, to perform cutting and patching. Workmen shall be skilled in type of cutting and patching required.

1.16 PRODUCTS AND SUBSTITUTIONS

- A. Specified Products: In all cases in which a manufacturer's name, trade name or other proprietary designation is used in connection with materials or articles to be furnished under this Contract, whether or not the phrase "or equal" is used after such name, the Contractor shall provide the product of the named manufacturers without substitution, unless a written request for a substitution has been submitted by the Contractor and approved in writing by the Architect. Substituted products shall meet the same performance standards of the design basis products.
- B. Deviations from Detailed Requirements: If the Contractor proposes to use material which, while suitable for the intended use, deviates in any way from the detailed requirements of the Contract Documents, the Contractor shall inform the Architect in writing of the nature of such deviations at the time the materials is submitted for approval, and shall request written approval of the deviation from the requirements of the Contract Documents.



- C. Approval of Substitutions: In requesting approval of deviations or substitutions, the Contractor shall provide evidence, including, but not limited to manufacturer's data, leading to a reasonable certainty that the proposed substitution or deviation will provide a quality of result at least equal to that attainable if the detailed requirements of the Contract Documents were strictly followed. If, in the opinion of the Architect, the evidence presented by the Contractor does not provide a sufficient basis for such reasonable certainty, the Architect may reject such substitution or deviation without further investigation.
 - D. Intent of Contract Documents: The Contract Documents are intended to produce a building of consistent character and quality of design. All components of the building including visible items of mechanical and electrical equipment have been selected to have a coordinated design in relation to the overall appearance of the building. The Architect shall judge the design and appearance of proposed substitutes on the basis of the suitability in relation to the overall design of the Project, as well as for their intrinsic merits. The Architect will not approve as equal to materials specified proposed substitutes which in the Architect's opinion, would be out of character, obtrusive, or otherwise inconsistent with the character or quality of design of the Project. In order to permit coordinated design of color and finishes the Contractor shall furnish the substituted material in any color, finish texture, or pattern which would have been available from the manufacturer originally specified, at no additional cost to the Owner.
 - E. Additional Costs or Impact: Any additional cost, or any loss or damage arising from the substitution of any material or any method for those originally specified shall be borne by the contractor, notwithstanding approval or acceptance of such substitution by the Owner or the Architect, unless such substitution was made at the written request or direction of the Owner and the Architect. Any decrease in the cost of the substitution shall be returned to the Owner.
 - F. Substitution Requests: Refer to Contract General Conditions.
 - G. Compatibility of Materials Used in the Work:
 - 1. Ensure complete compatibility between materials.
 - 2. Compatibility shall include adhesion, erosion, solubility, differential thermal response, and galvanic action.
 - 3. Provide evidence of compatibility.
 - 4. Provide custom testing where evidence is not available.
 - 5. Where materials are not compatible, provide necessary isolation or transition materials and provide details of same.
 - 6. Correct defects resulting from incompatibility including de-construction and re- construction of assemblies – whether materials are part of a submittal and substitution process or not.
 - 7. Proposed substitutions may be rejected where compatibility information is not provided; or where compatibility is not adequately addressed, according to the Architect's judgment; or where incompatible materials would negatively impact the project's success.
- 1.17 FIELD SAMPLES AND MOCKUPS
- A. Samples and mockups of proposed construction fabrications, materials, finishes, and colors are required as noted in the Project Manual or on Drawings. Owner and Architect shall approve field samples and mockups prior to executing Work.
- 1.18 LABELS
- A. Labels, Trademarks, & Tradenames: Locate required labels on inconspicuous surfaces. Do not provide labels, nameplates, or trademarks which are not required. Provide permanent data plate on each item of equipment stating manufacturer, model, serial number, capacity, ratings and all other essential data.



1.19 RECORD DOCUMENTS

- A. General: Keep record documents neatly and accurately. Record information as the work progresses and deliver to Architect at time of final acceptance. Include in record documents all field changes made, all relevant dimensions, and all relevant details of the work. Keep record documents up to date with all field orders and change orders clearly indicated.
- B. Drawings: Keep sets of blackline prints at the site, one set each for mechanical, electrical, and architectural/structural disciplines. Neatly and accurately note all deviations from the Contract Documents and the exact actual location of the work as installed. Marked-up and colored prints will be used as a guide to determine the progress of the work installed.
 - 1. At completion of the work, submit one complete set of marked-up prints for review.
 - 2. Architect shall make modifications to AutoCAD files as shown on the marked-up prints, date, and distribute to Owner.
- C. Specifications: Maintain one clean copy of complete specifications [including addenda, modifications, and bulletins with changes, substitutions, and selected options clearly noted. Circle or otherwise clearly indicate which manufacturer and products are actually used.

1.20 PROJECT CLOSE OUT

- A. Complete the following prior to Substantial Completion:
 - 1. Provide Contractor's Punch List of incomplete items stating reason for incompleteness and value of incompleteness.
 - 2. Advise Owner of insurance change over requirements.
 - 3. Submit all warranties, maintenance contracts, final certificates and similar documents.
 - 4. Obtain Certificates and similar releases which permit the Owner's full and unrestricted use of the areas claimed "Substantially Complete".
 - 5. Submit record documents.
 - 6. Deliver maintenance stocks of materials where specified.
 - 7. Make final change over of lock cylinders or cores and advise Owner of change of security responsibility; rekey according to Owner.
 - 9. Complete startup of all systems and instruct Owner's personnel in proper operation and routine maintenance of systems and equipment.
 - 10. Complete clean up and restoration of damaged finishes.
 - 11. Remove all temporary facilities and utilities that are no longer needed.
 - 12. Request Architect's inspection for Substantial Completion.
- B. Architect will either issue a Certificate of Substantial Completion or notify Contractor of work that must be performed prior to issue of certificate.
- C. Complete the following prior to Final Acceptance and payment:
 - 1. Obtain Certificate of Substantial Completion.
 - 2. Submit final application for payment, showing final accounting of changes in the work.
 - 3. Provide final releases and lien waivers not previously submitted.
 - 4. Submit certified copy of final punch list stating that Contractor has completed or corrected each item.
 - 5. Submit final meter readings, record of stored fuel and similar information.
 - 6. Submit Consent of Surety for final payment.
 - 7. Submit evidence of Contractor's continuing insurance coverage (if required by Contract Documents).



1.21 FINAL CLEANING AND REPAIR

- A. Clean Up: Immediately prior to the Architect's inspection for Substantial Completion, the Contractor shall completely clean the premises and clean and prepare the completed work in order for it to be used for its intended purpose in accordance with the Contract Documents. Such work shall include, but not be limited to the following:
1. Exterior surfaces free of dust, prints, and debris.
 2. Hardware and metal surfaces shall be cleaned.
 3. Glass and plastic surfaces shall be thoroughly cleaned. Damaged, broken or scratched glass or plastic shall be replaced by the Contractor at the Contractor's expense.
 4. Vacuum interior floors with high efficiency particulate arrestor (HEPA) vacuum.
 5. Use low-emitting, environmentally friendly cleaning agents and procedures.
- B. Repairs: Repair, patch, replace, and touch-up all damaged and deteriorated products and surfaces that are BOTH part of the Contract Documents and surroundings areas damaged by GC as a result of the work (such items may include but are not limited to: ceiling tile, drywall, paint, flooring, overspray, etc.)

END OF SECTION

SECTION 01 14 00
COORDINATION WITH OWNER'S OPERATIONS

1.01 SUMMARY

A. Section Includes:

1. Requirements for coordinating with Owner's operations during the Work and included requirements for tie-ins and shutdowns necessary to complete the Work without impact on Owner's operations except as allowed in this Section.
2. Contractor shall provide labor, materials, tools, equipment and incidentals shown, specified and required to coordinate with Owner's operations during the Work.

B. General Requirements:

1. Except for shutdowns specified in this Section, perform the Work such that Owner's facility remains in continuous satisfactory operation during the Project. Schedule and conduct the Work such that the Work does not: impede Owner's production or processes, create potential hazards to operating equipment and personnel, reduce the quality of the facility's products or effluent, or cause odors or other nuisances.
2. Work not specifically covered in this Section or in referenced Sections may, in general, be completed at any time during regular working hours in accordance with the General Conditions and Supplementary Conditions, subject to the requirements in this Section.
3. Contractor has the option of providing additional temporary facilities that can eliminate or mitigate a constraint without additional cost to Owner, provided such additional temporary facilities: do not present hazards to the public, personnel, structures, and equipment; that such additional temporary facilities do not adversely affect Owner's ability to comply with Laws and Regulations, permits, and operating requirements; that such temporary facilities do not generate or foster the generation of odors and other nuisances; and that requirements of the Contract Documents are fulfilled.
4. Coordinate shutdowns with Owner and Engineer. When possible, combine multiple tie-ins into a single shutdown to minimize impacts on Owner's operations and processes. **An Engineer/Owner approved Shutdown Plan is required for each shutdown and a Demolition Plan is required for non-shutdown related Demolition Work.**
5. Do not shut off or disconnect existing operating systems, unless accepted by Engineer in writing. Operation of existing equipment will be by Owner unless otherwise specified or indicated. Where necessary for the Work, Contractor shall

seal or bulkhead Owner-operated gates and valves to prevent leakage that may affect the Work, Owner's operations, or both. Provide temporary watertight plugs, bulkheads, and line stops as required. After completing the Work, remove seals, plugs, bulkhead, and line stops to satisfaction of Engineer.

6. While on-site and conducting any Work activities, the Contractor and all personnel (including vendors, subcontractors, visitors, etc.) are required to adhere OWASA's Supplemental Site, Safety, and Covid Prevention Requirements. The latest version of the document can be obtained from OWASA.

C. Continuous Treatment Provision:

1. Not Used.

D. Related Sections:

1. Section 01 11 00 – Summary of Work
2. Section 01 73 00 – Execution of Work

1.02 REFERENCES

A. Definitions:

1. A "shutdown" is when a portion of the normal operation of Owner's facility, whether equipment, systems, piping, electrical equipment, or conduit, has to be temporarily suspended or taken out of service to perform the Work.

1.03 ADMINSTRATIVE REQUIREMENTS

A. Coordination:

1. Review installation procedures under other Specification sections and coordinate Work that must be performed with or before the Work specified in this Section.
2. Notify other contractors in advance of Work requiring coordination with Owner's operations, to provide other contractors sufficient time for work included in their contracts that must be installed with or before Work specified in this Section.
3. When possible, combine multiple tie-ins into a single shutdown to minimize impacts on Owner's operations and processes.

B. Pre-Shutdown Meetings:

1. Contractor shall schedule and conduct meeting with Owner and Engineer prior to scheduling shutdown

C. Sequencing:

1. Perform the Work in the specified sequence. Certain phases or stages of the Work may require working 24-hour days or work during hours outside of regular working hours. Work may be accelerated from a later stage to an earlier stage if Owner's operations are not adversely affected by proposed sequence change, with Engineer's acceptance. Stages specified in this Section are sequential in performance of the Work.

D. Scheduling:

1. Work that may interrupt normal operations shall be accomplished at times convenient to Owner.
2. Furnish at the Site, in close proximity to the shutdown and tie-in work areas, tools, equipment, spare parts and materials, both temporary and permanent, necessary to successfully complete the shutdown. Complete to the extent possible, prefabrication of piping and other assemblies prior to the associated shutdown. Demonstrate to Engineer's satisfaction that Contractor has complied with these requirements before commencing the shutdown.
3. If Contractor's operations cause an unscheduled interruption of Owner's operations, immediately re-establish satisfactory operation for Owner.
4. Unscheduled shutdowns or interruptions of continued safe and satisfactory operation of Owner's facilities that result in fines or penalties by authorities having jurisdiction shall be paid solely by Contractor if, in Engineer's opinion, Contractor did not conform to the requirements of the Contract Documents, or was negligent in the Work, or did not exercise proper precautions in conducting the Work.
5. Work requiring service interruptions for tie-ins shall be performed during scheduled shutdowns.
6. Temporary, short-term shutdowns of smaller piping, conduits, equipment, and systems may be required. Coordinate requirements for such shutdowns with Engineer and Owner.

1.04 SUBMITTALS

A. Action/Informational Submittals:

1. Substitute Sequence Submittal:
 - a. When deviation from specified sequence is proposed, provide submittal explaining in detail the proposed sequence change and its effects, including evidence that Owner's operations will not be adversely affected by proposed change. List benefits of proposed sequence change, including benefits to Progress Schedule.

2. Project and Site Specific Safety Plan
 - a. Contractor shall submit a Project and Site Specific Safety Plan for review and approval by the Owner/Engineer.
 - b. Safety Plan shall incorporate the latest version of OWASA's Safety and Covid Requirements, as necessary, to maintain a safe working environment for OWASA employees and other persons working and visiting the Water Treatment Plant.
3. Shutdown Planning:
 - a. For each shutdown, submit an inventory of labor and materials required to perform the shutdown and tie-in tasks, an estimate of time required to accomplish the complete shutdown including time for Owner to take down and start up existing equipment, systems, or conduits, and written description of steps required to complete the Work associated with the shutdown.
 - b. Furnish submittal to Engineer at least fourteen (14) days prior to proposed shutdown start date. Do not start shutdown until obtaining Engineer's acceptance of shutdown planning submittal.
 - c. Shutdown Plans shall include all Demolition Work associated with the shutdown. If demolition is required, provide demolition plan information indicated as part of a Demolition Plan (see below).
 - d. Shutdown Plans shall indicate the appropriate Safety and Coordination with Owner's Operations to properly notify all parties of the safety requirements of the Work involved.
 - e. After acceptance of shutdown planning submittal and prior to starting the shutdown, provide written notification to Owner and Engineer of date and time each shutdown is to start. Provide notification at least 72 hours in advance of each shutdown.
4. Demolition Planning Submittal:
 - a. For all Demolition Work requiring a shutdown, Contractor shall submit a Shutdown Plan which includes the details of the demolition work involved, as indicated herein.
 - b. For all Demolition Work not requiring a shutdown, Contractor shall submit a Demolition Plan. Demolition Plans shall include the following:
 - 1) Indication of equipment to be removed, and any special sequencing required

- 2) Indication of steps required to be taken (Contractor and/or Owner related) prior to starting demolition
 - 3) Safety Plan for the demolition work (safety issues and mitigation measures)
 - 4) Operational precautions
 - 5) Emergency Contacts and response plans
 - 6) Demonstrate Knowledge of location and operations of electrical disconnects and isolation valves
 - 7) Indicate Owner involvement required
 - 8) Pre-Demolition meeting to walk-through the process with Owner/Engineer
- c. Furnish submittal to Engineer at least two (2) weeks prior to proposed demolition start date. Do not start demolition until obtaining Engineer's acceptance of shutdown planning submittal.
- d. After acceptance of demolition planning submittal and prior to starting the demolition, provide written notification to Owner and Engineer of date and time each demolition effort is to start. Provide notification at least 72 hours in advance of each demolition effort.

1.05 SITE CONDITIONS

A. General Constraints:

1. Specified in the Contract Documents are the sequence and shutdown durations, where applicable, for Owner's equipment, systems, and conduits that are to be taken out of service temporarily for the Work. New equipment, materials, and systems may be used by Owner after the specified field quality controls and testing are successfully completed and the materials or equipment are Substantially Complete.

B. The following constraints apply to coordination with Owner's operations:

1. **Operational Access:** Owner's personnel shall have access to equipment and areas that remain in operation.
2. Schedule and perform equipment and system start-ups for Monday through Thursday. Equipment and systems shall not be placed into operation on Friday, Saturday, and Sunday without prior approval of Owner.
3. Not Used.

4. Not Used.
5. Not Used.
6. Not Used.

1.06 SUGGESTED SEQUENCE OF WORK

- A. Perform the Work in the specified sequence or as otherwise approved by Engineer. Certain phases or stages of the Work may require working 24-hour days or work during hours outside of regular working hours. Work may be accelerated from a later stage to an earlier stage if Owner's operations are not adversely affected by proposed sequence change, and with Engineer's acceptance. Stages specified in this Section are sequence-dependent. This section is divided into two (2) major components, which can largely be performed independently.
 1. Electrical Building
 - 1) Not Used.
 2. Panelboard Replacement
 - a. Not Used.

1.07 TIE-INS

- A. General:
 1. Work that may interrupt normal operations shall be accomplished at times convenient to Owner.
 2. Not Used.
- B. Plant *Electrical System Shutdown and Site Access Constraints: Not Used.*
- C. Not Used.

PART 2 – PRODUCTS (NOT USED)

PART 3 – EXECUTION

3.01 GENERAL

- A. In addition to requirements of this Section, conform to requirements of Section 01 73 00 – Execution of Work.

- B. Refer to Table 01 14 00-B in this Section for schedule of process equipment and service lines out-of-service during shutdown.
- C. Refer to Table 01 14 00-B in this Section for schedule of process equipment in operation during shutdown.
- D. Refer to Table 01 14 00-B in this Section for tie-ins required during each shutdown. Refer to Table 01 14 00-A in this Section for detailed tie-in schedule.
- E. Refer to Table 01 14 00-B in this Section for duration of each shutdown.

3.02 DETAILED SHUTDOWN REQUIREMENTS:

- A. Prior to Typical Shutdown:
 - 1. Obtain Engineer's acceptance of proposed shutdown planning submittal and shutdown notification submittal.
 - 2. Submittal and approval of all shop drawings required.
 - 3. Coordinate with plant operations on timing of shutdown and provide required notice to Owner.
 - 4. Bring necessary piping, couplings, valves, equipment, and appurtenances to the work areas.
 - 5. Assist Owner in preparing to take equipment, tanks, basins, and conduits temporarily out of service.
 - 6. Coordinate other tie-ins to be performed simultaneously.
 - 7. Install and ensure functionality of temporary systems as applicable.
- B. During Typical Shutdown:
 - 1. Owner will dewater tanks and basins.
 - 2. Remove existing equipment, piping, and accessories as required.
 - 3. Verify operation of new equipment, materials, and systems.
 - 4. Following approval from Engineer, return equipment and system to operation with Owner.
- C. Following Typical Shutdown:
 - 1. Verify functionality of equipment and system.

2. Verify operation of new equipment and systems, and verify that joints in piping are watertight or gastight as applicable.
3. Repair joints that are not watertight or gastight as applicable.
4. Remove temporary systems as applicable.

3.03 PROPOSED SHUTDOWN SEQUENCE

A. Shutdown No. 1 Description: _____

1. General:

a. Impact on Other Equipment and Processes: _____

b. Location: _____

c. Owner access to Site roadways: _____

2. Prior to Shutdown:

a. Obtain Engineer's acceptance of proposed shutdown planning submittal and shutdown notification submittal.

b. Assist Owner in preparing to take equipment, tanks, basins, and conduits temporarily out of service.

c. Specific requirements: _____.

3. During Shutdown:

a. Installation of remaining Work required.

b. Perform tie-ins shown on Table 01 14 00-B.

c. Verify functionality of equipment and system.

4. Following shutdown:

a. _____

B. Shutdown No. 2 Description: _____

SECTION 01 29 76
PROGRESS PAYMENT PROCEDURES

PART 1 – GENERAL

1.01 SUMMARY

- A. Administrative and procedural requirements for progress payment to the Contractor by the Owner.
- B. Related Sections:
 - 1. Section 01 00 00, 1.20 – Project Closeout Requirements.

1.02 ADMINSTRATIVE REQUIREMENTS

- A. General: Contractor’s request for payment shall be in accordance with the Agreement, General Conditions and Supplementary Conditions, and the Specifications.
- B. Procedure:
 - 1. Review with OWASA designated project representative all quantities and the Work proposed for inclusion in each progress payment. Application for Payment shall cover only the Work and quantities recommended by the RPR/OSR.
 - 2. Submit to Engineer five (5) originals of each complete Application for Payment and other documents to accompany the Application for Payment.
 - 3. Engineer will act on request for payment in accordance with the General Conditions and Supplementary Conditions.
- C. Requirements:
 - 1. Completed Application for Payment form, including summary/signature page, progress estimate sheets, and stored materials summary. Progress estimate sheets shall have the same level of detail as the Schedule of Values.
 - 2. For materials and equipment not incorporated in the Work but suitably stored, submit documentation in accordance with the General Conditions and Supplementary Conditions. Legibly indicate on invoice or bill of sale the specific materials or equipment included in the payment request and corresponding bid/payment item number for each.
 - 3. Include updated Progress Schedules with each application for payment as well as Contractor redline Drawings for Engineer Review/Approval.

4. Include separate Sales & Use Tax Affidavit with each application. A separate form is to be used for each County in which sales & use tax were paid.
 5. Contractor's Affidavit is required for payment application and requests beginning with the second application for payment.
 6. For payment requests that include payment for Work under an allowance, submit documentation acceptable to Owner of the authorization of allowance Work.
 7. For payment requests (other than request for final payment) that include reduction or payment of retainage in an amount greater than that required in the Contract Documents, submit on form acceptable to Owner consent of surety to partial release or reduction of retainage.
- D. Requirements for request for final payment are in the General Conditions, as modified by the Supplementary Conditions, and Section 01 77 19 – Closeout Requirements.

PART 2 – PRODUCTS (NOT USED)

PART 3 – EXECUTION (NOT USED)

END OF SECTION

SECTION 01 32 00
CONSTRUCTION PROGRESS SCHEDULE

PART 1 – GENERAL

1.01 SUMMARY

- A. Contractor shall prepare and submit Progress Schedules and related documents in accordance with the General Conditions, as may be modified by the Supplementary Conditions, and this Section, unless otherwise accepted by Engineer.
 - 1. Maintain and update Progress Schedules and related documents.
 - 2. Progress Schedule shall be a Critical Path Method (CPM) Progress Schedule.
- B. Engineer's acceptance of the Progress Schedule or related documents, and comments or opinions concerning activities in the Progress Schedule and related documents shall not control independent judgment of Contractor concerning means, methods, techniques, sequences and procedures of construction, unless the associated means, method, technique, sequence, or procedure is directed by the Contract Documents. Contractor is solely responsible for complying with the Contract Times.

1.02 REFERENCES

- A. Definitions:
 - 1. Activity: An element of the construction work that has the following specific characteristics: consumes time, consumes resources, has a definable start and finish, is assignable, and is measurable.
 - 2. Constraint: An imposed date on the Progress Schedule or an imposed tie between Activities. The Contract Times are Constraints.
 - 3. CPM Progress Schedule: Computerized Progress Schedule in Critical Path Method (CPM) format which accounts for the entire Work, defines the interrelationships between elements of the Work, reflects the uncompleted Work, and indicates the sequence with which the Work has been completed, indicates the sequence in which uncompleted Work will be completed, and indicates the duration of each Activity.
 - 4. Critical Path: The continuous chain of Activities with the longest duration for completion within the Contract Times.
 - 5. Early Start: The earliest possible date an Activity can start according to the assigned relationships among Activities.

6. Early Finish: The earliest date an Activity can finish according to the assigned relationships among the Activities.
7. Late Finish: The latest date an Activity can finish without extending the Contract Times.
8. Late Start: The latest date an Activity can start without extending the Contract Times.
9. Float: The time difference between the calculated duration of the Activity chain and the Critical Path.
10. Total Float: The total number of days that an Activity (or chain of Activities) can be delayed without affecting the Contract Times.
11. Network Diagram: A time-scaled logic diagram depicting the durations and relationships of the Activities.
12. Work Areas, Area, or System: A logical breakdown of the Project elements or a group of Activities which, when collectively assembled, are readily identifiable on the Project (for example, yard piping, a structure or building, a treatment process, or other logical grouping).

1.03 ADMINISTRATIVE REQUIREMENTS

A. Initial Progress Schedule:

1. Type and Organization of Progress Schedules:
 - a. Prepare one Progress Schedule covering the entire Project using scheduling software that is acceptable to Engineer.
 - b. Sheet Size: 11" by 17", unless otherwise accepted by Engineer.
 - c. Time Scale: Indicate first date of each work week.
 - d. Activity Designations: Indicate title and related Specification Section number.
2. Preliminary Progress Schedule:
 - a. Contractor shall submit to Engineer the preliminary Progress Schedule with associated Network Diagrams within 15 days after the Contract Times commence running.
 - b. Submit two (2) copies of preliminary Progress Schedule and associated reports and schedule-related documents to accompany the preliminary

Progress Schedule, in accordance with the Submittals Article of this Section. Submit in accordance with Section 01 33 00 – Submittal Procedures.

3. Initial Acceptance of Progress Schedule:

- a. At least ten (10) days before submission of the first Application for Payment, Contractor shall schedule a conference at the Site for review of the preliminary Progress Schedule.
 - 1) Attendees shall include Contractor, Engineer, Owner and others as required.
 - 2) Contractor shall have an additional 10 days to make corrections and adjustments and to complete and resubmit the Progress Schedule and associated Network Diagram.
 - 3) Owner reserves the right to not make progress payment to Contractor until acceptable Progress Schedule, Network Diagram, and other reports and schedule-related documents required are submitted to Engineer.
- b. Submit two (2) copies each of acceptable Progress Schedule with Network Diagram, reports, and other schedule-related documents required to accompany the initial acceptable Progress Schedule, in accordance with the Submittals Article of this Section.
- c. Initially-accepted Progress Schedule shall be identified as the baseline Progress Schedule.

B. Progress Schedule Updates:

1. The Contractor shall submit detailed 3-week look ahead including activities of the Contractor, Subcontractors, Vendors, and key deliveries of project equipment and materials. Format of the weekly schedule shall be approved by the Engineer/Owner.
2. If during progress of the Work events develop that necessitate changes in the initially accepted Progress Schedule (i.e., baseline Progress Schedule), identify updated Progress Schedules sequentially as Progress Schedule Revision 1, 2, 3, and continuing in sequence as required.
3. The update to the Progress Schedule shall be based on retained logic. Progress override logic is not allowed.

4. Required scheduling software, and schedule organization, format, and content for updated Progress Schedules are identical to that required in this Section for initial
5. Submit to Engineer two (2) hard copies of the updated Progress Schedule, Network Diagram, narrative report, and other schedule-related reports and documents required.
6. Submit updated Network Diagrams when revisions are proposed to the logic. Indicate in the narrative report delays that have occurred since the previous updated Progress Schedule. Engineer will not recommend payment by Owner of progress payments until updated Progress Schedule is received, reviewed, and accepted by Engineer. Payment for out-of-sequence Work is not allowed.

1.04 NETWORK DIAGRAMS (PERT CHARTS)

A. General:

1. Contractor shall prepare and submit Network Diagrams, as generated using the scheduling software on paper of the size indicated for Progress Schedules in this Section.
2. Group Network Diagrams by Area and show the order and interdependence of Activities and sequence and quantities in which the Work will be accomplished.
3. Do not use match lines on Network Diagrams. Depict interrelationships to or from Activities outside the Area shown using an Activity symbol with Activity number and description.
4. In preparing Network Diagrams, comply with the basic concept of precedence diagramming method (PDM) network scheduling to show how start of a given Activity depends on completion of preceding Activities, and how the Activity's completion may affect the start of subsequent Activities.
5. Level of schedule detail shall define the day-to-day Activities of the Work.

B. Content:

1. Clearly indicate the Critical Path and distinguish the Critical Path from other paths on the network.
2. Organize Network Diagrams by grouping into major Work Areas, including one for procurement of materials and equipment, and by specific Activity within each Area.
3. Logic diagrams shall include the following:
 - a. Activity number.

- b. Activity description.
- c. Activity duration (in work days).
- d. Critical Path denoted.
- e. Float for each Activity.
- f. Activity or System designation.
- g. Coded Area designation.
- h. Responsibility code (e.g., each prime contractor and their respective Subcontractors, trade, operation, Suppliers, or other entity responsible for accomplishing an Activity).
- i. Shift number (if more than one shift per day is to be employed).

C. Revisions:

- 1. When conditions develop that require revisions to logic or durations of the Network Diagram associated with the initially accepted Progress Schedule (i.e., baseline Progress Schedule), identify updates to the Network Diagram in the same manner required in this Section for Progress Schedule updates.
- 2. Revision of the logic or durations from the baseline Progress Schedule initially accepted by Engineer shall be submitted to Engineer for acceptance.
- 3. Incorporate into the Progress Schedule revisions to logic or duration accepted by Engineer and include in monthly narrative report both a description of revisions and listing of Activities affected by revisions.
- 4. Changes resulting from Change Orders and other additions or deletions, shall be fully incorporated into the Progress Schedule and Network Diagram on the first update after the associated Change Order is approved by Owner, including adjustments to the Contract Price.

1.05 TIME IMPACT ANALYSIS

A. General:

- 1. Prepare and submit a time impact analysis when one or more of the following occurs:
 - a. Change Order proposal is prepared
 - b. Work Change Directive is issued that will affect the Progress Schedule

- c. When delays are experienced.
2. Time impact analysis shall illustrate the influence of each Change Order, Work Change Directive, or delay.
 3. Each time impact analysis shall include a sketch (fragnet) demonstrating how Contractor proposes to incorporate the changes in the Project or, as applicable, delays into the Progress Schedule. Fragnet shall include all logic, and additions required as result of said Change Order, Work Change Directive, or delay.
 4. Fragnet shall show all CPM logic revisions for the Work associated with the Change Order, Work Change Directive, or delay and its relationship to other Activities in the Network Diagram.
 5. Timing of Time Impact Analysis:
 - a. Submit each time impact analysis within 7 days after the following, as applicable:
 - 1) Start of the delay.
 - 2) After the submittal of Change Order proposal to Engineer
 - 3) After Contractor's Receipt of Work Change Directive.
 - b. Failure to Submit Time Impact Analysis: When General Contractor does not submit time impact analysis for a specific change or delay under the General Contract, within the specified period of time for such submittal, such non-submittal shall be construed that no extension of the Contract Times is required.
- B. Evaluation by Engineer and Acceptance:
1. Engineer's evaluation of each time impact analysis comprised of complete information will be completed in timely manner after Engineer's receipt. Changes in the Contract Times will be made only by Change Order.
 2. When mutual agreement is reached between the parties, on effect of the change or delay in the Project, incorporate into the next Progress Schedule update the associated fragnets illustrating the influence of changes and delays.

1.06 RECOVERY SCHEDULES

A. General:

1. When updated Progress Schedule indicates that the ability to comply with the Contract Times falls 30 or more days behind schedule, and there is no excusable

delay, Change Order, or Work Change Directive to support an extension of the Contract Times, Contractor shall prepare and submit a recovery Progress Schedule demonstrating Contractor's plan to accelerate the Project to achieve compliance with the Contract Times (i.e., "recovery" schedule) for Engineer's acceptance.

2. Submit recovery schedule within 14 days after submittal of updated Progress Schedule where need for recovery schedule is indicated.

B. Implementation of Recovery Schedule:

1. At no additional cost to Owner, Contractor shall do one or more of the following:
 - a. Furnish additional labor and construction equipment
 - b. Employ additional work shifts
 - c. Expedite procurement of materials and equipment to be incorporated into the Work
 - d. Other measures necessary to complete the Work within the Contract Times.
2. Upon acceptance of recovery schedule by Engineer, incorporate recovery schedule into the next Progress Schedule update.

- C. Lack of Action:** Contractor's refusal, failure or neglect to submit a recovery schedule, shall constitute reasonable evidence that Contractor is not prosecuting the Work or separable part thereof with the diligence that will ensure completion within the Contract Times. Such lack of action shall constitute sufficient basis for Owner to exercise remedies available to Owner under the Contract Documents.

1.07 USE OF FLOAT

- A. Total Float and Contract Float belong to the Project and may be used by Owner, Engineer, or Contractor to accommodate modifications, regardless of origination, in the Work or to mitigate the effect of events that may delay performance or completion of the Work.
- B. Changes or delays that influence scheduled Work Activities with Float and that do not extend the critical path will not be justification for an extension in Contract Times.

1.08 SUBMITTALS

- A. Action/Informational Submittals:
 1. Initial Progress Schedules:

- a. Preliminary Progress Schedule with associated Network Diagrams.
 - b. Acceptable Progress Schedule with associated Network Diagrams.
2. Progress Schedule Updates:
- a. Progress Schedule updates shall comply with requirements of this Section, and shall include updated Progress Schedule, updated Network Diagram when relationships among Activities are changed.
 - b. Submit updated Progress Schedule at each progress meeting. If a Progress Schedule remains unchanged from one progress meeting to the next, submit a written statement to that effect.
3. Time Impact Analyses: Submit in accordance with this Section.
4. Recovery Schedule: Submit in accordance with this Section.
5. Qualifications: Progress Schedule preparer, and other personnel that will assist Progress Schedule preparer in preparing and maintaining the Progress Schedule.

PART 2 – PRODUCTS (NOT USED)

PART 3 – EXECUTION (NOT USED)

END OF SECTION



SECTION 02 4100

SELECTIVE DEMOLITION

PART 1 - GENERAL

1.1 GENERAL PROVISIONS

- A. Attention is directed to the CONTRACT AND GENERAL CONDITIONS and all Sections within DIVISION 01 - GENERAL REQUIREMENTS which are hereby made a part of this Section of the Specifications.

1.2 DESCRIPTION OF WORK

- A. Work Included: Provide labor, materials and equipment necessary to complete the work of this Section, including but not limited to the following:
 - 1. Selective demolition as shown.
 - 2. GC shall coordinate any waste container locations with the owner.

1.3 MATERIAL OWNERSHIP

- A. Unless otherwise indicated, demolition waste becomes property of Contractor.

1.4 MEETINGS

- A. Pre-demolition conference conducted at Project site.

1.5 SUBMITTALS

- A. Proposed Protection Measures: Submit report, including Drawings, that indicates the measures proposed for protecting individuals and property for dust control. Indicate proposed locations and construction of barriers.
- B. Schedule of selective demolition activities with starting and ending dates for each activity.
- C. Provide pre-demolition photographs or video.

1.6 CLOSEOUT SUBMITTALS

- A. Inventory of items that have been removed and salvaged.
- B. Construction & Demolition Waste and Recycling Tracking Form.

1.7 FIELD CONDITIONS

- A. Owner will occupy the building during selective demolition. Conduct selective demolition so Owner's operations will not be disrupted.



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- B. Conditions existing at time of inspection for bidding purpose will be maintained by Owner as far as practical.
- C. Notify Architect of discrepancies between existing conditions and Drawings before proceeding with selective demolition.
- D. Storage or sale of removed items or materials on-site is not permitted.
- E. Utility Service: Maintain existing utilities indicated to remain in service and protect them against damage during selective demolition operations.
 - 1. Maintain fire-protection facilities in service during selective demolition operations.
- F. Arrange selective demolition schedule so as not to interfere with Owner's operations.

1.8 WARRANTY

- A. Existing Warranties: Remove, replace, patch, and repair materials and surfaces cut or damaged during selective demolition, by methods and with materials and using approved contractors so as not to void existing warranties.

PART 2 - PRODUCTS

2.1 PERFORMANCE REQUIREMENTS

- A. Regulatory Requirements: Comply with governing EPA notification regulations before beginning selective demolition. Comply with hauling and disposal regulations of authorities having jurisdiction.
- B. Standards: Comply with ASSE A10.6 and NFPA 241.

PART 3 - EXECUTION

3.1 EXAMINATION

- A. Verify that utilities have been disconnected and capped before starting selective demolition operations. Shutoff water and other necessary active utilities that impact the work area.
- B. Inventory and record the condition of items to be removed and salvaged.
- C. Existing Services/Systems to Remain: Maintain services/systems indicated to remain and protect them against damage.
- D. Existing Services/Systems to Be Removed, Relocated, or Abandoned: Locate, identify, disconnect, and seal or cap off utility services and mechanical/electrical systems serving areas to be selectively demolished.



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3.2 PROTECTION

- A. Temporary Protection: Provide temporary barricades and other protection required to prevent injury to people and damage to adjacent materials, buildings and facilities to remain.

3.3 SELECTIVE DEMOLITION

- A. General: Demolish and remove existing construction only to the extent required by new construction and as indicated. Use methods required to complete the Work within limitations of governing regulations.
- B. Site Access and Temporary Controls: Conduct selective demolition and debris-removal operations to ensure minimum interference with roads, streets, walks, walkways, and other adjacent occupied and used facilities.
- C. Existing Items to Remain: Protect construction indicated to remain against damage and soiling during selective demolition.

3.4 CLEARING

- A. Remove demolition waste materials from Project site.
 - 1. Do not allow demolished materials to accumulate on-site.
 - 2. Remove and transport debris in a manner that will prevent spillage on adjacent surfaces and areas.
 - 3. Remove debris from elevated portions of building by chute, hoist, or other device that will convey debris to grade level in a controlled descent.
 - 4. Do not burn demolished materials.
 - 5. Comply with federal, state, and jurisdictional requirements.
- B. Clean adjacent structures and improvements of dust, dirt, and debris caused by selective demolition operations. Return adjacent areas to condition existing before selective demolition operations began.

END OF SECTION