

# CONTRACT, LEASE, AGREEMENT CONTROL FORM

Date: 07/20/2023

Contract/Lease Control #: C23-3360-WS

Procurement#: ITB WS 42-23

Contract/Lease Type: AGREEMENT

Award To/Lessee: MORROW WATER TECHNOLOGIES, INC.

Owner/Lessor: OKALOOSA COUNTY

Effective Date: 07/19/2023

Expiration Date: 07/18/2026 W/2 1 YR RENEWALS

Description of: MAINTENANCE & EMERGENCY REPAIR OF OKALOOSA  
COUNTY WATER WELLS, WATER BOOSTER PUMP STATIONS,  
WASTEWATER EFFLUENT PUMP STATIONS & STOREWATER PUMP  
STATIONS

Department: WS

Department Monitor: LITRELL

Monitor's Telephone #: 850-651-7172

Monitor's FAX # or E-mail: MWISE@MYOKALOOSA.COM

Closed: \_\_\_\_\_

CC: BCC RECORDS

PROCUREMENT/CONTRACT/LEASE  
INTERNAL COORDINATION SHEET

023-336065

7-18-26

Procurement/Contract/Lease Number: 48-23 Tracking Number: 4977-23

Procurement/Contractor/Lessee Name: Morrow Water Tech Grant Funded: YES \_\_\_ NO X

Purpose: maint: Repair of wells pumps

Date/Term: 3yrs w/ 2lyr renewals 1.  GREATER THAN \$100,000

Department #: 4101-546021 2.  GREATER THAN \$50,000

Account #: 4120-563346 3.  \$50,000 OR LESS

Amount: per task order

Department: WS Dept. Monitor Name: wise

**Purchasing Review**

Procurement or Contract/Lease requirements are met: DeRita Mason Date: 6-23-27

Purchasing Manager or designee: \_\_\_\_\_ DeRita Mason, Erin Poole, Amber Hammonds

**2CFR Compliance Review (if required)**

Approved as written: no federal funds Grant Name: \_\_\_\_\_ Date: \_\_\_\_\_

Grants Coordinator: \_\_\_\_\_ Suzanne Ulloa

**Risk Management Review**

Approved as written: see email attached Date: 6-26-27

Risk Manager or designee: \_\_\_\_\_ Lydia Garcia

**County Attorney Review**

Approved as written: see email attached Date: 6-26-27

County Attorney: \_\_\_\_\_ Lynn Hoshihara, Kerry Parsons or Designee

**Department Funding Review**

Approved as written: \_\_\_\_\_ Date: \_\_\_\_\_

**IT Review (if applicable)**

Approved as written: \_\_\_\_\_ Date: \_\_\_\_\_

## DeRita Mason

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**From:** Odessa Cooper-Pool  
**Sent:** Monday, June 26, 2023 10:18 AM  
**To:** DeRita Mason; Lynn Hoshihara  
**Cc:** 'Parsons, Kerry'; Jacqueline Matichuk  
**Subject:** RE: Morrow Water Tech Draft Agreement 42-23  
**Attachments:** ITB 42-23 Morrow CONTRACT.pdf

Hello DeRita,

The attached Morrow Water Tech Draft Agreement 42-23 has been reviewed and is approved by Risk Management for insurance purposes.

*Thank you,*

*Odessa Cooper-Pool*  
*Public Records & Contracts Specialist*  
Okaloosa County BCC  
302 N. Wilson Street  
Crestview, FL 32536  
Office: 1-850-689-4111



"And, when you want something, all the universe conspires in helping you to achieve it."— Paulo Coelho, *The Alchemist*

**Please note: Due to Florida's very broad public records laws, most written communications to or from County employees regarding County business are public records, available to the public and media upon request. Therefore, this written e-mail communication, including your e-mail address, may be subject to public disclosure.**

**From:** DeRita Mason <dmason@myokaloosa.com>  
**Sent:** Friday, June 23, 2023 8:52 AM  
**To:** Lynn Hoshihara <lhoshihara@myokaloosa.com>  
**Cc:** 'Parsons, Kerry' <KParsons@ngn-tally.com>; Odessa Cooper-Pool <ocooperpool@myokaloosa.com>; Jacqueline Matichuk <jmatichuk@myokaloosa.com>  
**Subject:** Morrow Water Tech Draft Agreement 42-23

Good morning,  
Please review and approve the attached. The agreement begins on page 59.

Thank you,

## DeRita Mason

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**From:** Odessa Cooper-Pool  
**Sent:** Friday, June 23, 2023 4:49 PM  
**To:** DeRita Mason; Lynn Hoshihara  
**Cc:** 'Parsons, Kerry'; Jacqueline Matichuk  
**Subject:** RE: Donald Smith Draft Agreement 42-23  
**Attachments:** ITB 42-23 Donald Smith CONTRACT.pdf

Hello DeRita,

The attached Donald Smith Draft Agreement 42-23 has been reviewed and is approved by Risk Management for insurance purposes.

*Thank you,*

*Odessa Cooper-Pool*  
*Public Records & Contracts Specialist*  
Okaloosa County BCC  
302 N. Wilson Street  
Crestview, FL 32536  
Office: 1-850-689-4111



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**From:** DeRita Mason <dmason@myokaloosa.com>  
**Sent:** Friday, June 23, 2023 8:46 AM  
**To:** Lynn Hoshihara <lhoshihara@myokaloosa.com>  
**Cc:** 'Parsons, Kerry' <KParsons@ngn-tally.com>; Odessa Cooper-Pool <ocooperpool@myokaloosa.com>; Jacqueline Matichuk <jmatichuk@myokaloosa.com>  
**Subject:** Donald Smith Draft Agreement 42-23

Good morning,  
Please review and approve the attached. I have three more just like this coming. The agreement begins on page 62.

Thank you,





# Board of County Commissioners Purchasing Department

State of Florida

Date: June 16, 2023

OKALOOSA COUNTY PURCHASING DEPARTMENT  
NOTICE OF INTENT TO AWARD  
ITB WS 42-23

Maintenance & Emergency Repair of Okaloosa County Water Supply Wells, Water Booster Pump Stations, Wastewater Effluent Pump Stations & Stormwater Pump Stations

Okaloosa County would like to thank all businesses, which submitted bids for Maintenance & Emergency Repair of Okaloosa County Water Supply Wells, Water Booster Pump Stations, Wastewater Effluent Pump Stations & Stormwater Pump Stations. (ITB WS 43-23)

After in-depth examination of all responses in accordance with the County's Purchasing Manual, the County announces its intent to award the contract/purchase order to the following:

**Johnson Well Drilling, LLC**  
19130 Keller Rd.  
Foley, AL 36536

**Morrow Water Technologies, Inc.**  
5465-2 Business Parkway  
Theodore, AL 36582

**Donald Smith Company, Inc.**  
746 East Main Street  
Headland, AL 36345

**Griner Drilling Service, Inc.**  
11100 Hwy 31N  
Spanish Fort, AL 36527

This Notice of Intent does NOT constitute the formation of a contract/purchase order between Okaloosa County and the apparent successful bidder/respondent. The County reserves the right to enter into negotiations with the successful bidder/respondent in order to finalize contract terms and conditions. No agreement is entered into between the County and any parties until a contract is approved and fully executed.

Any person/entity desiring to file a procurement protest must meet all the standards and criteria in accordance with Section 31 of the Okaloosa County Purchasing Manual. Failure to file a protest within the time prescribed in Section 31.02 of the Okaloosa County Purchasing Manual, shall constitute a waiver of protest proceedings.

Respectfully,

**DeRita Mason** Digitally signed by DeRita Mason  
Date: 2023.06.15 13:14:26 -05'00'

DeRita Mason  
Purchasing Manager



[Department of State](#) / [Division of Corporations](#) / [Search Records](#) / [Search by FEI/EIN Number](#) /

## Detail by FEI/EIN Number

Foreign Profit Corporation

MORROW WATER TECHNOLOGIES, INC.

### Filing Information

<b>Document Number</b>	F23000001297
<b>FEI/EIN Number</b>	45-1021834
<b>Date Filed</b>	03/06/2023
<b>State</b>	AL
<b>Status</b>	ACTIVE

### Principal Address

7440 CAHABA VALLEY ROAD  
BIRMINGHAM, AL 35242

### Mailing Address

PO BOX 380008  
BIRMINGHAM, AL 35238

### Registered Agent Name & Address

REGISTERED AGENTS INC  
7901 4TH ST N, STE 300  
ST. PETERSBURG, FL 33702

### Officer/Director Detail

#### **Name & Address**

Title P

HAY, CHRIS  
7440 CAHABA VALLEY ROAD  
BIRMINGHAM, AL 35242

Title CFO

ANDERSON, MICHAEL D  
7440 CAHABA VALLEY ROAD  
BIRMINGHAM, AL 35242

### Annual Reports

**No Annual Reports Filed**

**Document Images**

03/06/2023 -- Foreign Profit [View image in PDF format](#)



# MORROW WATER TECHNOLOGIES, INC.

Unique Entity ID <b>ELMJFBKNWNT4</b>	CAGE / NCAGE <b>6GX89</b>	Purpose of Registration <b>All Awards</b>
Registration Status <b>Active Registration</b>	Expiration Date <b>Mar 6, 2024</b>	
Physical Address <b>7440 Cahaba Valley RD Birmingham, Alabama 35242-6303 United States</b>	Mailing Address <b>P.O. Box 380008 Birmingham, Alabama 35238-0008 United States</b>	



Doing Business as <b>(blank)</b>	Division Name <b>(blank)</b>	Division Number <b>(blank)</b>
Congressional District <b>Alabama 06</b>	State / Country of Incorporation <b>Alabama / United States</b>	URL <b>(blank)</b>

<b>Registration Dates</b>		
Activation Date <b>Mar 9, 2023</b>	Submission Date <b>Mar 7, 2023</b>	Initial Registration Date <b>Aug 3, 2011</b>

<b>Entity Dates</b>	
Entity Start Date <b>Jan 1, 2011</b>	Fiscal Year End Close Date <b>Dec 31</b>

<b>Immediate Owner</b>	
CAGE <b>(blank)</b>	Legal Business Name <b>(blank)</b>

<b>Highest Level Owner</b>	
CAGE <b>(blank)</b>	Legal Business Name <b>(blank)</b>

**Executive Compensation**

Registrants in the System for Award Management (SAM) respond to the Executive Compensation questions in accordance with Section 6202 of P.L. 110-252, amending the Federal Funding Accountability and Transparency Act (P.L. 109-282). This information is not displayed in SAM. It is sent to USAspending.gov for display in association with an eligible award. Maintaining an active registration in SAM demonstrates the registrant responded to the questions.

**Proceedings Questions**

Registrants in the System for Award Management (SAM.gov) respond to proceedings questions in accordance with FAR 52.209-7, FAR 52.209-9, or 2. C.F.R. 200 Appendix XII. Their responses are displayed in the responsibility/qualification section of SAM.gov. Maintaining an active registration in SAM.gov demonstrates the registrant responded to the proceedings questions.



Active Exclusions Records?  
**No**



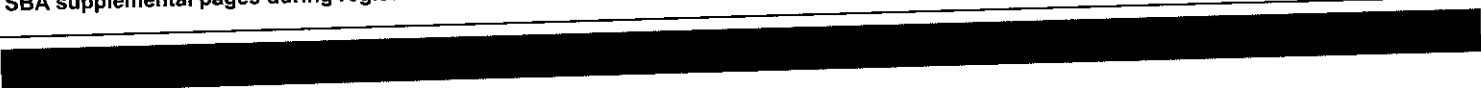
I authorize my entity's non-sensitive information to be displayed in SAM public search results:  
**Yes**



<b>Business Types</b>		
Entity Structure <b>Corporate Entity (Not Tax Exempt)</b>	Entity Type <b>Business or Organization</b>	Organization Factors <b>Subchapter S Corporation</b>

**Socio-Economic Types**

Check the registrant's Reqs & Certs, if present, under FAR 52.212-3 or FAR 52.219-1 to determine if the entity is an SBA-certified HUBZone small business concern. Additional small business information may be found in the SBA's Dynamic Small Business Search if the entity completed the SBA supplemental pages during registration.



Accepts Credit Card Payments Yes	Debt Subject To Offset No
EFT Indicator 0000	CAGE Code 6GX89



**Electronic Business**

<input checked="" type="checkbox"/> CHRIS Hay, PRESIDENT	P.O. Box 380008 Birmingham, Alabama 35238 United States
Bryan Garrett	PO Box 380008 Birmingham, Alabama 35238 United States

**Government Business**

<input checked="" type="checkbox"/> Brian Collins, Vice President	P.O. Box 380008 Birmingham, Alabama 35238 United States
Brian Collins	PO Box 380008 Birmingham, Alabama 35238 United States

**Past Performance**

<input checked="" type="checkbox"/> Bryan Garrett	PO Box 380008 Birmingham, Alabama 35238 United States
Bryan Garrett	PO Box 380008 Birmingham, Alabama 35238 United States



**NAICS Codes**

Primary Yes	NAICS Codes 237110	NAICS Title Water And Sewer Line And Related Structures Construction
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**Product and Service Codes**

PSC 3680 3820	PSC Name Foundry Machinery, Related Equipment And Supplies Mining, Rock Drilling, Earth Boring, And Related Equipment
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Yes, this entity appears in the disaster response registry.  
No, this entity does not require bonding to bid on contracts.

Bonding Levels	Dollars
	(blank)

States  
Alabama

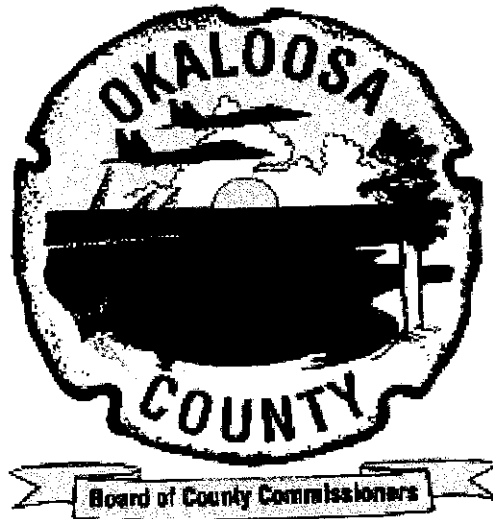
Counties  
(blank)

Metropolitan Statistical Areas  
(blank)



C23-3360-WS

PROJECT MANUAL



**ITB WS 42-23**

**MAINTENANCE & EMERGENCY REPAIR OF OKALOOSA COUNTY WATER  
SUPPLY WELLS, WATER BOOSTER PUMP STATIONS, WASTEWATER  
EFFLUENT PUMP STATIONS & STORMWATER PUMP STATIONS**

Okaloosa County, Florida

**OKALOOSA COUNTY COMMISSIONERS**

Trey Goodwin, Chair, District 4  
Paul Mixon, Vice-Chair, District 1  
Carolyn Ketchel, District 2  
Nathan Boyles, District 3  
Mel Ponder, District 5

**COUNTY ADMINISTRATOR**

John Hofstad

**DEPUTY COUNTY ADMINISTRATOR**

Craig Coffey

**CLERK**

JD Peacock II

**OKALOOSA WATER AND SEWER**

Jeff Littrell, Director  
Mark Wise, P.E., Deputy Director

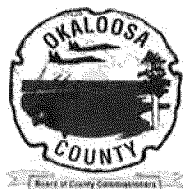
CONTRACT #: C23-3360-WS  
MORROW WATER TECHNOLOGIES, INC.  
MAINTENANCE & EMERGENCY REPAIR OF  
OKALOOSA COUNTY WATER WELLS, WATER  
BOOSTER PUMP STATIONS, WASTEWATER EFFLUENT  
PUMP STATIONS & STOREWATER PUMP STATIONS  
EXPIRATION: 07/18/2023 W/2 1 YR RENEWALS

**DIVISION 0 – CONTRACT AND BIDDING DOCUMENTS**

00020	ADVERTISEMENT FOR BIDS
00100	INSTRUCTIONS TO BIDDERS
00410	BID FORM WITH ATTACHMENTS
00510	NOTICE OF INTENT
00520	AGREEMENT BETWEEN OWNER AND CONTRACTOR FOR CONSTRUCTION CONTRACT
00700	GENERAL CONDITIONS
00800	SUPPLEMENTARY CONDITIONS
00810	SPECIAL CONDITIONS

**TECHNICAL DATA**

**Appendix A** – Technical Specifications as prepared by Poly, Inc. bearing the title, **Maintenance & Emergency Repair of Okaloosa County Water Supply Wells, Water Booster Pump Stations, Wastewater Effluent Pump Stations & Stormwater Pump Stations**, ITB WS 42-23 – *Technical Specifications*, dated April 2023, 13 pages.



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## INVITATION TO BID (ITB) & RESPONDENT'S ACKNOWLEDGEMENT

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**ITB TITLE:**

**MAINTENANCE & EMERGENCY REPAIR OF OKALOOSA COUNTY WATER  
SUPPLY WELLS, WATER BOOSTER PUMP STATIONS, WASTEWATER  
EFFLUENT PUMP STATIONS & STORMWATER PUMP STATIONS**

**ITB NUMBER:**

**ITB WS 42-23**

**ISSUE DATE:**

May 1, 2023

**MANDATORY PRE-BID:**

May 17, 2023 1:00 PM CDT

**LAST DAY FOR QUESTIONS:**

May 24, 2023 3:00 PM CDT

**ITB OPENING DATE & TIME:**

June 7, 2023 3:00 PM CDT

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**NOTE: BIDS RECEIVED AFTER THE BID OPENING DATE & TIME WILL NOT BE CONSIDERED.**

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Okaloosa County, Florida solicits your company to submit a bid on the above referenced goods or services. All terms, specifications and conditions set forth in this ITB are incorporated into your response. A bid will not be accepted unless all conditions have been met. All bids must have an authorized signature in the space provided below. All bids must be submitted electronically by the time and date listed above. Bids may not be withdrawn for a period of ninety (90) days after the bid opening unless otherwise specified.

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**RESPONDENT ACKNOWLEDGEMENT FORM BELOW MUST BE COMPLETED, SIGNED, AND RETURNED AS PART OF YOUR BID. BIDS WILL NOT BE ACCEPTED WITHOUT THIS FORM, SIGNED BY AN AUTHORIZED AGENT OF THE RESPONDENT.**

COMPANY NAME Morrow Water Technologies, Inc.

MAILING ADDRESS 5465-2 Business Parkway

CITY, STATE, ZIP Theodore, AL 36582

FEDERAL EMPLOYER'S IDENTIFICATION NUMBER (FEIN): 63-1021834 Florida FEI/EIN: 45-1021834

TELEPHONE NUMBER: 205-408-6680

EXT: 537

FAX: na

EMAIL: khope@morrowwater.com

---

I CERTIFY THAT THIS BID IS MADE WITHOUT PRIOR UNDERSTANDING, AGREEMENT, OR CONNECTION WITH ANY OTHER RESPONDENT SUBMITTING A BID FOR THE SAME MATERIALS, SUPPLIES, EQUIPMENT OR SERVICES, AND IS IN ALL RESPECTS FAIR AND WITHOUT COLLUSION OR FRAUD. I AGREE TO ABIDE BY ALL TERMS AND CONDITIONS OF THIS BID AND CERTIFY THAT I AM AUTHORIZED TO SIGN THIS BID FOR THE RESPONDENT.

AUTHORIZED SIGNATURE: 

TYPED OR PRINTED Kevin Hope

NAMETITLE: Branch Manager

DATE 6/1/23

**OKALOOSA BOARD OF COUNTY COMMISSIONERS  
CRESTVIEW, FLORIDA**

**ITB WS 42-23 MAINTENANCE & EMERGENCY REPAIR OF OKALOOSA COUNTY WATER SUPPLY WELLS, WATER  
BOOSTER PUMP STATIONS, WASTEWATER EFFLUENT PUMP STATIONS & STORMWATER PUMP STATIONS**

Notice is hereby given that the Board of County Commissioners of Okaloosa County, FL, will accept bids until 3:00 p.m. (CDT) June 7, 2023, for the Maintenance & Emergency Repair of Okaloosa County Water Supply Wells, Water Booster Pump Stations, Wastewater Effluent Pump Stations & Stormwater Pump Stations. The intended Scope of Work is described in the technical specifications in Appendix A of this document.

Interested respondents desiring consideration shall submit their response online at Vendor Registry through the link provided below:

<https://vrapp.vendorregistry.com/Bids/View/BidsList?BuyerId=21d474a1-e536-4f4d-9f2c-77c3b1e3c683>

A **mandatory** pre-bid conference will be held at 1:00 PM CDT on May 17, 2023 at the Okaloosa County Water and Sewer Field Operations Building, 1802 Lewis Turner Blvd, FWB, FL 32548 – Large Conference Room

Unless otherwise stipulated in the bid/bid description, all responses must be submitted using Vendor Registry only. No other means of submission of responses will be accepted. Responses will be accepted by Vendor Registry until **3:00 p.m. (CDT) June 7, 2023**, at which time all bids that are timely submitted will be opened and reviewed.

It is the intent of the Okaloosa County to enter contracts for the testing, emergency repair and maintenance of the OCWS Water Supply Wells, Water Booster Pump Stations, Wastewater Effluent Pump Stations & Stormwater Pump Stations with at least two contractors and County reserves the right to award the bid to the lowest responsive respondent(s) and to waive any irregularity or technicality in bids received. Okaloosa County shall be the sole judge of the bids and the resulting Agreement that is in its best interest and its decision shall be final.

For solicitation information, please contact:

DeRita Mason, Purchasing Manager

[dmason@myokaloosa.com](mailto:dmason@myokaloosa.com) , 850-689-5960

\_\_\_\_\_  
DeRita Mason, Purchasing Manager

\_\_\_\_\_  
Date

OKALOOSA COUNTY  
BOARD OF COUNTY COMMISSIONERS  
ROBERT A. "TREY" GOODWIN, III, CHAIRMAN

END OF DOCUMENT 00020 - ADVERTISEMENT FOR BIDS

DOCUMENT 00100 – INSTRUCTIONS TO BIDDERS

**ARTICLE 1 – DEFINED TERMS**

Terms used in these Instructions to BIDDERS will have the meanings indicated in the General Conditions and Supplementary Conditions. Additional terms used in these Instructions to Bidders have the meanings indicated below which are applicable to both the singular and plural thereof.

- 1.01 Issuing Office – The office from which the Bidding Documents are to be issued and where the bidding procedures are to be administered.
- 1.02 BIDDER – The individual or entity who submits a Bid directly to OWNER.
- 1.03 Successful BIDDER – The lowest, responsible BIDDER submitting a responsive bid to whom OWNER (on the basis of OWNER’s evaluation as hereinafter provided) makes an award.

**ARTICLE 2 – COPIES OF BIDDING DOCUMENTS**

- 2.01 Complete sets of the Bidding Documents in the number and for the deposit sum, if any, stated in the Advertisement or Invitation to Bid may be obtained from the ENGINEER.
- 2.02 Complete sets of Bidding Documents must be used in preparing Bids; neither OWNER nor ENGINEER assume any responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.
- 2.03 OWNER and ENGINEER, in making copies of Bidding Documents available on the above terms, do so only for the purpose of obtaining Bids for the Work and do not authorize or confer a license or grant for any other use.

**ARTICLE 3 – QUALIFICATIONS OF BIDDERS**

- 3.01 To demonstrate qualifications to perform the Work, each BIDDER must be prepared to submit within five days of OWNER’s request written evidence such as financial data, previous experience, present commitments and other such data as may be called for below. The successful low BIDDER will be required to acquire a county business license before the contract will be awarded.
- 3.02 Certified to do business in the state of Florida.
  - A. BIDDER must be certified to conduct business in the state of Florida through Florida’s Secretary of State’s office, department of corporations.  
<https://dos.myflorida.com/sunbiz/forms/corporations/>. Bidder shall be licensed in accordance with the requirements of Chapter 489 of the Florida Statutes.
- 3.03 CERTIFICATE OF GOOD STANDING FOR STATE OF FLORIDA
  - A. Florida Statute 607.1501 requires that all vendors who wish to do business in the State of Florida be licensed to do business through the Department of State of Florida and be in good standing with the State of Florida. As such, to do business with Okaloosa County a vendor must provide a Certificate of Good Standing with their bid/proposal package to the County. For more information on doing business in the State of Florida, please refer to the Florida Department of State. The website to register is <https://dos.myflorida.com/sunbiz/manage-business/certification/>.

**ARTICLE 4 – PRE-BID CONFERENCE**

- 4.01 A mandatory pre-bid conference will be held at 1:00 PM CDT on May 17, 2023 at the Okaloosa County Water and Sewer Field Operations Building, 1802 Lewis Turner Blvd, FWB, FL 32548 – Large Conference Room
- 4.02 BIDDERS are required to attend and participate in the conference.



- 4.03 ENGINEER will transmit to all prospective BIDDERS of record such Addenda as ENGINEER considers necessary in response to questions arising at the conference. Oral statements may not be relied upon and will not be binding or legally effective.

## **ARTICLE 5 – EXAMINATION OF BIDDING DOCUMENTS, OTHER RELATED DATA AND SITE**

- 5.01 Subsurface and Physical Conditions
- A. Reference is made to the Supplementary Conditions for the identification of:
    - 1. Those reports of explorations and tests of subsurface conditions at or contiguous to the Site, if any, that ENGINEER has used in preparing the Bidding Documents.
    - 2. Those drawings of physical conditions in or relating to existing surface and subsurface structures at or contiguous to the Site (except Underground Facilities) that ENGINEER has used in preparing the Bidding Documents.
  - B. Copies of reports and drawings referenced in Paragraph 5.01.A will be made available by OWNER to any BIDDER on request. These reports and drawings are not part of the Contract Documents, but the “technical data” contained therein upon which BIDDER is entitled to rely as provided in Paragraph 5.03 of the General Conditions has been identified and established in Paragraph 5.03 of the Supplementary 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.
- 5.02 Underground Facilities
- A. Information and data shown or indicated in the Bidding Documents with respect to existing Underground Facilities at or adjacent or contiguous to the Site is based upon information and data furnished to OWNER and ENGINEER by OWNERS of such Underground Facilities, including OWNER, or others. ENGINEER assumes no responsibility for the accuracy or completeness of the information furnished by said OWNERS.
- 5.03 Hazardous Environmental Condition
- A. The Supplementary Conditions identify those reports and drawings relating to a Hazardous Environmental Condition identified at the Site, if any, that ENGINEER has used in preparing the Bid Documents.
  - B. Copies of reports and drawings referenced in Paragraph 5.03.A will be made available by OWNER to any BIDDER on request. These reports and drawings are not part of the Contract Documents, but the “technical data” contained therein upon which BIDDER is entitled to rely as provided in Paragraph 5.06 of the General Conditions has been identified and established in Paragraph 5.06 of the Supplementary 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.
- 5.04 Provisions concerning responsibilities for the adequacy of data furnished to prospective BIDDERS with respect to subsurface conditions, other physical conditions and Underground Facilities, and possible changes in the Bidding Documents due to differing or unanticipated conditions appear 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 the Work, appear in Paragraph 5.06 of the General Conditions.
- 5.05 On request, OWNER will provide BIDDER access to the Site to conduct such additional examinations, investigations, explorations, tests, and studies as BIDDER deems necessary for submission of 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.

- 5.06 Reference is made to Article 8 of the General Conditions for the identification of the general nature of other work that is to be performed at the Site by OWNER or others (such as utilities and other prime contractors) that relates to the Work for which a Bid is to be submitted. On request, OWNER will provide to each BIDDER for examination access to or copies of Contract Documents (other than portions thereof related to price) for each other work.
- 5.07 It is the responsibility of each BIDDER before submitting a Bid to:
- A. examine and carefully study the Bidding Documents, including any Addenda and the other related data identified in the Bidding Documents;
  - B. visit the Site and become familiar with and satisfy BIDDER 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 that may affect cost, progress, or performance of the Work;
  - D. carefully study all reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures or contiguous to the Site (except Underground Facilities) which have been identified in the Supplementary Conditions as provided in Paragraph 5.03 of the General Conditions, and carefully study all reports and drawings of Hazardous Environmental Conditions, if any, at the Site which have been identified in the Supplementary Conditions as provided in Paragraph 5.06 of the General Conditions.
  - E. obtain and carefully study (or assume responsibility for doing so) all 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 any specific means, methods, techniques, sequences, and procedures of construction expressly required by the Bidding Documents, and safety precautions and programs incident thereto;
  - F. agree 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 and in accordance with the other terms and conditions of the Bidding Documents;
  - G. become aware of the general nature of the work to be performed by OWNER and others at the Site that relates to the Work as indicated in the Bidding Documents;
  - H. 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, tests, studies, and data with the Bidding Documents;
  - I. promptly give Purchasing 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; and
  - J. determine that the Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance of the Work.
- 5.08 The submission of a Bid will constitute an incontrovertible representation by 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 Purchasing written notice of all conflicts, errors, ambiguities, and discrepancies that BIDDER has discovered in the Bidding Documents and the written resolutions thereof by Purchasing are acceptable to BIDDER, and that the Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performing and furnishing the Work.

## ARTICLE 6 – SITE AND OTHER AREAS

- 6.01 The site is identified in the Bidding Documents. All additional lands and access thereto required for temporary construction facilities, construction equipment, or storage of materials and equipment to be incorporated in the Work are to be obtained and paid for by CONTRACTOR. Easements for permanent structures or permanent changes in existing facilities are to be obtained and paid for by OWNER unless otherwise provided in the Bidding Documents.

## ARTICLE 7 – INTERPRETATIONS AND ADDENDA

- 7.01 All questions about the meaning or intent of the Bidding Documents are to be submitted to Purchasing via Vendor Registry prior to last day for questions. The last day for questions will be 3:00 PM local time on May 24, 2023 and shall be submitted via Vendor Registry. Interpretations or clarifications considered necessary by Purchasing in response to such questions will be issued by Addenda via Vendor Registry and delivered to all parties recorded by ENGINEER as having received the Bidding Documents. Questions received less than ten 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 will be without legal effect.**
- 7.02 Addenda may be issued to clarify, correct or change the Bidding Documents as deemed advisable by OWNER or ENGINEER.

Note: For BIDDER's convenience, this form of **Addendum Acknowledgement is enclosed as Attachment "A"** with Section 00410 "Bid Form with Attachments" and is made a part of the Bid Package.

## ARTICLE 8 – BID SECURITY-NOT USED

## ARTICLE 9 – CONTRACT TIMES

- 9.01 Total Contract Term
- The contract will begin when fully executed by all parties and last for three (3) years with the option of two (2) one (1) year renewals upon mutual agreement by both parties
- 9.02 Time of the Essence
- All time limits for Milestones, if any, and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.
- 9.03 Contract Times: Days
- Completion dates **for each Notice to Proceed (NTP)** issued under this Contract shall be established **in said NTP**. The Work will be completed within the number of days set up **in each NTP** to run as provided in Paragraph 4.01 of the General Conditions and completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions within number of days established **per NTP**.

## ARTICLE 10 – LIQUIDATED DAMAGES

- 10.01 Provisions for liquidated damages, if any, are set forth in Article 4 of the Agreement.

## ARTICLE 11 – SUBSTITUTE AND "OR-EQUAL" ITEMS

- 11.01 The Contract, if awarded, will be on the basis of materials and equipment specified or described in the Bidding Documents without consideration of possible substitute or "or-equal" items. Whenever it is specified or described in the Bidding Documents that a substitute or "or-equal" item of material or equipment may be furnished or used by CONTRACTOR if acceptable to ENGINEER, application for such

acceptance will not be considered by ENGINEER until after the Effective Date of the Agreement. The procedure for submission of any such application by CONTRACTOR and consideration by ENGINEER is set forth in the General Conditions and may be supplement in the General Requirements.

## ARTICLE 12 – SUBCONTRACTORS, SUPPLIERS, AND OTHERS

- 12.01 If OWNER requests the identity of certain Subcontractors, Suppliers, individuals or entities to be submitted to OWNER in advance of the Effective Date of the Agreement as provided for in Paragraph 7.06 of the General Conditions, the apparent Successful BIDDER, and any other BIDDER so requested, shall within seven (7) days after receipt of a written request from the OWNER or the ENGINEER, submit to OWNER 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 experience statement with pertinent information regarding similar projects and other evidence of qualification for each such Subcontractor, Supplier, individual or entity if requested by OWNER. If OWNER or ENGINEER, after due investigation, has reasonable objection to any proposed Subcontractor, Supplier, individual, or entity, OWNER may, before the Notice of Award is given, request apparent Successful BIDDER to submit a substitute, in which case apparent Successful BIDDER shall submit an acceptable substitute, BIDDER's Bid price will be increased (or decreased) by the difference in cost occasioned by such substitution, and OWNER may consider such price adjustment in evaluating Bids and making the Contract award.
- 12.02 If apparent Successful BIDDER declines to make any such substitution, OWNER may award the Contract to the next lowest BIDDER that proposes to use acceptable Subcontractors, Suppliers, individuals or entities. Declining to make requested substitutions will not constitute grounds for forfeiture of the Bid security of any BIDDER. Any Subcontractor, Supplier, individual, or entity so listed and against which OWNER or ENGINEER makes no written objection prior to the giving of the Notice of Award will be deemed acceptable to OWNER and ENGINEER subject to subsequent revocation of such acceptance after the Effective Date of the Agreement as provided in Paragraph 7.06 of the General Conditions.
- 12.03 CONTRACTOR shall not be required to employ any Subcontractor, Supplier, individual or entity against who CONTRACTOR has reasonable objection.

Note: For BIDDER's convenience, this form of **Schedule of Subcontractors is enclosed as Attachment "B"** with Section 00410 "Bid Form with Attachments". Attachment "B" is not required to be submitted as part of the Bid Package.

## ARTICLE 13 – PREPARATION OF BID

- 13.01 The Bid Form is included with the Bidding Documents. **The BIDDER shall submit an electronic copy via Vendor Registry. The bid response should be submitted in one complete document.**
- 13.02 All blanks on the Bid Form shall be completed in ink or type written and the Bid Form signed in ink. A Bid price shall be indicated for each section, Bid item, alternate, adjustment unit price item, and unit price item listed therein, or the words "No Bid", "No Change", or "Not Applicable" entered. Bids having erasures or corrections must be initialed in ink by the BIDDER. If a correction is necessary, draw a single line through the entered figure and enter the corrected figure above it and initial the correction. Any illegible entries, pencil bids or corrections not initialed may not be accepted.
- 13.03 A Bid by a corporation shall be executed in the corporate name by the president or a vice-president or other corporate officer who has legal authority to sign. The corporate seal shall be affixed and attested by the secretary or an assistant secretary. The corporate address and state of incorporation shall be shown below the signature.
- 13.04 A Bid by a partnership shall be executed in the partnership name and signed by a partner (whose title must appear under the signature). The official address of the partnership shall be shown below the signature.

- 13.05 A Bid by a limited liability company shall be executed in the name of the firm by a member and accompanied by evidence of authority to sign. The state of formation of the firm and the official address of the firm must be shown below the signature.
- 13.06 A Bid by an individual shall show the BIDDER's name and official address.
- 13.07 A Bid by a joint venture shall be executed by each joint venturer in the manner indicated on the Bid Form. The official address of the joint venture must be shown below the signature.
- 13.08 All names shall be typed or printed in ink below the signatures.
- 13.09 The Bid shall contain an acknowledgment of receipt of all Addenda, the numbers of which shall be filled in on Attachment "A" with Section 00410 "Bid Form with Attachments".
- 13.10 The address and telephone number for communications regarding the Bid shall be shown.
- 13.11 If the BIDDER is an out-of-state corporation, the Bid shall contain evidence of BIDDER's authority and qualification to do business as an out-of-state corporation in the State of Florida. BIDDER's state contractor license number for the State of Florida shall also be shown on the Bid Form. Contractor shall be licensed in accordance with the requirements of Chapter 489 of the Florida Statutes.

#### **ARTICLE 14 – BASIS OF BID, EVALUATION OF BIDS**

- 14.01 Lump Sum Basis Bidders must submit a Bid on a Lump Sum basis for each item of Work listed in the Bid Form.

#### **ARTICLE 15 – SUBMITTAL OF BID**

- 15.01 A Bid shall be received no later than the date and time prescribed and at the place indicated in the advertisement or invitation to Bid and shall be submitted electronically via Vendor Registry. The response submitted should be one (1) completed document, unless otherwise specified within the document.

#### **ARTICLE 16 – MODIFICATION AND WITHDRAWAL OF BID**

- 16.01 A Bid may be modified or withdrawn by an appropriate document duly executed in the 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.
- 16.02 Once bids are open, the bid submittal may not be withdrawn for ninety (90) days, unless within 24 hours after Bids are opened the BIDDER files a duly signed written notice with OWNER and promptly thereafter demonstrates to the reasonable satisfaction of OWNER that there was a material and substantial mistake in the preparation of its Bid, that BIDDER may withdraw its Bid, and the Bid security will be returned. Thereafter, if the Work is rebid, that BIDDER will be disqualified from (1) further bidding on the Work, and (2) doing any work on the Contract, either as a subcontractor or any other capacity.

#### **ARTICLE 17 – OPENING OF BIDS**

- 17.01 Bid opening shall be public, on the date and time specified on the Bid form. It is the BIDDER's responsibility to assure that his bid is entered electronically at the proper time and place. Bids will be opened at the time and place indicated in the advertisement or invitation to Bid and, unless obviously non-responsive, read aloud publicly. A tabulation of the amounts of Bids will be made available to BIDDERS after the opening of Bids.



## **ARTICLE 18 – BIDS TO REMAIN SUBJECT TO ACCEPTANCE**

- 18.01 All Bids will remain subject to acceptance for the period of ninety (90) days after the day of the bid opening, but the OWNER may, in its sole discretion, release any Bid and return the Bid security prior to the end of this period.

## **ARTICLE 19 – AWARD OF CONTRACT**

### 19.01 Right to Waive and Reject:

- A. The County, in its absolute discretion, may reject any Bid or a BIDDER that has failed, in the opinion of the County, to complete or perform and Okaloosa County contracted project in a timely fashion or has failed in any other way, in the opinion of the Board, to perform a prior contract in a satisfactory manner, and has directed the Okaloosa County Purchasing Director to emphasize this condition to potential proposers.
- B. There is no obligation on the part of the County to award the Bid to the lowest BIDDER, and the County reserves the right to award the Bid to the BIDDER submitting the lowest most responsible and responsive Bid with a resulting negotiated Agreement which is most advantageous and in the best interest of Okaloosa County and to reject any and all Bids or to waive any irregularity or technicality in Bids received. Okaloosa County shall be the sole judge of the Bid and the resulting negotiated Agreement that is in the best interest and its decision shall be final.
- C. The Board of County Commissioners reserves the right to waive any informalities or reject any and all Bids, in whole or part, to utilize any applicable state contracts in lieu of or in addition to this Bid and to accept the Bid that in its judgement will best serve the interest of the County.
- D. The Board of County Commissioners specifically reserves the right to reject any conditional Bids and will normally reject those which made it impossible to determine the true amount of the Bid. Each item must be Bid separately, and no attempt is to be made to tie any item or items to any other item or items.

### 19.02 Disqualification of BIDDERS:

Any of the following reasons may be considered as sufficient for the disqualification of a BIDDER and the rejection of his Bid or Bids:

- A. More than one Bid for the same work from an individual, firm or corporation under the same or different name.
- B. Evidence that the BIDDER has a financial interest in the firm of another BIDDER for the same work.
- C. Evidence of collusion among BIDDERS. Participants in such collusion will receive no recognition as BIDDERS for any future work of the County until such participant shall have reinstated as a qualified BIDDER.
- D. Uncompleted work which in the judgement of the County might hinder or prevent the prompt completion of additional work if awarded.
- E. Failure to pay or satisfactorily settle all bills due for labor and material on former contracts in force at the time of advertisement for Bids.
- F. Default under previous contract.
- G. The Board of County Commissioners, in its absolute discretion, may reject any Bid or a BIDDER that has failed, in the opinion of the Board, to complete or perform and Okaloosa County contracted project in a timely fashion or has failed in any other way, in the opinion of the Board, to perform a prior contract in a satisfactory manner, and has directed the Okaloosa County Purchasing Director to emphasize this condition to potential proposers.
- H. Listing of the BIDDER by any Local, State or Federal Government on its barred/suspended vendor list.
- I. Bids will not be considered from BIDDERS who are currently involved in official financial reorganization or bankruptcy proceedings.

## **ARTICLE 20 – SIGNING OF AGREEMENT**

- 20.01 When OWNER issues a Notice of Award to the Successful BIDDER, it shall be accompanied by the required number of unsigned counterparts of the Agreement with the other Contract Documents which are identified in the Agreement as attached thereto. Within 15 days thereafter, Successful BIDDER shall sign and deliver the required number of counterparts of the Agreement and attached documents to OWNER. Within ten days thereafter, OWNER shall deliver one fully signed counterpart to Successful BIDDER with a complete set of the Drawings with appropriate identification.

## **ARTICLE 21 – PUBLIC ENTITY CRIME INFORMATION**

- 21.01 A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to the public entity, may not be awarded or perform work as contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for the period of 36 months from the date of being placed on the convicted vendor list.

## **ARTICLE 22 – CONFLICT OF INTEREST**

- 22.01 The award hereunder is subject to the provision of Chapter 112, Florida Statutes. All BIDDERS must disclose with their bid proposal the name of any officer, director or agent who is also a public officer or an employee of the Okaloosa County Board of County Commissioners, or any of its agencies. Further, all BIDDERS must disclose with their bid proposal the name of any County officer or employee who owns, directly or indirectly an interest of five percent (5%) or more in the firm or any of its branches.
- 22.02 The Contractor, prior to or at the time of submission of the bid proposal, must file a statement with the Clerk of Circuit Court of Okaloosa County, or other designated official in the case of another OWNER, if he is an officer or employee of the County, disclosing his or spouse's or child's interest and the nature of the intended business.

Note: For BIDDER's convenience, this form of **Conflict of Interest Disclosure is enclosed as Attachment "C"** with Section 00410 "Bid Form" and is made a part of the Bid Package.

## **ARTICLE 23 – RECYCLED CONTENT INFORMATION**

- 23.01 In support of the Florida Waste Management Law, BIDDERS are encouraged to supply with their bid any information available regarding recycled material content in the projects bid. The County is particularly interested in the type of recycled material used (such as paper, plastic, glass, metal, etc.) and the percentage of recycled material contained in the product. The County also requests information regarding any known or potential material content in the product that may be extracted and recycled after the product has served its intended purpose.

Note: For BIDDER's convenience, this form of **Recycled Content is enclosed as Attachment "D"** with Section 00410 "Bid Form with Attachments" and is made a part of the Bid Package.

## **ARTICLE 24 – OMITTED**

## **ARTICLE 25 – OMITTED**

## **ARTICLE 26 – IDENTICAL TIE PROPOSALS**

- 26.01 In cases of identical procurement responses, the award shall be determined either by lot or on the basis of factors deemed to serve the best interest of the County. In the case of the latter, there must be adequate documentation to support such a decision.

## **ARTICLE 27 – DRUG-FREE WORKPLACE PROGRAM**

- 27.01 Bids will only be received from BIDDERS who can certify to having in place a drug-free workplace program. To have a Drug-Free Workplace program, a business shall, at a minimum, meet the requirements of Florida Statutes, Section 287.087.

Note: For BIDDER's convenience, this form of **Drug-Free Workplace Program Certification is enclosed as Attachment "E"** within Section 00410 "Bid Form with Attachments" and is made a part of the Bid Package.

## **ARTICLE 28 – INDEMNIFICATION AND HOLD HARMLESS**

- 28.01 Each BIDDER must submit with his bid an executed sworn certification that he will comply with the Hold Harmless in accordance with the provisions of Florida Statutes, Section 725.06.
- 28.02 BIDDER shall indemnify hold harmless the OWNER, its officers, employees and agents, and the design Engineer, its officers and employees from liabilities, damages, losses, and costs including but not limited to reasonable attorney fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the BIDDER and other persons employed or utilized by the BIDDER in the performance of these services.

Note: For BIDDER's convenience, this **Indemnification and Hold Harmless is enclosed as Attachment "F"** with Section 00410 "Bid Form Attachments" and is made a part of the Bid Package.

## **ARTICLE 29 – DISCRIMINATION**

- 29.01 An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid on a contract to provide goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not award or perform work as a contractor, supplier, subcontractor, or consultant under contract with any public entity, and may not transact business with any public entity.
- 29.02 BIDDER will not discriminate against any employee or an applicant for employment because of race, color, religion, gender, sexual orientation, national origin, age, familial status or handicap.

## **ARTICLE 30 – CONTRACT SECURITY AND INSURANCE**

- 30.01 Each BIDDER along with his insurance agent/carrier shall review the insurance requirements for this project and each BIDDER shall submit with his bid an executed sworn certification that insurance policies currently in effect meet the requirements or that a quotation for additional policies or policy modifications was obtained to meet the requirements of this project.
- 30.02 Article 6 of the General Conditions, as may be modified by the Supplementary Conditions, sets forth OWNER's requirements as to performance and payment Bonds and insurance.

Note: For BIDDER's convenience, this **Insurance Compliance Certification is enclosed as Attachment "G"** with Section 00410 "Bid Form with Attachments" and is made a part of the Bid Package.

### ARTICLE 31 – CONE OF SILENCE CLAUSE

31.01 The Okaloosa County Board of County Commissioners has established a solicitation silence policy (Cone of Silence Clause) that prohibits oral and written communication regarding all formal solicitations for goods and services (Invitation to Bid, Request for Proposals, Invitation to Quote, Invitation to Negotiate, and Request for Qualifications) issued by the Board through the County Purchasing Department. The period commences from the time of advertisement until CONTRACT award. Each BIDDER shall review and sign the enclosed form indicating that the BIDDER agrees to abide by the County’s “Cone of Silence Clause” and understands that a violation of this policy shall result in disqualification of their bid.

Note: For BIDDER’s convenience, this **Cone of Silence is enclosed as Attachment “H”** with Section 00410 “Bid Form with Attachments” and is made a part of the Bid Package.

### ARTICLE 32 – PROTECTION OF RESIDENT WORKERS

32.01 The Okaloosa County Board of County Commissioners actively supports the Immigration & Nationality Act (INA) which includes provisions addressing employment eligibility, employment verification, and nondiscrimination. Under the INA, employers may hire only persons who may legally work in the United States, (i.e., citizens and nationals of the U.S.) and aliens authorized to work in the U.S. the employer must verify the identity and employment eligibility of anyone to be hired, which includes completing the Employment Eligibility Verification. The contractor shall establish appropriate procedures and controls so no services or products under the contract documents will be performed or manufactured by any worker who is not legally eligible to perform such services or employment.

32.02 Okaloosa County reserves the right to request documentation showing compliance with the requirement.

32.03 BIDDERS doing construction business with Okaloosa County are required to use the Federal Government Department of Homeland Security’s website and use the E-Verify Employment Eligibility Verifications System to confirm eligibility of all new and existing employees hired by the CONTRACTOR during the term of the Contract and shall expressly require subcontractors performing work or providing services pursuant to the Contract to likewise utilize the E-Verify system during the Contract term.

Note: For BIDDER’s convenience, this **Federal E-Verify Compliance Certification is enclosed as Attachment “I”** with Section 00410 “Bid Form with Attachments” and is made a part of the Bid Package.

### ARTICLE 33 – CHILD LABOR

33.01 BIDDER certifies no knowledge of forced nor indentured child labor from any person under the age of 18 was used in the supply of any end product that was mined, produced or manufactured in a corresponding country as defined in 48 CFR 52.222-18.

Note: For BIDDER’s convenience, this **Certification Regarding Child Labor is enclosed as Attachment “J”** with Section 00410 “Bid Form with Attachments” and is made a part of the Bid Package.

### ARTICLE 34 – NON-COLLUSION STATEMENT

34.01 BIDDER certifies that it has entered into no Agreement to commit a fraudulent, deceitful, unlawful or wrongful act, or any act which may result in an unfair advantage over other BIDDERS. See Florida Statute 838.22.

Note: For BIDDER’s convenience, this **Non-Collusion Statement is enclosed as Attachment “K”** with Section 00410 “Bid Form with Attachment” and is made a part of the Bid Package.

## **ARTICLE 35 – OMITTED**

## **ARTICLE 36 – REVIEW OF PROCUREMENT DOCUMENTS**

- 36.01 Per Florida Statute 119.071(1)(b)2. sealed bids, proposals, or replies received by an agency pursuant to a competitive solicitation are exempt from s. 119.07(1) (Inspection and copying of public records) and s. 24(a), Art. I of the State Constitution until such time as the agency provides notice of an intended decision or until 30 days after opening the bids, proposals, or final replies, whichever is earlier.

## **ARTICLE 37 – COMPLIANCE WITH FLORIDA STATUTE 119.071**

- 37.01 The BIDDER shall comply with all the provisions of section 119.071, Florida Statutes relating to the public records which requires, among other things, that the BIDDER: (a) Keep and maintain public records; (b) Provide the public with access to public records on the same terms and conditions that the public agency would provide the records; (c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (d) Meet all requirements for retaining public records and transfer, at no cost, to the public agency all public records in possession of the BIDDER upon termination of the contract.

## **ARTICLE 38 – CERTIFICATE OF GOOD STANDING FOR STATE OF FLORIDA**

- 38.01 Florida Statute 607.1501 requires that all vendors who wish to do business in the State of Florida be licensed to do business through the Department of State of Florida and be in good standing with the State of Florida. As such, to do business with Okaloosa County a vendor must provide a Certificate of Good Standing with their bid/proposal package to the County. For more information on doing business in the State of Florida, please refer to the Florida Department of State. The website to register is <https://dos.myflorida.com/sunbiz>

## **ARTICLE 39 – HIERARCHY OF CONTRACT DOCUMENTS**

In the event of conflicts, inconsistencies, discrepancies or ambiguities between the Contract Document arise, unless otherwise provided, the controlling instrument shall be determined by the descending order of the Contract Documents as follows:

1. Modifications issued after the execution of the Agreement
2. Agreement between Owner & Contractor for Construction Contract
3. Addenda issued after the Bid Specifications were advertised to potential Bidders
4. Supplementary Conditions
5. EJCDC General Conditions, 2013 Edition
6. Special Conditions
7. Technical Specifications
8. Construction Drawings
9. Computed dimensions govern over scaled dimensions.

## **ARTICLE 40 – APPLICABLE LAWS & REGULATIONS**

- 40.01 All applicable Federal and State laws, County and municipal ordinances, orders, rules and regulations of all authorities having jurisdiction over the project shall apply to the bid throughout, and they will be deemed to be included in the contract the same as though they were written in full therein.
- 40.02 Financial stability –In the case of federal and/or Florida state funded procurements, prior to awarding this contract, the top respondents will be required to submit to a soft credit pull for purposes of the county's



risk assessment consideration; objections by any respondent will disqualify them from consideration. Bad credit indicating you are a high risk may impact your application. Responses will not be considered from respondents who are currently involved in official financial reorganization or bankruptcy proceedings.

#### **ARTICLE 41 – SYSTEM FOR AWARD MANAGEMENT (SAM)**

- 41.01 The BIDDER shall ensure registration with the Federal Government’s System for Award Management (SAM) database prior to award, during performance and through final payment of the CONTRACT. All mandatory information must be entered to include the Core, Assertions, Representations and Certifications, and Points of Contact sections.
- 41.02 Information on registration for and use of the SAM database can be obtained via the internet at the U.S. General Services Administration site: <https://www.sam.gov/>. Processing time for new registration normally takes 48 hours, BIDDER should apply for registration immediately upon receipt of this ITB.
- 41.03 If the BIDDER does not register in the SAM database in a timely manner, the OWNER may proceed to award to the next otherwise successful registered BIDDER.
- 41.04 The BIDDER is required to provide their SAM information as part of **Article 9 - Bid Submittal** in Section 00410 “Bid Form with Attachments” and is made a part of the Bid Package.
- 41.05 See this Section, Exhibit A, “System for Award Management (Oct 2016)” for additional information.

#### **ARTICLE 42 – OTHER STATEMENTS, FORMS AND DOCUMENTATION**

- 42.03 Company Data – **Included as Attachment “L”** with Section 00410 “Bid Form with Attachments” and is made a part of the Bid Package.
- 42.04 List of References – **Included as Attachment “M”** with Section 00410 “Bid Form with Attachments” and is made a part of this Bid Package.
- 42.05 Vendors on Scrutinized Companies Lists – **Included as Attachment “N”** with Section 00410 “Bid Form with Attachments” and is made a part of this Bid Package.
- 42.06 Certification Regarding Lobbying Activities on Federal Aid Contracts (FDOT Form #375-030-33) **included as Attachment “O”** with Section 00410 “Bid Form with Attachments” and is made a part of this Bid Package.
- 42.07 Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion and Lower Tier Covered Transactions **included as Attachment “P”** with Section 00410 “Bid Form with Attachments” and is made a part of this Bid Package.

## EXHIBIT A

### SYSTEM FOR AWARD MANAGEMENT (OCT 2016)

(a) Definitions. As used in this provision.

“Electronic Funds Transfer (EFT) indicator” means a four-character suffix to the unique entity identifier. The suffix is assigned at the discretion of the commercial, nonprofit, or Government entity to establish additional System for Award Management records for identifying alternative EFT accounts (see subpart 32.11) for the same entity.

“Registered in the System for Award Management (SAM) database” means that—

- (1) The Offeror has entered all mandatory information, including the unique entity identifier and the EFT indicator, if applicable, the Commercial and Government Entity (CAGE) code, as well as data required by the Federal Funding Accountability and Transparency Act of 2006 (see subpart 4.14) into the SAM database;
- (2) The offeror has completed the Core, Assertions, and Representations and Certifications, and Points of Contact sections of the registration in the SAM database;
- (3) The Government has validated all mandatory data fields, to include validation of the Taxpayer Identification Number (TIN) with the Internal Revenue Service (IRS). The offeror will be required to provide consent for TIN validation to the Government as a part of the SAM registration process; and
- (4) The Government has marked the record “Active”.

“Unique entity identifier” means a number or other identifier used to identify a specific commercial, nonprofit, or Government entity. See [www.sam.gov](http://www.sam.gov) for the designated entity for establishing unique entity identifiers.

- (b)
- (1) By submission of an offer, the offeror acknowledges the requirement that a prospective awardee shall be registered in the SAM database prior to award, during performance, and through final payment of any contract, basic agreement, basic ordering agreement, or blanket purchasing agreement resulting from this solicitation.
  - (2) The Offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation “Unique Entity Identifier” followed by the unique entity identifier that identifies the Offeror’s name and address exactly as stated in the offer. The Offeror also shall enter its EFT indicator, if applicable. The unique entity identifier will be used by the Contracting Officer to verify that the Offeror is registered in the SAM database.

- (c) If the Offeror does not have a unique entity identifier, it should contact the entity designated at [www.sam.gov](http://www.sam.gov) for establishment of the unique entity identifier directly to obtain one. The Offeror should be prepared to provide the following information:
- (1) Company legal business name.
  - (2) Tradestyle, doing business, or other name by which your entity is commonly recognized.
  - (3) Company Physical Street Address, City, State, and Zip Code.
  - (4) Company Mailing Address, City, State and Zip Code (if separate from physical).
  - (5) Company telephone number.
  - (6) Date the company was started.
  - (7) Number of employees at your location.
  - (8) Chief executive officer/key manager.
  - (9) Line of business (industry).
  - (10) Company Headquarters name and address (reporting relationship within your entity).
- (d) If the Offeror does not become registered in the SAM database in the time prescribed by the Contracting Officer, the Contracting Officer will proceed to award to the next otherwise successful registered Offeror.
- (e) Processing time, which normally takes 48 hours, should be taken into consideration when registering. Offerors who are not registered should consider applying for registration immediately upon receipt of this solicitation.
- (f) Offerors may obtain information on registration at <https://www.acquisition.gov> .

Offerors SAM information:

Entity Name: Morrow Water Technologies, Inc.

Entity Address: 5465-2 Business Parkway, Theodore, AL 36582

Sam.gov Unique Entity Identifier: ELMJFBKNWNT4

CAGE Code: 6gx89

DOCUMENT 00410 – BID FORM WITH ATTACHMENTS

**ARTICLE 1 – BID RECIPIENT**

- 1.01 This Bid is submitted to: Okaloosa County, a political subdivision of the State of Florida.
- 1.02 The undersigned BIDDER proposes and agrees, if this Bid is accepted, to enter into an Agreement with OWNER 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.

**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 will remain subject to acceptance for 90 days after the Bid opening, or for such longer period of time that BIDDER may agree to in writing upon request of OWNER.

**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 Addenda as defined in Attachment “A”.
  - 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, if any, 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.
  - 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:
  - 1. “corrupt practice” means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the bidding process;
  - 2. “fraudulent practice” means an intentional misrepresentation of facts made (a) to influence the bidding process to the detriment of OWNER, (b) to establish bid prices at artificial non-competitive levels, or (c) to deprive OWNER of the benefits of free and open competition;
  - 3. “collusive practice” means a scheme or arrangement between two or more BIDDERS, with or without the knowledge of OWNER, a purpose of which is to establish bid prices at artificial, non-competitive levels; and
  - 4. “coercive practice” means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

#### **ARTICLE 5 – BASIS OF BID**

- 5.01 BIDDER acknowledges that the Unit Prices include an amount considered by BIDDER to be adequate to cover CONTRACTOR’s overhead and profit. BIDDER will complete the Work in accordance with the Contract Documents for the following price(s):

**Section 00300**

**BID SCHEDULE**

**BID #: ITB WS 42-23**

**BASE BID (Item 1-34) – MAINTENANCE & REPAIR OF OKALOOSA COUNTY WATER SUPPLY WELLS, WATER BOOSTER PUMP STATIONS, WASTEWATER EFFLUENT PUMP STATIONS & STORMWATER PUMP STATIONS.**

ITEM #	DESCRIPTION – Services and Materials	UNIT PRICE	
1	Pre-Performance Testing (including vibration, flow meter and pumping testing) in accordance with specifications, complete and in place for the lump sum price of	\$ 6,200. <sup>00</sup>	LS
2	Vibration Testing <u>only</u> , in accordance with specifications complete and in place for the lump sum price of,	\$ 2,400. <sup>00</sup>	LS
3	Flow Meter Testing <u>only</u> , in accordance with specifications, complete and in place for the lump sum price of	\$ 4,125. <sup>00</sup>	LS
4	Pumping Testing <u>only</u> , in accordance with specifications, complete and in place for the lump sum price of	\$ 4,400. <sup>00</sup>	LS
5	Mobilize and remove pump, motor ( <b>less than 100 HP</b> ), column assembly, etc. from well, disassemble, complete inspection & report, reassemble & reinstall pump, etc., back into well, including disinfection and site restoration, complete and in place for the lump sum price of	\$ 38,065. <sup>00</sup>	LS
6	Mobilize and remove pump, motor ( <b>100 to &lt;150 HP</b> ), column assembly, etc. from well, disassemble, complete inspection & report, reassemble & reinstall pump, etc., back into well, including disinfection and site restoration, complete and in place for the lump sum price of	\$ 41,995. <sup>00</sup>	LS
7	Mobilize and remove pump, motor ( <b>greater than 150 HP</b> ), column assembly, etc. from well, disassemble, complete inspection & report, reassemble & reinstall pump, etc., back into well, including disinfection and site restoration, complete and in place for the lump sum price of	\$ 44,965. <sup>00</sup>	LS
8	Initial Disinfection of water supply well in accordance with specifications, complete and in place for the lump sum price of	\$ 8800. <sup>00</sup>	LS
9	Repeat Disinfection of water supply well in accordance with specifications, complete and in place for the lump sum price of	\$ 9780. <sup>00</sup>	LS

10	De-chlorination of water supply well in accordance with specifications, if required, complete and in place for the lump sum price of	\$6,680. <sup>00</sup>	LS
11	Post-performance testing (including vibration, flow meter and pumping testing) in accordance with specifications	\$6,200. <sup>00</sup>	LS
12	Video recorded inspection ( <u>only</u> ) of well in accordance with specifications, complete and in place for the lump sum price of	\$3,750. <sup>00</sup>	LS
13	Complete well casing cleaning <u>and</u> video recorded inspection of well in accordance with specifications, complete and in place for the lump sum price of	\$95,000. <sup>00</sup>	LS
14	Disposal of oil in well column, measured by the barrel, in Contractor supplied container(s)	\$500. <sup>00</sup>	Barrel
15	Well abandonment grout (per 94# sack)	\$8. <sup>00</sup>	EA
16	Well abandonment backfill material	\$150. <sup>00</sup>	CY
17	Well abandonment equipment (pump, tremie pipe, etc.) necessary to abandon potable well per state regulations, per each abandonment	\$28,000. <sup>00</sup>	EA
18	Fixed 25% - Mark-up for replacement parts to include overhead & profit. (NOTE: Base price before mark-up should include taxes and freight.)	Fixed 25%	

ITEM #	DESCRIPTION – Equipment and Manpower (All items include overhead and profit)	PRICE PER HOUR
19	Pivotal hydraulic crane (30 ton min)	\$265. <sup>00</sup>
20	3,000# class drill rig with 144,000 lb (min) load capacity, mud-pumps, air compressor, drill pipe, collars and support equipment	\$750. <sup>00</sup>
21	Less than 3,000# class drill rig with 144,000 lb (min) load capacity, mud-pumps, air compressor, drill pipe, collars and support equipment	\$500. <sup>00</sup>
22	Pump technician with service truck	\$115. <sup>00</sup>
23	Pump technician with service truck (overtime)	\$172. <sup>00</sup>
24	Shop technician for pump repair, shaft alignment, etc.	\$115. <sup>00</sup>
25	Shop technician for pump repair, shaft alignment, etc. (overtime)	\$172. <sup>00</sup>
26	Two person crew with service truck	\$240. <sup>00</sup>
27	Two person crew with service truck (overtime)	\$360. <sup>00</sup>
28	Three person crew with service truck	\$365. <sup>00</sup>
29	Three person crew with service truck (overtime)	\$510. <sup>00</sup>
30	Four person crew with service truck	\$455. <sup>00</sup>
31	Four person crew with service truck (overtime)	\$685. <sup>00</sup>

32	Pump repair rig with crew	\$ 385.00
33	Data logging truck & operator for water quality testing	\$ 400.00
34	Video inspection under static conditions, including video logging service and technician	\$ 400.00

**Proposal Evaluation** - The following list of quantities of items shall be used to evaluate bidder's proposal based on the unit prices provided in the bid schedule above. All work allocated under this Contract shall be based on the unit prices established in the bid schedule and Contractor will be compensated for actual work performed only. No guarantee of quantities of Work required during this Contract or Work allocated to individual Contractor(s) during the life of the Contract is provided.

ITEM #	DESCRIPTION – Services and Materials	Proposed Quantity for Bid Evaluation ONLY	UNIT (from Bid Schedule)
1	Pre-Performance Testing (including vibration, flow meter and pumping testing) in accordance with specifications, complete and in place for the lump sum price of	5	LS
2	Vibration Testing only, in accordance with specifications complete and in place for the lump sum price of,	5	LS
3	Flow Meter Testing only, in accordance with specifications, complete and in place for the lump sum price of	20	LS
4	Pumping Testing only, in accordance with specifications, complete and in place for the lump sum price of	5	LS
5	Mobilize and remove pump, motor ( <b>less than 100 HP</b> ), column assembly, etc. from well, disassemble, complete inspection & report, reassemble & reinstall pump, etc., back into well, including disinfection and site restoration, complete and in place for the lump sum price of	3	LS
6	Mobilize and remove pump, motor ( <b>100 to &lt;150 HP</b> ), column assembly, etc. from well, disassemble, complete inspection & report, reassemble & reinstall pump, etc., back into well, including disinfection and site restoration, complete and in place for the lump sum price of	3	LS
7	Mobilize and remove pump, motor ( <b>greater than 150 HP</b> ), column assembly, etc. from well, disassemble, complete inspection & report, reassemble & reinstall pump, etc., back into well, including disinfection and site	3	LS



	restoration, complete and in place for the lump sum price of		
8	Initial Disinfection of water supply well in accordance with specifications, complete and in place for the lump sum price of	3	LS
9	Repeat Disinfection of water supply well in accordance with specifications, complete and in place for the lump sum price of	1	LS
10	De-chlorination of water supply well in accordance with specifications, if required, complete and in place for the lump sum price of	1	LS
11	Post-performance testing (including vibration, flow meter and pumping testing) in accordance with specifications	5	LS
12	Video recorded inspection ( <u>only</u> ) of well in accordance with specifications, complete and in place for the lump sum price of	1	LS
13	Complete well casing cleaning and video recorded inspection of well in accordance with specifications, complete and in place for the lump sum price of	2	LS
14	Disposal of oil in well column	1	Barrel
15	Well abandonment grout (per 94# sack)	10	EA
16	Well abandonment backfill material	5	CY
17	Well abandonment equipment (pump, tremie pipe, etc.) necessary to abandon potable well per state regulations, per each abandonment	1	EA
<b>ITEM #</b>	<b>DESCRIPTION – Equipment and Manpower (All items include overhead and profit)</b>		<b>PER HOUR</b>
19	Pivotal hydraulic crane (30 ton min)	8	Hours
20	3,000# class drill rig with 144,000 lb (min) load capacity, mud-pumps, air compressor, drill pipe, collars and support equipment	1	Hours
21	Less than 3,000# class drill rig with 144,000 lb (min) load capacity, mud-pumps, air compressor, drill pipe, collars and support equipment	8	Hours

22	Pump technician with service truck	100	Hours
23	Pump technician with service truck (overtime)	10	Hours
24	Shop technician for pump repair, shaft alignment, etc.	50	Hours
25	Shop technician for pump repair, shaft alignment, etc. (overtime)	5	Hours
26	Two person crew with service truck	200	Hours
27	Two person crew with service truck (overtime)	10	Hours
28	Three person crew with service truck	120	Hours
29	Three person crew with service truck (overtime)	6	Hours
30	Four person crew with service truck	20	Hours
31	Four person crew with service truck (overtime)	2	Hours
32	Pump repair rig with crew	40	Hours
33	Data logging truck & operator for water quality testing	24	Hours
34	Video inspection under static conditions, including video logging service and technician	8	31

The Bidder represents that it has examined the specifications for the Work and other Contract Documents relative thereto and has read all of the Addenda furnished prior to the opening of the Bids, as acknowledged below; and that it has otherwise fully informed itself regarding the nature, extent, scope and details of the Work to be performed.

If provided with a Notice of Intent to Award the Contract by the Owner, the Bidder shall execute and deliver to the Owner all of the documents required by the Contract Documents, including but not limited to, the Addendum to the Agreement, furnish the required evidence of the specified insurance coverages, furnish all necessary permits, license, materials, equipment, machinery, maintenance, tools, apparatus, means of transportation and labor necessary to complete the Work.

## ARTICLE 6 – TIME OF COMPLETION

### 6.01 Contract Times: Days

Completion dates **for each Notice to Proceed (NTP)** issued under this Contract shall be established **in said NTP**. The Work will be completed within the number of days set up **in each NTP** to run as provided in Paragraph 4.01 of the General Conditions and completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions within number of days established **per NTP**.

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. Required Bid security as discussed in Article 7 of the Instructions to BIDDERS;
- B. Evidence of authority to do business in the state of the Project; or a written covenant to obtain such license within the time for acceptance of Bids;
- C. Contractor's License Number or Evidence of BIDDER's ability to obtain a State Contractor's License and a covenant by BIDDER to obtain said license within the time for acceptance of Bids; and
- D. Attachments
  - A. Addendum Acknowledgement
  - B. Schedule of Subcontractors, not required to be submitted with the Bid Package
  - C. Conflict of Interest Disclosure
  - D. Recycled Content
  - E. Drug-Free Workplace Program Certification
  - F. Indemnification and Hold Harmless
  - G. Insurance Compliance Certification
  - H. Cone of Silence Clause
  - I. Federal E-Verify Compliance Certification
  - J. Certification Regarding Child Labor
  - K. Anti-Collusion Statement
  - L. Company Data
  - M. List of References
  - N. Vendors on Scrutinized Companies Lists
  - O. Certification Regarding Lobbying
  - P. Debarment & Suspension

## ARTICLE 8 – ARTICLE 8 - DEFINED TERMS

### 8.01 The terms used in this Bid with initial capital letters have the meanings stated in the Instructions to BIDDERS, the General Conditions, and the Supplementary Conditions.

## **ARTICLE 9 – GRANT DIRECTIVES**

- 9.01 Contractor Purchased Equipment for State or Local Ownership
  - A. The Contractor shall not purchase any equipment for state or local ownership.
- 9.02 Local / State Hiring Preference
  - A. No local / state hiring preferences shall be used.
- 9.03 Public Agencies in Competition with the Private Sector
  - A. No public agency shall be permitted to bid in competition or to enter into subcontract with private contractors.
- 9.04 Publicly Owned Equipment
  - A. Publicly owned equipment shall not compete with privately owned equipment on this contract.

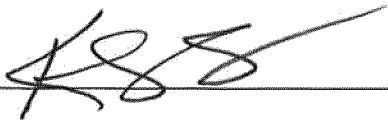
**ARTICLE 10 – BID SUBMITTAL**

**Bidder:** Indicate correct name of bidding entity:

Morrow Water Technologies, Inc.

**By:**

Signature:



Printed name:

Kevin Hope--Branch Manager

*(If BIDDER is a corporation, a limited liability company, a partnership, or a joint venture, attach evidence of authority to sign.)*

**Attest:**

Signature:



Printed name:

KEVIN HOPE

Title:

BRANCH MANAGER

Submittal Date:

6/7/2023

Address for giving notices:

Morrow Water Technologies, Inc.

5465-2 Business Parkway

Theodore, AL 36582

Telephone Number:

205-408-6660

Fax Number:

na

Contact Name:

Kevin Hope

Contact Phone Number:

205-408-6660

Contact Email Address:

khope@morrowwater.com

Federal ID or SS Number:

63-1021834

Florida FEI/EIN: 45-1021834

Bidder's License No.:

AL GC 18143

/FL # 3124

DUNS Number:

04-449-6176

CAGE Code:

6gx89

DOCUMENT 00410 – ADDENDUM ACKNOWLEDGEMENT – ATTACHMENT “A ITB WS 42-23



## ADDENDUM NO. 1

**TO:** ALL BIDDERS

**PROJECT:** ITB WS 42-23 Maintenance and Repair of Okaloosa County Water Supply Wells, Water Booster Pump Stations, ....

**BID TIME AND DATE:** 3:00 PM CST, June 7, 2023

**OWNER:** OKALOOSA COUNTY WATER AND SEWER SYSTEM

**May 31, 2023**

A Mandatory Pre-Bid Meeting was held on May 17, 2023. Pursuant to issues discussed and questions arising from that meeting as well as questions subsequent to that meeting, the following items are hereby incorporated into the project contract documents and specifications. **Note, any deletions from original documents will be ~~stricken through~~ and any additions or replacements of deletions shall be **BOLD** in this addendum:**

### ITEM NO. 1 - Page 00020, Notice to Respondents

- Bid time and date for receipt of bids is **3:00 PM** local time on **June 7, 2023** electronically via Vendor Registry.
- Intent is to award to more than one contractor

### ITEM NO. 2 - SECTION 00100 Instructions to Bidders

**Emphasized the following information:**

1. Article 3 – QUALIFICATIONS OF BIDDERS (00100-1) – Certified to business in Florida and Certificate of Good Standing.
2. Article 5 BID DOCUMENTS (00100-2) – Must submit all listed documents or may be deemed non-responsive. Any questions? Please direct to Purchasing...
3. Article 7 - INTERPRETATION AND ADDENDA (00100-4) - Questions and answers must be in writing. No questions will be answered that are received after May 24, 2023. Final addendum (if needed) will be issued via email no later than May 31, 2023, as early as practicable.
4. Article 9 – TERM OF CONTRACT (p 00100-4) – Three years with 2 one-year renewals upon mutual agreement, with appropriate CPI increases. Also, work issued in NTPs, rather than Task Orders with Time defined in each.
5. Article 13 - PREPARATION OF BID (00100-5) - Electronic via Vendor Registry. Questions? Please direct to Purchasing.
6. Article 22 through 42 (00100-8 to 12) – VARIOUS FORMS – All to be included with Bid Package in single document. Issues with documents or uploading, please contact Purchasing.

### **ITEM NO. 3 - SECTION 00410 Bid Form with Attachements**

1. Bid Schedule (00410-3 thru 5)
2. Proposal Evaluation –Page 00410-5 thru 7 - A list of quantities of items, outlined after the Bid Schedule, shall be used to evaluate bidder's proposal based on the unit prices provided in the official Bid Schedule.... No guarantee of quantities of Work required during this Contract or Work allocated to individual Contractor(s) during the life of the Contract is provided.
3. Article 6 - TIME of Completion – Page 00410-8  
Time is established for each Notice to Proceed (NTP), with liquidated damages of \$500 per day, and timeliness will affect future work allocations
4. Article 7 – Attachments to the Bid  
Summary of all attachments to the Bid Form

### **ITEM NO. 4 - SECTION 00520 Agreement**

1. 4.02 Contract Times: Days – Substantial and final completion dates for each NTP
2. 4.03 Liquidated Damages – \$500 per day

### **ITEM NO. 5 - SECTION 00800 Supplementary Conditions**

1. SC-6.01 Insurance Requirements (00800-3 and 4).
2. Assure you have WORKMEN'S COMP valid in Florida.

### **ITEM NO. 6 - SECTION 00810 Special Conditions**

Take note of Article 17 (00810-5) Hydrant Meter – no charge for water but Contractor must acquire hydrant meter from OCWS, with refundable deposit.

### **ITEM NO. 7- Appendix A Technical Specifications – Items to Note**

1. Must self-perform at least 75% of work in each NTP.
2. Bidders must be Licensed and Insured well drilling contractor in State of FL with proof of minimum of 10 years of experience as defined in Article J on page 1 of the Appendix.
3. Section II and III (pages 2 thru 6) – all definitions of Work and Materials in Scope of this Contract
4. Section IV – Procedures for Work covered in this Contract
5. Cooperative Pricing (page 8) – all governmental agencies within Okaloosa County with same terms.
6. Okaloosa Wells Data Sheets (pages 9 thru 11)
7. Maps of OCWS potable well locations (pages 12-13)



**ITEM NO. 8- QUESTIONS RECEIVED DURING OR SINCE THE MANDATORY PRE-BID MEETING concerning Appendix A Technical Specifications**

**BIDDERS MAY USE THE ANSWERS TO THESE QUESTIONS IN PREPARATION OF THEIR BIDS.**

1. Article II-B – Well Pump Inspection

A question was raised concerning clarification of the inclusion of disinfection in this item.

*An initial disinfection is clearly included in the description of this item on page 3 of the Appendix (in the fifth line of the Article referenced). Subsequent disinfections, if required, will be paid for via Bid Item 9 (Repeat Disinfection) and then on a time and materials basis, all as described in Article II-D, Disinfection of the Well.*

2. Article II-D - Disinfection of the Well

A question was raised concerning clarification of the chlorine wash-out line items (Items 8 and 9).

*Please refer to the explanations included in the referenced Article for Disinfection of the Well (pages 3 and 4 of the Appendix) for clarification.*

3. Article II-I – Well Abandonment

Will abandonment permit be obtained by the County, as indicated in Article II-I?

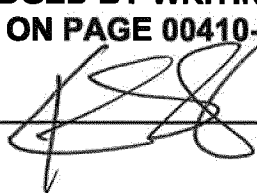
*The second sentence shall read as follows: Permitting for the abandonment shall be obtained by the **County Contractor** and work to perform abandonment shall be provided by the Contractor.*

4. Article III-B Discharge Column

The question was raised if "Layne" couplings would be required or if approved equals will be acceptable.

*Yes, approved equals will be acceptable and should be discussed during the creation of any NTP that will include couplings.*

**RECEIPT OF THIS ADDENDUM SHALL BE ACKNOWLEDGED BY WRITING THIS ADDENDUM NO. AND DATE IN THE SPACE PROVIDED ON PAGE 00410-11 (Attachment A) OF THE FINAL BID PROPOSAL.**

\_\_\_\_\_ 



DOCUMENT 00410 – CONFLICT OF INTEREST DISCLOSURE – ATTACHMENT “C”

For purposes of determining any possible conflict of interest, all BIDDERS, must disclose if any Okaloosa Board of County commissioner, employee(s), elected official(s) or if any of its agencies is also an owner, corporate officer, agency, employee, etc., of their business.

Indicate either “YES” (a county employee, elected official or agency is also associated with your business) or “NO”. If yes, give person(s) name(s) and position(s) with your business.

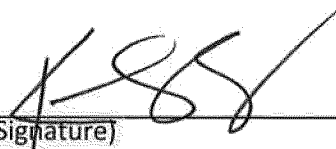
YES: \_\_\_\_\_ NO: NO

**NAME**

**POSITION**

NAME	POSITION
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

6/1/23  
Date

  
By (Signature)

Morrow Water Technologies, Inc.  
Firm Name

Kevin Hope  
By (Printed)

5465-2 Business Parkway  
Address

Branch Manager  
Title

Theodore, AL 36582  
Address

khope@morrowwater.com  
Email

205-408-6660  
Office Number

251-295-4844  
Cell Number

DOCUMENT 00410 – RECYCLED CONTENT – ATTACHMENT “D”

1. Material: \_\_\_\_\_

Is the above material: Virgin \_\_\_\_\_ Recycled \_\_\_\_\_ If recycled, what percentage \_\_\_\_\_ %

Describe: \_\_\_\_\_

Is the material packaged/shipped in packaging containing recycled content? Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, specify packaging: \_\_\_\_\_

Is the material recyclable after it has reached the end of its intended use? Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, explain: \_\_\_\_\_

2. Material: \_\_\_\_\_

Is the above material: Virgin \_\_\_\_\_ Recycled \_\_\_\_\_ If recycled, what percentage \_\_\_\_\_ %

Describe: \_\_\_\_\_

Is the material packaged/shipped in packaging containing recycled content? Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, specify packaging: \_\_\_\_\_

Is the material recyclable after it has reached the end of its intended use? Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, explain: \_\_\_\_\_

3. Material: \_\_\_\_\_

Is the above material: Virgin \_\_\_\_\_ Recycled \_\_\_\_\_ If recycled, what percentage \_\_\_\_\_ %

Describe: \_\_\_\_\_

Is the material packaged/shipped in packaging containing recycled content? Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, specify packaging: \_\_\_\_\_

Is the material recyclable after it has reached the end of its intended use? Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, explain: \_\_\_\_\_

DOCUMENT 00410 – DRUG-FREE WORKPLACE PROGRAM CERTIFICATION – ATTACHMENT “E”

THE BELOW SIGNED BIDDER CERTIFIES that it has implemented a drug-free workplace program. In order to have a drug free workplace program, a business shall:

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

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

6/1/23  
Date

  
By (Signature)

Morrow Water Technologies, Inc.  
Firm Name

Kevin Hope  
By (Printed)

5465-2 Business Parkway  
Address

Branch Manager  
Title

Theodore, AL 36582  
Address

khope@morrowwater.com  
Email

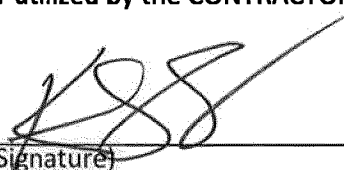
205-408-6660  
Office Number

251-295-4844  
Cell Number

DOCUMENT 00410 – INDEMNIFICATION AND HOLD HARMLESS – ATTACHMENT “F”

To the fullest extent permitted by law, CONTRACTOR shall indemnify and hold harmless the OWNER, The Design Engineer and the officers and employees of each from liabilities, damages, losses and costs including but not limited to reasonable attorney fees, to the extent caused by the negligence, recklessness or intentional wrongful conduct of the CONTRACTOR and other persons employed or utilized by the CONTRACTOR in the performance of this Agreement.

6/1/23  
Date

  
By (Signature)

Morrow Water Technologies, Inc.  
Firm Name

Keivn Hope  
By (Printed)

5465-2 Business Parkway  
Address

Branch Manager  
Title

Theodore, AL 36582  
Address

khope@morrowwater.com  
Email

205-408-6660  
Office Number

251-295-4844  
Cell Number

na  
Fax Number

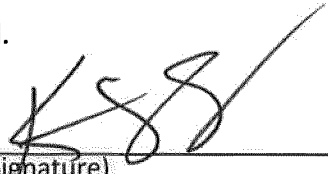
251-295-4844  
After-Hour Number(s)

DOCUMENT 00410 – INSURANCE COMPLIANCE CERTIFICATION – ATTACHMENT “G”

This form is to be completed and signed by you certifying that your policy either meets the insurance requirements as specified in Bid No. ITB WS 42-23, or that the insurance company has reviewed the bid requirements and certifies that you were quoted any price increase due to required coverage.

I certify that the insurance requirements have been reviewed.

6/1/23  
Date

  
By (Signature)

Morrow Water Technologies, Inc.  
Firm Name

Kevin Hope  
By (Printed)

5465-2 Business Parkway  
Address

Branch Manager  
Title

Theodore, AL 36582  
Address

khope@morrowwater.com  
Email

205-408-6660  
Office Number

251-295-4844  
Cell Number

DOCUMENT 00410 – CONE OF SILENCE CLAUSE – ATTACHMENT “H”

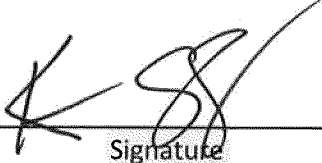
The Board of County Commissioners has established a solicitation silence policy (**Cone of Silence**) that prohibits oral and written communication regarding all formal solicitations for goods and services (ITB, RFP, ITQ, ITN, and RFQ) or other competitive solicitation between the bidder (or its agents or representatives) or other entity with the potential for a financial interest in the award (or their respective agents or representatives) regarding such competitive solicitation, and any County Commissioner or County employee, selection committee member or other persons authorized to act on behalf of the Board including the County’s Architect, Engineer or their subconsultants, or anyone designated to provide a recommendation to award a particular contract, other than the Purchasing Department Staff.

The period commences from the time of advertisement until contract award.

Any information thought to affect the committee or staff recommendation submitted after bids are due, should be directed to the Purchasing Manager or an appointed representative. It shall be the Purchasing Manager’s decision whether to consider this information in the decision process.

**Any violation of this policy shall be grounds to disqualify the bidder from consideration during the selection process.**

All bidders must agree to comply with this policy by signing the following statement and including it with their submittal.

I,  \_\_\_\_\_, representing Morrow Water Technologies, Inc.  
Signature Company Name

On this 1st day of June, 2023 hereby agree to abide by the County’s “Cone of Silence Clause” and understand violation of this policy shall result in disqualification of my proposal/submittal.

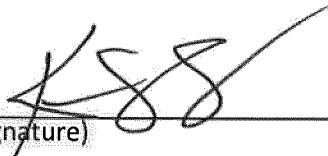


**DOCUMENT 00410 – FEDERAL E-VERIFY COMPLIANCE CERTIFICATION – ATTACHMENT “I”**

In accordance with Okaloosa County Policy and Executive Order Number 11-116 from the office of the Governor of the State of Florida, BIDDER hereby certifies that the U.S. Department of Homeland Security’s E-Verify system will be used to verify the employment eligibility of all new employees hired by the BIDDER during the contract term, and shall expressly require any subcontractors performing work or providing services pursuant to the contract to likewise utilize the U.S. Department of Homeland Security’s E-Verify system to verify the employment of all new employees hired by the subcontractor during the contract term; and shall provide documentation of such verification to the COUNTY upon request.

As the person authorized to sign this statement, I certify that this company complies/will comply fully with the above requirements.      Company E-Verify ID #-519567

6/1/23  
Date

  
By (Signature)

Morrow Water Technologies, Inc.  
Firm Name

Kevin Hope  
By (Printed)

5465-2 Business Parkway  
Address

Branch Manager  
Title

Theodore, AL 36582  
Address

khope@morrowwater.com  
Email

205-408-6660  
Office Number

251-295-4844  
Cell Number

DOCUMENT 00410 – CERTIFICATION REGARDING CHILD LABOR – ATTACHMENT “J”

In accordance with solicitation provision 45 CFR 22.15, BIDDER hereby certifies the review of the “List of Products Requiring Contractor Certification or Indentured Child Labor” as published by the Department of Labor in accordance with Executive Order 13126 of June 12, 1999 if any end products are used within this Contract as required by the Prohibition of Acquisition of Products Produced by Forced or Indentured Child Labor, 48 CFR 52.222-18. The list identifies products by their country of origin that the Departments of Labor, Treasury and State have a reasonable basis to believe might have been mined, produced or manufactured by forced or indentured child labor. ([www.dol.gov/ilab/](http://www.dol.gov/ilab/)) see (22.1505(a))

The BIDDER certifies that they have made a good faith effort to determine whether forced or indentured child labor was used to mine, produce, or manufacture as listed for that end product. On the basis of those efforts, the BIDDER certifies that it is not aware of any such use of child labor. Specifically, any electrical equipment is not allowed from China per ORCA Certification 52.222-18.

As the person authorized to sign this statement, I certify that this company complies/will comply fully with the above requirements.

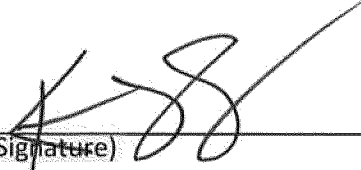
6/1/23  
Date

Morrow Water Technologies, Inc.  
Firm Name

5465-2 Business Parkway  
Address

Theodore, AL 36582  
Address

205-408-6660  
Office Number

  
By (Signature)

Kevin Hope  
By (Printed)

Branch Manager  
Title

khope@morrowwater.com  
Email

251-295-4844  
Cell Number

DOCUMENT 00410 – ANTI-COLLUSION STATEMENT – ATTACHMENT “K”

The below signed BIDDER has not divulged to, discussed or compared his bid with other BIDDERS and has not colluded with any other BIDDER or parties to bid whatever. (Note: No premiums, rebates or gratuities permitted either with, prior to, or after any delivery of materials.) Any such violation will result in the cancellation and/or return of material (as applicable) and the removal from bid list(s).

6/1/23  
Date

Morrow Water Technologies, Inc.  
Firm Name

5465-2 Business Parkway  
Address

Theodore, AL 36582  
Address

205-408-6660  
Office Number

  
By (Signature)

Keivn Hope  
By (Printed)

Branch Manager  
Title

khope@morrowwater.com  
Email

251-295-4844  
Cell Number

DOCUMENT 00410 – COMPANY DATA – ATTACHMENT “L”

Bidder's Company Name: Morrow Water Technologies, Inc.

Physical Address: 5465-2 Business Parkway  
Theodore, AL 36582

Contact Person (printed): Kevin Hope

Phone Number: 205-408-6660 Fax Number: \_\_\_\_\_

Cell Number: 251-295-4844

Email: khope@morrowwater.com

Federal ID or SS Number: 63-1021834 Florida FEI/EIN#: 45-1021834

Bidder's License Number: AL GC #18143 / FL # 3124

Emergency After-Hours,  
Weekend or Holiday Contact  
with Number: 251-295-4844

DOCUMENT 00410 – LIST OF REFERENCES – ATTACHMENT “M”

- |   |                                  |
|---|----------------------------------|
| 1. <u>Montgomery Water Works and Sanitary Sewer Board</u> | <u>Sandy Faulkner, PE</u>        |
| Company Name  | Contact Person                   |
| <u>2000 Interstate Park Dr.</u>                           | <u>334-206-1600</u>              |
| Address   | Telephone Number                 |
| <u>Montgomery, AL 36109</u>                               | <u>na</u>                        |
| City, State, Zip  | Email                            |
| 2. <u>Emerald Coast Utilities Authority</u>               | <u>Daniel Carliss</u>            |
| Company Name  | Contact Person                   |
| <u>9255 Sturdevant St.</u>                                | <u>850-476-0480</u>              |
| Address   | Telephone Number                 |
| <u>Pensacola, FL 32514</u>                                | <u>na</u>                        |
| City, State, Zip  | Email                            |
| 3. <u>Birmingham Water Works Board</u>                    | <u>Andy Polk</u>                 |
| Company Name  | Contact Person                   |
| <u>3600 1st Ave. N.</u>                                   | <u>205-244-4349/205-706-5627</u> |
| Address   | Telephone Number                 |
| <u>Birmingham, AL 35222</u>                               | <u>na</u>                        |
| City, State, Zip  | Email                            |

DOCUMENT 00410 – VENDORS ON SCRUTINIZED COMPANIES LISTS – ATTACHMENT “N”

By executing this Certificate Morrow Water Technologies, Inc., the bid proposer, certifies that it is not: (1) listed on the Scrutinized Companies that Boycott Israel List, created pursuant to section 215.4725, Florida Statutes, (2) engaged in a boycott of Israel, (3) listed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to section 215.473, Florida Statutes, or (4) engaged in business operations in Cuba or Syria. Pursuant to section 287.135(5), Florida Statutes, the County may disqualify the bid proper immediately or immediately terminate any agreement entered into for cause if the bid proposer is found to have submitted a false certification as to the above or if the Contractor is placed on the Scrutinized Companies that Boycott Israel List, is engaged in a boycott of Israel, has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or has been engaged in business operations in Cuba or Syria, during the term of the Agreement. If the County determines that the bid proposer has submitted a false certification, the County will provide written notice to the bid proposer. Unless the bid proposer demonstrates in writing, within 90 calendar days of receipt of the notice, that the County’s determination of false certification was made in error, the County shall bring a civil action against the bid proposer. If the County’s determination is upheld, a civil penalty shall apply, and the bid proposer will be ineligible to bid on any Agreement with a Florida agency or local governmental entity for three years after the date of County’s determination of false certification by bid proposer.

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

DATE: 6/1/23

SIGNATURE: 

COMPANY: Morrow Water Technologies, Inc.

NAME: Kevin Hope  
(Typed or Printed)

ADDRESS: 5465-2 Business Parkway  
Theodore, AL 36582

TITLE: Branch Manager

E-MAIL: khope@morrowwater.com

PHONE NO.: 205-408-6660

DOCUMENT 00410 – CERTIFICATION REGARDING LOBBYING – ATTACHMENT “O”

31 U.S.C. 1352, 49 CFR 19, 49 CFR PART 20  
APPENDIX A, 49 CFR PART 20

Certification for Contracts, Grants, Loans and Cooperative Agreements *(to be submitted with each bid or offer exceeding \$100,000)*

The undersigned CONTRACTOR certifies, to the best of his/her knowledge and belief, that:

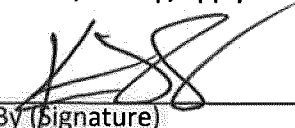
1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, et seq.)]
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

[Note: Pursuant to 31 U.S.C. 1352(c)(1)-(2)A, any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]

The Contractor, Morrow Water Technologies, Inc., certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. A 3801, et seq., apply to this certification and disclosure, if any.

6/1/23  
Date

  
By (signature) Kevin Hope

Morrow Water Technologies, Inc.  
Firm Name

Branch Manager  
Title

DOCUMENT 00410 – DEBARMENT & SUSPENSION – ATTACHMENT “P”

## GOVERNMENT DEBARMENT & SUSPENSION

### Instructions

1. By signing and submitting this form, the prospective lower tier participant is providing the certification set out in accordance with these instructions.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person(s) to which this response is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Orders 12549, at Subpart C of OMB 2 C.F.R. Part 180 and 3000.332. You may contact the department or agency to which this response is being submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this form that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this form that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the System for Award Management (SAM) database.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.



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

**Certification Regarding Debarment, Suspension,  
Ineligibility and Voluntary Exclusion  
Lower Tier Covered Transactions**

The following statement is made in accordance with the Privacy Act of 1974 (5 U.S.C. § 552(a), as amended). This certification is required by the regulations implementing Executive Orders 12549, Debarment and Suspension, and OMB 2 C.F.R.

Part 180, Participants' responsibilities. The regulations were amended and published on August 31, 2005, in 70 Fed. Reg. 51865-51880.

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

Morrow Water Technologies, Inc.

---

Printed Name and Title of Authorized Representative

Kevin Hope--Branch Manager

  
Signature

6/1/23

Date

END OF DOCUMENT 00410 – BID FORM WITH ATTACHMENTS



Okaloosa County, FL  
Board of Commissioners  
Crestview, FL

Subject: Evidence of Authority to Sign  
ITB WS 42-23

Date: 6/1/2023

To Whom It May Concern:

By writ of this letter, I hereby give due authority to Mr. Kevin Hope, Gulf Coast Branch Manager for Morrow Water Technologies, to sign bidding documents as related to our business on behalf of The Company.

Please advise of any questions.

Sincerely,

Brian Collins, Vice-President  
Morrow Water Technologies, Inc.  
205-516-8729  
[bcollins@morrowwater.com](mailto:bcollins@morrowwater.com)

(Corporate Seal)





March 7, 2023

FLORIDA DEPARTMENT OF STATE  
Division of Corporations

MORROW WATER TECHNOLOGIES, INC.  
PO BOX 380008  
BIRMINGHAM, AL 35238US

Having fulfilled the requirements of section 607.1503 or 617.1503, Florida Statutes, on March 6, 2023, this Certificate of Authority is hereby issued to MORROW WATER TECHNOLOGIES, INC., an Alabama corporation, in accordance with said statute and assigned document number F23000001297. Please refer to this number whenever corresponding with this office.

This document was electronically received and filed under FAX audit number H23000085887.

To maintain "active" status with the Division of Corporations, an annual report must be filed yearly between January 1st and May 1st beginning in the year following the file date or effective date indicated above. If the annual report is not filed by May 1st, a \$400 late fee will be added.

A Federal Employer Identification Number (FEI/EIN) will be required when this report is filed. Apply today with the IRS online at:

<https://sa.www4.irs.gov/modiein/individual/index.jsp>.

Please notify this office if the corporate address changes.

Should you have any questions regarding this matter, please contact this office at (850) 245-6000.

STANTON H ROBERTS  
Regulatory Specialist III  
Director's Office  
Division of Corporations

Letter Number: 223A00005260

**APPLICATION BY FOREIGN CORPORATION FOR AUTHORIZATION TO TRANSACT  
BUSINESS IN FLORIDA**

*IN COMPLIANCE WITH SECTION 607.1503, FLORIDA STATUTES, THE FOLLOWING IS SUBMITTED TO REGISTER A FOREIGN CORPORATION TO TRANSACT BUSINESS IN THE STATE OF FLORIDA.*

1. Morrow Water Technologies, Inc  
(Enter name of corporation; must include "INCORPORATED," "COMPANY," "CORPORATION," "Inc.," "Co.," "Corp," "Inc," "Co," or "Corp.")

(If name unavailable in Florida, enter alternate corporate name adopted for the purpose of transacting business in Florida)

2. Alabama 3. 45-1021834  
(State or country under the law of which it is incorporated) (FEI number, if applicable)

4. 04/27/1990 5. \_\_\_\_\_  
(Date of incorporation) (Date of duration, if other than perpetual)

6. 03/01/2023  
(Date first transacted business in Florida, if prior to registration)  
(SEE SECTIONS 607.1501 & 607.1502, F.S., to determine penalty liability)

7. 7440 Cahaba Valley Road, Birmingham, AL 35242  
(Principal office street address)

PO Box 380008 Birmingham AL 35238  
(Current mailing address, if different)

8. Name and street address of Florida registered agent: (P.O. Box NOT acceptable)

Name: Registered Agents Inc.

Office Address: 7901 4th Street N, Ste 300

St. Petersburg, Florida 33702  
(City) (Zip code)

9. **Registered agent's acceptance:**

*Having been named as registered agent and to accept service of process for the above stated corporation at the place designated in this application, I hereby accept the appointment as registered agent and agree to act in this capacity. I further agree to comply with the provisions of all statutes relative to the proper and complete performance of my duties, and I am familiar with and accept the obligations of my position as registered agent.*

David Roberts

(Registered agent's signature)

10. Attached is a certificate of existence duly authenticated, not more than 90 days prior to delivery of this application to the Department of State, by the Secretary of State or other official having custody of corporate records in the jurisdiction under the law of which it is incorporated.

11. For initial indexing purposes, list names, titles and addresses of the primary officers and/or directors [up to six (6) total]:

(((H23000085887 3)))

**A. DIRECTORS**

Chairman Name: Chris Hay

Vice Chairman Address: 7440 Cahaba Valley Road

Director Birmingham, AL 35242

President \_\_\_\_\_

Vice President \_\_\_\_\_

Secretary  Treasurer

Other \_\_\_\_\_  Other \_\_\_\_\_

Chairman Name: Michael D. Anderson

Vice Chairman Address: 7440 Cahaba Valley Road

Director Birmingham, AL 35242

President \_\_\_\_\_

Vice President \_\_\_\_\_

Secretary  Treasurer

Other CFO  Other \_\_\_\_\_

Chairman Name: \_\_\_\_\_

Vice Chairman Address: \_\_\_\_\_

Director \_\_\_\_\_

President \_\_\_\_\_

Vice President \_\_\_\_\_

Secretary  Treasurer

Other \_\_\_\_\_  Other \_\_\_\_\_

Chairman Name: \_\_\_\_\_

Vice Chairman Address: \_\_\_\_\_

Director \_\_\_\_\_

President \_\_\_\_\_

Vice President \_\_\_\_\_

Secretary  Treasurer

Other \_\_\_\_\_  Other \_\_\_\_\_

Chairman Name: \_\_\_\_\_

Vice Chairman Address: \_\_\_\_\_

Director \_\_\_\_\_

President \_\_\_\_\_

Vice President \_\_\_\_\_

Secretary  Treasurer

Other \_\_\_\_\_  Other \_\_\_\_\_

Chairman Name: \_\_\_\_\_

Vice Chairman Address: \_\_\_\_\_

Director \_\_\_\_\_

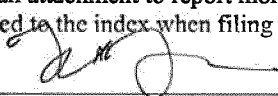
President \_\_\_\_\_

Vice President \_\_\_\_\_

Secretary  Treasurer

Other \_\_\_\_\_  Other \_\_\_\_\_

**Important Notice:** Use an attachment to report more than six (6). The attachment will be imaged for reporting purposes only. Non-indexed individuals may be added to the index when filing your Florida Department of State Annual Report form.

12.   
Signature of Director or Officer

The officer or director signing this document (and who is listed in number 11 above) affirms that the facts stated herein are true and that he or she is aware that false information submitted in a document to the Department of State constitutes a third degree felony as provided for in s.817.155, F.S.

13. Michael D. Anderson, CFO  
(Typed or printed name and capacity of person signing application)



3/6/2023 5:22 PM  
 Division of Corporations  
 Florida Department of State  
 Division of Corporations  
 Electronic Filing Cover Sheet  
 ((H23000085887 3))  
**F2300001297**

**Note: Please print this page and use it as a cover sheet. Type the fax audit number (shown below) on the top and bottom of all pages of the document.**

((H23000085887 3))



H230000858873ABC8

**Note: DO NOT hit the REFRESH/RELOAD button on your browser from this page. Doing so will generate another cover sheet.**

To: Division of Corporations  
 Fax Number : (850)617-6383

From: Account Name : HARVARD BUSINESS SERVICES, INC.  
 Account Number : 120080000045  
 Phone : (302)645-7400  
 Fax Number : (302)645-1280

2023 MAR 7 5:23

**\*\*Enter the email address for this business entity to be used for future annual report mailings. Enter only one email address please.\*\***

Email Address: \_\_\_\_\_

**FOREIGN PROFIT/NONPROFIT CORPORATION**

**Morrow Water Technologies, Inc**

Certificate of Status	0
Certified Copy	0
Page Count	04
Estimated Charge	\$70.00

Electronic Filing Menu

Corporate Filing Menu

Help

S. ROBERTS

MAR - 7 2023

((H23000085887 3))

APPLICATION BY FOREIGN CORPORATION FOR AUTHORIZATION TO TRANSACT BUSINESS IN FLORIDA

IN COMPLIANCE WITH SECTION 607.1503, FLORIDA STATUTES, THE FOLLOWING IS SUBMITTED TO REGISTER A FOREIGN CORPORATION TO TRANSACT BUSINESS IN THE STATE OF FLORIDA.

1. Morrow Water Technologies, Inc.
(Enter name of corporation; must include "INCORPORATED," "COMPANY," "CORPORATION," "Inc.," "Co.," "Corp.," "Inc.," "Co.," or "Corp.")

(If name unavailable in Florida, enter alternate corporate name adopted for the purpose of transacting business in Florida)

2. Alabama 3. 45-1021834
(State or country under the law of which it is incorporated) (FEI number, if applicable)

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(Date first transacted business in Florida, if prior to registration)
(SEE SECTIONS 607.1501 & 607.1502, F.S., to determine penalty liability)

7. 7440 Cahaba Valley Road, Birmingham, AL 35242
(Principal office street address)
PO Box 380008 Birmingham AL 35238
(Current mailing address, if different)

8. Name and street address of Florida registered agent: (P.O. Box NOT acceptable)

Name: Registered Agents Inc

Office Address: 7901 4th Street N, Ste 300

St. Petersburg, Florida 33702
(City) (Zip code)

2023 MAR -6 11:19:23

9. Registered agent's acceptance:

Having been named as registered agent and to accept service of process for the above stated corporation at the place designated in this application, I hereby accept the appointment as registered agent and agree to act in this capacity. I further agree to comply with the provisions of all statutes relative to the proper and complete performance of my duties, and I am familiar with and accept the obligations of my position as registered agent.

David Roberts
(Registered agent's signature)

10. Attached is a certificate of existence duly authenticated, not more than 90 days prior to delivery of this application to the Department of State, by the Secretary of State or other official having custody of corporate records in the jurisdiction under the law of which it is incorporated.

11. For initial indexing purposes, list names, titles and addresses of the primary officers and/or directors (up to six (6) total):



((H23000085887 3)))

A. DIRECTORS

Chairman Name: Chris Hay

Vice Chairman Address: 7440 Cahaba Valley Road

Director Birmingham, AL 35242

President \_\_\_\_\_

Vice President \_\_\_\_\_

Secretary \_\_\_\_\_  Treasurer \_\_\_\_\_

Other \_\_\_\_\_  Other \_\_\_\_\_

Chairman Name: Michael D. Anderson

Vice Chairman Address: 7440 Cahaba Valley Road

Director Birmingham, AL 35242

President \_\_\_\_\_

Vice President \_\_\_\_\_

Secretary \_\_\_\_\_  Treasurer \_\_\_\_\_

Other CFO \_\_\_\_\_  Other \_\_\_\_\_

Chairman Name: \_\_\_\_\_

Vice Chairman Address: \_\_\_\_\_

Director \_\_\_\_\_

President \_\_\_\_\_

Vice President \_\_\_\_\_

Secretary \_\_\_\_\_  Treasurer \_\_\_\_\_

Other \_\_\_\_\_  Other \_\_\_\_\_

Chairman Name: \_\_\_\_\_

Vice Chairman Address: \_\_\_\_\_

Director \_\_\_\_\_

President \_\_\_\_\_

Vice President \_\_\_\_\_

Secretary \_\_\_\_\_  Treasurer \_\_\_\_\_

Other \_\_\_\_\_  Other \_\_\_\_\_

Chairman Name: \_\_\_\_\_

Vice Chairman Address: \_\_\_\_\_

Director \_\_\_\_\_

President \_\_\_\_\_

Vice President \_\_\_\_\_

Secretary \_\_\_\_\_  Treasurer \_\_\_\_\_

Other \_\_\_\_\_  Other \_\_\_\_\_

Chairman Name: \_\_\_\_\_

Vice Chairman Address: \_\_\_\_\_

Director \_\_\_\_\_

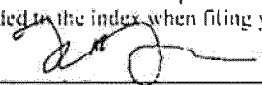
President \_\_\_\_\_

Vice President \_\_\_\_\_

Secretary \_\_\_\_\_  Treasurer \_\_\_\_\_

Other \_\_\_\_\_  Other \_\_\_\_\_

**Important Notice:** Use an attachment to report more than six (6). The attachment will be imaged for reporting purposes only. Non-indexed individuals may be added to the index when filing your Florida Department of State Annual Report form.

12.   
 Signature of Director or Officer

The officer or director signing this document (and who is listed in number 11 above) affirms that the facts stated herein are true and that he or she is aware that false information submitted in a document to the Department of State constitutes a third degree felony as provided for in s.817.155, F.S.

13. Michael D. Anderson, CFO  
 (Typed or printed name and capacity of person signing application)

((H23000085887 3))

Wes Allen  
Secretary of State

P.O. Box 5616  
Montgomery, AL 36103-5616

# STATE OF ALABAMA

**I, Wes Allen, Secretary of State of Alabama, having custody of the Great and Principal Seal of said State, do hereby certify that**

the entity records on file in this office disclose that Morrow Water Technologies, Inc. was formed in Jefferson County on April 27, 1990. The Alabama Entity Identification number for this entity is 000-136-751. I further certify that the records do not disclose that said entity has been dissolved, cancelled or terminated.

**In Testimony Whereof, I have hereunto set my hand and affixed the Great Seal of the State, at the Capitol, in the city of Montgomery, on this day.**



03/06/2023

Date

20230306000019996

Wes Allen

Secretary of State

DOCUMENT 00510 – NOTICE OF INTENT

**Board of County Commissioners  
Purchasing Department**

Date of Issuance:

**OKALOOSA COUNTY PURCHASING DEPARTMENT  
NOTICE OF INTENT TO AWARD  
ITB WS 42-23**

The Okaloosa County Purchasing Department would like to thank all businesses which submitted responses to our **Maintenance & Emergency Repair of Okaloosa County Water Supply Wells, Water Booster Pump Stations, Wastewater Effluent Pump Stations & Stormwater Pump Stations**

After in-depth examination of all bid documents in accordance with the County's Purchasing Manual, the County announces its intent to award the Contract to the following:

**Bidder:** Morrow Water Technologies, Inc.

**Bidder's Address:** 5465-2 Business Parkway, Theodore, AL 36582

This Notice of Intent does NOT constitute the formation of a Contract between Okaloosa County and the apparent successful bidder. The County reserves the right to enter into negotiations with the successful Bidder in order to finalize Contract terms and conditions. No agreement is entered into between the County and any parties until a Contract is approved and fully executed.

Any person/entity desiring to file a procurement protest must meet all the standards and criteria in accordance with Section 31 of the Okaloosa County Purchasing Manual. Failure to file a protest within the time prescribed in Section 31.2 of the Okaloosa County Purchasing Manual, shall constitute a waiver of protest proceedings.

Sincerely,

DeRita Mason  
Purchasing Manager

Copy: Engineer

END OF DOCUMENT 00510 – NOTICE OF INTENT

DOCUMENT 00520 –AGREEMENT BETWEEN OWNER AND CONTRACTOR FOR CONSTRUCTION CONTRACT

THIS AGREEMENT is by and between Okaloosa County, a political subdivision of the State of Florida, by and through its Board of County Commissioners, situated at 1250 N. Eglin Parkway, Shalimar, Florida (“OWNER”) and Morrow Water Technologies, Inc. of 5465-2 Business Parkway, Theodore, AL 36582 (address), certified to do business in the state of Florida (“CONTRACTOR”).

OWNER and CONTRACTOR hereby agree as follows:

**ARTICLE 1 – WORK**

- 1.01 CONTRACTOR shall complete all WORK as specified or indicated in the Contract Documents. The WORK is generally described as follows: **Maintenance & Emergency Repair of Okaloosa County Water Supply Wells, Water Booster Pump Stations, Wastewater Effluent Pump Stations & Stormwater Pump Stations**

**ARTICLE 2 – THE PROJECT**

The intended Scope of Work is described in the technical specifications in Appendix A of this document.

**ARTICLE 3 – ENGINEER**

- 3.01 The part of the Project that pertains to the WORK has been designed by Poly, Inc. (Design Engineer).  
3.02 The OWNER has retained the Design Engineer (“ENGINEER”) to act as OWNER’s representative, assume all duties and responsibilities, and have the rights and authority assigned to ENGINEER in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

**ARTICLE 4 – CONTRACT TIMES**

- 4.01 Time of the Essence  
A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.
- 4.02 Contract Times: Days  
A. Completion dates **for each Notice to Proceed (NTP)** issued under this Contract shall be established **in said NTP**. The Work will be completed within the number of days set up **in each NTP** to run as provided in Paragraph 4.01 of the General Conditions, and completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions within number of days established **per NTP**.
- 4.03 Liquidated Damages  
A. Section 337.18(2) of the Florida Statutes, requires the OWNER adopt regulations for the determination of default and provisions that the Contractor pay liquidated damages (daily charge per calendar day) for any failure of the Contractor to complete the Contract work within the Contract Time.  
B. CONTRACTOR and OWNER recognize that time is of the essence as stated in Paragraph 4.01 above and that OWNER will suffer financial and other losses if the Work is not completed and Milestones not achieved within the times specified in Paragraph 4.02 above, plus any extensions thereof allowed in accordance with the Contract. The parties also recognize the delays, expense, and difficulties involved in proving in a legal proceeding the actual loss suffered by OWNER if the Work is not completed on time. Accordingly, instead of requiring any such proof, OWNER and

CONTRACTOR agree that as liquidated damages for delay. Contractor specifically acknowledges that the liquidated damages is not a penalty and waives any right to argue such at a later time.

1. Substantial Completion: CONTRACTOR shall pay OWNER \$500.00 for each day that expires after the time (as duly adjusted pursuant to the Contract) specified in Paragraph 4.02.A above for Substantial Completion until the Work is substantially complete.
2. Completion of Remaining Work: After Substantial Completion, if CONTRACTOR shall neglect, refuse, or fail to complete the remaining Work within the Contract Times (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, CONTRACTOR shall pay OWNER \$500.00 for each day that expires after such time until the Work is completed and ready for final payment.
3. Liquidated damages for failing to timely attain Substantial Completion and final completion are not additive and will not be imposed concurrently.

## ARTICLE 5 – CONTRACT PRICE

- 5.01 OWNER shall pay CONTRACTOR for completion of the Work in accordance with the Contract Documents the amounts that follow, subject to adjustment under the Contract:
- A. For all Work, at the prices stated in CONTRACTOR’s Bid, attached hereto as an exhibit.
  - B. Fixed Rate Unit Prices

## 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. OWNER shall make progress payments on account of the Contract Price on the basis of CONTRACTOR’s Applications for Payment in accordance with § 218.70-218.79 F.S. (Local Government Prompt Payment Act) during performance of the Work as provided in Paragraph 6.02.A.1 below, provided that such Applications for Payment have been submitted in a timely manner and otherwise meet the requirements of the Contract. All such payments will be measured by the Schedule of Values established in Paragraph 2.03 of the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no Schedule of Values, as provided elsewhere in the Contract.
    1. Progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as OWNER may withhold, including but not limited to liquidated damages, in accordance with the Contract:
      - a. 100 percent of Work completed (with no retainage)
      - b. 100 percent of cost of materials and equipment not incorporated in the Work (with no retainage).
- 6.03 Final Payment
- A. Upon final completion and acceptance of the Work **outlined in each NTP** in accordance with Paragraph 15.06 of the General Conditions, OWNER shall pay the remainder of the Contract Price as recommended by ENGINEER as provided in said Paragraph 15.06.

## ARTICLE 7 – CONTRACTOR’S REPRESENTATIONS

- 7.01 In order to induce OWNER to enter into this Contract, 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.
- 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, if any: (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.
- 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, if any, 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 OWNER 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 8 – CONTRACT DOCUMENTS

### 8.01 Contents

- A. The Contract Documents consist of the following:
  1. Bid Form with Attachments (pages 00410-1 to 00410-27, inclusive).
  2. This Agreement (pages 00520-1 to 00520-14, inclusive).
  3. EJCDC General Conditions (pages 00700-1 to 00700-60, inclusive).
  4. Supplementary Conditions (pages 00800-1 to 00800-11, inclusive).
  5. Special Conditions (pages 00810-1 to 00810-5, inclusive).
  6. Appendix A - Technical Specification as prepared by Poly, Inc. bearing the title, Maintenance & Emergency Repair of Okaloosa County Water Supply Wells, Water Booster Pump Stations, Wastewater Effluent Pump Stations & Stormwater Pump Stations, April 2023 consisting of 13 pages.

7. Addenda (numbers 1, inclusive).
8. The following which may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:
  - a. Notice to Proceed.
  - b. Work Change Directives.
  - c. Contractor's Application for Payment
  - d. Change Orders.
  - e. Field Orders.
- B. The documents listed in Paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 8.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in the General Conditions.

## ARTICLE 9 – MISCELLANEOUS

### 9.01 Terms

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

### 9.02 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.

### 9.03 Successors and Assigns

- A. OWNER and CONTRACTOR each binds itself, its successors, assigns, and legal representatives to the other party hereto, its successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

### 9.04 Severability

- 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 OWNER 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.

### 9.05 CONTRACTOR's Certifications

- A. CONTRACTOR certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 10.05:
  1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process or in the Contract execution;
  2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of OWNER, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive OWNER of the benefits of free and open competition;
  3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of OWNER, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and

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

9.06 Independent CONTRACTORS

- A. CONTRACTOR enters into the Contract as, and shall continue to be, an independent CONTRACTOR. All services shall be performed only by CONTRACTOR and CONTRACTOR's employees. Under no circumstances shall CONTRACTOR or any of CONTRACTOR's employees look to the OWNER as his/her employer, or as partner, agent or principal. Neither CONTRACTOR, nor any of CONTRACTOR's employees, shall be entitled to any benefits accorded to the OWNER's employees, including without limitation worker's compensation, disability insurance, vacation or sick pay. CONTRACTOR shall be responsible for providing, at CONTRACTOR's expense, and in CONTRACTOR's name, unemployment, disability, worker's compensation and other insurance as well as licenses and permits usual and necessary for conducting the services to be provided under this Contract.

9.07 Audit Provision

- A. The OWNER and/or its designee shall have the right from time to time at its sole expense to audit the compliance by the CONTRACTOR with the terms, conditions, obligations, limitations, restrictions and requirements of this Agreement and such right shall extend for a period of three (3) years after termination of this Agreement.

9.08 Public Records

- A. CONTRACTOR shall adhere to the Public Records law of Florida.
- B. Specifically, CONTRACTOR must:
  1. Keep and maintain public records require by the OWNER to perform the service.
  2. Upon request from the OWNER's custodian of public records, provide the OWNER with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in chapter 119 Florida Statutes or as otherwise provided by law.
  3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement if the CONTRACTOR does not transfer the records to the OWNER.
  4. Upon completion of the Agreement, transfer, at no cost, to the OWNER all public records in possession of the CONTRACTOR or keep and maintain public records required by the OWNER to perform the service. If the CONTRACTOR transfers all public records to the OWNER upon completion of the Contract, the CONTRACTOR shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the CONTRACTOR keeps and maintains public records upon completion of the Contract, the CONTRACTOR shall meet all applicable requirements for retaining the public records. All records stored electronically must be provided to the OWNER, upon the request from the OWNER's custodian of public records, in a format that is compatible with the information technology system of the OWNER.
- C. **IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT OKALOOSA COUNTY RISK MANAGEMENT DEPARTMENT 302 N. WILSON ST., CRESTVIEW, FL 32536 PHONE (850) 689-5977 [riskinfo@co.okaloosa.fl.us](mailto:riskinfo@co.okaloosa.fl.us).**

9.09 Third Party Beneficiaries



- A. It is specifically agreed between the parties executing this Agreement that it is not intended by any of the provisions of any part of the Agreement to create in the public or any member thereof, a third-party beneficiary under this Agreement, or to authorize anyone not a part to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provision of this Agreement.

9.10 Other Provisions

- A. OWNER stipulates that if the General Conditions that are made a part of this Contract are based on EJCDC® C-700, Standard General Conditions for the Construction Contract, published by the ENGINEERS Joint Contract Documents Committee®, and if OWNER is the party that has furnished said General Conditions, then OWNER has plainly shown all modifications to the standard wording of such published document to the CONTRACTOR, through a process such as highlighting or “track changes” (redline/strikeout), or in the Supplementary Conditions.
- B. The individual signing this Agreement on behalf of CONTRACTOR represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this Agreement. The CONTRACTOR represent and warrants to the OWNER that the execution and delivery of the Agreement and the performance of CONTRACTOR’s obligations hereunder have been duly authorized and that the Agreement is a valid and legal agreement binding on the CONTRACTOR and enforceable in accordance with its terms.
- C. The waiver by a party of any breach or default in performance shall not be deemed to constitute a waiver of any other or succeeding breach or default. The failure of the OWNER to enforce any of the provisions hereof shall not be construed to be a waiver of the right of the OWNER thereafter to enforce such provisions.
- D. All notices required by this Agreement shall be in writing to the representatives listed below:

AUTHORIZED REPRESENTATIVES:

OWNER: Robert A. “Trey” Goodwin, III  
Chairman – Board of County Commissioners  
Address  
1250 N. Eglin Parkway  
Shalimar, FL 32579  
Phone  
850-651-7105

CONTRACTOR:  
Morrow Water Technologies, Inc.  
Address  
5465-2 Business Parkway  
Theodore, AL 36582  
Phone  
205-408-6680

9.11 Equal Opportunity Employment

- A. During the performance of this CONTRACT, the contractor agrees as follows:
  - 1. The contractor will not discriminate against any employee or applicant for employment 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 their 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 to be provided setting forth the provisions of this nondiscrimination clause.

2. 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 considerations for employment without regard to race, color, religion, sex, or national origin.
  3. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
  4. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
  5. The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders
  6. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said 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 Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
  7. The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States.
- 9.12 Federal Fair Labor Standards Act (Federal Minimum Wage)
- A. All contracts and subcontracts that result from this solicitation incorporate by reference the provisions of 29 CFR part 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part time workers.
  - B. The CONTRACTOR has full responsibility to monitor compliance to the referenced statute or regulation. The CONTRACTOR must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.
- 9.13 Occupational Safety and Health Act of 1970
- A. All contracts and subcontracts that result from this solicitation incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. CONTRACTOR must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The CONTRACTOR retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). CONTRACTOR must address

any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

9.14 COPELAND ANTI-KICKBACK ACT

A. The Contractor shall comply with the following:

1. Contractor. The contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.
2. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as the FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.
3. Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

9.15 CONTRACT WORK HOURS AND SAFETY STANDARDS

A. If the Sub-Recipient, with the funds authorized by this Agreement, enters into a contract that exceeds \$100,000 and involves the employment of mechanics or laborers, then any such contract must include a provision for compliance with 40 U.S.C. 3701 - 3708, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation.

9.16 CLEAN AIR ACT AND THE FEDERAL WATER POLLUTION CONTROL ACT

A. If the Sub-Recipient, with the funds authorized by this Agreement, enters into a contract that exceeds \$150,000, then any such contract must include the following provision:

1. Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387), and will report violations to FEMA and the Regional Office of the Environmental Protection Agency (EPA).

9.17 SUSPENSION AND DEBARMENT (Executive Orders 12549 and 12689)

A. A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

B. This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the contractor is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

- C. The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- D. This certification is a material representation of fact relied upon by the Division. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the Division, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- E. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

9.18 BYRD ANTI-LOBBYING AMENDMENT

- A. Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended). Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient. In addition, all applicants or bidders at this level shall comply with 2 C.F.R. § 200.450 and are subject the common rule, "New Restrictions on Lobbying," published at 55 FR 6736 (February 26, 1990), including definitions, and the Office of Management and Budget "Governmentwide Guidance for New Restrictions on Lobbying," and notices published at 54 FR 52306 (December 20, 1989), 55 FR 24540 (June 15, 1990), 57 FR 1772 (January 15, 1992), and 61 FR 1412 (January 19, 1996).

9.19 E-Verify: Respondent shall comply with the Executive Order No. 12989 as amended, and Executive Order No. 11-116, and agrees to utilize the U.S. Department of Homeland Security's E-Verify system.

- A. Enrollment and verification requirements.
  - 1. If the CONTRACTOR is not enrolled as a Federal Contractor in E-Verify at time of contract award, the CONTRACTOR shall-
    - a. Enroll. Enroll as a Federal Contractor in the E-Verify Program within thirty (30) calendar days of Contract award;
    - b. Verify all new employees. Within ninety (90) calendar days of enrollment in the E-Verify program, begin to use E-Verify to initiate verification of employment eligibility of all new hires of the CONTRACTOR, who are working in the United States, whether or not assigned to the Contract, within three (3) business days after the date of hire (but see paragraph (3.) of this section); and,
    - c. Verify employees assigned to the Contract. For each employee assigned to the Contract, initiate verification within ninety (90) calendar days after date of enrollment or within thirty (30) calendar days of the employee's assignment to the Contract, whichever date is later (but see paragraph (4.) of this section.)
  - 2. If the CONTRACTOR is enrolled as a Federal Contractor in E-Verify at time of Contract award, the CONTRACTOR shall use E-Verify to initiate verification of employment eligibility of
    - a. All new employees.
      - 1) Enrolled ninety (90) calendar days or more. The CONTRACTOR shall initiate verification of all new hires of the CONTRACTOR, who are working in the United States, whether or not assigned to the Contract, within three (3) business days after the date of hire (but see paragraph (3.) of this section); or



- 3) Who has undergone a completed background investigation and been issued credentials pursuant to Homeland Security Presidential Directive (HSPD)-12. Policy for a Common Identification Standard for Federal Employees and Contractors.
6. Subcontracts. The CONTRACTOR shall include the requirements of this clause, including this paragraph € (appropriately modified for identification of the parties in each subcontract that -
  - a. Is for
    - 1) Commercial and noncommercial services (except for commercial services that are part of the purchase of a COTS item (or an item that would be a COTS item, but for minor modifications), performed by the COTS provider, and are normally provided for that COTS item); or
    - 2) Construction;
  - b. Has a value of more than \$3,500; and
  - c. Includes work performed in the United States.

9.20 Vendors on Scrutinized Companies List

- B. By executing this Agreement, the CONTRACTOR certifies that it is not:
  1. listed on the Scrutinized Companies that Boycott Israel List, created pursuant to section 215.4725, Florida Statutes,
  2. engaged in a boycott of Israel,
  3. listed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to section 215.473, Florida Statutes, or
  4. engaged in business operations in Cuba or Syria.
- C. Pursuant to section 287.135(5), Florida Statutes, the OWNER may immediately terminate this Agreement for cause if the CONTRACTOR is found to have submitted a false certification as to the above or if the CONTRACTOR is placed on the Scrutinized Companies that Boycott Israel List, is engaged in a boycott of Israel, has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or has been engaged in business operations in Cuba or Syria, during the term of the Agreement. If the OWNER determines that the CONTRACTOR has submitted a false certification, the OWNER will provide written notice to the CONTRACTOR. Unless the CONTRACTOR demonstrates in writing, within 90 calendar days of receipt of the notice, that the OWNER's determination of false certification was made in error, the OWNER shall bring a civil action against the CONTRACTOR. If the OWNER's determination is upheld, a civil penalty equal to the greater of \$2 million or twice the amount of this Agreement shall be imposed on the CONTRACTOR, and the CONTRACTOR will be ineligible to bid on any Agreement with a Florida agency or local governmental entity for three years after the date of OWNER's determination of false certification by CONTRACTOR. If federal law ceases to authorize the states to adopt and enforce the contracting prohibition identified in this Section 10.20, this Section 10.20 shall be null and void.

9.21 Contracting with Small and Minority Businesses, Women's Business Enterprises, and Labor Area Surplus Firms.

- A. The CONTRACTOR shall take the following affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus firms are used whenever possible:
  1. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
  2. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
  3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;

4. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
  5. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
  6. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (a) through (e) of this section.
- 9.22 Procurement of Recovered Materials
- A. Contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
- 9.23 Energy Policy and Conservation Act (43 U.S.C. §6201)
- A. All contracts except micro-purchases (\$3000 or less, except for construction contracts over \$2000). Contracts shall comply with mandatory standards and policies relating to energy efficiency, stating in the state energy conservation plan issued in compliance with the Energy Policy and Conservation act. (Pub. L. 94-163, 89 Stat. 871) [53 FR 8078, 8087, Mar. 11, 1988, as amended at 60 FR 19639, 19645, Apr. 19, 1995].
- 9.24 Safeguarding Personal Identifiable Information
- A. Contractor will take reasonable measures to safeguard protected personally identifiable information and other information designated as sensitive by the awarding agency or is considered sensitive consistent with applicable Federal, state and/or local laws regarding privacy and obligations of confidentiality.
- 9.25 Record Retention
- A. Contractor will retain of all required records pertinent to this contract for a period of five (5) years, beginning on a date as described in 2 C.F.R. §200.334 and retained in compliance with 2 C.F.R. §200.334. For the purposes of this section, the term "records" includes but is not limited to:
    1. Copies of all contracts and all documents related to a contract, including the Request for Proposal (RFP), all proposals/bids received, all meeting minutes or other documentation of the evaluation and selection of contractors, any disclosed conflicts of interest regarding a contract, all signed conflict of interest forms, all conflict of interest and other procurement rules governing a particular contract, and any bid protests;
    2. All documentation of site visits, reports, audits, and other monitoring of contractors (vendors) and Subrecipients;
    3. All financial and accounting records, including records of disbursements to contractors (vendors) and Subrecipients, and documentation of the allowability of Administrative Costs charged to the Award
- 9.26 Access to Public Records
- A. CONTRACTOR will make available to the OWNER's granting agency, the granting agency's Office of Inspector General, the Government Accountability Office, the Comptroller General of the United States, Okaloosa County, Okaloosa County Clerk of Court's Inspector General, or any of their duly authorized representatives any books, documents, papers or other records, including electronic records, of the contractor that are pertinent to the OWNER's grant award, in order to make audits, investigations, examinations, excerpts, transcripts, and copies of such documents. The right also

includes timely and reasonable access to the contractor's personnel during normal business hours for the purpose of interview and discussion related to such documents. This right of access shall continue as long as records are retained.

9.27 Federal Changes

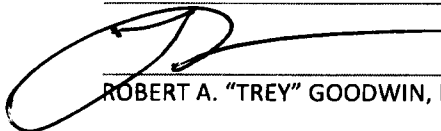
Contractor shall comply with all applicable Federal agency regulations, policies, procedures and directives, including without limitation those listed directly or by reference, as they may be amended or promulgated from time to time during the term of the contract.

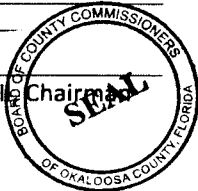
IN WITNESS WHEREOF, OWNER and CONTRACTOR have signed this Agreement.

This Agreement will be effective on 7/18/2023 (which is the Effective Date of the Contract).

OWNER:

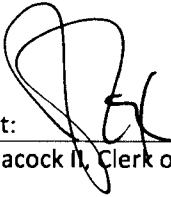
BOARD OF COUNTY COMMISSIONERS  
OKALOOSA COUNTY, FLORIDA

  
ROBERT A. "TREY" GOODWIN, II, Chairman



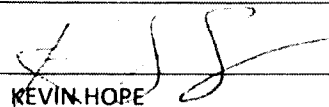
Attest:

JD Peacock II, Clerk of Courts



CONTRACTOR:

MORROW WATER TECHNOLOGIES, INC.

By:   
KEVIN HOPE

Title: Branch Manager

(If CONTRACTOR is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.)

Attest:

Title:

Address for giving notices:

1250 N. Eglin Parkway

Shalimar, FL 32579

Address for giving notices:

5465-2 Business Parkway

Theodore, AL 36582

License No.: FL#: 45-1021834 & 63-1021834

END OF DOCUMENT 00520 – AGREEMENT BETWEEN OWNER & CONTRACTOR  
FOR CONSTRUCTION CONTRACT

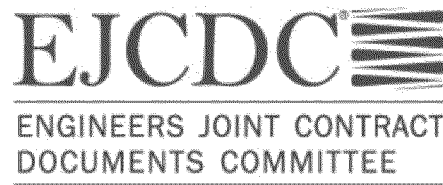


DOCUMENT 00700 – GENERAL CONDITIONS

This document has important legal consequences; consultation with an attorney is encouraged with respect to its use or modification. This document should be adapted to the particular circumstances of the contemplated Project and the controlling 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. §§5101 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. *Effective Date of the Contract*—The date, indicated in the Agreement, on which the Contract becomes effective.
  20. *Engineer*—The individual or entity named as such in the Agreement.
  21. *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.
  22. *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.
  23. *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.
  24. *Liens*—Charges, security interests, or encumbrances upon Contract-related funds, real property, or personal property.
  25. *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.
  26. *Notice of Award*—The written notice by Owner to a Bidder of Owner’s acceptance of the Bid.
  27. *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.
  28. *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.
  29. *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.
  30. *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.
  31. *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.
32. *Resident Project Representative*—The authorized representative of Engineer assigned to assist Engineer at the Site. As used herein, the term Resident Project Representative or “RPR” includes any assistants or field staff of Resident Project Representative.
  33. *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.
  34. *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.
  35. *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.
  36. *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.
  37. *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.
  38. *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.
  39. *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.
  40. *Substantial Completion*—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms “substantially complete” and “substantially completed” as applied to all or part of the Work refer to Substantial Completion thereof.
  41. *Successful Bidder*—The Bidder whose Bid the Owner accepts, and to which the Owner makes an award of contract, subject to stated conditions.
  42. *Supplementary Conditions*—The part of the Contract that amends or supplements these General Conditions.
  43. *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.
  44. *Technical Data*—Those items expressly identified as Technical Data in the Supplementary 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.

45. *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.
46. *Unit Price Work*—Work to be paid for on the basis of unit prices.
47. *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.
48. *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.

## 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.
- 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 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 (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.

- 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.
    - 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.
  - 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).

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.

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- 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.

### 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 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 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.

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 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 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.
- 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.I 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 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 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.
- B. All insurance required by the Contract to be purchased and maintained by Owner or Contractor shall be obtained from insurance companies that are duly licensed or authorized, in the state or jurisdiction in which the Project is located, to issue insurance policies for the required limits and coverages. Unless a different standard is indicated in the Supplementary Conditions, all companies that provide insurance policies required under this Contract shall have an A.M. Best rating of A-VII or better.
- C. 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 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 other party's obligation to obtain and maintain such insurance.
- F. If either party does not purchase or maintain all of the insurance required of such party by the Contract, such party shall notify the other party in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage.
- 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.

#### 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 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 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.

#### 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 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 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 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 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

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- 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.
- 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 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
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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 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.

### 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.

### 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.
- 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 considered 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.
- 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 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 or copyrights held by others. If a particular invention, design, process, product, or device is specified in the Contract Documents for use in the performance of the Work and if, to the actual knowledge of Owner or Engineer, its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed by Owner in the Contract Documents.
- B. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, and its officers, directors, members, partners, employees, agents, consultants, and subcontractors from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device specified in the Contract Documents, but not identified as being subject to payment of any license fee or royalty to others required by patent rights or copyrights.
- C. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device not specified in the Contract Documents.

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.

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 Conditions identify any Owner's safety programs that are applicable to the Work.
- D. Contractor shall inform Owner and Engineer of the specific requirements of Contractor's safety program with which Owner's and Engineer's employees and representatives must comply while at the Site.

- E. All damage, injury, or loss to any property referred to in Paragraph 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.
- 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.
- 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.

- 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.
- 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.

#### 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.

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## 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 or provided to Contractor prior to the start of any such other work:
  - 1. the identity of the individual or entity that will have authority and responsibility for coordination of the activities among the various contractors;
  - 2. an itemization of the specific matters to be covered by such authority and responsibility; and
  - 3. the extent of such authority and responsibilities.
- B. Unless otherwise provided in the Supplementary Conditions, Owner shall have sole authority and responsibility for such coordination.

### 8.03 Legal Relationships

- A. If, in the course of performing other work at or adjacent to the Site for Owner, the Owner's employees, any other contractor working for Owner, or any utility owner for whom the Owner is responsible 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.

### 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.

## **ARTICLE 10 – ENGINEER'S STATUS DURING CONSTRUCTION**

- 10.01 Owner's Representative
  - A. Engineer will be Owner's representative during the construction period. The duties and responsibilities and the limitations of authority of Engineer as Owner's representative during construction are set forth in the Contract.
- 10.02 Visits to Site
  - A. Engineer will make visits to the Site at intervals appropriate to the various stages of construction as Engineer deems necessary in order to observe as an experienced and qualified design professional the progress that has been made and the quality of the various aspects of Contractor's executed Work. Based on information obtained during such visits and observations, Engineer, for the benefit of Owner, will determine, in general, if the Work is proceeding in accordance with the Contract Documents. Engineer will not be required to make exhaustive or continuous inspections on the Site to check the quality or quantity of the Work. Engineer's efforts will be directed toward providing for Owner a greater degree of confidence that the completed Work will conform generally to the Contract Documents. On the basis of such visits and observations, Engineer will keep Owner informed of the progress of the Work and will endeavor to guard Owner against defective Work.
  - B. Engineer's visits and observations are subject to all the limitations on Engineer's authority and responsibility set forth in Paragraph 10.08. 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 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 Supplementary Conditions.

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.

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;
    - b. for costs incurred under Paragraph 13.01.B.3, the Contractor's fee shall be five percent;
    - c. where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of Paragraphs 11.04.C.2.a and 11.04.C.2.b is that the Contractor's fee shall be based on: (1) a fee of 15 percent of the costs incurred under Paragraphs 13.01.A.1 and 13.01.A.2 by the Subcontractor that actually performs the Work, at whatever tier, and (2) with respect to Contractor itself and to any Subcontractors of a tier higher than that of the Subcontractor that actually performs the Work, a fee of five percent of the amount (fee plus underlying costs incurred) attributable to the next lower tier Subcontractor; provided, however, that for any such subcontracted work the maximum total fee to be paid by Owner 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

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- 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.
    - 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 practices and submit in a form acceptable to Engineer an itemized cost breakdown together with supporting data.

#### 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. Payments to Contractor for Unit Price Work will be based on actual quantities.



- C. Each unit price will be deemed to include an amount considered by Contractor to be adequate to cover Contractor's overhead and profit for each separately identified item.
- D. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor. Engineer will review with Contractor the Engineer's preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise). Engineer's written decision thereon will be final and binding (except as modified by Engineer to reflect changed factual conditions or more accurate data) upon Owner and Contractor, 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.

## **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 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.

#### 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, Contractor shall correct all such defective Work, whether or not fabricated, installed, or completed, or, if Engineer has rejected the defective Work, remove it from the Project and replace it with Work that is not defective.

E. Preservation of Warranties: When correcting defective Work, Contractor shall take no action that would void or otherwise impair Owner's special warranty and guarantee, if any, on said Work.

F. Costs and Damages: In addition to its correction, removal, and replacement obligations with respect to defective Work, Contractor shall pay all claims, costs, losses, and damages arising out of or relating to defective Work, including but not limited to the cost of the inspection, testing, correction, removal, replacement, or reconstruction of such defective Work, fines levied against Owner by governmental authorities because the Work is defective, and the costs of repair or replacement of work of others resulting from defective Work. Prior to final payment, if Owner and Contractor are unable to agree as to the measure of such claims, costs, losses, and damages resulting from defective Work, then Owner may impose a reasonable set-off against payments due under Article 15.

#### 14.04 Acceptance of Defective Work

A. If, instead of requiring correction or removal and replacement of defective Work, Owner prefers to accept it, Owner may do so (subject, if such acceptance occurs prior to final payment, to Engineer's confirmation that such acceptance is in general accord with the design intent and applicable engineering principles, and will not endanger public safety). Contractor shall pay all claims, costs, losses, and damages attributable to Owner's evaluation of and determination to accept such defective Work (such costs to be approved by Engineer as to reasonableness), and for the diminished value of the Work to the extent not otherwise paid by Contractor. If any such acceptance occurs prior to final payment, the necessary revisions in the Contract Documents with respect to the Work 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.

#### 14.05 Uncovering Work

A. Engineer has the authority to require additional inspection or testing of the Work, whether or not the Work is fabricated, installed, or completed.

- B. If any Work is covered contrary to the written request of Engineer, then Contractor shall, if requested by Engineer, uncover such Work for Engineer's observation, and then replace the covering, all at Contractor's expense.
  - C. If Engineer considers it necessary or advisable that covered Work be observed by Engineer or inspected or tested by others, then Contractor, at Engineer's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as Engineer may require, that portion of the Work in question, and provide all necessary labor, material, and equipment.
    - 1. If it is found that the uncovered Work is defective, Contractor shall be responsible for all claims, costs, losses, and damages arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); and pending Contractor's full discharge of this responsibility the Owner shall be entitled to impose a reasonable set-off against payments due under Article 15.
    - 2. If the uncovered Work is not found to be defective, Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Times, 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.
- 14.06 Owner May Stop the Work
- A. If the Work is defective, or Contractor fails to supply sufficient skilled workers or suitable materials or equipment, or fails to perform the Work in such a way that the completed Work will conform to the Contract Documents, then Owner may order Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of Owner to stop the Work 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 Owner, Owner's representatives, agents and employees, Owner's other contractors, and Engineer and Engineer's consultants access to the Site to enable Owner to exercise the rights and remedies under this paragraph.
  - C. All claims, costs, losses, and damages incurred or sustained by Owner in exercising the rights and remedies under this Paragraph 14.07 will be charged against Contractor as set-offs against payments due under Article 15. Such claims, costs, losses and damages will include but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of Contractor's defective Work.
  - D. Contractor shall not be allowed an extension of the Contract Times because of any delay in the performance of the Work attributable to the exercise by Owner of Owner's rights and remedies under this Paragraph 14.07.

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**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, 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 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, requiring correction or replacement;
    - b. the Contract Price has been reduced by Change Orders;
    - c. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;
    - d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible; or
    - e. Engineer has actual knowledge of the occurrence of any of the events that would constitute a default by Contractor and therefore justify termination for cause under the Contract Documents.
- D. Payment Becomes Due:
1. Ten days after presentation of the Application for Payment to Owner with Engineer's recommendation, the amount recommended (subject to any Owner set-offs) will become due, and when due will be paid by Owner to Contractor.
- E. Reductions in Payment by Owner:
1. In addition to any reductions in payment (set-offs) recommended by Engineer, Owner is entitled to impose a set-off against payment based on any of the following:
    - a. claims have been made against Owner 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;
  - l. 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 shall be treated as an amount due as determined by Paragraph 15.01.C.1 and subject to interest as provided in the Agreement.

#### 15.02 Contractor's Warranty of Title

- A. Contractor warrants and guarantees that title to all Work, materials, and equipment furnished under the Contract will pass to Owner free and clear of (1) all Liens and other title defects, and (2) all patent, licensing, copyright, or royalty obligations, no later than seven days after the time of payment by Owner.

#### 15.03 Substantial Completion

- A. When Contractor considers the entire Work ready for its intended use Contractor shall notify Owner and Engineer in writing that the entire Work is substantially complete and request that Engineer issue a certificate of Substantial Completion. Contractor shall at the same time submit to Owner and Engineer an initial draft of punch list items to be completed or corrected before final payment.
- B. Promptly after Contractor's notification, Owner, Contractor, and Engineer shall make an inspection of the Work to determine the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify Contractor in writing giving the reasons therefor.
- C. If Engineer considers the Work substantially complete, Engineer will deliver to Owner a preliminary certificate of Substantial Completion which 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) 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.

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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.

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 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.

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;
  2. expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses; and
  3. other reasonable expenses directly attributable to termination, including costs incurred to prepare a termination for convenience cost proposal.
- B. Contractor shall not be paid 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.

## 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.

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**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 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.

18.02 Computation of Times

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

18.03 Cumulative Remedies

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

18.04 Limitation of Damages

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

18.05 No Waiver

- A. A party's non-enforcement of any provision 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.

END OF DOCUMENT 00700 – GENERAL CONDITIONS

DOCUMENT 00800 – SUPPLEMENTARY CONDITIONS

**GENERAL**

These Supplementary Conditions amend or supplement the Standard General Conditions of the Construction Contract, EJCDC® C-700 (2013 Edition). All provisions that are not so amended or supplemented remain in full force and effect.

The terms used in these Supplementary Conditions have the meanings stated in the General Conditions. Additional terms used in these Supplementary Conditions have the meanings stated below, which are applicable to both the singular and plural thereof.

**ARTICLE 2 – PRELIMINARY MATTERS**

2.02 Copies of Documents

Delete Paragraph 2.02.A in its entirety and insert the following in its place.

- A. Owner shall furnish to Contractor one printed copy of the Contract including one fully executed counterpart of the Agreement. An electronic portable document format (PDF) may be requested by Contractor.

2.03 Before Starting Construction

Delete Paragraph 2.03 in its entirety.

2.04 Preconstruction Conference; Designation of Authorized Representatives

Delete Paragraph 2.04 in its entirety.

2.05 Initial Acceptance of Schedules

Delete Paragraph 2.05 in its entirety.

**ARTICLE 3 – DOCUMENTS: INTENT, REQUIREMENTS, REUSE**

3.04 Requirements of the Contract Documents

Delete Paragraph 3.04.C in its entirety and insert the following:

- 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 FDOT Section 5-12 Claims by Contractor.

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## **ARTICLE 4 – COMMENCEMENT AND PROGRESS OF THE WORK**

### 4.01 Commencement of Contract Times; Notice to Proceed

Delete Paragraph 4.01.A in its entirety and insert the following in its place.

- 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 and as needed thereafter. Multiple Notice to Proceeds may be given for separate, specific tasks during the life of the Contract.

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

### 5.02 Use of Site and Other Areas

Delete Paragraph 5.02.A.2 in its entirety and insert the following:

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 mediation, or at law; and (c) 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 mediation 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.

### 5.03 Subsurface and Physical Conditions

Delete Paragraphs 5.03.A and 5.03.B in their entirety and insert the following:

- A. There are no reports of explorations or tests of subsurface conditions at or adjacent to the Sites, I.E.,. No drawings of physical conditions relating to existing surface or subsurface structures at the Site.

### 5.06 Hazardous Environmental Conditions

Delete Paragraphs 5.06.B and 5.06.I in their entirety.

Delete Paragraphs 5.06.A and 5.06.J in their entirety and insert the following:

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

## ARTICLE 6 – BONDS AND INSURANCE

### 6.01 Performance, Payment and Other Bonds

Add the following paragraph immediately after Paragraph 6.01.C:

1. All bonds shall be written by a surety with no less than an "A" rating by national rating agency. All sureties must be on the U.S. Department of Treasury's Listing of Approved Sureties (Department Circular 570) and bonds must be within the Treasury's underwriting limitation.

### 6.02 Insurance – General Requirements

Delete Paragraph 6.02.B in its entirety and insert the following:

- B. All insurance required by the Contract to be purchased and maintained by OWNER and CONTRACTOR shall be obtained from insurance companies that are duly licensed or authorized, in the state or jurisdiction in which the Project is located, to issue insurance policies for the required limits and coverages. All companies that provide insurance policies required under this CONTRACT shall have a minimum A+, Class X or higher in the Bests Key Rating Guide.

Add the following new paragraphs immediately after Paragraph 6.02.J:

- K. Where applicable, Okaloosa County Board of County Commissioners shall be shown as an Additional Insured on all applicable insurance policies except Workers Compensation Insurance.
- L. Where applicable, a waiver of subrogation should be included on all Workers Compensation Insurance policies.

### 6.03 Contractor's Insurance

Add the following new paragraph immediately after Paragraph 6.03.J:

- 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:

State:	<u>Statutory</u>
Federal, if applicable (e.g., Longshoreman's):	<u>Statutory</u>
Employer's Liability:	
Bodily injury, each accident	\$ <u>500,000</u>
Bodily injury by disease, each employee	\$ <u>500,000</u>
Bodily injury/disease aggregate	\$ <u>500,000</u>

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

General Aggregate	\$ <u>1,000,000</u>
Products - Completed Operations Aggregate	\$ <u>1,000,000</u>
Personal and Advertising Injury	\$ <u>1,000,000</u>
Each Occurrence (Bodily Injury and Property Damage)	\$ <u>1,000,000</u>

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

Bodily Injury:	
Each person	\$ <u>1,000,000</u>
Each accident	\$ <u>1,000,000</u>
Property Damage:	
Each accident	\$ <u>500,000</u>
[or]	
Combined Single Limit of	\$ <u>1,000,000</u>

Additional Insureds: In addition to Owner (Okaloosa County Board of County Commissioners) include as additional insureds the following: Poly, Inc.

4. Contractor's Pollution under Paragraph 6.03.F of the General Conditions

Each Occurrence	\$ <u>1,000,000</u>
General Aggregate	\$ <u>1,000,000</u>

5. Contractor's Professional Liability under Paragraph 6.03.H of the General Conditions

Each Occurrence	\$ <u>Not Required</u>
Annual Aggregate	\$ <u>Not Required</u>

Delete Paragraph 6.03.C.1 in its entirety and insert the following in its place:

1. Products and completed operations coverage:
  - a. Such insurance shall be maintained for two years after final payment.  
Contractor shall furnish Owner and each other additional insured (as identified in the Supplementary Conditions or elsewhere in the Contract) evidence continuation of such insurance at final payment and two years thereafter.

## ARTICLE 7 – CONTRACTOR'S RESPONSIBILITIES

### 7.02 Labor; Working Hours

Delete Paragraph 7.02 B. in its entirety and insert the following:

- B. In the absence of any Laws or Regulations to the contrary, Contractor may perform the Work on holidays, during any or all hours of the day, and on any or all days of the week, at Contractor's sole discretion.

Add the following new paragraph immediately after Paragraph 7.02.B:

1. 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.

### 7.07 Patent Fees and Royalties



Delete Paragraphs 7.07.B and C in their entirety and replace with the following:

- 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 mediation 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 mediation 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.

#### 7.10 Laws and Regulations

Delete Paragraph 7.10.B in its entirety and replace with the following:

- 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 mediation 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.

#### 7.16 Shop Drawings, Samples and Other Submittals

Delete Paragraph 7.16 in its entirety.

#### 7.18 Indemnification

Delete Paragraph 7.18.A in its entirety and insert the following:

- A. To the fullest extent permitted by law, CONTRACTOR shall indemnify and hold harmless the OWNER, the Design Engineer and the officers and employees from each from liabilities, damages, losses and costs including but not limited to reasonable attorney fees, to the extent caused by the negligence, recklessness or intentional wrongful conduct of the CONTRACTOR and other persons employed or utilized by the CONTRACTOR in the performance of this Agreement.

This indemnification shall survive the termination of this Contract. Nothing contained in this subarticle 7.18.A is intended to nor shall it constitute a waiver of the Owner's sovereign immunity.

## ARTICLE 8 – OTHER WORK AT THE SITE

#### 8.03 Legal Relationships

Delete Paragraph 8.03.D in its entirety and insert the following:

- 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 (both Design and CEI), 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 mediation 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 mediation or other dispute resolution costs) arising out of or relating to such damage, delay, disruption, or interference.

## ARTICLE 10 – ENGINEER'S STATUS DURING CONSTRUCTION

### 10.03 Project Representative

Add the following new paragraphs immediately after Paragraph 10.03.A:

- 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. 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, Subcontractors, or Suppliers.
  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.

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

### 13.03 Unit Price Work

Delete Paragraph 13.03.E in its entirety and insert the following in its place:

- E. The unit price of an item of Unit Price Work shall be subject to reevaluation and adjustment under the following conditions:
  1. if the extended price of a particular item of Unit Price Work amounts to 5 percent or more of the Contract Price (based on estimated quantities at the time of Contract formation) and the variation in the quantity of that particular item of Unit Price Work actually furnished or performed by Contractor differs by more than 25 percent from the estimated quantity of such item indicated in the Agreement; and
  2. if there is no corresponding adjustment with respect to any other item of Work; and
  3. if Contractor believes that Contractor has incurred additional expense as a result thereof, Contractor may submit a Change Proposal, or if Owner believes that the quantity variation entitles Owner to an adjustment in the unit price, Owner may make a Claim, seeking an adjustment in the Contract Price.

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

### 15.01 Progress Payments

Delete Paragraph 15.01.B.1 in its entirety and insert the following in its place:

#### B. Applications for Payment

1. Application for payment shall generally be submitted on a monthly basis (no more than once per 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, all of which must be satisfactory to Owner.

Delete Paragraph 15.01.C.1 in its entirety and insert the following in its place:

#### C. Review of Application

1. Engineer will within 5 business 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.

### 15.03 Substantial Completion

Add the following new subparagraph to Paragraph 15.03.B:

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.

### 15.08 Correction Period

Delete Paragraph 15.08.B in its entirety and insert the following in its place:

- 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 mediation 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)

## **ARTICLE 16 – SUSPENSION OF WORK AND TERMINATION**

### 16.04 Contractor May Stop Work or Terminate

Delete Paragraphs 16.04.A and 16.04.B in their entirety and insert the following in their place:

- 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 60 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 60 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.

## ARTICLE 18 – MISCELLANEOUS

### 18.07 Controlling Law

Delete paragraph 18.07.A in its entirety and replace the following in its place:

- A. This Contract shall be interpreted in accordance with the laws of the State of Florida without regard to its principles of conflicts of laws. The parties agree that venue for any legal proceedings arising out of this Contract shall be in the state courts of Okaloosa County, Florida.

Add the following two sub articles to Article 18.

### 18.09 Coordination of Contract Documents

- A. The following documents are integral parts of the Contract; a requirement occurring in one is as binding as though occurring in all. All parts of the Contract are complementary and describe and provide for a complete Work. In addition to the work and materials specified in the Standard Specifications as being included in any specific pay item, include in such pay items additional, incidental work not specifically mentioned, when so shown in the plans, or if indicated, or obvious and apparent, as being necessary for the proper completion of the Work under such pay item and not stipulated as being covered under other pay items.
- B. In cases of discrepancy, the governing order of the documents is as follows:
  - 1. Modifications issued after the execution of the Agreement
  - 2. Agreement between Owner & Contractor for Construction Contract
  - 3. Addenda issued after the Bid Specifications were advertised to potential Bidders
  - 4. Supplementary Conditions
  - 5. EJCDC General Conditions, 2013 Edition
  - 6. Technical Specifications
  - 7. Construction Drawings
  - 8. Computed dimensions govern over scaled dimensions

### 18.10 Construction Closeout Requirements to County

- A. Immediately after being notified by the Engineer that all other requirements of the Agreement have been completed Contractor shall complete the following items:
  - 1. Signed Release of Liens;
  - 2. Certificate of Insurance for two year period, letter from Contractor stating Certificate of Insurance will be maintained for two (2) years;

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3. Certifications from Surety that Payment/Performance Bond shall remain in effect one year following final payment;
  4. Consent of Surety for Final Payment;
  5. Final Invoice with Engineer's Recommendation, final payment of this Contract shall be made within sixty (60) days after completion by the Contractor of all Work covered by the Agreement and acceptance of such Work by the County;
  6. Record (As-Built) Drawing

END OF DOCUMENT 00800 – SUPPLEMENTARY CONDITIONS

DOCUMENT 00810 – SPECIAL CONDITIONS

1. CONSTRUCTION STAKES

The Engineer will furnish the Contractor sufficient points and bench marks necessary to accurately establish the lines and elevations necessary to the proper prosecution of the work contracted herein. The Contractor shall be responsible for the establishment of all blue tops, grade pins, nails, cut stakes, offset Engineer's temporary bench marks, and all other control which in the opinion of the Engineer are necessary to construct the project as shown on the plans or as directed by the Engineer. The Contractor shall furnish all labor and materials necessary to perform the above mentioned control work at no additional cost to the Owner. The Contractor shall satisfy himself as to the accuracy of all measurements before constructing any permanent structure and shall not take advantage of any errors which may have been made in planning or laying out of work. Such stakes and markings as the Engineer may set either for his own or the Contractor's guidance shall be scrupulously preserved by the Contractor. In case of negligence on the part of the Contractor or his employees, resulting in the destruction of such stakes or markings, an amount equal to the cost of replacing the same may be deducted from subsequent estimates due the Contractor, at the discretion of the Engineer.

2. CONFORMITY WITH PLANS

Elevations in all cases shall conform with line, grade, cross sections and dimensions shown on the approved Contract Drawings. Any deviations from the plans and approved drawings as may be required by the exigencies of construction, shall in all cases be approved by the Engineer and authorized in writing.

3. INSPECTION FACILITIES

The Contractor shall at all times provide access to, and all means necessary to provide for inspection of all parts of the work by the Engineer.

4. UTILITIES

The Contractor shall be responsible for any damage done by him or any of his subcontractors to all utilities within the limits of the work. It shall be his responsibility to locate and determine the depth of the existing utilities and manholes as far ahead of his operations as practicable and shall keep the Engineer informed of possible vertical and horizontal conflicts. The Engineer shall adjust the alignment and/or profile of the proposed facilities insofar as practically feasible to eliminate potential conflicts. Unavoidable conflicts will be eliminated as described below. Should any utilities or appurtenances be damaged by the Contractor's activities and operations under this contract, the Contractor shall cause the necessary repairs to be made and shall pay the entire cost thereof without compensation. Temporary repairs may be made by the Contractor to utilities damaged by his operations when such utilities are to be relocated, provided such temporary repairs are adequate to maintain the utility in service until the permanent relocation or adjustment is made.



No separate compensation shall be allowed the Contractor for any work required by this paragraph due to conflicts with lines and appurtenances or as a result of grade revisions.

- a. High Pressure Gas Lines: Where they interfere with work, high-pressure gas lines and appurtenances will be moved by the Gas District. The Contractor shall pay any charges made by the Gas District.
- b. Low Pressure Gas Lines: Where they interfere with work, low pressure gas lines and appurtenances will be moved by the Contractor at no expense to the Owner.
- c. Sanitary Sewers: Where they interfere with the work, existing sanitary sewer lines and laterals will be moved by the Contractor. The Contractor shall notify the Director of the Water and Sewer System at least twenty-four (24) hours prior to the initiation of any such relocation work.
- d. Water Lines: Where water lines interfere with the work they will be relocated by the Contractor. The Contractor shall notify the Director of the Water and Sewer System at least twenty-four (24) hours prior to the initiation of any such relocation work.
- e. Storm Drainage Pipe: The Contractor shall excavate a sufficient distance ahead of his work to allow the Engineer time and space to resolve conflicts with any storm drainage pipes which are not shown on the plans. It is the Contractor's responsibility to protect all existing storm drainage pipes which interfere with his operations. When the plans do not indicate the conflict and the Engineer finds that the conflict creates an undue hardship on the Contractor or calls for work outside the scope of the contract, the Engineer will determine the most appropriate method for resolving the conflict which is satisfactory to both the Owner and the Contractor. This additional work shall be handled by contract change order or field instructions by the Engineer or his representative depending upon the extent and cost of said additional work.

## 5. CONTRACTOR'S RESPONSIBILITY FOR WORK

Until final acceptance of the work by the Owner, the work shall be in the custody and under the charge and care of the Contractor and he shall take every necessary precaution against injury or damage to any part thereof by the action of the elements or from any other cause, whether arising from execution or from the non-execution of the work, unless otherwise provided for elsewhere in the Contract Documents. The Contractor shall rebuild, repair, restore, and make good, without extra compensation, all injuries or damages to any portion of the work occasioned by any of the above causes before its completion and acceptance, and shall bear the expenses thereof. In case of suspension of the work from any cause whatever, the Contractor shall be responsible for all materials and equipment and shall properly store them, if necessary, and shall provide suitable shelter from damage and shall erect temporary structures where necessary.

6. EXAMINATION OF PLANS, SPECIFICATIONS, SUPPLEMENTARY CONDITIONS, AND SITE WORK

Before submitting a proposal, bidders shall examine carefully the site of the proposed work, the general and local conditions, the proposal form, standard specifications, supplemental specifications, provisions, and the contract and bond forms, and it is mutually agreed that the submission of a proposal shall be prima facie evidence that the bidder has made such examination and has judged for and satisfied himself as to the surface and subsurface conditions to be encountered, as to the character, quality, and quantities of work to be performed and materials to be furnished, and as to the requirements of plans, standard specifications, supplemental specifications, special provision contract, and bonds. No adjustments or compensation will be allowed for losses caused by failure to comply with this requirement.

Bidders are advised that the Owner disclaims responsibility for any opinions, conclusions, interpretations, or deductions that may be expressed or implied in any of the information presented or made available to bidders; it being expressly understood that the making of deductions, interpretations, and conclusions from all of the accessible factual information is the bidder's sole responsibility.

7. ENVIRONMENTAL CONTROL

The Contractor shall insure that good environmental protection practices and methods are instituted to protect surface waters from excessive silt, sediments and nutrients caused by his construction operations.

Storm drainage facilities and temporary dikes, checks, channelization, grassing and any other prudent control shall be installed in the initial stages and as necessary in order to fulfill the requirements set forth in the above regulations. The Contractor shall be responsible for all environmental damages caused by his operations.

Cost for complying with these regulations shall be considered incidental to the work on the bid schedule and no separate payment will be made.

8. PROSECUTION OF WORK

- a. All the work shall be prosecuted in a manner which according to local conditions shall be best calculated to promote rapidity in construction, to secure safety to life and property and also to reduce to a minimum any interference with abutting property or public travel.
- b. The Contractor shall conduct his operations diligently in all parts of the work, coordinating his part so that the completion of the work shall not be unnecessarily delayed.

10. USE OF ADJOINING PROPERTY

Whenever it is necessary for the Contractor to occupy or otherwise use land adjacent to the work

which is not the property of the Owner or for use of which no permit has been granted, the Contractor must make his own arrangements with the Owner of such property.

#### 11. OBSERVANCE OF LAWS AND REGULATIONS

The Contractor shall keep himself informed of all laws, ordinances, and regulations in any manner affecting those employed on the work, or the materials used in the work, or in any way affecting the conduct of the work, and of all orders and decrees of bodies or tribunals having any jurisdiction or authority over the same. He shall at all times himself observe and comply with, and shall require all his agents, employees and subcontractors to observe and comply with all such applicable laws, ordinances, regulations, orders and decrees in effect or which may become effective before completion of this contract; and shall protect and indemnify the Owner against any claim of liability arising from or based upon the violation of any such law, ordinance, regulation, order, or decree, whether by himself, his employees or his subcontractors. When local or state laws or ordinances conflict with federal laws or regulations, federal laws or regulations shall take precedence.

#### 12. EQUIPMENT AND MATERIALS REMOVED

All equipment and materials removed and/or replaced in the contract which the Owner wants shall become the property of the Owner and shall be placed at a location on the site designated by the Owner. All other equipment and materials which the Owner does not want shall be disposed off site at the expense of the Contractor. The Owner shall be final judge of what is salvageable.

#### 13. REMOVAL OF DEBRIS

The Contractor shall frequently clean up all refuse, rubbish, scrap materials and debris caused by his operations, so that at all times the site of the work shall present a neat, orderly and workmanlike appearance.

#### 14. RESTORATION OF THE GROUNDS

As the work progresses and whenever so directed by the Engineer, the Contractor is to remove all surplus material and completely restore to good condition, all surface, disturbed, destroyed or removed by the Contractor, or his agent, or on account of construction. When the Contractor fails to promptly restore the streets or other property, the Engineer, after having given three (3) days notice to the Contractor shall have the work shut down until the streets and other property have been restored. Loss of time due to such shut-down will not entitle the Contractor to any extension of time or extra compensation.

Before final inspection is made, all surfaces disturbed on account of this construction shall be leveled up and all surplus material and rubbish incident to the construction must be removed and disposed of and streets, gutters, ditches, sidewalks, crossings, railroads, grass plots and other property affected by the Construction shall be left in good and acceptable condition.

15. CHEMICALS

Any chemicals used during project construction or furnished for project operation, whether herbicide, pesticide, disinfectant, polymer, reactant or other classification, must show approval of either EPA or USDA. Use of such chemicals and disposal of residues shall be in strict conformance with manufacturer's instructions.

16. LOCAL PERMITS

The Contractor will obtain all local permits including building permits from the political jurisdiction in which work is being accomplished at his own expense. It shall be each Bidder's responsibility to determine the necessity and costs of such permits prior to bid.

17. DEPOSITS AND WATER USAGE ON A HYDRANT METER

1. For any construction water utilized via a hydrant meter, the contractor shall setup an account with OCWS' Customer Service office and provide contract information.
2. The account shall be setup in the contractor's name with a deposit and service fee paid by the contractor. The deposit will be refunded when the account terminates if the meter has not been damaged or lost.
3. OCWS will be responsible for setting the hydrant meter, along with the monthly reading. If the hydrant meter needs to be relocated, contractor to coordinate this with OCWS Maintenance.
4. Water usage will not be charged to the contractor, provided that the above conditions are met.

END OF DOCUMENT 00810 – SPECIAL CONDITIONS

# TECHNICAL SPECIFICATIONS

ITB #: ~~WS XX-XX~~

**BID ITEM: MAINTENANCE & EMERGENCY REPAIR OF OKALOOSA COUNTY WATER SUPPLY WELLS, WATER BOOSTER PUMP STATIONS, WASTEWATER EFFLUENT PUMP STATIONS & STORMWATER PUMP STATIONS.**

## I. GENERAL:

- A. It is the intent of the Okaloosa County Water & Sewer System (OCWS) to enter into contracts for the testing, repair and maintenance of the **OCWS Water Supply Wells, Water Booster Pump Stations, Wastewater Effluent Pump Stations & Stormwater Pump Stations** with at least two contractors.
- B. The Contractor, by submitting a proposal for this project, agrees to work overtime, weekends, holidays, etc., as required to return the above-mentioned infrastructure back to service.
- C. The location and number of the water supply wells is described on the attached well data sheets. The Contractor shall visit each site and be familiar with any site conditions that may influence specific job functions. The Contractor shall be responsible for restoring any fencing, paving, grassing, etc., that was removed or damaged by his operations.
- D. The Contractor shall obtain all State, County and City permits as required to complete the repairs to County infrastructure. The Contractor shall furnish the Owner with a copy of all permits prior to beginning work on a maintenance or repair project (if required).
- E. All components, materials, and coatings coming into contact with potable water shall conform to Standard NSF 61, Safe for Drinking Water, or alternative standards as defined in FAC 62-555.320 (3)(b)(1)(a-d). Documentation of conformance to the relevant Standard shall be provided by the Contractor to the Owner at no additional cost.
- F. The Contractor shall guarantee the water supply well to produce water at the rated capacity if pulled and repaired unless the Owner directs the Contractor to omit repairs that would restore the pumping capacity.
- G. This contract may be used by other County departments.
- H. Bidder must be a licensed and insured well drilling contractor in the state of Florida.
- I. A minimum of 75% of the work and each job must be completed by in-house personnel and not subcontracted out.
- J. Bidder must have 10+ years of experience in construction, repair, and maintenance in the field of public water supply wells/pumps with casing 12" to 24" and including effluent pumps and booster station pumps and stormwater pumps. There are a few vertical turbine pumps at the County's wastewater plants and one stormwater pump station with similar pumps that may fall under this contract. Anticipate less than 10% of Work under this contract will be on anything other than supply well and booster pumps.

- K. The County reserves the right to assign work under this contract to any Contractor eligible to perform work under said Contract with no guarantee of the amount of work assigned to any particular Contractor. Designation of work allocations shall be at the sole discretion of County staff.
- L. Work shall be allocated on a case-by-case basis as needed by the Owner and work shall be authorized by individual Notices to Proceed from the Department requesting said Work. Assignment of Work will depend on availability of each contractor at the time work is required, past performance on NTPs within this Contract as the Contract Period progresses and on price if there is a significant difference between Contractors on specific items relative to a particular NTP.

## **II. SCOPE OF WORK:**

- A. Pre-Performance Testing: The Contractor shall perform and complete specified tests on each of the County's potable water supply wells as requested by the County. Testing shall consist of standard tests on each well to determine the current operating condition of each well. The Contractor shall provide all necessary labor, equipment and materials required to perform the specified tests. The Contractor shall assume all wells are operational and can be retrofitted to perform the following tests:
  - 1. Vibration Tests: The Contractor shall complete vibration testing on each pump motor. The vibration tests shall be completed with the well operating at the rated capacity, at 50% of the rated capacity and at 75% of the rated capacity. The test results shall be recorded and a copy of the record included in the report. The resulting amplitude shall be noted and compared to manufacturer's tolerances for vibration amplitude. Results of the vibratory testing shall also include conclusions and recommendations regarding the motor tested.
  - 2. Flow Meter Tests: The Contractor shall record the pumping rate of the existing flow meter at the normal operating pressure and also at plus 5 psi and at minus 5 psi of the normal operating pressure. The contractor shall then simulate the same operating conditions by pumping the well thru the pump to waste line. The pumping rate shall be controlled by the gate valve and the flows recorded for the corresponding pressures as recorded with the existing flow meter. The Contractor shall furnish an orifice plate, piezometer tube, scale, pressure gauge, etc., as required to complete the flow meter tests. The Contractor shall then compare the simulated flow rates with the flow rates recorded from the existing flow meter. If the simulated flows are not within  $\pm 1.5\%$  of the recorded flows, the Contractor is to evaluate the data, etc., and recommend to the Owner what is required to provide an accurate flow metering device.
  - 3. Pumping Tests: The Contractor shall measure and record the following information by completing, at a minimum, a 4-hour pump test on the well.
    - a. Static Water Level - To be measured with the well being off for 12 hours.
    - b. Shutoff Head - Operate the well at zero discharge.
    - c. Operate well at constant rated capacity of well and pump to discharge.
    - d. Record drawdown readings at 10 minutes, 30 minutes, 1 hour, 2 hours, 3 hours and 4 hours. Recovery measurements shall also be recorded for 3 hours.
    - e. Record amperage and voltage readings on each phase of the motor leads during each segment of the test.
    - f. Record all nameplate data off the motor.

The Contractor shall be responsible for the handling and off-site disposal of the pump-to-waste water. Several wells have overflow ponds on site for this purpose. If not, it will generally be acceptable to use lay flat hose to local storm drains and/or ditches. OCWS staff will work with the Contractor to determine proper disposal plan for each site as they have experience with all of them.

The Contractor shall also furnish a bound report upon the completion of testing of any of the County water supply wells, at the time a well test is performed under this Contract. Field reports shall be typed and signed by the technician completing the tests. Each well shall be tabbed and separated in the bound report.

The County may request any of the above tests individually on any well within the scope of this contract. Individual tests shall be paid for at the lump sum rate outlined in the bid schedule for each test performed, not as a portion of the rate established for pre or post performance testing. Annual testing of all potable supply wells is not expected at this time.

- B. Well Pump Inspection: As required by the County, the Contractor shall pull the selected well pump for inspection. The work includes furnishing all labor and equipment for pulling the pump, disassembly as required for detailed inspection, cleaning pump, bailing excess oil from well, written report of findings, reassembly, resetting the pump and restoring the well to operation, including necessary initial disinfection as described in Section D below. Inspection of the well pump assembly, disassembly, reassembly and restoring the well back into operation shall be completed within three (3) weeks following receipt of the purchase order provided no repairs are made to the pump, column and assembly. Payment for well pump inspection shall be based upon the HP of each well motor as outlined in the bid schedule and shall be lump sum, complete and in place.
- C. Repairs and Maintenance: When the pump has been pulled, disassembled and inspected, the Contractor shall make a determination of the requirement or recommendation for replacement parts to restore the well to its original capacity and insure operational longevity.

When the total cost of materials, including replacement parts, is less than or equal to \$5,000.00, the Contractor shall proceed with the maintenance service as required. If the cost of materials, including replacement parts, exceeds \$5,000.00, the Contractor will immediately advise the County and, within three (3) calendar days from the date the pump is pulled, submit a written cost estimate to the County of all material costs, indicating those parts for which replacement is considered essential, and those additional parts which the Contractor recommends be replaced to insure operational longevity. Within two (2) working days from the receipt of the contractor's estimate of the cost of material, the County will advise the Contractor of the decision to proceed and the scope of replacement parts to be included in the pump maintenance. Such notice may initially be made by telephone, to be immediately confirmed by the County in writing. In connection therewith, the Contractor shall make the disassembled pump available for County inspection at the Contractor's facility. The County reserves the right to require the Contractor to furnish a replacement pump for installation or consider a replacement pump the Contractor has in inventory if replacement parts have an extended shipment date.

- D. Disinfection of the Well:

Initial Disinfection - In accordance with FDEP standards, the well is to be cleaned and flushed of all debris and oil prior to pump re-installation. In addition, the pump, column pipe, oil/water tubing, airline, etc., shall be steam cleaned prior to assembly and re-installation in the well. After resetting pump, column, etc., the entire well shall be chlorinated with a solution of Wel-Chlor (Cotey Chemicals) of such volume and strength that a concentration of 50 ppm free chlorine residual is

obtained throughout the entire well and the solution shall remain in the well for a period of 24 hours. The Contractor shall then pump the well to waste until no chlorine concentration exists in the pumped water. At that time, the Contractor shall notify the Owner so that the OCWS can begin sampling the well in accordance with FDEP requirements. This will conclude the Contractor's obligation regarding the pay item of well disinfection

Repeat Disinfection - If during the sampling period the bacteriological tests fail in accordance with FDEP guidelines, the Contractor shall return to the site for re-chlorination of the well. The re-chlorination procedure shall consist of a chlorine solution of Wel-Chlor that will produce a concentration of 100 ppm free chlorine residual throughout the entire well. The solution shall remain in the well for 24 hours and the Contractor shall surge the well every four (4) hours to make sure all components of the well pump, etc., have been properly chlorinated. The Contractor shall then pump the well to waste until no chlorine concentration exists in the pumped water. At that time, the Contractor shall again notify the Owner so that the OCWS can begin sampling the well in accordance with FDEP requirements. This will conclude the Contractor's obligation regarding the pay item of repeat well disinfection.

Additional Disinfection - Any additional disinfection or restoration procedures will be paid for at the hourly rate quoted in the Bid Proposal for labor for appropriate crew plus materials. Note: Wel-Chlor (Cotey Chemicals) or pre-approved equal shall be used for all disinfection procedures.

De-chlorination – If de-chlorination of the water from a disinfected well is required (nearly receiving surface water, etc.), the activity shall be included in the Scope of Work for the proposed Notice to Proceed. Chemicals used shall be either powder or liquid. Gas products shall not be allowed. All costs to de-chlorinate a disinfected well shall be included in the separate de-chlorination pay item.

- E. Post-Performance Testing: After being restored to operation and cleared for use by FDEP, the well shall be tested in accordance with the requirements of Section II, Paragraph A, Pre-Performance Testing. If tests indicate the well has not been restored to its normal rated capacity, the Contractor shall advise the County in writing. The County will evaluate the report and determine if the contract has been adhered to and report same to the Contractor. If the repair work was considered to be the problem, or if excessive vibration exists, the Contractor will be required to complete corrective work at no additional cost to the Owner. Upon completion of the corrective work and satisfactory post-performance testing, the Contractor shall submit a copy of the final testing report to the Owner.
- F. Initial Casing Inspection by Video: When ordered by the County, the Contractor shall provide all labor, materials and equipment to only video the well casing and borehole and/or screens, prior to any cleaning operations. This procedure shall be preceded by the installation of a pump into the well so that the video is recorded with the well being pumped. The video equipment shall include a mirror and lighting head allowing 360 degrees sideways viewing. Tilt control, zoom lenses and tilt angle is also preferred so that the well casing can be closely inspected for failures at weld seams or punctures in the casing. A copy of the completed video shall be provided to the Owner.
- G. Casing Inspection and Cleaning: When ordered by the County, the Contractor shall provide all labor, materials and equipment to properly clean and video the well casing and borehole and/or screens. Prior to the well video, the Contractor shall clean the well casing with tools, chemical agents and/or air scouring to remove encrustation from the well casing. After removing encrustation from the casing, the well shall be pumped clear of all loose debris. This procedure shall be followed by the installation of a pump into the well so that the video is recorded with the well being pumped. The video equipment shall include a mirror and lighting head allowing 360 degrees sideways viewing. Tilt control, zoom lenses and tilt angle is also preferred so that the well



casing can be closely inspected for failures at weld seams or punctures in the casing. A copy of the completed video shall be provided to the Owner.

- H. Disposal of Oil in Well Column: When ordered by the County, the Contractor shall remove and dispose of oil from well column. Labor and equipment for access to the column and removal of the oil shall be covered in hourly items as outlined in the Bid Schedule. Owner will not be responsible for supplying containers for transport and disposal of waste oil. Payment for this item shall only be for the disposal of waste oil by the Contractor. Appropriate containers for transport of the oil shall be supplied by the Contractor at no additional cost to the Owner.
- I. Well Abandonment: When ordered by the County, the Contractor shall abandon any type of well covered under this Contract. Permitting for the abandonment shall be obtained by the County and work to perform abandonment shall be provided by the Contractor. Labor and equipment shall be covered by the appropriate hourly items as outlined in the Bid Schedule. Separate payment shall be made for grout and/or backfill material as needed to complete the abandonment as outlined in the Bid Schedule.
- J. Replacement Parts: When replacement parts are required to complete any task covered under this Contract, a set mark-up % (as defined in the Bid Schedule) shall be established by the County. The base price for part(s) prior to mark-up shall include all charges for taxes and freight/shipping and copy of invoices shall be provided prior to authorization of payment for any replacement part.

### **III. NEW REPLACEMENT MATERIALS:**

The following specifications are generally for replacement materials as used in well maintenance in OCWS currently. OCWS is aware that technology and materials are constantly evolving and is open to recommendations of updated materials as repairs are planned under this Contract and will be flexible in approving different materials not specifically specified here during NTP preparations under this contract.

- A. Pump Head: The pump head shall be of extra heavy duty construction throughout and of sufficient size to properly support the column, bowl and driver. It shall be of cast iron construction, fitted with a flanged outlet connection and equipped with an extra heavy separate, machined, cast iron baseplate. The head shall also be equipped with heavy combination stuffing box and pre-lube water tubing tension casting which shall make up with a resulting butt joint to the shaft protective tubing to insure proper tension on the line shaft tubing at all times. The entire stuffing box assembly shall be locked so that the tension cannot be reduced by any vibration.
- B. Discharge Column: The discharge column shall be of the diameter as indicated on the Well Data Sheets and in standard 10 foot lengths with either screw coupled or flanged connections. The screw coupling shall be a heavy cast iron combination coupling and spider and shall be integrally cast in one piece. The flanged connection shall be a heavy cast iron flange, threaded, bored and faced for accurate alignment and centering of the heavy cast bronze alignment and centering of the heavy cast bronze alignment spider. The line shaft shall be made from high carbon steel, turned, ground and polished. The line shaft shall match the existing line shaft as shown on the Well Data Sheets and shall be run in bronze bearings spaced not over five (5) feet apart. The shaft protective tubing shall be constructed of heavy tubing and the ends shall be machined to insure a water tight joint when bathed together. The discharge column shaft shall be water lubricated and sufficient column shall be furnished to provide a minimum submergence of 30 feet below the pumping level. Contractor shall note that several wells in the system are already converted to water lubrication.

The column pipe and shaft tubing shall be coated with an epoxy coating, inside and outside, to protect the pipe from excessive corrosion. The pipe shall be cleaned properly by sandblasting to near white metal prior to applying the protective coating. The epoxy coating shall be applied at a thickness of 10 mils (dry) and be equal to Resi-Weld 72-20 epoxy coating. The Contractor shall submit data on the type of coating and dry film thickness prior to installation of column pipe and shaft tubing.

- C. Pump Bowl: The pump bowl outer shell shall be made of cast iron. The impeller, wear rings and bushings shall be made of low-zinc bronze and the pump bowl shall be designed to operate in accordance with the pumping conditions as specified. The impeller shaft shall be stainless steel and of sufficient size to carry the full load of the impellers. Each stage shall be fitted with a removable wear ring and the impellers shall be of the fully enclosed type, non-overloading, and so designed that the motor will not be overloaded, nor the pump break suction in the event the above ground head is removed.
- D. Flow Meter: The flow meter shall be a flanged tube-propeller type indicator and totalizing meter as manufactured by McCrometer or other pre-approved manufacturer by the County. The meter shall be actuated by a propeller mechanism utilizing a magnetic coupling between the propeller and drive shaft. The body shall contain straightening vanes to promote streamline flow. Accuracy is to be within 1 1/2% of the true flow at the specified operating rate. The flow rate shall be indicated on a 3" dial registering in gallons per minute and the total flow shown on a 6-digit totalizer in multiple units of gallons. A 4-20MA signal output is required for the SCADA system monitors.
- E. Air Tubing: New air tubing shall be installed from the well-head down into the well to a point 20 feet below the pump bowl. The air tubing shall be 3/8" poly tubing and secured to the pump column for stability.
- F. Stilling Well: A SCHED 80 perforated 1" PVC pipe shall be installed from the well-head down into the well to a point 20 feet below the pump bowl and secured to pump column for stability. Entry point from the well-head will be configured in such a way as to allow removal/replacement of submersible transducer.

#### **IV. PROCEDURES:**

- A. Authorization: Services to be furnished under contract shall be ordered by the authorized County Official. The authorized County Official is to be the Director of Water and Sewer or his/her designee. The Contractor is required to respond to all emergency work ordered, within 48 hours of being notified (phone or written). The Contractor cannot pull off-site until the well repair is completed and the water supply well is back on line or until all efforts to restore the well has been exhausted and a mutual decision is made by the County and Contractor to cease work. The Contractor cannot charge time for equipment that is idle on the site. Charges for equipment must be accompanied by a crew.
- B. Reporting: The report of tests on each well shall include all items specified. The report shall be structured in four divisions:
  - 1. Date and time of testing, personnel involved, and conditions encountered
  - 2. Test results for each item
  - 3. Contractor's recommendations for further inspection, maintenance and repair, and/or chemical restoration necessary to restore the well to original operating capacity.

4. Copy of the completed video (if required/completed during the Work)

Reports for each well shall be submitted within 15 working days from the completion of testing for that well. An interim report of the results of static level and draw-down tests only shall be submitted to the County within five (5) working days from the completion of each test.

- C. Equipment and Pump Pulling: Equipment used for pulling the well pumps shall be specifically designed for this work. Adequate precautions shall be taken to prevent damage to the pump, column, shaft, oil tubing (if present), airline, suction pipe, etc., during removal, disassembly and resetting. The Contractor shall provide wood blocks to store all removed equipment to limit exposure to soil contamination. Damage to County property that is the fault of the Contractor shall be repaired or replaced, if necessary, at no cost to the County.
- D. Motor Repairs Outside this Contract: If motor repairs are performed on a well that is under warranty from a Contractor under this Contract, the Contractor holding the well warranty will be contacted to set the pump during repaired motor installation. If the well Contractor is not contacted to set the warranted pump, the County understands that the remainder of the warranty on said well pump will be voided.
- E. Materials Compatibility: All new parts shall be in accordance with Specifications unless compatibility requires parts replacement to match original parts.

Modifications to existing equipment to make new parts fit existing pump assemblies will not be permitted unless approved by the County.

- F. Down-Time: Down-time for wells shall be limited to a maximum of three (3) weeks except by prior approval of the County where procurement time for approved renewal parts which are not stock items require time extension or where circumstances beyond the control of the Contractor requires a time extension. Down-time exceeding three (3) weeks, approved by the County for reasons beyond the Contractor's control, may require reassembly and resetting the pump and restoring the well to operation until such time that all replacement parts are on-hand or the County may consider a substitute well pump for temporary use. When all replacement parts are on-hand, the pump shall be re-pulled and maintenance completed as specified with approval of the County.

However, where down-time exceeding three (3) weeks results from the Contractor's failure to diligently complete the work, as determined by the County, such delay shall, upon order of the County, require reassembly and resetting the pump and restoring the well to operation at no additional cost to the County. When the Contractor has removed the cause of delay, the pump shall be re-pulled and maintenance completed as specified at no additional cost to the County. To facilitate timely service, the Contractor shall have ample standard replacement parts on hand or immediately available.

## COOPERATIVE PRICING

By submitting this bid, the vendor acknowledges that their pricing shall be honored for all governmental entities within Okaloosa County, Florida. Each entity will be allowed to independently place orders, accept delivery and arrange payment under their agency guidelines. The successful vendor understands that failure to offer pricing to all Okaloosa County governmental agencies could result in cancellation of this contract.

### Coordinators for agency orders shall be:

Okaloosa County BCC

DeRita Mason, Purchasing Manager  
850-689-5960; [dmason@myokaloosa.com](mailto:dmason@myokaloosa.com)

City of Ft. Walton Beach

Giuliana Scott, Purchasing Agent  
850-833-9523; [gscott@fwb.org](mailto:gscott@fwb.org)

City of Mary Esther

Heather Day, Finance Director  
850-243-3566, ext. 18;  
[findir@cityofmaryesther.com](mailto:findir@cityofmaryesther.com)

City of Destin

Krystal Strickland, CPA, CGFO, MBA, MAFM,  
Finance Director  
850-837-4242 x3146  
[kstrickland@cityofdestin.com](mailto:kstrickland@cityofdestin.com)

City of Niceville

Chad D. Morris, Purchasing/GIS Director  
850-974-3833; [cmorris@niceville.org](mailto:cmorris@niceville.org)

City of Valparaiso

Tammy Johnson, City Clerk  
850-729-5402; [cityclerk@valp.org](mailto:cityclerk@valp.org)

City of Crestview

Maryann Schrader, City Clerk  
850-682-1560; [cityclerk@cityofcrestview.org](mailto:cityclerk@cityofcrestview.org)

**OKALOOSA COUNTY WATER SUPPLY WELLS  
DATA SHEET  
GARNIERS AREA**

WELL #	LOCATION	TOTAL DEPTH	CASING SIZE & DEPTH	COLUMN SIZE & LENGTH	PUMP SHAFT DIAMETER	OIL TUBING DIAMETER	PUMP TYPE, SIZE & STAGES	PUMPING RATE (GPM)	MOTOR HP	AIR TUBING SIZE & LENGTH	SUCTION PIPE SIZE & LENGTH
1	Office	603'	16"/495'	8" - 150'	1 1/2"	2 1/2"	Layne 12" RKLC/5	400-500	75	3/8"/180'	8" - 30'
2	Longwood	680'	16"/433'	8" - 150'	1 1/2"	2 1/2"	Layne 12" RKLC/5	800	75	3/8"/169'	8" - 20'
3	New Castle	652'	12"/500'	6" - 100'	1 3/16"	2"	Layne 10" RKLC/3	450	60	3/8"/185'	6" - 30'
4	Green Street	700'	24"/500'	10" - 130'	1 11/16"	Water lube	Layne 12" RKAH/4	1,000	100	3/8"/150'	8" - 30'
5	Shalimar (7th Street)	734'	12"/546'	8" - 110'	1 1/2"	Water lube	Layne 10" /5	720	60	3/8"/180'	6" - 30'
6	Hawkins	762'	24"/515'	10" - 160'	1 11/16"	2 1/2"	Layne 12" RKBL/5	1,000	100	3/8"/230'	8" - 30'
7	Annex	770'	24"/560'	10" - 170'	1 11/16"	2 1/2"	Layne 12" RKBH2/4	870	100	3/8"/190'	8" - 425'
8	Green Acres Drive	816'	24"/610'	10" - 160'	1 11/16"	Water lube	Layne 12" RKLB/4	1,050	100	3/8"/185'	8" - 31'
9	Northgate	700'	16"/518'	8" - 180'	1 3/16"	Water lube	Layne 10" California/5	1,150	100	1/4"/200'	8" - 30'
10	Lowery Street	834'	24"/568'	10" - 190'	1 11/16"	2 1/2"	Layne 12" RKBM/5	1,000	100	3/8"/225'	10" - 30'
11	Forrest	745'	24"/495'	10" - 200'	1 11/16"	2 1/2"	Layne 12" RKBL/6	750	100	3/8"/206'	8" - 30'

**NOTE: Information on Well Data Sheets is from best available sources. The Contractor shall not be due additional compensation if actual well construction is different from data contained on Data Sheets. To the best of the County's knowledge, all wells are screened.**

**OKALOOSA COUNTY WATER SUPPLY WELLS  
DATA SHEET  
MID-COUNTY AREA**

WELL #	LOCATION	TOTAL DEPTH	CASING SIZE & DEPTH	COLUMN SIZE & LENGTH	PUMP SHAFT DIAMETER	OIL TUBING DIAMETER	PUMP TYPE, SIZE AND STAGES	PUMPING RATE (GPM)	MOTOR HP	AIR TUBING SIZE & LENGTH	SUCTION PIPE SIZE & LENGTH
MC-1	Antioch	740'	18"/401'	8" - 140'	1 1/2"	Water Lube	Peerless 12" RK/4	600	60	1/4"/320'	6" - 30'
MC-2	Live Oak	669'	18"/535'	8"	1 1/2"	2 1/2"	Peerless 12" LD/6	750	75	1/4"/240'	
MC-3	Industrial Park	603'	16"/392'	8" - 180'	1 11/16"	2 1/2"	Peerless 12" LD/6	750	125	3/8"/190'	8" - 30'
MC-5	Kennedy Lakes	710'	24"/420'	10" - 210'	1 11/16"	2 1/2"	Layne 12" RKDL	750	150	3/8"/236'	8" - 30'
MC-6	Okaloosa Lane	800'	30"/600'	10" - 220'	1 11/16"	2 1/2"	Layne 11" CHC/5	750	125	3/8"/220'	8" - 30'
MC-7	Del Cerro	715'	24"/515'	8" - 340'	1 1/2"	Water lube	Vertical Turbine - Christensen 12" CHC/5	900	150	3/8"/320'	8" - 30'

**DATA SHEET  
EAST COUNTY AREA**

WELL #	LOCATION	TOTAL DEPTH	CASING SIZE & DEPTH	COLUMN SIZE & LENGTH	PUMP SHAFT DIAMETER	OIL TUBING DIAMETER	PUMP TYPE, SIZE AND STAGES	PUMPING RATE (GPM)	MOTOR HP	AIR TUBING SIZE & LENGTH	SUCTION PIPE SIZE & LENGTH
BW-2	Raintree	489'	18"/310'	6" - 120'		Water lube	Jacuzzi 10" MCorMX	400	50	1/4"/140'	6" - 20'
BW-33	BWB #3 Highway 20	550'	24"/350'	10" - 110'	1 11/16"	2 1/2"	Layne 12" RKBM/4	800	100	1/4"/175'	8" - 30'
BW-4	BWB #4 Southwind Drive	615'	24"/415'	10" - 120'	1 11/16"	3"	Peerless 12" CD/4	800	100	1/4"/145'	10" - 30'

**NOTE: Information on Well Data Sheets is from best available sources. The Contractor shall not be due additional compensation if actual well construction is different from data contained on Data Sheets. To the best of the County's knowledge, all wells are screened.**

**OKALOOSA COUNTY WATER SUPPLY WELLS  
DATA SHEET  
WEST COUNTY AREA**

WELL #	LOCATION	TOTAL DEPTH	CASING SIZE & DEPTH	COLUMN SIZE & LENGTH	PUMP SHAFT DIAMETER	OIL TUBING DIAMETER	PUMP TYPE, SIZE AND STAGES	PUMPING RATE (GPM)	MOTOR HP	AIR TUBING SIZE & LENGTH	SUCTION PIPE SIZE & LENGTH
CW-4	Seashore #4 County West	900'	24"/	10" - 250'	1 15/16"	2 1/2"	Layne 12" RKBL/6	750	100	Stilling tube 278'	8" - 30'

**NOTE: Information on Well Data Sheets is from best available sources. The Contractor shall not be due additional compensation if actual well construction is different from data contained on Data Sheets. To the best of the County's knowledge, all wells are screened.**


Below is a kmz file that includes the locations of all OCWS wells and tanks, which should be viewable in Google Earth. In addition, maps of the Garniers and Bluewater Service Areas, including locations of potable wells is attached following.




OCWS Wells.kmz


Scale: 1" = 3000'



 **GARNIERS SERVICE AREA**  
Okaloosa County Water & Sewer System

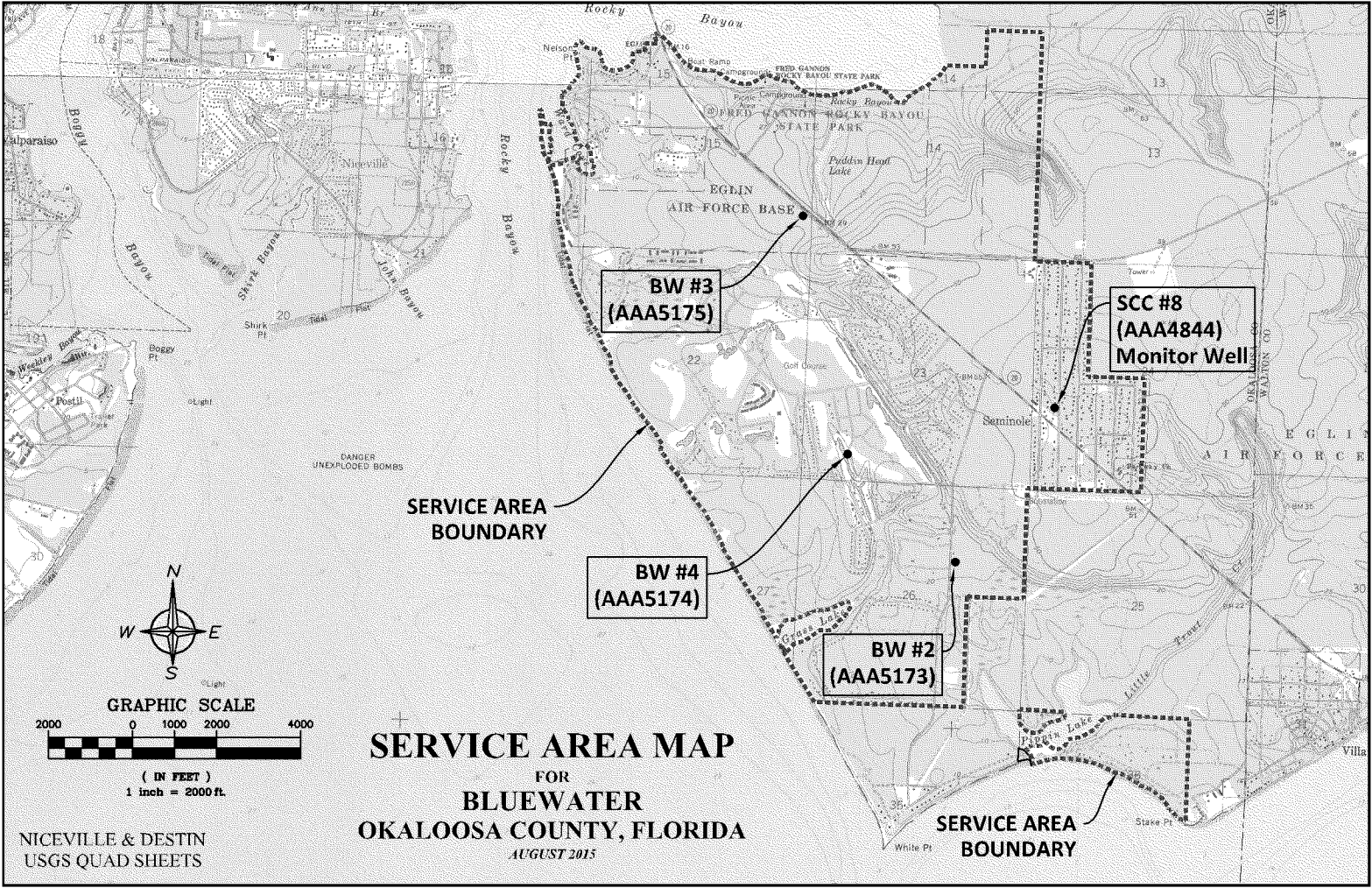
 **GROUND WATER WELL**

*USGS 7-1/2 Minute Topographic Maps  
Fort Walton Beach Quadrangle  
Mary Esther Quadrangle*

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60 SECOND STREET, SUITE 701  
SHALMAR, FLORIDA 32570  
850-606-1100  
WWW.POLYENGINEERING.COM





**BW #3  
(AAA5175)**

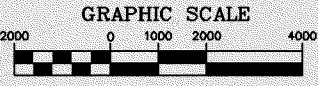
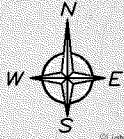
**SCC #8  
(AAA4844)  
Monitor Well**

**BW #4  
(AAA5174)**

**BW #2  
(AAA5173)**

**SERVICE AREA  
BOUNDARY**

**SERVICE AREA  
BOUNDARY**



( IN FEET )  
1 inch = 2000 ft.

**SERVICE AREA MAP**  
FOR  
**BLUEWATER**  
**OKALOOSA COUNTY, FLORIDA**  
AUGUST 2015

NICEVILLE & DESTIN  
USGS QUAD SHEETS