

**SECTION 001113
ADVERTISEMENT FOR BIDS**

The **Howard-Cooper County Regional Port Authority** will receive Bids for **Grain Updates Project 2** until Friday, May 8, 2026 at 11:00 a.m. local prevailing time, at **the Port Office, 609 Main Street, Boonville, MO 65233** at which time and place all bids will be publicly opened and read aloud.

Bids are advertised as follows: Project will consist of removing and replacing reclaim augers and conveyors for bins #1-#3 as well as the receiving pit conveyor. The receiving pit conveyor will be updated to a capacity of 15,000 BPH. The reclaim conveyors will be updated to a capacity of 10,000 BPH. The current bucket elevator cannot support any capacity greater than 6,500 BPH. The HCPA will be updating the bucket elevator at later date. The upgraded equipment will need to have the capacity reduced using different pulley combinations to slow the equipment to a capacity of 6,500. If this cannot be accomplished using a simple pulley change it must be noted in the bidder's final bid. The full capacity and 6,500 capacity pulley combinations for each piece of equipment must be included. Project includes removal of existing equipment. Project also includes alternate bids for distributor and electrical upgrades.

A pre-bid conference is not scheduled for this project.

Contract documents including plans and specifications may be obtained electronically at no charge at www.klingnerplanroom.com. **Bidders may call the office of Klingner & Associates, P.C. at (217) 223-3670 for instructions.** Printing and shipping costs for hard copies are the responsibility of the Contractor. You must register with City Blue as a prime bidder or sub bidder to receive addendums and notices relative to the bid.

A certified check or bank draft, payable to the order of **Howard-Cooper County Regional Port Authority**, negotiable U.S. Government bonds (at par value) or a satisfactory Bid Bond executed by the Bidder and an acceptable surety in an amount equal to five percent (5%) of the total Bid shall be submitted with each Bid.

Attention is called to the fact that no less than the minimum salaries and wages as set forth in the Contract Documents must be paid on this project, and that the Contractor must ensure that employees and applicants for employment are not discriminated against because of their race, color, religion, sex or national origin.

The **Howard-Cooper County Regional Port Authority** reserves the right to reject any or all Bids or to waive any informality in the bidding.

Bids may be held by the **Howard-Cooper County Regional Port Authority** for a period not to exceed 45 days from the date of the opening of Bids for the purpose of reviewing the Bids.

April 2026

By: Kendall Kircher

Title: Board President

END OF SECTION 001113

PROJECT MANUAL

Grain Updates Project 2 Howard-Cooper County Regional Port Authority, Boonville, Missouri

A/E Project No. 20-0330

Design Firm No. E-000866

Klingner & Associates, P.C.
616 N. 24th St.
Quincy, IL 62301
(217) 223-3670

Date of Issue:

April 2026

KLINGNER
& ASSOCIATES, P. C.
Engineers • Architects • Surveyors

Gavin Risley, P.E.
Professional Engineer
Licenses expires: 12/31/27

SECTION 000103
PROJECT DIRECTORY

OWNER:

Howard-Cooper County Regional Port Authority
609 Main Street, Boonville, MO 65233
Kendall Kircher – President
John Sponaugle, Secretary
660/882-5858

ENGINEER:

KLINGNER & ASSOCIATES, P.C.
616 North 24th Street
QUINCY, IL 62301
Gavin Risley, Project Manager
217/223-3670

END OF SECTION 000103

SECTION 000107
SEALS PAGE

A. Civil Engineer:

1. Gavin H. Risley
2. PE-2013025031
3. Responsible for Section 00 & 01



END OF SECTION 000107

SECTION 000110
TABLE OF CONTENTS

DIVISION 00 – PROCUREMENT AND CONTRACTING REQUIREMENTS

000101	Project Title Page
000103	Project Directory
000107	Seals Page
000110	Table of Contents
001113	Advertisement for Bids
002113	Instructions to Bidders
004200	Bid Proposal
004313	Bid Security Form
004519	Non-Collusion Affidavit
004521	Work Authorization Affidavit
005100	Notice of Award
005200	Agreement Forms
005500	Notice to Proceed
006113	Performance and Payment Bond Form
007200	Standard General Conditions
007300	Supplementary Conditions
007343	Wage Rate Requirements

DIVISION 01 – GENERAL REQUIREMENTS

011000	Summary of Work
013219	Submittals Schedule
014000	Quality Requirements
014529	Testing Laboratory Services
015000	Temporary Facilities and Controls
017700	Closeout Procedures
017839	Project Record Documents

APPENDIX A – Job Special Provisions

APPENDIX B – Grain Updates Plans & Technical Specifications (per Grain Facility Operator)

END OF SECTION 000110

SECTION 002113 INSTRUCTIONS TO BIDDERS

1.0 DEFINED TERMS

1.01 Terms used in these Instructions to Bidders will have the meanings indicated in the EJCDC General Conditions (C-700 2013 Edition) 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:

- A. **Bidder**--The individual or entity who submits a Bid directly to OWNER.
- B. **Issuing Office**--The office from which the Bidding Documents are to be issued and where the bidding procedures are to be administered.
- C. **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.

2.0 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 to Bid, may be obtained from the Issuing Office. The deposit will be refunded to document holders of record who return the bidding Documents in good condition within thirty days after opening of Bids unless otherwise noted in the Advertisement or Invitation to Bid.

2.02 Complete sets of Bidding Documents must be used in preparing Bids; neither OWNER nor ENGINEER/ARCHITECT assume any responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.

2.03 OWNER and ENGINEER/ARCHITECT in making copies of Bidding Documents available on the above terms do so only for the purpose of obtaining Bids on the Work and do not confer a license or grant for any other use.

3.0 QUALIFICATIONS OF BIDDERS

3.01 No requirement in this Article 3 to submit information will prejudice the right of Owner to seek additional pertinent information regarding Bidder's qualifications prior to the bid date/opening.

3.02 Bidder is advised to carefully review those portions of the Bid Form requiring Bidder's representations and certifications.

4.0 SITE AND OTHER AREAS; EXISTING SITE CONDITIONS; EXAMINATION OF SITE; OTHER WORK AT THE SITE

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

4.02 Reports of explorations and tests of subsurface conditions at or contiguous to the Site may have been used by the ENGINEER/ARCHITECT in preparing the Bidding Documents. Those 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 the General Conditions. Bidder is responsible for any interpretation or conclusion Bidder draws from any “technical data” or any other data, interpretations, opinions or information contained in such reports or shown or indicated in such drawings.

4.03 Information and data shown or indicated in the Bidding Documents with respect to Underground Facilities at or contiguous to the Site is based upon data and information furnished to the OWNER and ENGINEER/ARCHITECT by owners of such Underground Facilities, including OWNER, or others.

5.0 BIDDER’S REPRESENTATIONS

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

- A. Examine and carefully study the Bidding Documents and any data and reference items identified in the Bidding Documents;
- B. Visit the Site to become familiar with local and Site conditions that may affect cost, progress, performance or furnishing of the Work;
- C. Become familiar with and satisfy itself as to all Laws and Regulations that may affect cost, progress, and performance of the Work;
- D. Carefully study all: (1) reports of explorations and tests of subsurface conditions at or adjacent to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site, and (2) reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site.
- E. 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;
- F. Promptly give ENGINEER/ARCHITECT 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;
- G. Determine that the Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance and furnishing of the Work; and
- H. Agree that the submission of a Bid will constitute an incontrovertible representation by Bidder that Bidder has complied with every requirement of this Article, that without exception the Bid and all prices in the Bid are premised upon performing and furnishing the Work required by the Bidding Documents.

6.0 PREBID CONFERENCE

6.01 A pre-bid conference is not planned for this project.

7.0 INTERPRETATIONS AND ADDENDA

7.01 All questions about the meaning or intent of the Bidding Documents are to be submitted to ENGINEER/ARCHITECT in writing. Interpretations or clarifications considered necessary by the ENGINEER/ARCHITECT in response to such questions will be issued by Addenda mailed or delivered to all parties recorded by the ENGINEER/ARCHITECT 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 also be issued to clarify, correct, or change the Bidding Documents as deemed advisable by OWNER or ENGINEER/ARCHITECT.

8.0 BID SECURITY

8.01 A Bid must be accompanied by Bid security made payable to OWNER in an amount of five percent (5%) of Bidder's maximum Bid price (determined by adding the base bid and all alternates for the highest priced overall alternate/option) and in the form of a certified check, bank money order, or a Bid bond (on the form included in the Bidding Documents) issued by a surety meeting the requirements of Paragraphs 6.01 and 6.02 of the General Conditions

8.02 The Bid security of the apparent Successful Bidder will be retained until OWNER awards the contract to such Bidder, and such Bidder has executed the Contract Documents, furnished the required contract security, and met the other conditions of the Notice of Award, whereupon the Bid security will be released. If the Successful Bidder fails to execute and deliver the Contract Documents and furnish the required contract security within 15 days after the Notice of Award, OWNER may consider Bidder to be in default, annul the Notice of Award, and the Bid security of that Bidder will be forfeited. Such forfeiture shall be OWNER's exclusive remedy if Bidder defaults.

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

8.04 Bid security of other Bidders whom OWNER believes do not have a reasonable chance of receiving the award will be returned within seven (7) days after the Bid opening.

9.0 CONTRACT TIME

9.01 The number of days within which, or the dates by which, the Work is to be substantially completed and completed and ready for final payment, are set forth in the Agreement.

10.0 LIQUIDATED DAMAGES

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

11.0 SUBSTITUTE OR "OR-EQUAL" ITEMS

11.01 The Contract for the Work, as awarded, will be on the basis of materials and equipment specified or described in the Bidding Documents, and those "or-equal" or substitute or materials and equipment subsequently approved by ENGINEER/ARCHITECT prior to the submittal of Bids and identified by Addendum. No item of material or equipment will be considered by ENGINEER/ARCHITECT as an "or-

equal” or substitute unless written request for approval has been submitted by Bidder and has been received by ENGINEER/ARCHITECT at least 15 days prior to the date for receipt of Bids. Each such request shall comply with the requirements of Paragraphs 7.04 and 7.05 of the General Conditions. The burden of proof of the merit of the proposed item is upon Bidder. ENGINEER/ARCHITECT’s decision of approval or disapproval of a proposed item will be final. If ENGINEER/ARCHITECT approves any such proposed item, such approval will be set forth in an Addendum issued to all prospective Bidders. Bidders shall not rely upon approvals made in any other manner.

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

12.0 SUBCONTRACTORS, SUPPLIERS AND OTHERS

12.01 If the Supplementary Conditions require the identity of certain Subcontractors, Suppliers and individuals, or entities to be submitted to OWNER in advance of the specified date prior to the Effective Date of the Agreement, the apparent Successful Bidder, and any other Bidder so requested, shall within five days after the Bid opening 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 an experience statement with pertinent information regarding similar projects and other evidence of qualification for each such Subcontractor, Supplier, individual, or entity if requested by OWNER. If OWNER or ENGINEER/ARCHITECT, 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 the 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/ARCHITECT makes no written objection prior to the giving of the Notice of Award will be deemed acceptable to OWNER and ENGINEER/ARCHITECT subject to 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 whom CONTRACTOR has reasonable objection.

13.0 PREPARATION OF BID

13.01 The Bid form is included with the Bidding Documents; additional copies may be obtained from the ENGINEER/ARCHITECT. Only specific portions of the Bidding Documents are required to be submitted with the Bid. These documents shall at minimum include:

- Bid Proposal, with Bidding Signature & Certification Form
- Bid Security (as specified)

For the convenience of the Bidder, the sheets to be returned are marked “Return with Bid”. The Bidder may return the entire project manual if desired.

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

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

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

13.05 A Bid by a partnership shall be executed in the partnership name and signed by a partner (whose title must appear under the signature), accompanied by evidence of authority to sign. The partnership's address for receiving notices shall be shown.

13.06 A Bid by a limited liability company shall be executed in the name of the firm by a member or other authorized person and accompanied by evidence of authority to sign. The state of formation of the firm and the firm's address for receiving notices shall be shown.

13.07 A Bid by an individual shall show the Bidder's name and address for receiving notices.

13.08 A Bid by a joint venture shall be executed by an authorized representative of each joint venture in the manner indicated on the Bid Form. The joint venture's address for receiving notices shall be shown.

13.09 All names shall be printed in ink below the signatures.

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

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

14.0 BASIS OF BID

14.01 Lump Sum

- A. Bidders shall submit a Bid on a lump sum basis as set forth in the Bid Form. Bidder shall review provided Job Special Provisions regarding the bid items.

15.0 SUBMITTAL OF BID

15.01 A Bid shall be submitted no later than the date and time prescribed and the place indicated in the Advertisement or Invitation to Bid and shall be enclosed in an opaque sealed envelope plainly marked with the Project title (and, if applicable, the designated portion of the Project for which the Bid is submitted), the name and address of the Bidder, and accompanied by the Bid security and other required documents. If a Bid is sent by mail or other delivery system, the sealed envelope containing the Bid shall be enclosed in a separate envelope plainly marked on the outside with the notation "BID ENCLOSED."

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

16.0 MODIFICATION AND WITHDRAWAL OF BID

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

16.02 If a Bidder wishes to modify its Bid prior to Bid opening, Bidder must withdraw its initial Bid in the manner specified in Paragraph 16.01 and submit a new Bid prior to the date and time for the opening of Bids.

16.03 If within 24 hours after Bids are opened any Bidder files a duly signed written notice with OWNER and promptly thereafter demonstrates to the reasonable satisfaction of OWNER that there was a material and substantial mistake in the preparation of its Bid, 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 further bidding on the Work.

17.0 OPENING OF BIDS

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

18.0 BIDS TO REMAIN SUBJECT TO ACCEPTANCE

18.01 All Bids will remain subject to acceptance for forty-five (45) days after the day of the bid opening, but OWNER may, in its sole discretion, release any Bid and return the Bid security prior to that date.

19.0 EVALUATION OF BIDS AND AWARD OF CONTRACT

19.01 Owner reserves the right to reject any or all Bids, including without limitation, nonconforming, nonresponsive, unbalanced, or conditional Bids. OWNER will reject the Bid of any Bidder that OWNER finds, after reasonable inquiry and evaluation, to not be responsible. If Bidder purports to add terms or conditions to its Bid, takes exception to any provision of the Bidding Documents, or attempts to alter the contents of the Contract Documents for purposes of the Bid, then the OWNER will reject the Bid as nonresponsive; provided that OWNER also reserves the right to waive all minor informalities not involving price, time, or changes in the Work. If OWNER awards the contract for the Work, such award shall be to the responsible Bidder submitting the lowest responsive Bid.

19.02 Evaluation of Bids

- A. In evaluating Bids, OWNER will consider whether or not the Bids comply with the prescribed requirements, and such alternates, unit prices, and other data, as may be requested in the Bid Form or prior to the Notice of Award.
- B. For determination of the successful Bidder(s) when sectional or alternative bids are submitted, Bids will be evaluated on the basis defined in the Bid Proposal and will be on a base bid, base bid plus alternative(s) or total bid as specified and is in the best interest of the Owner.

20.0 BONDS AND INSURANCE

20.01 Article 6 of the General Conditions, as may be modified, sets forth OWNER's requirements as to performance and payment bonds and insurance. When the Successful Bidder delivers the executed Agreement to the OWNER, it must be accompanied by required bonds and insurance documentation.

21.0 SIGNING OF AGREEMENT

21.01 When OWNER issues a Notice of Award to the Successful Bidder, it shall be accompanied by the unexecuted counterparts of the Agreement along with the other Contract Documents as identified in the Agreement. Within 15 days thereafter, Successful Bidder shall execute and deliver the required number of counterparts of the Agreement (and any bonds and insurance documentation required to be delivered by the Contract Documents) to OWNER. Within ten days thereafter, OWNER shall deliver one fully executed counterpart of the Agreement to Successful Bidder, together with printed and electronic copies of the Contract Documents as stated in Paragraph 2.02 of the General Conditions.

21.02 Contractor shall provide E-Verify with their signed agreement in accordance with Missouri State Statutes.

22.0 SALES AND USE TAXES

22.01 OWNER is exempt from Missouri State Sales and Use taxes on materials and equipment to be incorporated in the Work (exemption NO. 18573401). Said taxes **SHALL NOT** be included in the Bid.

23.0 RETAINAGE

23.01 Provisions concerning retainage during the progress of the Work are set forth in the Agreement.

24.0 CONTRACT ADMINISTRATION

24.01 For the purposes of administering this contract, the authorized representative of the OWNER will be Kendall Kircher, Port Authority Board President and John Sponaugle, Secretary.

25.0 ILLEGAL ALIEN AND IMMIGRATION STATUS VERIFICATION

25.01 The successful Bidder is required to comply with the applicable processes of 2008 Missouri House Bill 1549 – Illegal Aliens and Immigration Status Verification Act, included but not limited to procuring and maintaining necessary documentation and notifications.

END OF SECTION 002113

RETURN WITH BID

**SECTION 004200
BID PROPOSAL**

TO: Howard-Cooper County Regional Port Authority Hereinafter Called "OWNER"

PROPOSAL OF: _____
(Name and Address of Bidder)

FOR **Grain Updates Project 2**

1. The plans for the proposed improvement are those prepared by KLINGNER & ASSOCIATES, P.C., ENGINEERS/ARCHITECTS, 616 NORTH 24TH STREET, QUINCY, IL 62301.
2. In submitting this proposal, the undersigned declares that the only persons or parties interested in the proposal as principals are those named herein; and that the proposal is made without collusion with any other person, firm, or corporation.
3. The undersigned further declares that the Bidding and Contract Documents, and the following Addenda, receipt of all which is hereby acknowledged,

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

have been carefully examined, the site(s) of the proposed work inspected in detail and the undersigned is familiar with all local conditions affecting the contract and the detailed requirements of construction, and understands that in making this proposal waives all right to plead any misunderstanding regarding the same.

4. The undersigned further understands and agrees, if this proposal is accepted, to furnish and provide all necessary machinery, tools, apparatus and other means of construction, and to do all of the work and to install all of the materials specified in the contract, in the manner and at the time prescribed, and in accordance with the requirements therein set forth.
5. The undersigned further understands and agrees that payment will be made on a **Lump Sum** bid basis for the work specified herein.
6. The undersigned further agrees to the fullest extent permitted by law, to waive any claim it has or may have against the OWNER, the Architect/Engineer, and their respective employees, arising out of or in connection with the administration, evaluation, or recommendation of any bid; waiver of any requirements under the Bid Documents; or the Contract Documents; acceptance or rejection of any bids; and award of the Contract.
7. The undersigned further agrees that the OWNER may at any time during the progress of the work covered by this contract order other work or materials incidental thereto and that all such work and materials as do not appear in the proposal or contract as a specific item and which are not included under the bid price for other items in this contract, shall be performed as extra work, in accordance with ARTICLE 11 of the General Conditions.

RETURN WITH BID

8. The undersigned further agrees to execute a contract for this work and present the same to the OWNER within fifteen (15) days after the date of notice of the award of the contract to him.
9. The undersigned further agrees to execute and present within fifteen (15) days after the date of Notice of the Award, a performance and payment Bond or other specified Security, satisfactory to and in the form prescribed by the OWNER, in the penal sum of the full amount of the contract, guaranteeing the faithful performance of the work in accordance with the terms of the contract.
10. The undersigned further agrees to begin work not later than ten (10) days after the execution and approval of the contract and performance and payment Bonds or specified Securities, unless otherwise provided, and to prosecute the work in such manner and with sufficient materials, equipment, and labor as will ensure its completion within the time limit specified herein, it being understood and agreed that the completion within the time limit is an essential part of the contract. The undersigned agrees to complete the work **as described in the Project Job Special Provisions**, unless additional time shall be granted by the OWNER in accordance with the provisions of the specifications. In case of failure to complete the work within the time named herein or within such extra time as may have been allowed by extensions, the undersigned agrees that the OWNER shall withhold, from such sums as may be due under the terms of this contract, the costs set forth in the specifications, which costs shall be considered and treated not as a penalty but as damages due the OWNER from the undersigned by reason of inconvenience to the public, added cost of engineering, and other items which have caused an expenditure of public funds resulting from the failure of the undersigned to complete the work within the time specified in the contract.
11. Accompanying this proposal is a bid bond, bank cashier's check, or certified check, in the penal sum of five percent (5%) of the total bid price for the highest priced alternative, as provided in paragraph 8.0 (Bid Security) of the Instructions to Bidders, made payable to the Howard-Cooper County Regional Port Authority. The amount of the bid deposit is:

\$ _____ DOLLARS (\$ _____)
Words Figures

If this proposal is accepted and the undersigned shall fail to execute a contract and performance and payment Bond or other specified Security as required herein, it is hereby agreed that the amount of the bid deposit shall become the property of the OWNER, and shall be considered as payment of damages due to delay and other causes suffered by the OWNER because of the failure to execute said contract and contract bond; otherwise said check or draft, or bidder's bond substituted in lieu thereof shall be returned to the undersigned.

**ATTACH BANK CASHIER'S CHECK, OR
CERTIFIED CHECK HERE - OR
INCLUDE BID BOND WITHIN PROPOSAL
FORM**

12. The undersigned Contractor hereby proposes to furnish all labor tools, materials, machinery and equipment necessary to complete the Work in accordance with the Contract Documents for the following:

RETURN WITH BID

Grain Bin Project – Base Bid

The undersigned Contractor hereby proposes to furnish all labor, materials as noted, tools, machinery and equipment necessary to complete the Work in accordance with the Contract Documents for the following

BASE BID - LUMP SUM PRICE:

\$ _____ DOLLARS (\$ _____)
Words Figures

Alternate Bid Item No. 1 (new distributor)

The undersigned Contractor hereby proposes to furnish all labor, materials as noted, tools, machinery and equipment necessary to complete the Work in accordance with the Contract Documents for the following

ADD TO BASE BID LUMP SUM PRICE:

\$ _____ DOLLARS (\$ _____)
Words Figures

Alternate Bid Item No. 2 (electrical upgrades)

The undersigned Contractor hereby proposes to furnish all labor, materials as noted, tools, machinery and equipment necessary to complete the Work in accordance with the Contract Documents for the following

ADD TO BASE BID LUMP SUM PRICE:

\$ _____ DOLLARS (\$ _____)
Words Figures

See included Job Special Provisions, Technical Specifications, and/or Project Plan Sheets for clarifications on the bid items. The Alternate Bid Items are intended to be an Addition to the Base Bid Lump Sum Price. The Owner may select the Base Bid Lump Sum Price only or the Base Bid Lump Sum Price plus any combination of Alternate Bid Item No. 1 and/or Alternate Bid Item No. 2.

RETURN WITH BID

BIDDING SIGNATURE & CERTIFICATION FORM

Failure to complete this notarized certification will result in the bid not being read at the bid opening and thereby rejected.

(If an individual) Signature of Bidder _____ (SEAL)

Business Address _____

(If a co-partnership)

Firm Name _____

Signed by _____ (SEAL)

Business Address _____

(Insert Names and _____

Addresses of all _____

Members of the _____

Co-Partnership _____

(If a Corporation)

Corporate Name _____

(Corporate Signed by _____
(SEAL)

Business Address _____

(Insert Names of _____ President

Officers) _____ Secretary

_____ Treasurer

SIGNED and SWORN to before me

this _____ day of _____, 20_____.
(NOTARY

SEAL)

Notary Public

END OF SECTION 004200

RETURN WITH BID

**SECTION 004313
BID SECURITY FORM**

Project: _____

WE _____

_____ as PRINCIPAL, and _____

as SURETY, are held and firmly bound unto the **Howard-Cooper County Regional Port Authority** hereinafter called "Owner" in the penal sum of 5% of the total bid price (largest sum of options/alternates), or for the amount specified in the "Bid Proposal" in effect on the date of invitation for bids. We bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly to pay to the Owner this sum under the conditions of this instrument.

WHEREAS THE CONDITION OF THE FOREGOING OBLIGATION IS SUCH that, said PRINCIPAL is submitting a written proposal to the Owner for the construction of the work designated as the above section.

THEREFORE, if the proposal is accepted and a contract awarded to the PRINCIPAL by the Owner for the above-designated project, and the PRINCIPAL shall within fifteen (15) days after award enter into a formal contract, furnish surety or cash bond guaranteeing the faithful performance of the work, and furnish evidence of the required insurance coverage, all as provided in the "General Conditions" and applicable Supplemental Conditions, then this obligation shall become void; otherwise it shall remain in full force and effect.

IN THE EVENT the Owner determines the PRINCIPAL has failed to enter into a formal contract in compliance with any requirements set forth in the preceding paragraph, then the Owner shall immediately be entitled to recover the full penal sum set out above together with all court costs, all attorney fees, and any other expense of recovery.

IN TESTIMONY WHEREOF, the said PRINCIPAL and the said SURETY have caused this instrument to be signed by their respective officers and their corporate seals to be hereunto affixed this _____ day of _____ AD, 20 _____.

PRINCIPAL

(Company Name)

(Company Name)

By: _____
(Signature & Title)

By: _____
(Signature & Title)

(if PRINCIPAL is a joint venture of two or more contractors, the company names, seals and authorized signatures of each contractor must be affixed.)

SURETY

(Name of Surety)

By: _____
(Signature of Attorney-in-Fact)

STATE OF _____,

COUNTY OF _____

RETURN WITH BID

I, _____, a Notary Public in and for said County, do hereby
certify that _____

(Insert names of individuals signing on behalf of PRINCIPAL & SURETY)

who are each personally known to me to be the same persons whose names are subscribed to the
foregoing instrument on behalf of PRINCIPAL and SURETY, appeared before me this day in person and
acknowledged respectively, that they signed, sealed, and delivered said instrument as their free and
voluntary act for the uses and purposes therein set forth.

Given under my hand and notarial seal this _____ day of _____ A.D. 20____.

My Commission expires _____

Notary Public

END OF SECTION 004313

**SECTION 004519
NONCOLLUSION AFFIDAVIT**

State of _____)

County of _____) ss.

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

(1) He (she) is _____ of _____
_____, the Bidder that has submitted the attached Bid;

(2) He (she) is fully informed respecting the preparation and contents of the attached Bid and of all pertinent circumstances respecting such Bid;

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

(4) Neither the said Bidder nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly with any other Bidder, firm or person to submit a collusive or sham Bid in connection with the Contract for which the attached Bid has been submitted or to refrain from bidding in connection with such Contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other Bidder, firm or person to fix the price or prices in the attached Bid or of any other Bidder, or to fix any overhead, profit or cost element of the Bid price or the Bid price of any other Bidder, or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against the OWNER or any person interested in the proposed Contract; and

(5) The price or prices quoted in the attached Bid are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Bidder or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

(Signed) _____

(Title)

Subscribed and sworn to before me this

_____ day of _____, 20 ____.

(Title)

My commission expires _____

END OF SECTION 004519

RETURN WITH BID

**SECTION 004521
WORK AUTHORIZATION AFFIDAVIT**

Comes now _____ as _____
(Name) (Position Held)

First being duly sworn, on my oath, affirm _____
(Company Name)

Is enrolled and will continue to participate in a federal work authorizations program in respect to employees that will work in connection with the contracted services related to _____
_____ for the duration of the contact, if awarded
(Project Name)

in accordance with RSMo Chapter 285.530(2). I also affirm that _____
(Company Name)

does not and will not knowingly employ a person who is an unauthorized alien in connection with the contracted services related to _____ for the
(Project Name)

duration of the contract, if awarded.

In affirmation thereof, the facts stated above are true and correct. ***(The undersigned understands that false statements made in the filing are subject the penalties provided under Section 575.040 RSMo).***

Signature (Person with Authority) Printed Name

Title Date

Subscribed and sworn to before me this _____ day of _____, 20____. I am
Commissioned as a notary public within the County of _____. State of
_____, and my commission expires on _____, 20____.

END OF SECTION 004521

**SECTION 005100
NOTICE OF AWARD**

Dated _____

TO: _____

(Bidder)

ADDRESS: _____

Phone: _____

Email: _____

Contract: **Grain Updates Project 2**

(Insert name of Contract as it appears in the Bidding Documents)

Project Location: **Boonville, Howard County, MO**

Project No.: **20-0330**

Owner: **Howard-Cooper County Regional Port Authority**

Architect/Engineer (A/E): **Klingner & Associates, P.C.**

NOTICE OF AWARD OF CONTRACT

You are hereby notified that your Bid dated _____ for the above Contract has been considered. You are the apparent Successful Bidder and have been awarded a contract for:

Grain Updates Project 2

(Indicate total Work, alternates or sections of Work awarded)

The Contract **Lump Sum** of your contract is _____

Dollars (\$ _____)

Three (3) copies of the proposed Contract Documents will be made available to you immediately. You must comply with the following conditions precedent within **ten (10)** days of the date on this Notice of Award.

1. You must deliver to the OWNER **Two (2)** fully executed counterparts of the Contract Documents.
2. Deliver with the executed Contract Documents Bonds as specified in the Instructions to Bidders, General Conditions and Supplementary Conditions.

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

Within ten days after you comply with the above conditions, OWNER will return to you one (1) fully signed counterpart of the Contract Documents.

Howard-Cooper County Regional Port Authority

(OWNER)

By:

(AUTHORIZED SIGNATURE)

(TITLE)

END OF SECTION 005100

SECTION 005200
CONTRACT AGREEMENT

This CONTRACT made and entered into this _____ day of _____, 20__26__ by and between _____ hereinafter called the CONTRACTOR and Howard-Cooper County Regional Port Authority, hereinafter called the OWNER, WITNESSETH, that the CONTRACTOR and the OWNER for the consideration hereinafter named therefore contract and agree as follows:

1. Scope of Work:

The CONTRACTOR shall furnish all labor, equipment, and machinery and perform all of the work necessary to complete the specified, **Grain Updates Project 2** dated **April 2026** all as shown on the plans and as described in the specifications, as prepared by Klingner and Associates, P.C., Engineers, all in accordance with the terms of the Contract Documents.

2. Time of Completion and Liquidated Damages:

The work as shown on the Plans and described in the Specifications shall be substantially completed as defined in Article 15 of the EJCDC General Conditions, and by the Project Job Special Provisions. The Contractor agrees to pay as liquidated damages the OWNER a sum of **\$750** for each consecutive calendar day thereafter for each day that expires after the specified time until the work is substantially complete.

3. Contract Sum:

The OWNER shall pay the CONTRACTOR for the performance of the Contract the sum of

_____ DOLLARS
_____ CENTS (\$_____)

4. Progress Payment: Retainage:

The OWNER shall make progress payments on the amount or percentage of Work completed to date, as requested on the basis of CONTRACTOR's Applications for Payment and in accordance with Article 15 of the General Conditions.

There shall be retained from the amount so determined, for the first 50% of the total Work, a sum of 10% until issuance of Substantial Completion. After 50% or more of the Work, the Owner may at his/her discretion reduce the retainage to 5% of the amount of Work completed. Upon issuance of Substantial Completion, the retainage shall be reduced to an amount equal to a maximum of 5% of the Work completed.

5. Acceptance and Final Payment:

Final Payment shall be due thirty (30) days after completion and acceptance of the work, provided the contract be then fully performed, subject to the provisions of Article 15 of the General Conditions.

6. Contract Documents:

Contract Documents are as noted in the General Conditions.

In Witness Whereof, the parties hereto execute this Contract this _____
day of _____ A.D., 20_____.

(If an individual, partnership, or non-incorporated organization)

Signature of Contractor _____

By _____

Title _____

Address _____

Names and Addresses of Members of the Firm _____

(If a Corporation)

Signature of Contractor _____

By _____

Title _____

Business Address _____

Incorporated under the laws of the State of _____

President _____

Name Address

Secretary _____

Name Address

Treasurer _____

Name Address

OWNER:

By _____ (SEAL)
Name Title

ATTEST:

By _____ (Clerk or Notary Public)

END OF SECTION 005200

SECTION 005500
NOTICE TO PROCEED

Dated _____

TO: _____
(CONTRACTOR)

ADDRESS: _____

Contract: **Grain Updates Project 2**
(Insert name of Contract as it appears in the Contract Documents)

Project: **Grain Updates Project 2**

OWNER'S CONTRACT NO: **20-0330**

(Insert name of project as it appears in the Bidding Documents)

You are notified that the Contract Time under the above contract will commence to run on _____, 2026. By that date, you are to start performing your obligations under the Contract Documents. The date of Substantial Completion is _____ and the date of readiness for final payment is _____.

Before you may start any Work at the Site, the General Conditions provides that you and the Owner must each deliver to the other (with copies to the Engineer/Architect and other identified additional insured's) certificates of insurance which each is required to be purchased and maintained in accordance with the Contract Documents.

Also before you may start any Work at the site, you must:
(add other requirements)

Howard-Cooper County Regional Port Authority
(OWNER)

By: _____
(AUTHORIZED SIGNATURE)

(TITLE)

Copy to Engineer/Architect

¹ (Use Certified Mail, Return Receipt Requested)

END OF SECTION 005500

SECTION 006113
PERFORMANCE AND PAYMENT BOND

KNOW ALL BY THESE PRESENTS:

That we _____ of _____
hereinafter called PRINCIPAL, and _____ of _____
_____ hereinafter called the SURETY,

are held and firmly bound unto **Howard-Cooper County Regional Port Authority.**

hereinafter called OWNER, and unto all persons, firms, and corporations who may furnish materials for, or

perform labor on the _____, dated _____

hereinafter referred to, in the penal sum of _____

DOLLARS _____ CENTS (\$ _____) in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas the Principal entered into a certain contract, dated _____ 2026 with **Howard-Cooper County Regional Port Authority**, the OWNER, a copy of which is attached and hereby is referred to and made a part hereof, as if written herein at length, and whereby the said Principal has promised and agreed to perform said work in accordance with the terms of said contract, and has promised to pay all sums of money due for labor, materials, apparatus, fixtures, or machinery furnished to such Principal for the purpose of performing such work and has further agreed to pay all direct and indirect damages to any person, firm, company, or corporation suffered or sustained on account of the performance of such work during the time thereof and until such work is completed and accepted, and has further agreed that this bond shall inure to the benefit of any person, firm, company or corporation, to whom any money may be due from the Principal, subcontractor or otherwise, for any such labor, materials, apparatus, fixtures or machinery so furnished and that suit may be maintained on such bond by any such person, firm, company, or corporation, for the recovery of any such money.

NOW THEREFORE, if the said Principal shall well and truly perform said work in accordance with the terms of said contract, and shall pay all sums of money due or to become due for any labor, materials, apparatus, fixtures or machinery furnished to him for the purpose of constructing such work, and shall commence and complete the work within the time prescribed in said contract, and shall pay and discharge all damages, direct and indirect, that may be suffered or sustained on account of said work during the time of the performance thereof and until the said work shall have been accepted, and shall hold the aforesaid Owner and its or his agents harmless on account of any such damages, and shall in all respects fully and faithfully comply with all the provisions, conditions, and requirements of said contract, then this obligation to be void; otherwise to remain in full force and effect.

IN WITNESS WHEREOF, this instrument is executed this ____ day of _____ A.D. 20__

In the presence of: _____

Principal

(Address)

By: _____

ATTEST: _____

SURETY: _____

By: _____

Attorney-in-Fact

ATTEST: _____



STATE OF _____

COUNTY OF _____

On this _____ day of _____ 20__ before me personally appeared

_____ Principal, and

_____ Surety,

all personally known to me to be the persons described in and who executed the above bond, and severally and individually acknowledged to me that they executed the same.

Given under my hand and notary seal, this _____ day of _____ A.D., 20__.

Notary Public

My commission expires _____

NOTE: DATE OF BOND MUST NOT BE PRIOR TO DATE OF CONTRACT

END OF SECTION 006113

**SECTION 007200
GENERAL CONDITIONS**

PART 1 - GENERAL

1.1 SUMMARY

- A. EJCDC C-700 - Standard General Conditions of the Construction Contract is the General Conditions of the Contract.
- B. A copy of this document is included herein.

END OF SECTION 007200

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).

Copyright © 2013:

National Society of Professional Engineers
1420 King Street, Alexandria, VA 22314-2794
(703) 684-2882
www.nspe.org

American Council of Engineering Companies
1015 15th Street N.W., Washington, DC 20005
(202) 347-7474
www.acec.org

American Society of Civil Engineers
1801 Alexander Bell Drive, Reston, VA 20191-4400
(800) 548-2723
www.asce.org

The copyright for this document is owned jointly by the three sponsoring organizations listed above. The National Society of Professional Engineers is the Copyright Administrator for the EJCDC documents; please direct all inquiries regarding EJCDC copyrights to NSPE.

NOTE: EJCDC publications may be purchased at www.ejcdc.org, or from any of the sponsoring organizations above.

STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

TABLE OF CONTENTS

	Page
ARTICLE 1 – Definitions and Terminology	1
1.01 Defined Terms	1
1.02 Terminology	5
ARTICLE 2 – Preliminary Matters	6
2.01 Delivery of Bonds and Evidence of Insurance	6
2.02 Copies of Documents	6
2.03 Before Starting Construction.....	6
2.04 Preconstruction Conference; Designation of Authorized Representatives.....	7
2.05 Initial Acceptance of Schedules.....	7
2.06 Electronic Transmittals.....	7
ARTICLE 3 – Documents: Intent, Requirements, Reuse	8
3.01 Intent.....	8
3.02 Reference Standards	8
3.03 Reporting and Resolving Discrepancies.....	8
3.04 Requirements of the Contract Documents	9
3.05 Reuse of Documents	10
ARTICLE 4 – Commencement and Progress of the Work	10
4.01 Commencement of Contract Times; Notice to Proceed.....	10
4.02 Starting the Work	10
4.03 Reference Points	10
4.04 Progress Schedule	10
4.05 Delays in Contractor’s Progress.....	11
ARTICLE 5 – Availability of Lands; Subsurface and Physical Conditions; Hazardous Environmental Conditions	12
5.01 Availability of Lands.....	12
5.02 Use of Site and Other Areas	12
5.03 Subsurface and Physical Conditions	13
5.04 Differing Subsurface or Physical Conditions.....	14
5.05 Underground Facilities	15

5.06	Hazardous Environmental Conditions at Site	17
ARTICLE 6 – Bonds and Insurance		19
6.01	Performance, Payment, and Other Bonds.....	19
6.02	Insurance—General Provisions	19
6.03	Contractor’s Insurance	20
6.04	Owner’s Liability Insurance	23
6.05	Property Insurance	23
6.06	Waiver of Rights	25
6.07	Receipt and Application of Property Insurance Proceeds	25
ARTICLE 7 – Contractor’s Responsibilities		26
7.01	Supervision and Superintendence.....	26
7.02	Labor; Working Hours	26
7.03	Services, Materials, and Equipment	26
7.04	“Or Equals”	27
7.05	Substitutes.....	28
7.06	Concerning Subcontractors, Suppliers, and Others.....	29
7.07	Patent Fees and Royalties	31
7.08	Permits	31
7.09	Taxes.....	32
7.10	Laws and Regulations	32
7.11	Record Documents	32
7.12	Safety and Protection	32
7.13	Safety Representative	33
7.14	Hazard Communication Programs.....	33
7.15	Emergencies	34
7.16	Shop Drawings, Samples, and Other Submittals	34
7.17	Contractor’s General Warranty and Guarantee	36
7.18	Indemnification	37
7.19	Delegation of Professional Design Services.....	37
ARTICLE 8 – Other Work at the Site		38
8.01	Other Work.....	38
8.02	Coordination.....	39
8.03	Legal Relationships	39

ARTICLE 9 – Owner’s Responsibilities	40
9.01 Communications to Contractor	40
9.02 Replacement of Engineer	40
9.03 Furnish Data	40
9.04 Pay When Due	40
9.05 Lands and Easements; Reports, Tests, and Drawings.....	40
9.06 Insurance	40
9.07 Change Orders.....	40
9.08 Inspections, Tests, and Approvals	41
9.09 Limitations on Owner’s Responsibilities.....	41
9.10 Undisclosed Hazardous Environmental Condition	41
9.11 Evidence of Financial Arrangements	41
9.12 Safety Programs	41
ARTICLE 10 – Engineer’s Status During Construction.....	41
10.01 Owner’s Representative	41
10.02 Visits to Site.....	41
10.03 Project Representative	42
10.04 Rejecting Defective Work.....	42
10.05 Shop Drawings, Change Orders and Payments	42
10.06 Determinations for Unit Price Work.....	42
10.07 Decisions on Requirements of Contract Documents and Acceptability of Work	42
10.08 Limitations on Engineer’s Authority and Responsibilities	42
10.09 Compliance with Safety Program	43
ARTICLE 11 – Amending the Contract Documents; Changes in the Work	43
11.01 Amending and Supplementing Contract Documents	43
11.02 Owner-Authorized Changes in the Work	44
11.03 Unauthorized Changes in the Work	44
11.04 Change of Contract Price.....	44
11.05 Change of Contract Times	45
11.06 Change Proposals	45
11.07 Execution of Change Orders.....	46
11.08 Notification to Surety	47
ARTICLE 12 – Claims	47

12.01	Claims	47
ARTICLE 13	– Cost of the Work; Allowances; Unit Price Work	48
13.01	Cost of the Work	48
13.02	Allowances	50
13.03	Unit Price Work	51
ARTICLE 14	– Tests and Inspections; Correction, Removal or Acceptance of Defective Work	52
14.01	Access to Work	52
14.02	Tests, Inspections, and Approvals	52
14.03	Defective Work	53
14.04	Acceptance of Defective Work	53
14.05	Uncovering Work	53
14.06	Owner May Stop the Work	54
14.07	Owner May Correct Defective Work	54
ARTICLE 15	– Payments to Contractor; Set-Offs; Completion; Correction Period	55
15.01	Progress Payments	55
15.02	Contractor’s Warranty of Title	58
15.03	Substantial Completion	58
15.04	Partial Use or Occupancy	59
15.05	Final Inspection	59
15.06	Final Payment	59
15.07	Waiver of Claims	61
ARTICLE 16	– Suspension of Work and Termination	61
16.01	Owner May Suspend Work	61
16.02	Owner May Terminate for Cause	61
16.03	Owner May Terminate For Convenience	62
16.04	Contractor May Stop Work or Terminate	62
ARTICLE 17	– Final Resolution of Disputes	63
17.01	Methods and Procedures	63
ARTICLE 18	– Miscellaneous	63
18.01	Giving Notice	63
18.02	Computation of Times	63
18.03	Cumulative Remedies	64
18.04	Limitation of Damages	64

18.05	No Waiver.....	64
18.06	Survival of Obligations.....	64
18.07	Controlling Law.....	64
18.08	Headings.....	64

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.

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 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 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.

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 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.

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.

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.

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.

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.

SECTION 007300 SUPPLEMENTARY CONDITIONS

These SUPPLEMENTARY CONDITIONS amend or supplement the EJCDC - STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT (No. C-700, 2013 Edition) and other provisions of the Project Documents as indicated below. All provisions which 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.

The address system used in these Supplementary Conditions is the same as the address system used in the General Conditions, with the prefix "SC" added thereto.

SC-1 DEFINED TERMS

The terms used in these Supplementary Conditions which are defined in the General Conditions should be used with exactly the same meanings. This is true for all of the Contract Documents.

SC-1.01: The word "CONTRACTOR" shall be held to mean any CONTRACTOR, FIRM OR CORPORATION, or any member of a firm or corporation contracting to do the work herein specified.

The word "ENGINEER/ARCHITECT" shall be held to mean the Firm of Klingner and Associates, P.C., Engineers, Quincy, Illinois, or a duly authorized representative of the OWNER.

The word "SPECIFICATIONS" shall be held to mean the enclosed Specifications.

SC-2 PRELIMINARY MATTERS

SC-2.02.A. Amend the first sentence of Paragraph 2.02.A. to read as follows:

Owner shall furnish to Contractor up to **three (3)** copies of the Contract Documents (including one fully executed counterpart of the Agreement), and one copy in electronic portable document format (PDF).

SC-5 AVAILABILITY OF LANDS

SC-5.05 Add the following new subparagraph immediately after paragraph 5.05 A.2.

For the location of UTILITIES, the CONTRACTOR at minimum shall notify **Missouri One Line at telephone number 1-800-344-7483**, 48 hours in advance of the start of any construction in the area. In emergency and for location of utility lines not associated with the above location systems call, individual utilities.

SC-6 BONDS AND INSURANCE

SC-6.03 G Additional Insured: In addition to those listed in the contract provisions, all the following should be added:

Port Facility Owner:
Howard-Cooper County Regional Port Authority
P.O. Box 106
Boonville, MO 65233

Port Facility Operator:
MFA Incorporated, a Missouri Corporation
201 Ray Young Drive
Columbia, MO 65201

Engineer:
Klingner & Associates, P.C.
616 N. 24th St
Quincy, IL 62301

SC 6.03 I.4 Clarify that warranty is not anticipated or required for this project.

SC 6.03 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>\$ 2,000,000</u>
Products - Completed Operations Aggregate	<u>\$ 2,000,000</u>
Each Occurrence (Bodily Injury & 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>\$ 1,000,000</u>

4.	Excess or Umbrella Liability:	
	Each Occurrence	\$ 2,000,000
	General Aggregate	\$ 2,000,000
5.	Contractor's Pollution Liability:	
	Each Occurrence	\$ 1,000,000
	General Aggregate	\$ 2,000,000

SC-6.05: Per paragraph 6.05.A. the Contractor and **NOT** the Owner shall maintain builder's risk insurance.

SC-7 CONTRACTOR'S RESPONSIBILITIES

SC-7.12 G Clarify that warranty is not anticipated or required for this project.

SC-7.17 Clarify that warranty is not anticipated or required for this project.

SC - 15 PAYMENTS TO THE CONTRACTOR

SC-15.01 Payments shall be made as provided in the contract and shall be made promptly by the Owner to contractors. The making and acceptance of the final payment shall constitute a waiver of all claims by the Owner, other than those arising from unsettled liens or from faulty work appearing thereafter, as provided for in Article 14, and of all claims by the Contractor except any previously made and still unsettled.

END OF SECTION 007300

SECTION 007343
WAGE RATE REQUIREMENTS

The successful bidder and his subcontractors will be required to pay not less than the Prevailing Wage Rate for workmen engaged in work under this contract in accordance with Section 290 RSMo. This is the *minimum* wage rate required for the project. Attached to and made part of these Contract Documents is the current prevailing wage rate decision and includes hourly rates, overtime rates, and all required fringe benefit rates. If the Missouri Department of Labor revises, during the term of this contract, the prevailing rate of hourly wages to be paid in Howard County, the revised rate as issued by the Missouri Department of Labor shall apply to this contract.

The **Construction Safety Training Act** contains provisions requiring all contractors and subcontractors who enter into contracts with public bodies for construction of public works to train their on-site employees regarding the potential hazards they may encounter while working on the project. The training may be accomplished by providing a standard OSHA 10 Hour Construction course or similar program provided it is as stringent as the OSHA 10-hour program **and** approved by the Division of Labor Standards ("Division").

END OF SECTION 007343

Missouri

Division of Labor Standards

WAGE AND HOUR SECTION



MIKE KEHOE, Governor

Annual Wage Order No. 32

Section 045
HOWARD COUNTY

In accordance with Section 290.262 RSMo 2000, within thirty (30) days after a certified copy of this Annual Wage Order has been filed with the Secretary of State as indicated below, any person who may be affected by this Annual Wage Order may object by filing an objection in triplicate with the Labor and Industrial Relations Commission, P.O. Box 599, Jefferson City, MO 65102-0599. Such objections must set forth in writing the specific grounds of objection. Each objection shall certify that a copy has been furnished to the Division of Labor Standards, P.O. Box 449, Jefferson City, MO 65102-0449 pursuant to 8 CSR 20-5.010(1). A certified copy of the Annual Wage Order has been filed with the Secretary of State of Missouri.

Original Signed by

Logan Hobbs, Director
Division of Labor Standards

Filed With Secretary of State: _____ **March 10, 2025**

Last Date Objections May Be Filed: **April 9, 2025**

Prepared by Missouri Department of Labor and Industrial Relations

OCCUPATIONAL TITLE	**Prevailing Hourly Rate
Asbestos Worker	\$24.73*
Boilermaker	\$24.73*
Bricklayer-Stone Mason	\$24.73*
Carpenter	\$51.42
Lather	
Linoleum Layer	
Millwright	
Pile Driver	
Cement Mason	\$24.73*
Plasterer	
Communication Technician	\$24.73*
Electrician (Inside Wireman)	\$62.91
Electrician Outside Lineman	\$24.73*
Lineman Operator	
Lineman - Tree Trimmer	
Groundman	
Groundman - Tree Trimmer	
Elevator Constructor	\$24.73*
Glazier	\$24.73*
Ironworker	\$68.80
Laborer	\$24.73*
General Laborer	
First Semi-Skilled	
Second Semi-Skilled	
Mason	\$24.73*
Marble Mason	
Marble Finisher	
Terrazzo Worker	
Terrazzo Finisher	
Tile Setter	
Tile Finisher	
Operating Engineer	\$24.73*
Group I	
Group II	
Group III	
Group III-A	
Group IV	
Group V	
Painter	\$24.73*
Plumber	\$72.38
Pipe Fitter	
Roofer	\$24.73*
Sheet Metal Worker	\$24.73*
Sprinkler Fitter	\$24.73*
Truck Driver	\$24.73*
Truck Control Service Driver	
Group I	
Group II	
Group III	
Group IV	

*The Division of Labor Standards received fewer than 1,000 reportable hours for this occupational title. The public works contracting minimum wage is established for this occupational title using data provided by Missouri Economic Research and Information Center.

**The Prevailing Hourly Rate includes any applicable fringe benefit amounts for each occupational title as defined in RSMo Section 290.210.

Heavy Construction Rates for
HOWARD County

Section 045

OCCUPATIONAL TITLE	**Prevailing Hourly Rate
Carpenter	\$24.73*
Millwright	
Pile Driver	
Electrician (Outside Lineman)	\$24.73*
Lineman Operator	
Lineman - Tree Trimmer	
Groundman	
Groundman - Tree Trimmer	
Laborer	\$24.73*
General Laborer	
Skilled Laborer	
Operating Engineer	\$24.73*
Group I	
Group II	
Group III	
Group IV	
Truck Driver	\$24.73*
Truck Control Service Driver	
Group I	
Group II	
Group III	
Group IV	

Use Heavy Construction Rates on Highway and Heavy construction in accordance with the classifications of construction work established in 8 CSR 30-3.040(3).

Use Building Construction Rates on Building construction in accordance with the classifications of construction work established in 8 CSR 30-3.040(2).

If a worker is performing work on a heavy construction project within an occupational title that is not listed on the Heavy Construction Rate Sheet, use the rate for that occupational title as shown on the Building Construction Rate Sheet.

*The Division of Labor Standards received fewer than 1,000 reportable hours for this occupational title. Public works contracting minimum wage is established for this occupational title using data provided by Missouri Economic Research and Information Center.

**The Prevailing Hourly Rate includes any applicable fringe benefit amounts for each occupational title.

OVERTIME and HOLIDAYS

OVERTIME

For all work performed on a Sunday or a holiday, not less than twice (2x) the prevailing hourly rate of wages for work of a similar character in the locality in which the work is performed or the public works contracting minimum wage, whichever is applicable, shall be paid to all workers employed by or on behalf of any public body engaged in the construction of public works, exclusive of maintenance work.

For all overtime work performed, not less than one and one-half (1½) the prevailing hourly rate of wages for work of a similar character in the locality in which the work is performed or the public works contracting minimum wage, whichever is applicable, shall be paid to all workers employed by or on behalf of any public body engaged in the construction of public works, exclusive of maintenance work or contractual obligation. For purposes of this subdivision, "**overtime work**" shall include work that exceeds ten hours in one day and work in excess of forty hours in one calendar week; and

A thirty-minute lunch period on each calendar day shall be allowed for each worker on a public works project, provided that such time shall not be considered as time worked.

HOLIDAYS

January first;
The last Monday in May;
July fourth;
The first Monday in September;
November eleventh;
The fourth Thursday in November; and
December twenty-fifth;

If any holiday falls on a Sunday, the following Monday shall be considered a holiday.

SECTION 011100
SUMMARY OF WORK

PART 1 - GENERAL

1.1 SUMMARY

- A. This Section includes the following:
1. Work covered by the Contract Documents.
 2. Work under other contracts.
 3. Use of premises.
 4. Owner's occupancy requirements.
 5. Specification formats and conventions.

1.2 WORK COVERED BY CONTRACT DOCUMENTS

- A. Project Identification: Howard-Cooper County Regional Port Authority – Grain Updates Project 2
1. Project Location: Boonville, Missouri
- B. Owner: Howard-Cooper County Regional Port Authority
1. Owner's Representative: Kendall Kircher, President & John Sponaugle, Secretary
- C. Engineer/Architect: Klingner & Associates, P.C., 616 N. 24th Street, Quincy, Illinois 62301/217-223-3670.
- D. The Work consists of the following:
1. The Work includes: Project will consist of removing and replacing reclaim augers and conveyors for bins #1-#3 as well as the receiving pit conveyor. The receiving pit conveyor will be updated to a capacity of 15,000 BPH. The reclaim conveyors will be updated to a capacity of 10,000 BPH. The current bucket elevator cannot support any capacity greater than 6,500 BPH. The HCPA will be updating the bucket elevator at later date. The upgraded equipment will need to have the capacity reduced using different pulley combinations to slow the equipment to a capacity of 6,500. If this cannot be accomplished using a simple pulley change it must be noted in the bidder's final bid. The full capacity and 6,500 capacity pulley combinations for each piece of equipment must be included.
 2. The project may also include the procurement of a new distributor (subject to Alternate Bid Item No. 1 being accepted by the Owner).
 3. The project may also include an electrical service upgrade from 400-amp to 800-amp to accommodate anticipated future / new equipment (subject to Alternate Bid Item No. 2 being accepted by the Owner).
 4. The Contractor shall safely remove the equipment / structures necessary for the installation of the new, proposed equipment / structures. The Port Authority shall retain ownership of all reusable equipment / materials in good condition. The reusable

equipment / materials shall be preserved by the Contractor and relocated to the Port's 18-acre site for future use or sale. The Contractor shall perform controlled demolition/deconstruction and carefully dismantle equipment/components to avoid damage. The Contractor shall prepare the salvaged equipment for storage and/or transport. The Contractor shall properly dispose of debris and non-salvageable materials in accordance with environmental and safety regulation. Coordination with the Owner regarding questions of salvageable versus non-salvageable materials.

- E. Project will be constructed under a single or multiple prime contract(s).
- F. The Project's shall be completed by June 4, 2026. See Project Dates section of the Project Job Special Provisions for more information.
- G. A work plan shall be developed and submitted to the Engineer / Owner for review at a minimum of 48 hours in advance to the commencement of work by the Contractor. Said work plan shall include the anticipated construction sequence, schedule, and equipment to be utilized at a minimum.

1.3 WORK UNDER OTHER CONTRACTS

- A. General: Contractor shall work to prevent conflicts in site access, blocking drives, and/or hindering the Owner, Neighbors, and/or other Contractors from accessing the site.

1.4 USE OF PREMISES

- A. General: Contractor shall have full use of premises for construction operations, including use of Project site, during construction period. Contractor's use of premises is limited only by Owner's right to perform work or to retain other contractors on portions of Project.

1.5 SPECIFICATION FORMATS AND CONVENTIONS

- A. Specification Format: The Specifications are organized into Divisions and Sections using the 48-division format and CSI/CSC's "MasterFormat" numbering system.
 - 1. Division 01: Sections in Division 01 govern the execution of the Work of all Sections in the Specifications.
- B. Specification Content: The Specifications use certain conventions for the style of language and the intended meaning of certain terms, words, and phrases when used in particular situations. These conventions are as follows:
 - 1. Abbreviated Language: Language used in the Specifications and other Contract Documents is abbreviated. Words and meanings shall be interpreted as appropriate. Words implied, but not stated, shall be inferred as the sense requires. Singular words shall be interpreted as plural, and plural words shall be interpreted as singular where applicable as the context of the Contract Documents indicates.
 - 2. Imperative mood and streamlined language are generally used in the Specifications. Requirements expressed in the imperative mood are to be performed by Contractor. Occasionally, the indicative or subjunctive mood may be used in the Section Text for clarity to describe responsibilities that must be fulfilled indirectly by Contractor or by others when so noted.
 - a. The words "shall," "shall be," or "shall comply with," depending on the context, are implied where a colon (:) is used within a sentence or phrase.

PART 2 - PRODUCTS (Not Used)

PART 3 - EXECUTION (Not Used)

END OF SECTION 011100

SECTION 013219 SUBMITTALS SCHEDULE

PART 1 - GENERAL

1.1 SUMMARY

A. Work included:

1. Provide submittals required by the Contract Documents, and revise and resubmit as necessary to establish compliance with the specified requirements.

B. Related work:

1. Documents affecting work of this Section include, but are not necessarily limited to, General Conditions, Supplementary Conditions, and Sections in Division 1 of these Specifications.
2. Individual requirements for submittals also may be described in pertinent Sections of these Specifications.

1.2 SUBMITTALS

- A. Make submittals of Construction Progress Schedules; Schedule of Values; Shop Drawings, Samples, substitution requests, and other items in accordance with the provisions of this Section and as specified in Related Documents.

B. Format for Submittals: Submit required submittals in the following format:

1. Working electronic copy of schedule file, where indicated.
2. PDF electronic file.
3. Paper copies and number where indicated.

C. All submittals shall be accompanied by transmittal document, containing:

1. Date.
2. Project title and number.
3. Contractor's name and address.
4. Notification of deviations from Contract Requirements.
5. Other pertinent information or data.

D. Submittals shall include:

1. Date and any revision date.
2. Project title and number.
3. Names of:
 - a. Engineer/Architect.
 - b. Contractor.
 - c. Subcontractor when applicable.
 - d. Supplier.
 - e. Manufacturer.

- f. Separate detailer when pertinent.
 - g. Engineer for design when pertinent.
4. Complete identification of product or material.
 5. Field dimensions or measurements clearly identified as such.
 6. Specification section and page number.
 7. Specified standards, such as ASTM number or Fed. Spec. number.
 8. A blank space suitable for Contractor's or Architect's/Engineer's stamps.
 9. Contractor's approval stamp, initialed or signed, certifying to review and approval, verification of field measurements, etc.
 10. Engineers seal when pertinent.

1.3 QUALITY ASSURANCE

A. Coordination of submittals:

1. Prior to each submittal, carefully review and coordinate all aspects of each item being submitted.
2. Verify that each item and the submittal for it conform in all respects with the specified requirements.
3. By affixing the Prime Contractor's Approval Stamp and signature to each submittal, certify that this coordination has been performed. Submittals not bearing Prime Contractor's approval stamp and signature will be rejected.

B. Substitutions:

1. The Contract is based on the standards of quality established in the Contract Documents. Substitutions will be considered only when approved at time of bidding by addendum, on the form provided therefore in the bidding documents, and when substantiated by the Contractor's submittal of required data within 35 calendar days after award of the Contract.
2. The following products do not require further approval except for interface within the Work:
 - a. Products specified by reference to standard specifications such as ASTM and similar standards.
3. Do not substitute materials, equipment, or methods unless such substitution has been specifically approved in writing for this Work by the Engineer/Architect and/or Owner's Operator/Representative.

C. "Or equal":

1. Where the phrase "or equal," occurs in the Contract Documents, do not assume that the materials, equipment, or methods will be approved as equal unless the item has been specifically so approved for this Work by the Engineer/Architect and/or Owner's Operator/Representative.
2. The decision of the Engineer/Architect and/or Owner's Operator/Representative shall be final.

1.4 RESUBMISSION REQUIREMENTS

A. Shop drawings

1. Revise initial drawings as directed and resubmit in accordance with submittal procedures.
 2. Indicate on drawings all changes which have been made in addition to those requested by the Engineer/Architect.
- B. Product data and samples
1. Submit new data and samples as specified for initial submittal.

PART 2 - PRODUCTS

2.1 SHOP DRAWINGS

- A. Scale and measurements: Make Shop Drawings accurately to a scale sufficiently large to show all pertinent aspects of the item and its method of connection to the Work.
1. Prepared by qualified detailer.
 2. Identify details by reference to sheet and detail numbers shown on contract drawings or pertinent specification section numbers.
- B. Types of documents permitted:
1. Electronically submitted in a .pdf format
 2. Hardcopy submittals; unless noted otherwise, submit a minimum of five (5) copies.

2.2 MANUFACTURERS' LITERATURE

- A. Manufacturer's standard schematic drawings, catalog sheets, brochures, diagrams, schedules, performance charts, illustrations, and other standard descriptive data.
1. Modify to delete information which is not applicable.
 2. Supplement standard information to provide additional information applicable to project.
 3. Clearly mark each copy to identify pertinent materials, products, or models.
 4. Identify specific fixtures per schedule on drawings or schedule in specifications as appropriate.
 5. Show dimensions and clearances.
 6. Show performance characteristics and capacities.
 7. Show wiring diagrams and controls.
- B. Unless noted otherwise, submit as necessary to define proposed shop drawing for review.

2.3 SAMPLES

- A. Samples:
1. Physical samples to illustrate materials, equipment, or workmanship. Approved samples established standards by which complete work will be judged.
 - a. Of sufficient size to clearly illustrate functional characteristics of product or material.
 - b. Color samples shall be of full range available.

PART 3 - EXECUTION

3.1 TIMING OF SUBMITTALS

- A. Submit initial progress schedules and schedule of values in duplicate within 15 days after date of Owner-Contractor Agreement. After review by Architect/Engineer and/or Owner's Operator/Representative revise and resubmit as required. Submit revised schedules with each Application for Payment, reflecting changes since previous submittal.
- B. Make submittals far enough in advance of scheduled dates for installation to provide time required for reviews, for securing necessary approvals, for possible revisions and resubmittals, and for placing orders and securing delivery.
- C. In scheduling, allow at least ten working days for review by the Engineer/Architect and/or Owner's Operator/Representative following his receipt of the submittal.

3.2 CONTRACTOR RESPONSIBILITIES

- A. Thoroughly review shop drawings, product data, and samples prior to submitting them to Engineer/Architect and/or Owner's Operator/Representative for his review. Verify all field dimensions, connections, etc.
- B. Notify Engineer/Architect and/or Owner's Operator/Representative in writing prior to submission, of proposed deviations in submittals from contract requirements.
- C. Contractor's responsibility for errors and omissions and for deviations in submittals from the contract requirements is not relieved by Engineer/Architect's and/or Owner's Operator/Representative review of submittals.
- D. Do not begin work which requires submittals without having Engineer/Architect's and/or Owner's Operator/Representative review stamp and initials or signature.
- E. Make distribution of copies as required.

3.3 ENGINEER/ARCHITECT'S REVIEW

- A. Review by the Engineer/Architect and/or Owner's Operator/Representative does not relieve the Contractor from responsibility for errors which may exist in the submitted data.
- B. Revisions:
 - 1. Make revisions required by the Engineer/Architect and/or Owner's Operator/Representative.
 - 2. If the Contractor considers any required revision to be a change, he (she) shall so notify the Engineer/Architect as provided for in the General Conditions.
 - 3. Make only those revisions directed or approved by the Engineer/Architect and/or Owner's Operator/Representative.

END OF SECTION 013219

SECTION 014000
QUALITY REQUIREMENTS

PART 1 - GENERAL

1.1 SUMMARY

A. Work included:

1. The Contractor is responsible to provide the quality of materials and workmanship normally associated with this type of work and as set forth in these Contract Documents including Addenda and Change Orders.
2. Substitutions to the materials, equipment, or manner of construction specified will be allowed if in the opinion of the Owner and Engineer/Architect the substitution fully provides essentially the same quality and functions as the specified item. **NO SUBSTITUTIONS WILL BE ALLOWED EXCEPT IN WRITING BY ADDENDUM OR CHANGE ORDER!** No oral communications by the Owner, Engineer/Architect, or any Contractor may alter this provision. The Contractor takes full responsibility for any substitutions the Contractor may make for the Contractor's bidding or other purposes until the substitution is formally accepted by Addenda or Change Order. Documentation on previous successful usage of the substitute elsewhere may be required.

END OF SECTION 014000

SECTION 014529
TESTING LABORATORY SERVICES

PART 1 - GENERAL

1.1 SUMMARY

A. Work includes

1. Contractor shall employ and pay for an independent testing laboratory to perform testing as specified.
 - a. Testing laboratory and procedures shall be as approved by the Engineer/Architect.
2. Contractor shall fully cooperate with the Owner and/or Engineer/Architect for additional testing required as determined by the Engineer/Architect.

1.2 QUALITY ASSURANCE

- A. Testing shall be in accordance with all pertinent codes and regulations and with selected standards of the American Society for Testing and Materials (ASTM).

1.3 PAYMENT FOR TESTING

- A. Contractor shall pay for all testing specified in the contract documents.
- B. Payment for additional testing, not specified in original contract documents, but required as determined by the Engineer/Architect, shall be as follows:
1. The Owner will pay for initial testing.
 2. When initial tests indicate noncompliance with the contract documents, the costs of initial tests associated with that noncompliance will be deducted from the contract sum.
 3. Retesting: When initial tests indicate noncompliance with the contract documents, subsequent retesting occasioned by the noncompliance shall be performed by the same testing agency and costs thereof will be deducted from the contract sum.

END OF SECTION 014529

SECTION 015000
TEMPORARY FACILITIES AND CONTROLS

PART 1 - GENERAL

1.1 SUMMARY

- A. Work included: Provide temporary facilities and controls needed for the Work including, but not necessarily limited to:
 - 1. Sanitary facilities.
 - 2. Enclosures such as tarps, plastic sheets, etc. for the protection of the uncompleted construction.
 - 3. Security for the Contractor's equipment and materials.
 - 4. Traffic Control and Safety Provisions.

- B. Temporary power and water:
 - 1. The Contractor shall make arrangements for and pay for any temporary power needed during construction.
 - 2. The Contractor shall provide potable water for watering of new seed beds, earthwork moisture content adjustment, and other project requirements.

1.2 REMOVAL

- A. Temporary provisions shall be promptly removed as soon as their use is no longer necessary.

END OF SECTION 015000

SECTION 017700 CLOSEOUT PROCEDURES

PART 1 - GENERAL

1.1 SUMMARY

- A. Section includes administrative and procedural requirements for contract closeout, including, but not limited to, the following:
 - 1. Substantial Completion procedures.
 - 2. Final completion procedures.
 - 3. Warranties.
 - 4. Final cleaning.
 - 5. Repair of the Work.

- B. Related Requirements:
 - 1. Section 013233 "Photographic Documentation" for submitting final completion construction photographic documentation.
 - 2. Section 017300 "Execution" for progress cleaning of Project site.
 - 3. Section 017823 "Operation and Maintenance Data" for operation and maintenance manual requirements.
 - 4. Section 017839 "Project Record Documents" for submitting record Drawings, record Specifications, and record Product Data.
 - 5. Section 017900 "Demonstration and Training" for requirements for instructing Owner's personnel.

1.2 ACTION SUBMITTALS

- A. Product Data: For cleaning agents.
- B. Contractor's List of Incomplete Items: Initial submittal at Substantial Completion.
- C. Certified List of Incomplete Items: Final submittal at Final Completion.

1.3 CLOSEOUT SUBMITTALS

- A. Certificates of Release: From authorities having jurisdiction.
- B. Certificate of Insurance: For continuing coverage.
- C. Field Report: For pest control inspection.

1.4 MAINTENANCE MATERIAL SUBMITTALS

- A. Schedule of Maintenance Material Items: For maintenance material submittal items specified in other Sections.

1.5 SUBSTANTIAL COMPLETION PROCEDURES

- A. Contractor's List of Incomplete Items: Prepare and submit a list of items to be completed and corrected (Contractor's punch list), indicating the value of each item on the list and reasons why the Work is incomplete.
- B. Submittals Prior to Substantial Completion: Complete the following prior to requesting inspection for determining date of Substantial Completion. List items below that are incomplete at time of request.
1. Certificates of Release: Obtain and submit releases from authorities having jurisdiction permitting Owner unrestricted use of the Work and access to services and utilities. Include occupancy permits, operating certificates, and similar releases.
 2. Submit closeout submittals specified in other Division 01 Sections, including project record documents, operation and maintenance manuals, final completion construction photographic documentation, damage or settlement surveys, property surveys, and similar final record information.
 3. Submit closeout submittals specified in individual Sections, including specific warranties, workmanship bonds, maintenance service agreements, final certifications, and similar documents.
 4. Submit maintenance material submittals specified in individual Sections, including tools, spare parts, extra materials, and similar items, and deliver to location designated by Architect/Engineer. Label with manufacturer's name and model number where applicable.
 - a. Schedule of Maintenance Material Items: Prepare and submit schedule of maintenance material submittal items, including name and quantity of each item and name and number of related Specification Section. Obtain Architect/Engineer's signature for receipt of submittals.
 5. Submit test/adjust/balance records.
 6. Submit sustainable design submittals required in Section 018113.13 "Sustainable Design Requirements - LEED for New Construction and Major Renovations," Section 018113.16 "Sustainable Design Requirements - LEED for Commercial Interiors," Section 018113.19 "Sustainable Design Requirements - LEED for Core and Shell Development," and Section 018113.23 "Sustainable Design Requirements - LEED for Schools" and in individual Sections.
 7. Submit changeover information related to Owner's occupancy, use, operation, and maintenance.
- C. Procedures Prior to Substantial Completion: Complete the following a minimum of **10** days prior to requesting inspection for determining date of Substantial Completion. List items below that are incomplete at time of request.
1. Advise Owner of pending insurance changeover requirements.
 2. Make final changeover of permanent locks and deliver keys to Owner. Advise Owner's personnel of changeover in security provisions.
 3. Complete startup and testing of systems and equipment.
 4. Perform preventive maintenance on equipment used prior to Substantial Completion.
 5. Instruct Owner's personnel in operation, adjustment, and maintenance of products, equipment, and systems. Submit demonstration and training video recordings specified in Section 017900 "Demonstration and Training."
 6. Advise Owner of changeover in heat and other utilities.
 7. Participate with Owner in conducting inspection and walkthrough with local emergency responders.

8. Terminate and remove temporary facilities from Project site, along with mockups, construction tools, and similar elements.
9. Complete final cleaning requirements, including touchup painting.
10. Touch up and otherwise repair and restore marred exposed finishes to eliminate visual defects.

D. Inspection: Submit a written request for inspection to determine Substantial Completion a minimum of 10 days prior to date the work will be completed and ready for final inspection and tests. On receipt of request, Architect/Engineer will either proceed with inspection or notify Contractor of unfulfilled requirements. Architect/Engineer will prepare the Certificate of Substantial Completion after inspection or will notify Contractor of items, either on Contractor's list or additional items identified by Architect/Engineer, that must be completed or corrected before certificate will be issued.

1. Reinspection: Request reinspection when the Work identified in previous inspections as incomplete is completed or corrected.
2. Results of completed inspection will form the basis of requirements for final completion.

1.6 FINAL COMPLETION PROCEDURES

A. Submittals Prior to Final Completion: Before requesting final inspection for determining final completion, complete the following:

1. Submit a final Application for Payment according to Section 012900 "Payment Procedures."
2. Certified List of Incomplete Items: Submit certified copy of Architect/Engineer's Substantial Completion inspection list of items to be completed or corrected (punch list), endorsed and dated by Architect/Engineer. Certified copy of the list shall state that each item has been completed or otherwise resolved for acceptance.
3. Certificate of Insurance: Submit evidence of final, continuing insurance coverage complying with insurance requirements.
4. Submit pest-control final inspection report.

B. Inspection: Submit a written request for final inspection to determine acceptance a minimum of 10 days prior to date the work will be completed and ready for final inspection and tests. On receipt of request, Architect/Engineer will either proceed with inspection or notify Contractor of unfulfilled requirements. Architect/Engineer will prepare a final Certificate for Payment after inspection or will notify Contractor of construction that must be completed or corrected before certificate will be issued.

1. Reinspection: Request reinspection when the Work identified in previous inspections as incomplete is completed or corrected.

1.7 LIST OF INCOMPLETE ITEMS (PUNCH LIST)

A. Organization of List: Include name and identification of each space and area affected by construction operations for incomplete items and items needing correction including, if necessary, areas disturbed by Contractor that are outside the limits of construction.

1. Organize list of spaces in sequential order, starting with exterior areas first.
2. Organize items applying to each space by major element, including categories for ceiling, individual walls, floors, equipment, and building systems.
3. Include the following information at the top of each page:

- a. Project name.
 - b. Date.
 - c. Name of Architect/Engineer.
 - d. Name of Contractor.
 - e. Page number.
4. Submit list of incomplete items in a digital and hard copy format. Architect/Engineer will return two copies

1.8 SUBMITTAL OF PROJECT WARRANTIES

- A. Time of Submittal: Submit written warranties on request of Architect/Engineer for designated portions of the Work where commencement of warranties other than date of Substantial Completion is indicated, or when delay in submittal of warranties might limit Owner's rights under warranty.
- B. Partial Occupancy: Submit properly executed warranties upon completion of designated portions of the Work that are completed and occupied or used by Owner during construction period by separate agreement with Contractor.
- C. Organize warranty documents into an orderly sequence based on the table of contents of Project Manual.
1. Bind warranties and bonds in heavy-duty, three-ring, vinyl-covered, loose-leaf binders, thickness as necessary to accommodate contents, and sized to receive 8-1/2-by-11-inch paper.
 2. Provide heavy paper dividers with plastic-covered tabs for each separate warranty. Mark tab to identify the product or installation. Provide a typed description of the product or installation, including the name of the product and the name, address, and telephone number of Installer.
 3. Identify each binder on the front and spine with the typed or printed title "WARRANTIES," Project name, and name of Contractor.
 4. Warranty Electronic File: Scan warranties and bonds and assemble complete warranty and bond submittal package into a single indexed electronic PDF file with links enabling navigation to each item. Provide bookmarked table of contents at beginning of document.
- D. Provide additional copies of each warranty to include in operation and maintenance manuals.
- E. Warranties shall cover only equipment, materials, and products.

PART 2 - PRODUCTS

2.1 MATERIALS

- A. Cleaning Agents: Use cleaning materials and agents recommended by manufacturer or fabricator of the surface to be cleaned. Do not use cleaning agents that are potentially hazardous to health or property or that might damage finished surfaces.
1. Use cleaning products that comply with Green Seal's GS-37, or if GS-37 is not applicable, use products that comply with the California Code of Regulations maximum allowable VOC levels.

PART 3 - EXECUTION

3.1 FINAL CLEANING

- A. General: Perform final cleaning. Conduct cleaning and waste-removal operations to comply with local laws and ordinances and Federal and local environmental and antipollution regulations.
- B. Cleaning: Employ experienced workers or professional cleaners for final cleaning. Clean each surface or unit to condition expected in an average commercial building cleaning and maintenance program. Comply with manufacturer's written instructions.
 - 1. Complete the following cleaning operations before requesting inspection for certification of Substantial Completion for entire Project or for a designated portion of Project:
 - a. Clean Project site, yard, and grounds, in areas disturbed by construction activities, including landscape development areas, of rubbish, waste material, litter, and other foreign substances.
 - b. Sweep paved areas broom clean. Remove petrochemical spills, stains, and other foreign deposits.
 - c. Rake grounds that are neither planted nor paved to a smooth, even-textured surface.
 - d. Remove tools, construction equipment, machinery, and surplus material from Project site.
 - e. Remove snow and ice to provide safe access to building.
 - f. Clean exposed exterior and interior hard-surfaced finishes to a dirt-free condition, free of stains, films, and similar foreign substances. Avoid disturbing natural weathering of exterior surfaces. Restore reflective surfaces to their original condition.
 - g. Remove debris and surface dust from limited access spaces, including roofs, plenums, shafts, trenches, equipment vaults, manholes, attics, and similar spaces.
 - h. Sweep concrete floors broom clean in unoccupied spaces.
 - i. Vacuum carpet and similar soft surfaces, removing debris and excess nap; clean according to manufacturer's recommendations if visible soil or stains remain.
 - j. Clean transparent materials, including mirrors and glass in doors and windows. Remove glazing compounds and other noticeable, vision-obscuring materials. Polish mirrors and glass, taking care not to scratch surfaces.
 - k. Remove labels that are not permanent.
 - l. Wipe surfaces of mechanical and electrical equipment and similar equipment. Remove excess lubrication, paint and mortar droppings, and other foreign substances.
 - m. Clean plumbing fixtures to a sanitary condition, free of stains, including stains resulting from water exposure.
 - n. Replace disposable air filters and clean permanent air filters. Clean exposed surfaces of diffusers, registers, and grills.
 - o. Clean ducts, blowers, and coils if units were operated without filters during construction or that display contamination with particulate matter on inspection.
 - 1) Clean HVAC system in compliance with NADCA Standard 1992-01. Provide written report on completion of cleaning.
 - p. Clean light fixtures, lamps, globes, and reflectors to function with full efficiency.
 - q. Leave Project clean and ready for occupancy.

- C. Pest Control: Comply with pest control requirements in Section 015000 "Temporary Facilities and Controls." Prepare written report.
- D. Construction Waste Disposal: Comply with waste disposal requirements.

3.2 REPAIR OF THE WORK

- A. Complete repair and restoration operations before requesting inspection for determination of Substantial Completion.
- B. Repair or remove and replace defective construction. Repairing includes replacing defective parts, refinishing damaged surfaces, touching up with matching materials, and properly adjusting operating equipment. Where damaged or worn items cannot be repaired or restored, provide replacements. Remove and replace operating components that cannot be repaired. Restore damaged construction and permanent facilities used during construction to specified condition.
 - 1. Remove and replace chipped, scratched, and broken glass, reflective surfaces, and other damaged transparent materials.
 - 2. Touch up and otherwise repair and restore marred or exposed finishes and surfaces. Replace finishes and surfaces that already show evidence of repair or restoration.
 - a. Do not paint over "UL" and other required labels and identification, including mechanical and electrical nameplates. Remove paint applied to required labels and identification.
 - 3. Replace parts subject to operating conditions during construction that may impede operation or reduce longevity.
 - 4. Replace burned-out bulbs, bulbs noticeably dimmed by hours of use, and defective and noisy starters in fluorescent and mercury vapor fixtures to comply with requirements for new fixtures.

END OF SECTION 017700

SECTION 017839 PROJECT RECORD DOCUMENTS

PART 1 - GENERAL

1.1 SUMMARY

- A. Section includes administrative and procedural requirements for project record documents, including the following:
 - 1. Record Drawings.
 - 2. Record Specifications.
 - 3. Record Product Data.

- B. Related Requirements:
 - 1. Section 017700 "Closeout Procedures" for general closeout procedures.
 - 2. Section 017823 "Operation and Maintenance Data" for operation and maintenance manual requirements.

1.2 CLOSEOUT SUBMITTALS

- A. Record Drawings Submittals:
 - 1. Submit one (1) paper-copy set(s) of marked-up (red lined) record prints.
 - 2. Submit any PDF electronic files of scanned or digital record documents.
 - 3. Architect/Engineer will indicate whether general scope of changes, additional information recorded, and quality of drafting are acceptable.

- B. Record Specifications: Submit one paper copy or annotated PDF electronic files of Project's Specifications, including addenda and contract modifications.

- C. Record Product Data: Submit one paper copy or annotated PDF electronic files of each product submittal not required as part of operation and maintenance manuals

PART 2 - PRODUCTS

2.1 RECORD DRAWINGS

- A. Record Prints: Maintain one set of marked-up (red-lined) paper copies of the Contract Drawings and Shop Drawings, incorporating new and revised drawings as modifications are issued.
 - 1. Preparation: Mark record prints to show the actual installation where installation varies from that shown originally. Require individual or entity who obtained record data, whether individual or entity is Installer, subcontractor, or similar entity, to provide information for preparation of corresponding marked-up record prints.

- a. Give particular attention to information on concealed elements that would be difficult to identify or measure and record later.
 - b. Accurately record information in an acceptable drawing technique.
 - c. Record data as soon as possible after obtaining it.
 - d. Record and check the markup before enclosing concealed installations.
 - e. Cross-reference record prints to corresponding archive photographic documentation.
2. Content: Types of items requiring marking include, but are not limited to, the following:
- a. Dimensional changes to Drawings.
 - b. Revisions to details shown on Drawings.
 - c. Depths of foundations below first floor.
 - d. Locations and depths of underground utilities.
 - e. Revisions to routing of piping and conduits.
 - f. Revisions to electrical circuitry.
 - g. Actual equipment locations.
 - h. Duct size and routing.
 - i. Locations of concealed internal utilities.
 - j. Changes made by Change Order or Work Change Directive.
 - k. Changes made following Architect/Engineer's written orders.
 - l. Details not on the original Contract Drawings.
 - m. Field records for variable and concealed conditions.
 - n. Record information on the Work that is shown only schematically.
3. Mark the Contract Drawings and Shop Drawings completely and accurately. Use personnel proficient at recording graphic information in production of marked-up record prints.
4. Mark record sets with erasable, red-colored pencil. Use other colors to distinguish between changes for different categories of the Work at same location.
5. Mark important additional information that was either shown schematically or omitted from original Drawings.
6. Note Construction Change Directive numbers, alternate numbers, Change Order numbers, and similar identification, where applicable.
- B. Record Digital Data Files: Immediately before inspection for Certificate of Substantial Completion, review marked-up record prints with Architect/Engineer. When authorized, prepare a full set of corrected digital data files of the Contract Drawings, as follows:
1. Format: Same digital data software program, version, and operating system as the original Contract Drawings.
 2. Incorporate changes and additional information previously marked on record prints. Delete, redraw, and add details and notations where applicable.
 3. Refer instances of uncertainty to Architect/Engineer for resolution.
 4. Architect/Engineer will furnish Contractor one set of digital data files of the Contract Drawings for use in recording information.
 - a. See Section 013300 "Submittal Procedures" for requirements related to use of Architect/Engineer's digital data files.
 - b. Architect/Engineer will provide data file layer information. Record markups in separate layers.
- C. Format: Identify and date each record Drawing; include the designation "PROJECT RECORD DRAWING" in a prominent location.

1. Record Prints: Organize record prints and newly prepared record Drawings into manageable sets. Bind each set with durable paper cover sheets. Include identification on cover sheets.
2. Format: Annotated PDF electronic files.
3. Record Digital Data Files: Organize digital data information into separate electronic files that correspond to each sheet of the Contract Drawings. Name each file with the sheet identification. Include identification in each digital data file.
4. Identification: As follows:
 - a. Project name.
 - b. Date.
 - c. Designation "PROJECT RECORD DRAWINGS."
 - d. Name of Architect/Engineer.
 - e. Name of Contractor.

2.2 RECORD SPECIFICATIONS

- A. Preparation: Mark Specifications to indicate the actual product installation where installation varies from that indicated in Specifications, addenda, and contract modifications.
 1. Give particular attention to information on concealed products and installations that cannot be readily identified and recorded later.
 2. Mark copy with the proprietary name and model number of products, materials, and equipment furnished, including substitutions and product options selected.
- B. Format: Submit record Specifications as annotated PDF electronic file or marked paper copy.

2.3 RECORD PRODUCT DATA

- A. Preparation: Mark Product Data to indicate the actual product installation where installation varies substantially from that indicated in Product Data submittal.
 1. Give particular attention to information on concealed products and installations that cannot be readily identified and recorded later.
 2. Include significant changes in the product delivered to Project site and changes in manufacturer's written instructions for installation.
 3. Record the name of manufacturer, supplier, Installer, and other information necessary to provide a record of selections made.
 4. For each principal product, indicate whether record Product Data has been submitted in operation and maintenance manuals instead of submitted as record Product Data.
- B. Format: Submit record Product Data as annotated PDF electronic file or paper copy or Product Data.

PART 3 - EXECUTION

3.1 RECORDING AND MAINTENANCE

- A. Recording: Post changes and revisions to project record documents as they occur; do not wait until end of Project.

- B. Maintenance of Record Documents and Samples: Store record documents and Samples in the field office apart from the Contract Documents used for construction. Do not use project record documents for construction purposes. Maintain record documents in good order and in a clean, dry, legible condition, protected from deterioration and loss. Provide access to project record documents for Architect/Engineer's reference during normal working hours.


END OF SECTION 017839

APPENDIX A

JOB SPECIAL PROVISIONS TABLE OF CONTENTS

(Job Special Provisions shall prevail over General Provisions whenever in conflict therewith.)

A.	PROJECT DATES	1
B.	GRAIN BIN UPDATES	1
C.	ALTERNATE BID ITEM NO. 1	1
D.	ALTERNATE BID ITEM NO. 2	1
E.	PAYMENT PROCEDURES	2
F.	BUY AMERICA REQUIREMENTS	2

	<p>MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION 105 W. CAPITOL AVE. JEFFERSON CITY, MO 65102 Phone 1-888-275-6636</p>
	<p>CONSULTANT NAME Klingner & Associates, P.C. 616 N. 24th St., Quincy, IL 62301</p> <p>Certificate of Authority: E-000866 Consultant Phone: 217.223.3670</p>
	<p>JOB NUMBER: 20-0330 HOWARD COUNTY, MO DATE PREPARED: 04/03/2026</p>
<p>Date: 04/08/2026</p>	<p>ADDENDUM DATE:</p>
<p>Only the following items of the Job Special Provisions are authenticated by this seal: All</p>	

JOB
SPECIAL PROVISIONS

A. PROJECT DATES

- 1.0 **Description.** The grain bins must remain fully functional until shutdown has been coordinated with Port and Port Operator. Assembly of equipment on Port property may begin as coordinated with the Port and Port Operator; however, surrounding operations must not be impeded. All work and invoicing shall be complete for the project prior to June 4, 2026.
- 2.0 **Basis of Payment.** All payments for the work are intended to be made by June 4, 2026 and shall be based upon the percentage of work completed. Payments for construction / percentage of work shall be made based upon progress as determined by the Engineer, Owner, and Owner's operator.

B. GRAIN BIN UPDATES

- 1.0 **Description.** Project will consist of removing and replacing reclaim augers and conveyors for bins #1-#3 as well as the receiving pit conveyor. The receiving pit conveyor will be updated to a capacity of 15,000 BPH. The reclaim conveyors will be updated to a capacity of 10,000 BPH. The current bucket elevator cannot support any capacity greater than 6,500 BPH. The HCPA will be updating the bucket elevator at later date. The upgraded equipment will need to have the capacity reduced using different pulley combinations to slow the equipment to a capacity of 6,500. If this cannot be accomplished using a simple pulley change it must be noted in the bidder's final bid. The full capacity and 6,500 capacity pulley combinations for each piece of equipment must be included.
- 2.0 **Basis of Payment.** Payment for the purchasing of equipment/materials shall be made upon receipt of a purchase order and/or invoice by the Port Authority. Payment for the installation of the equipment shall be based upon the percentage of the work completed as determined by the Project Engineer and/or Owner's Representative.

C. ALTERNATE BID ITEM NO. 1

- 1.0 **Description.** This work shall consist of procurement and installation of a new distributor.
- 2.0 **Basis of Payment.** Payment for the purchasing of equipment/materials shall be made upon receipt of a purchase order and/or invoice by the Port Authority. Payment for the installation of the equipment shall be based upon the percentage of the work completed as determined by the Project Engineer and/or Owner's Representative.

D. ALTERNATE BID ITEM NO. 2

- 1.0 **Description.** This work shall consist of the equipment, labor, etc. to upgrade the existing 400-amp electric service to 800-amp for anticipated future / new equipment.

2.0 Basis of Payment. Payment for the purchasing of equipment/materials shall be made upon receipt of a purchase order and/or invoice by the Port Authority. Payment for the installation of the equipment shall be based upon the percentage of the work completed as determined by the Project Engineer and/or Owner’s Representative.

E. PAYMENT PROCEDURES

1.0 Description. As described within the Contract Documents, “The Owner shall make progress payments on the amount or percentage of Work completed to date, as requested on the basis of Contractor’s Applications for Payment and in accordance with Article 15 of the General Conditions.”

2.0 Application for Payment. The Contractor shall provide to the Engineer and/or Owner their Application for Payment by the 1st day of each month. The Owner shall review the pay application for a full, partial, or non payment on the second Thursday of each month. Payments shall be based upon the percentage of the work completed as determined by the Project Engineer and/or Owner’s Representative.

F. BUY AMERICA REQUIREMENTS

1.0 Description. Title IV MO Revised Statute Chapter 34 State Purchasing and Printing, Section 34.353 shall be followed by the Contractor, which is provided below for reference.

2.0 Title IV Executive Branch, Chapter 34 State Purchasing and Printing, Section 34.353 All public agencies and political subdivisions to purchase or lease only goods or commodities produced in the United States, exceptions, procedure. —

1. Each contract for the purchase or lease of manufactured goods or commodities by any public agency, and each contract made by a public agency for construction, alteration, repair, or maintenance of any public works shall contain a provision that any manufactured goods or commodities used or supplied in the performance of that contract or any subcontract thereto shall be manufactured or produced in the United States.
2. This section shall not apply where the purchase, lease, or contract involves an expenditure of less than twenty-five thousand dollars. This section shall not apply when only one line of a particular good or product is manufactured or produced in the United States.
3. This section shall not apply where the executive head of the public agency certifies in writing that:

(1) The specified products are not manufactured or produced in the United States in sufficient quantities to meet the agency’s requirements or cannot be manufactured or produced in the United States within the necessary time in sufficient quantities to meet the agency’s requirements;

- (2) Obtaining the specified products manufactured or produced in the United States would increase the cost of the contract by more than ten percent;
 - (3) The specified products are to be purchased or leased by a state-supported four-year institute of higher education and such certification as required by subdivision (1) or (2) of this subsection has been made within the last three years;
 - (4) The specified products are to be purchased or leased by a publicly supported institution and such certification as required by subdivision (1) or (2) of this subsection has been made within the last three years; or
 - (5) The political subdivision has adopted a formal written policy to encourage the purchase of products manufactured or produced in the United States.
4. The certificate required by this section shall specify the nature of the contract, the product being purchased or leased, the names and addresses of the United States manufacturers and producers contacted by the public agency or the project architect or engineer, and an indication that such manufacturers or producers could not supply sufficient quantities or that the price of the products would increase the cost of the contract by more than ten percent.
5. Certificates required by this section shall be maintained by the public agency for a period of three years.

APPENDIX B

Howard Cooper Port GRAIN EXPANSION 2026

SPECIFICATIONS

GENERAL

Bids are to be submitted as per MFA Incorporated Drawing No 101.2, sheets 2 dated 10/20/25 and the following specifications. These MFA drawings are not to be used for construction purposes, but for bidding and layout purposes only. Dimensions on drawings and in specifications are approximate but should be within one-to-two-foot tolerances.

Contractor will be responsible for the removal of all equipment necessary to make the upgrades described. The Port Authority will retain all ownership of removed equipment and structures.

BASE BID:

Project will consist of removing and replacing reclaim augers and conveyors for bins #1-#3 as well as the receiving pit conveyor. The receiving pit conveyor will be updated to a capacity of 15,000 BPH. The reclaim conveyors will be updated to a capacity of 10,000 BPH. The current bucket elevator cannot support any capacity greater than 6,500 BPH. The HCPA will be updating the bucket elevator at later date. The upgraded equipment will need to have the capacity reduced using different pulley combinations to slow the equipment to a capacity of 6,500. If this cannot be accomplished using a simple pulley change it must be noted in the bidder's final bid. The full capacity and 6,500 capacity pulley combinations for each piece of equipment must be included.

ALTERNATE BID ITEM 1:

The HCPA would also like the contractors to bid the procurement of a new distributor as a separate line item.

ALTERNATE BID ITEM 2:

The electrical service expanded from a 400-amp service to an 800-amp service to carry the load of anticipated future / new equipment.

RECEIVING DRAG

- A. Schlagel 2218 Drag Conveyor 26' OAL. drag-flite conveyor or equivalent. 15,000 BPH
1. Right Hand Drive
 2. 15 HP TEFC motor and Class II service gear reducer drive at 139 FPM Flight Speed.
 3. Dodge TA 9415 Class II Drive
 4. Trough constructed entirely of 11 ga. material except for 14 ga. hip roof cover. 7 ga AR bolted bottom liner and 10 ga. AR side liners.
 5. 6' Bypass inlet
 6. All joints and covers to be gasketed and dust tight.
 7. Spout to leg
 8. A safety electrical shut-off will be installed at the motor.
 9. A hinged dust and watertight inspection door shall be installed at the discharge end.
 10. Pit will need to be modified to work with new conveyor.
 11. Conveyor shall be equipped with a hinged lid in the terminal end of the conveyor such that in the event material is not getting away from the conveyor, it will push open the lid that will activate a safety switch that will shut down the conveyor. Electrical interlocks shall be such that all contributing conveyors will also shut down.

RECLAIM DRAG #1 (Bin #1 Reclaim)

- A. Schlagel 1618 Drag Conveyor 30' OAL. drag-flite conveyor or equivalent. 10,000 BPH
 - 1. Extra heavy drag with WH 132 steel chain.
 - 2. 10 HP TEFC motor and Class II service gear reducer drive at 143 FPM Flight Speed.
 - 3. 1 standard inlet.
 - 4. Trough constructed entirely of 11 ga. material except for 14 ga. hip roof cover. 3/16" AR bolted bottom liner and 10 ga. AR side liners.
 - 5. Full AR capped return rail.
 - 6. All joints and cover to be gasketed and dust tight.
 - 8. A safety electrical shut-off will be installed at the motor.
 - 9. A hinged dust and watertight inspection door shall be installed at the discharge end.
 - 10. Conveyor shall be equipped with a hinged lid in the terminal end of the conveyor such that in the event material is not getting away from the conveyor, it will push open the lid that will activate a safety switch that will shut down the conveyor. Electrical interlocks shall be such that all contributing conveyors will also shut down.

RECLAIM DRAG #2 (Bin #2 Reclaim)

- A. Schlagel 1618 Drag Conveyor 30' OAL. drag-flite conveyor or equivalent. 10,000 BPH
 - 1. Extra heavy drag with WH 132 steel chain.
 - 2. 10 HP TEFC motor and Class II service gear reducer drive at 143 FPM Flight Speed.
 - 3. 1 standard inlets.

4. Trough constructed entirely of 11 ga. material except for 14 ga. hip roof cover. 3/16" AR bolted bottom liner and 10 ga. AR side liners.
5. Full AR capped return rail.
6. All joints and cover to be gasketed and dust tight.
8. A safety electrical shut-off will be installed at the motor.
9. A hinged dust and watertight inspection door shall be installed at the discharge end.
10. Conveyor shall be equipped with a hinged lid in the terminal end of the conveyor such that in the event material is not getting away from the conveyor, it will push open the lid that will activate a safety switch that will shut down the conveyor. Electrical interlocks shall be such that all contributing conveyors will also shut down.

RECLAIM DRAG #3(Transfer Conveyor from GSI Bin to Leg)

- A. Schlagel 1618 Drag Conveyor 54' OAL. drag-flite conveyor or equivalent. 10,000 BPH
 1. Extra heavy drag with WH 132 steel chain.
 2. 15 HP TEFC motor and Class II service gear reducer drive at 132 FPM Flight Speed.
 3. 4 standard inlets.
 4. Trough constructed entirely of 11 ga. material except for 14 ga. hip roof cover. 3/16" AR bolted bottom liner and 10 ga. AR side liners.
 5. Full AR capped return rail.
 6. All joints and covers to be gasketed and dust tight.
 8. A safety electrical shut-off will be installed at the motor.

9. A hinged dust and watertight inspection door shall be installed at the discharge end.
10. Conveyor shall be equipped with a hinged lid in the terminal end of the conveyor such that in the event material is not getting away from the conveyor, it will push open the lid that will activate a safety switch that will shut down the conveyor. Electrical interlocks shall be such that all contributing conveyors will also shut down.

DISTRIBUTOR

A. Distributor will be a Schlagel 18" 8 Hole Single Inlet Swing Spout Electric Distributor. Distributor to have Schlagel's Extra Heavy Duty Option

ELECTRICAL

A. Equipment to be wired for 277/480 volt 3-phase power. Upgrade existing service. Install 800-amp disconnect and refeed with 800-amp conductors capable to transformer in two new underground conduits. Install a new 277/480 volt 400-amp subpanels with necessary breaker for new motors. A new electric room will need to be built to house new electrical equipment.

B. Necessary wiring of all equipment in rigid metal conduit/aluminum/IMC. No EMT.

C. All motor starters must be NEMA rated. All equipment should have a disconnect mounted within site of the motor or reasonable distance.

D. The contractor shall furnish all labor, materials, equipment, tools, and supervision necessary to perform the complete electrical installation in accordance with:

1. National Electrical Code (NEC)
2. Local and state electrical codes
3. NFPA 70E standards for electrical safety
4. OSHA requirements
5. Manufacturer installation specifications

- E. All pushbutton controls to have indicator pilot lights to indicate when equipment is running in panel showing layout.
- F. All motors shall be cast iron and have a 1.15 service factor. Motors that are in enclosed dusty areas shall be labeled Class II, Division One or Group G motors. These are the motors on: N/A. All other motors to be TEFC with 120 degrees C. maximum full load external temperature.
- G. All electrical in pit areas to meet requirements for use in Class II, Group G locations.
- H. The following equipment is to be interlocked with the elevator leg:
 - 1. Receiving Drag #1
 - 2. Reclaim Drag #1
 - 3. Reclaim Drag #2
 - 5. Reclaim Drag #3

PAINTING

- A. All exterior metal surfaces not factory primed shall be cleaned and painted in the following manner.
 - 1. All rust, mill scale, surface soils and non-oily soils shall be removed.
 - 2. All oil, grease deposits and oily surfaces shall be wiped clean. Do not use mineral spirits as they leave a film that impairs the adhesion of the primer.
 - 3. These areas shall receive a primer coat of Glid-Guard DTM #5214 applied to a dry film thickness of 3 mils. A topcoat of Glid Guard #5220 white enamel applied to a minimum dry film thickness of 3 mils. These film thicknesses can be achieved with one coat sprayed or two coats brush or roller applied.
- B. All factory primed surfaces shall be painted in the following manner.

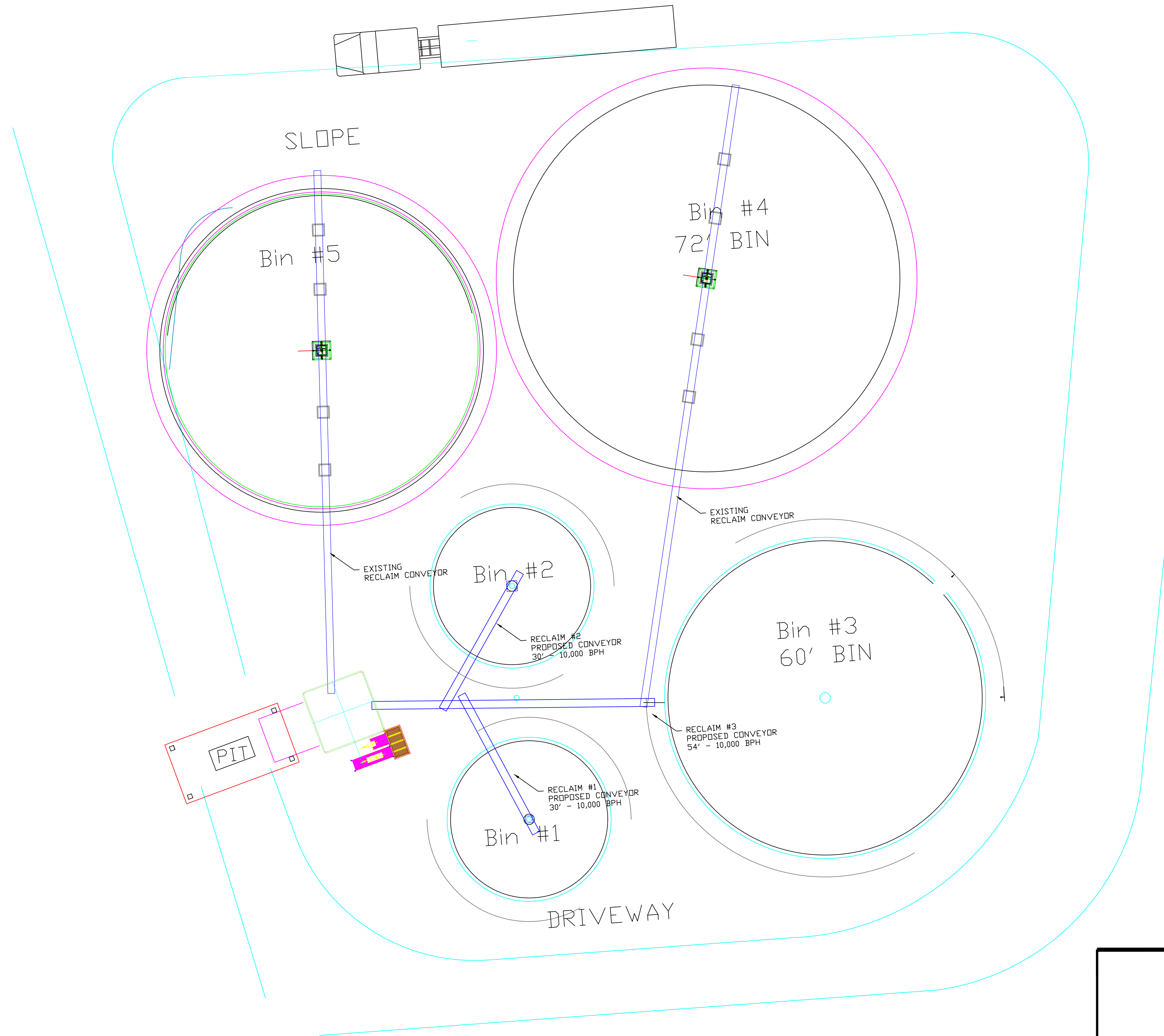
1. All scratches and bare areas shall be wire brushed free of rust and loose paint and primed with Glid-Guard DTM #5214 as per above.
 2. These areas shall receive a topcoat of Glid Guard #5220 white enamel applied to a minimum dry film thickness of 3 mils. This film thickness can be achieved with one coat sprayed or two coats brush or roller applied.
- C. Any scratched and bare areas after erection shall be wire brushed, spot primed and top coated.

DEMO AND EQUIPMENT REMOVAL

- A. The goal of this project is to safely remove the structure while preserving all equipment and reusable materials in good condition for future use or sale. The existing grain elevator includes tower, bucket elevator, distributor, spouting, one fill conveyor, receiving conveyor, two reclaim augers and one reclaim conveyor that will need to be removed.
1. Perform a controlled demolition/deconstruction.
 2. Carefully dismantle equipment and components to avoid damage.
 3. Prepare salvaged equipment for storage or transport.
 4. Properly dispose of debris and non-salvageable materials in accordance with environmental and safety regulations.
 5. Preserve all operational or potentially reusable equipment.
 6. The port authority will maintain ownership of all removed equipment.

MISCELLANEOUS

- A. All equipment guards, catwalks, ladders, etc. are to be installed and erected as per OSHA standards.
- B. Successful bidder will provide Port Authorities with copies of his working drawings for approval, a work performance schedule and copies of all final construction drawings.
- C. Successful bidder will attach copies of all machinery invoices to the final billing notice for the Port Authorities' records.
- D. Joints on all equipment are to be gasketed or caulked while being assembled and covers to all conveyors are to be gasketed and made watertight.
- E. All transitions from conveyor to conveyor or conveyor to leg will be flanged and bolted to allow for removal and maintenance.
- F. Contractor to supply manager of location with Manufacturer's Operating and Maintenance Manuals for all equipment installed.
- G. Contractor is to pay all applicable taxes and freight.
- H. All materials and machinery shall be shipped freight prepaid and billed to contractor.
- I. All equipment suppliers shall be as specified, and no substitutions will be allowed without written approval.
- J. Successful bidder will attach to each invoice a completed copy of the following progressive payment schedule.
- K. Owner to furnish water and power for contractor's use during construction.
- L. Any cutting or welding performed in the elevator shall be done only with a completed copy of the attached cutting and welding permit. (Extra copies are available upon request.)
- M. Contractor shall deliver to Owner lien waivers from all laborers, material men and subcontractors or other persons in connection with the work performed.



MFA INC		
		<i>HOCO Port</i>
SCALE: <i>NA</i>	<i>Sheet 2</i>	DRAWN BY: <i>NLP</i>
DATE: <i>10/20/25</i>		REVISED <i>10/25/25</i>
<i>Grain Update</i>		
<i>Reclaim Layout</i>		DRAWING NUMBER <i>101.2</i>