

MEMORANDUM

TO: Board of Trustees

THROUGH: Brad Underwood, Director of Public Works

FROM: Kate Nelson, Engineering Manager

SUBJECT: Accept the FY22 Tahoe Water for Fire Suppression Partnership Grant in the amount of \$204,528.00; appropriate FY22 Tahoe Water for Fire Suppression Partnership Grant funds in the amount of \$204,528.00 as a revenue source to support the Watermain Replacement - Crystal Peak Road Project (CIP#2299WS1705); award the Construction Contract to Burdick Excavation in the amount of \$1,111,111.00; authorize Staff to execute change orders for additional work not anticipated at this time of approximately 10% of the construction contract value; amount not to exceed \$111,000; approve construction phase contract for Shaw Engineering in the amount not to exceed \$9,600.00; approve a materials testing contract for Construction Materials Engineers Inc. (CME) in the amount of \$18,800; and authorize Chair and Secretary to execute contracts with Burdick Excavation, Shaw Engineering, and CME. (Requesting Staff Member: Director of Public Works Brad Underwood)

RELATED STRATEGIC PLAN INITIATIVE(S):

LONG RANGE PRINCIPLE #5 – ASSETS AND INFRASTRUCTURE

The District will practice perpetual asset renewal, replacement and improvement to provide safe and superior long term utility services and recreation venues, facilities, and services.

RELATED DISTRICT POLICIES, PRACTICES, RESOLUTIONS OR ORDINANCES

Board Policy 12.1.0 Multi-year Capital Planning, 13.1.0 Capital Project Budgeting, and 21.1.0 Purchasing Policy for Public Works Contracts.

DATE: March 8, 2023

I. RECOMMENDATION

That the Board of Trustees made a motion to:

- Accept the FY22 Tahoe Water for Fire Suppression Partnership Grant in the amount of \$204,528.00
- Appropriate FY22 Tahoe Water for Fire Suppression Partnership Grant funds in the amount of \$204,528.00 as a funding source to support the Watermain Replacement - Crystal Peak Road Project (CIP#2299WS1705)
- Award the Construction Contract to Burdick Excavation in the amount of \$1,111,111.00
- Authorize Staff to execute change orders for additional work not anticipated at this time of approximately 10% of the construction contract value; amount not to exceed \$111,000
- Approve a construction phase contract for Shaw Engineering in the amount not to exceed \$9,600.00
- Approve a materials testing contract for CME in the amount of \$18,800.00
- Authorize Chair and Secretary to execute contracts with Burdick Excavation, Shaw Engineering, and CME, based on a review by General Counsel and Staff.

II. BACKGROUND

This project is a FY 2022-23 Capital Improvement Project, and is a continuation of the multi-year program to replace 1960's-era thin-wall steel watermains and other deficient watermains. This project will replace the watermain in Crystal Peak Road between Lakeshore Boulevard and Martis Peak Road.

An additional objective of this program is to coordinate closely with the North Lake Tahoe Fire Protection District to determine areas of low fire flow, which may indicate a need for increased capacity in that area. If increased capacity is needed, these waterlines are also eligible for grant funding through the Tahoe Water for Fire Suppression Partnership. Staff also continues to coordinate with the Washoe County Road Department to replace watermains prior to the County's repaving or rehabilitating the road surface. Staff is working with the Utility Masterplan consultant to re-evaluate the steel watermain replacement program to consider locations with frequent repairs and the continued increases in the Construction Cost Index (CCI).

III. BID RESULTS

The District publicly advertised this project for bidding on December 30, 2022 with a bid submittal due date of February 9, 2023, a 6-week bid period. The District advertised the work as required by NRS 338 and posted all construction documents on PlanetBids. Vendors and contractors on PlanetBids can access all of the District's documents at no cost. The online portal also tracks questions, addenda to the documents, plan holders and interested vendors.

The District received and opened four (4) responsive bids. The Engineer's Estimate for the base project was \$1,200,000. The Engineer's Estimate did not

include a contingency. The bid results are attached as part of the Recommendation of Award provided by the design engineer (Attachment A).

IV. FINANCIAL IMPACT AND BUDGET

The Crystal Peak Watermain Replacement Project CIP2299WS1705 is included in the approved FY 2022-23 CIP Budget, with a total project budget of \$1,500,000 (Attachment B). The Crystal Peak Watermain Replacement project was submitted as a top tier IVGID priority project for grant funding under the Tahoe Water for Fire Suppression Partnership, and was awarded a grant in the amount of \$204,528 for construction (Attachment C). Approval of the recommendations contained in this agenda item would authorize acceptance of the grant funding, authorize a budget amendment to reflect the grant funding as a revenue source in support of this project, and authorize actions related to executing the project. There is no impact to the approved expenditure budget for the project.

The table below presents the estimated Construction Phase costs for the Crystal Peak Waterline project budget:

Task	Cost
Internal Project Management & Inspection	\$36,500
Construction by Burdick Excavation	\$1,111,111
Construction Materials Testing - CME	\$18,800
External Construction Phase Services - Shaw Engineering	\$9,600
Construction Contingency	\$111,000
Total	\$1,287,011

Construction contingency is listed at approximately 10% to account for unforeseen conditions during construction such as unknown ground conditions or existing utility conflicts as examples.

The contracts associated with the construction, construction administration services, and material testing are attached (Attachment D, E, F).

V. ALTERNATIVES

Not accept the grant award and not authorize the construction of the Crystal Peak Waterline Replacement.

VI. COMMENTS

No additional comments.

VII. DISTRICT IMPROVEMENT, COST REDUCTION, RETURN ON INVESTMENT OR PRODUCTIVITY ENHANCEMENT

Replacement of waterlines that have outlived their useful life reduce costs associated with repairs and is considered best management practice for utility purveyors. Replacing this waterline will effectively eliminate the need for the Public Works Pipeline Division to respond to leaks from aging infrastructure.

VIII. BUSINESS IMPACT

This item is not a "rule" within the meaning of Nevada Revised Statutes, Chapter 237, and does not require a Business Impact Statement.

IX. ATTACHMENTS

1. A_IVGID Crystal Peak Recommendation of Award Letter_WA-2023-032
2. B_2299WS1705 - Watermain Replacement - Crystal Peak Road
3. C_STPUD - Fire Suppression - Subaward Packet IVGID
4. D_IVGID WA-2023-032 Project Manual - Conformed_bbk
5. E_Shaw Engineering 2022-02-22 PSA - Crystal Peak Waterlines, Construction Phase
6. F_2022-02-22 PSA - Crystal Peak Waterlines Mat'ls Testing

X. DECISION POINTS NEEDED FROM THE BOARD OF TRUSTEES

1. Accept the FY22 Tahoe Water for Fire Suppression Partnership Grant in the amount of \$204,528.00
2. Appropriate FY22 Tahoe Water for Fire Suppression Partnership Grant funds in the amount of \$204,528.00 as a funding source to support the Watermain Replacement - Crystal Peak Road Project (CIP#2299WS1705)
3. Award the Construction Contract to Burdick Excavation in the amount of \$1,111,111.00
4. Authorize Staff to execute change orders for additional work not anticipated at this time of approximately 10% of the construction contract value; amount not to exceed \$111,000
5. Approve a construction phase contract for Shaw Engineering in the amount not to exceed \$9,600.00
6. Approve a materials testing contract for CME in the amount of \$18,800
7. Authorize Chair and Secretary to execute contracts with Burdick Excavation, Shaw Engineering, and CME, based on a review by General Counsel and Staff.



ATTACHMENT A

February 14, 2023
PWP No. WA-2023-032

Ms. Ronnie Rector
Public Works Contracts Administrator
Incline Village General Improvement District
1220 Sweetwater Road
Incline Village, NV 89451

**RE: Crystal Peak Distribution Watermain Improvements
Recommendation of Award**

Dear Ms. Rector:

Incline Village General Improvement District has reviewed all four bids received on February 9, 2023 for the above referenced Project. A summary of the bids received is attached to this letter. No mathematical errors were found in any of the bids. Burdick Excavation (Burdick) is the apparent low bidder with a bid amount of \$1,111,111.00. Burdick has satisfactorily completed all the forms associated with the bid proposal package and is properly licensed in the State of Nevada. Burdick appears to have submitted a responsive and responsible bid.

Shaw Engineering therefore recommends the award of this project to Burdick for a total amount of \$1,111,111.00. This award should be contingent upon no formal protests being filed per Article 17 contained in the Information for Bidders which allows for a formal protest within 5 Days of this letter of recommendation.

If you have any questions or comments please feel free to call anytime.

Sincerely,
SHAW ENGINEERING

Nick O'Connor

Nick O'Connor, P.E.
Project Engineer

Attachments: Bid Tabulation
Contractors Board Information

Cc: Hudson Klein, P.E. IVGID
Kate Nelson, P.E., IVGID

20 Vine Street
Reno, Nevada
89503

Telephone:
775
329.5559

Facsimile:
775
329.5406

Email:
mail@
shawengineering
.com



Incline Village General Improvement District
Crystal Peak Distribution Watermain Improvements
Bid Tabulation

2/9/23

Item No.	Description	Unit	Qty	Burdick Excavating		Gerhardt & Berry		FW Carson		Resource Development	
				Bid Unit Price	Bid Amount	Bid Unit Price	Bid Amount	Bid Unit Price	Bid Amount	Bid Unit Price	Bid Amount
1	Mobilization/Demobilization	LS	1	\$ 55,000.00	\$ 55,000.00	\$ 50,000.00	\$ 50,000.00	\$ 53,100.00	\$ 53,100.00	\$ 66,000.00	\$ 66,000.00
2	Temporary Traffic Control	LS	1	\$ 71,000.00	\$ 71,000.00	\$ 11,540.00	\$ 11,540.00	\$ 52,100.00	\$ 52,100.00	\$ 159,500.00	\$ 159,500.00
3	Environmental Protection	LS	1	\$ 6,500.00	\$ 6,500.00	\$ 65,165.00	\$ 65,165.00	\$ 29,400.00	\$ 29,400.00	\$ 27,500.00	\$ 27,500.00
4	WL Connection Assembly Sheet P1 Section A-A	LS	1	\$ 45,000.00	\$ 45,000.00	\$ 27,043.00	\$ 27,043.00	\$ 22,500.00	\$ 22,500.00	\$ 50,900.00	\$ 50,900.00
5	WL Connection Assembly Sheet P3 Station 32+15	LS	1	\$ 30,900.00	\$ 30,900.00	\$ 13,370.00	\$ 13,370.00	\$ 21,000.00	\$ 21,000.00	\$ 28,000.00	\$ 28,000.00
6	8" Water Line	LF	2280	\$ 159.00	\$ 362,520.00	\$ 193.00	\$ 440,040.00	\$ 198.00	\$ 451,440.00	\$ 267.50	\$ 609,900.00
7	8" Gate Valve	EA	6	\$ 6,550.00	\$ 39,300.00	\$ 4,685.00	\$ 28,110.00	\$ 5,600.00	\$ 33,600.00	\$ 4,250.00	\$ 25,500.00
8	Fire Hydrant Assembly	EA	3	\$ 18,100.00	\$ 54,300.00	\$ 18,995.00	\$ 56,985.00	\$ 15,900.00	\$ 47,700.00	\$ 24,700.00	\$ 74,100.00
9	Water Service Re-connects	EA	15	\$ 5,865.00	\$ 87,975.00	\$ 6,608.00	\$ 99,120.00	\$ 3,900.00	\$ 58,500.00	\$ 5,250.00	\$ 78,750.00
10	Abandon Existing Water Valve	EA	3	\$ 250.00	\$ 750.00	\$ 1,716.00	\$ 5,148.00	\$ 1,800.00	\$ 5,400.00	\$ 2,550.00	\$ 7,650.00
11	1" Combination Air Valve	EA	1	\$ 8,200.00	\$ 8,200.00	\$ 10,332.00	\$ 10,332.00	\$ 9,400.00	\$ 9,400.00	\$ 11,500.00	\$ 11,500.00
12	Bollards	EA	2	\$ 1,890.00	\$ 3,780.00	\$ 1,077.00	\$ 2,154.00	\$ 1,800.00	\$ 3,600.00	\$ 2,100.00	\$ 4,200.00
13	Cut and Cap Water Main or Cut and Plug Existing Pipe	EA	8	\$ 230.00	\$ 1,840.00	\$ 1,214.00	\$ 9,712.00	\$ 1,900.00	\$ 15,200.00	\$ 1,200.00	\$ 9,600.00
14	Roadway & Existing Facility Repair	LS	1	\$ 344,046.00	\$ 344,046.00	\$ 438,000.00	\$ 438,000.00	\$ 508,800.00	\$ 508,800.00	\$ 294,980.00	\$ 294,980.00
				\$ 1,111,111.00		\$ 1,256,719.00		\$ 1,311,740.00		\$ 1,448,080.00	

License Details

License Number:
0022629

Business Primary Name: BURDICK EXCAVATING CO INC

DBA Name:

Mailing Address: PO BOX 22330
CARSON CITY, NV 89721
(775) 297-4566

Physical Address: 5 BROWN DR
MOUND HOUSE, NV 89706
(775)297-4566

Status: Active

Status Date: 01/05/2022 (mm/dd/yyyy)

igin Date: 01/22/1985 (mm/dd/yyyy)

Expiration Date: 01/31/2024 (mm/dd/yyyy)

Business Type: Corporation

Classification(s): A-12 Excavating, Grading, Trenching and Surfacing, A-15 Sewers, Drains and Pipes, A-16 Paving of Streets, Driveways and Parking Lots, A-19 Pipeline and Conduits, A-7 Excavating and Grading

Limitation: A19 IS LIMITED TO WATER LINES ONLY

Current Date: 2/9/2023
3:57:16 PM
(mm/dd/yyyy)

License Monetary Limit: Unlimited

Principal Name
BURDICK, LINDA THOMAS
BURDICK, RANDY GEORGE

Relation Description
President
Secretary/Treasurer

Qualified Individual(s)
BURDICK, RANDY GEORGE
BURDICK, LINDA THOMAS

Qualifier Type
Trade
CMS

Bond

Bond Type: Surety
Bond Number: LP745958540007
Bond Agent: CHERYL KOIZUMI
ety Company: NATIONWIDE MUTUAL INS CO
Bond Amount: \$20,000.00
Effective Date: 01/21/1990 (mm/dd/yyyy)

Bond Type:
Bond Amount:
Effective Date:

Bond Not Required
03/01/2007 (mm/dd/yyyy)

The information contained on these pages are provided as a courtesy and may not reflect recent changes or updates. Neither the completeness nor accuracy is guaranteed. The Nevada State Contractors Board shall have no liability or responsibility for loss and damages arising from the information provided or retrieved from these pages.

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Project Summary



Project Number: 2299WS1705
Title: Watermain Replacement - Crystal Peak Road
Project Type: D - Capital Improvement - Existing Facilities
Division: 21 - Supply & Distribution
Budget Year: 2023
Finance Options:
Asset Type: DI - Distribution Infrastructure
Active: Yes

Project Description

The project includes full replacement of the existing 6-inch steel watermain with a new 8-inch PVC pipeline. This will include the replacement existing service laterals to individual properties and necessary appurtenances for connection and operation; this also includes replacement of existing fire hydrants with additional, new fire hydrants to meet current NLTFFD FH standards. Project area is along Crystal Peak Road between the intersections at Lakeshore Blvd and Martis Peak Rd.

This project is a continuation of the multi-year program to replace 1960's era thin-wall steel watermain and other deficient watermain. Replacement criteria is twofold: Replace those watermain with the most leaks and in streets with aging pavement. Since our water loss is now less than 6%, our main objective is to work closely with the Washoe County Road Department to replace watermain prior to the County's repaving the street. We also work closely with the North Lake Tahoe Fire Protection District to determine areas of low fire flow, which may indicate a need for increased capacity in that area. There is approximately 6 miles of old steel watermain remaining in the system.

Project Internal Staff

Engineering staff will review external consultant Design and Engineering documents, and directly complete Bidding, Contract Administration and Inspection tasks. Outside contractor to complete the physical work. IVGID resources remain available for ongoing maintenance activities and emergency response.

Project Justification

Our overall goal is to replace deficient watermain to keep our unaccounted for water loss to under 6% and to avoid costly pavement patch penalties imposed by Washoe County. The original watermain installed in much of Incline Village in the 1960's were thin-walled steel. These pipes are failing and need replacement in order to reduce the burden on IVGID Public Works maintenances crews. Washoe County has high pavement penalty costs for replacing watermain in newly paved streets. Replacing watermain in newly paved streets or streets with an excellent pavement condition could increase project costs by up to 50% due to pavement cut penalties.

Forecast

Budget Year	Total Expense	Total Revenue	Difference
2023 Tahoe Water Grant		204,528	
Construction Testing	21,500	0	21,500
Crystal Peak Road Watermain Construction	1,230,000	0	1,230,000
External Planning & Design	58,000	0	58,000
Internal Project Management & Inspection	36,500	0	36,500
-Washoe Co Street Repair and Penalties in Construction	Included 154,000	0	154,000
Year Total	1,500,000	0	1,500,000
	--1,500,000--	1,704,528 0	-1,500,000

to be used for construction only

Completed

Change to Construction Contingency (\$111,000)

Year Identified	Start Date	Est. Completion Date	Manager	Project Partner
2017	Jul 1, 2021	Jun 30, 2023	Senior Engineer	

South Tahoe Public Utility District NOTICE OF SUBAWARD

Program Name: Tahoe Water for Fire Suppression Partnership South Tahoe Public Utility District Yesenia Pacheco / ypacheco@stpud.us	Subrecipient's Name: Incline Village General Improvement District Susan Herron / sah@ivgid.org
Address: 1275 Meadow Crest Drive South Lake Tahoe, CA 96150	Address: 1220 Sweetwater Road Incline Village, NV 89451
Subaward Period: July 1, 2022, through December 31, 2023	Subrecipient's: EIN: <u>880099974</u> UEI: <u>NRCMTNZ7RLX4</u>

Purpose of Award: Incline Village General Improvement District (IVGID) will replace 2300 linear feet of 6-inch water main with a new 8-inch water main to meet 2018 IFC code requirements.

Approved Budget Categories:		FEDERAL AWARD COMPUTATION:	
1. Construction	\$204,528.00	Total Obligated by this Action:	\$ 204,528.00
		Cumulative Prior Awards this Budget Period:	\$ 0.00
		Total Federal Funds Awarded to Date:	\$ 204,528.00
		Match Required <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	
		Amount Required this Action:	\$ 204,528.00
		Amount Required Prior Awards:	\$ 0.00
		Total Match Amount Required:	\$ 204,528.00
		Research and Development (R&D) <input type="checkbox"/> Y <input checked="" type="checkbox"/> N	
		Federal Budget Period:	
		July 1, 2022, through December 31, 2023	
		Federal Project Period:	
		July 1, 2022, through December 31, 2023	
TOTAL GRANT COSTS	\$204,528.00	FOR AGENCY USE, ONLY	
Match	\$204,528.00		
TOTAL APPROVED BUDGET	\$409,056.00		

Source of Federal Funds: Forestry Cooperative Fire Assistance	% Funds: 50%	CFDA: 10.698	FAIN: 22DG1105201 2124	Federal Grant #: 22-DG-124 STPUD	Grant Award Date by Federal Agency: 9/30/22
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Agency Approved Indirect Rate: N/A **Subrecipient Approved Indirect Rate:** N/A

Terms and Conditions:
 In accepting these grant funds, it is understood that:

1. This award is subject to the availability of appropriate funds.
2. Expenditures must comply with statutory guidelines,
3. Expenditures must be consistent with the narrative, goals, objectives, and budget as approved and documented
4. Subrecipient must comply with all applicable Federal regulations
5. Quarterly progress reports are due by the 30th of the month following the end of the quarter unless specific exceptions are provided in writing by the grant coordinator.
6. Financial Status Reports and Requests for Funds must be submitted quarterly unless specific exceptions are provided in writing by the grant coordinator.

Incorporated Documents: Section A: Grant Conditions and Assurances; Section B: Description of Services, Scope of Work and Deliverables; Section C: Budget and Financial Reporting Requirements; Section D: Request for Reimbursement;	Section E: Audit Information Request; Section F: Matching Funds Agreement
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Name	Signature	Date
Indra Winquest General Manager Incline Village General Improvement District		11/30/22
John Thiel, P.E., MBA General Manager South Tahoe Public Utility District		12/02/22

South Tahoe Public Utility District NOTICE OF SUBAWARD

SECTION A GRANT CONDITIONS AND ASSURANCES

General Conditions

1. Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. The Recipient shall at all times remain an "independent contractor" with respect to the services to be performed under this Agreement. The South Tahoe Public Utility District (hereafter referred to as "District") shall be exempt from payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance, and Workers' Compensation Insurance as the Recipient is an independent entity.
2. The Recipient shall hold harmless, defend and indemnify The District from any and all claims, actions, suits, charges and judgments whatsoever that arise out of the Recipient's performance or nonperformance of the services or subject matter called for in this Agreement.
3. The District or Recipient may amend this Agreement at any time provided that such amendments make specific reference to this Agreement, and are executed in writing, and are signed by a duly authorized representative of both organizations. Such amendments shall not invalidate this Agreement, nor relieve or release The District or Recipient from its obligations under this Agreement.
 - The District may, at its discretion, amend this Agreement to conform with federal, state, or local governmental guidelines, policies, and available funding amounts, or for other reasons. If such amendments result in a change in the funding, the scope of services, or the schedule of the activities to be undertaken as part of this Agreement, such modifications will be incorporated only by a written amendment signed by both The District and Recipient.
4. Either party may terminate this Agreement at any time by giving written notice to the other party of such termination and specifying the effective date thereof at least 30 days before the effective date of such termination. Partial terminations of the Scope of Work in Section B may only be undertaken with the prior approval of the District. In the event of any termination for convenience, all finished or unfinished documents, data, studies, surveys, reports, or other materials prepared by the Recipient under this Agreement shall, at the option of the District, become the property of the District, and the Recipient shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents or materials prior to the termination.
 - The District may also suspend or terminate this Agreement, in whole or in part, if the Recipient materially fails to comply with any term of this Agreement, or with any of the rules, regulations, or provisions referred to herein; and The District may declare the Recipient ineligible for any further participation in the Department's grant agreements, in addition to other remedies as provided by law. In the event there is probable cause to believe the Recipient is in noncompliance with any applicable rules or regulations, The District may withhold funding.

Grant Assurances

A signature on the cover page of this packet indicates that the applicant is capable of and agrees to meet the following requirements and that all information contained in this proposal is true and correct.

1. Adopt and maintain a system of internal controls which results in the fiscal integrity and stability of the organization, including the use of Generally Accepted Accounting Principles (GAAP).
2. Compliance with state insurance requirements for general, professional, and automobile liability; workers' compensation and employer's liability; and, if advance funds are required, commercial crime insurance.
3. These grant funds will not be used to supplant existing financial support for current programs.
4. No portion of these grant funds will be subcontracted without prior written approval unless expressly identified in the grant agreement.
5. Compliance with the requirements of the Civil Rights Act of 1964, as amended, and the Rehabilitation Act of 1973, P.L. 93-112, as amended, and any relevant program-specific regulations, and shall not discriminate against any employee for employment because of race, national origin, creed, color, sex, religion, age, disability or handicap condition (including AIDS and AIDS-related conditions).
6. Compliance with the Americans with Disabilities Act of 1990 (P.L. 101-136), 42 U.S.C. 12101, as amended, and regulations adopted there under contained in 28 CFR 26.101-36.999 inclusive, and any relevant program-specific regulations.
7. Compliance with Title 2 of the Code of Federal Regulations (CFR) and any guidance in effect from the Office of Management and Budget (OMB) related (but not limited to) audit requirements for grantees that expend \$750,000 or more in Federal awards during the grantee's fiscal year must have an annual audit prepared by an independent auditor in accordance with the terms and requirements of the appropriate circular. **To acknowledge this requirement, Section E of this notice of subaward must be completed.**
8. Compliance with the Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended— Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
9. Certification that neither the Recipient nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. This certification is made pursuant to regulations implementing Executive Order 12549, Debarment and Suspension, 28 C.F.R. pt. 67 § 67.510, as published as pt. VII of May 26, 1988, Federal Register (pp. 19150-19211).

South Tahoe Public Utility District

NOTICE OF SUBAWARD

10. No funding associated with this grant will be used for lobbying.
11. Disclosure of any existing or potential conflicts of interest relative to the performance of services resulting from this grant award.
12. Provision of a work environment in which the use of tobacco products, alcohol, and illegal drugs will not be allowed.
13. An organization receiving grant funds through The District shall not use grant funds for any activity related to the following:
 - Any attempt to influence the outcome of any federal, state or local election, referendum, initiative, or similar procedure, through in-kind or cash contributions, endorsements, publicity, or similar activity.
 - Establishing, administering, contributing to or paying the expenses of a political party, campaign, political action committee or other organization established for the purpose of influencing the outcome of an election, referendum, initiative or similar procedure.
 - Any attempt to influence:
 - The introduction or formulation of federal, state or local legislation; or
 - The enactment or modification of any pending federal, state or local legislation, through communication with any member or employee of Congress, the California Legislature or a local governmental entity responsible for enacting local legislation, including, without limitation, efforts to influence State or local officials to engage in a similar lobbying activity, or through communication with any governmental official or employee in connection with a decision to sign or veto enrolled legislation.
 - Any attempt to influence the introduction, formulation, modification or enactment of a federal, state or local rule, regulation, executive order or any other program, policy or position of the United States Government, the State of California or a local governmental entity through communication with any officer or employee of the United States Government, the State of California or a local governmental entity, including, without limitation, efforts to influence state or local officials to engage in a similar lobbying activity.
 - Any attempt to influence:
 - The introduction or formulation of federal, state or local legislation;
 - The enactment or modification of any pending federal, state or local legislation; or
 - The introduction, formulation, modification or enactment of a federal, state or local rule, regulation, executive order or any other program, policy or position of the United States Government, the State of California or a local governmental entity, by **preparing, distributing or using** publicity or propaganda, or by urging members of the general public or any segment thereof to contribute to or participate in any mass demonstration, march, rally, fundraising drive, lobbying campaign or letter writing or telephone campaign.
 - Legislative liaison activities, including, without limitation, attendance at legislative sessions or committee hearings, gathering information regarding legislation and analyzing the effect of legislation, when such activities are carried on in support of or in knowing preparation for an effort to engage in an activity prohibited pursuant to subsections 1 to 5, inclusive.
 - Executive branch liaison activities, including, without limitation, attendance at hearings, gathering information regarding a rule, regulation, executive order or any other program, policy or position of the United States Government, the State of California or a local governmental entity and analyzing the effect of the rule, regulation, executive order, program, policy or position, when such activities are carried on in support of or in knowing preparation for an effort to engage in an activity prohibited pursuant to subsections 1 to 5, inclusive.
14. An organization receiving grant funds through The District may, to the extent and in the manner authorized in its grant, use grant funds for any activity directly related to educating persons in a nonpartisan manner by providing factual information in a manner that is:
 - Made in a speech, article, publication, or other material that is distributed and made available to the public, or through radio, television, cable television or other medium of mass communication; and
 - Not specifically directed at:
 - Any member or employee of Congress, the California Legislature or a local governmental entity responsible for enacting local legislation;
 - Any governmental official or employee who is or could be involved in a decision to sign or veto enrolled legislation; or
 - Any officer or employee of the United States Government, the State of California or a local governmental entity who is involved in introducing, formulating, modifying or enacting a Federal, State or local rule, regulation, executive order or any other program, policy or position of the United States Government, the State of California or a local governmental entity.
15. Subrecipient shall acknowledge Forest Service support in any publications, audiovisuals, and electronic media developed as a result of this award. Follow direction in USDA Supplemental 2 CFR 415.2.
16. Subrecipient shall include the following statement, in full, in any printed, audiovisual material, or electronic media for public distribution developed or printed with any Federal funding.

*In accordance with Federal law and US. Department of Agriculture (USDA) civil rights regulations and policies, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, disability, and reprisal or retaliation for prior civil rights activity. (Not all prohibited bases apply to all programs.)
Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, and American Sign Language) should contact the responsible State or local Agency that administers the program or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339.*

South Tahoe Public Utility District

NOTICE OF SUBAWARD

To file a program discrimination complaint, a complainant should complete a Form AD-3027, USDA Program Discrimination Complaint Form, which can be obtained online at <https://www.ocio.usda.gov/document/ad-3027> . .from any USDA office, by calling (866) 632-9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD-3027 form or letter must be submitted to USDA by:

- (1) Mail: US. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, D.C. 20250-9410; o
- (2) Fax: (833) 256-1665 or (202) 690-7442; or
- (3) Email: program.intake@usda.gov.

If the material is too small to permit the full Non-Discrimination Statement to be included, the material will, at a minimum, include the alternative statement: "This institution is an equal opportunity provider. "

17. Section 41101 of the Bipartisan Infrastructure Law, P.L. 117-58, Davis-Bacon wage rates must be applied for all laborers and mechanics employed by contractors or subcontractors in the performance of construction, alteration, or repair work on a project assisted in whole or in part by funding made available under this Act. Laborers and mechanics shall be paid wages at rates not less than those prevailing on similar projects in the locality, as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (commonly referred to as the "Davis-Bacon Act").
18. Recipients of an award of Federal financial assistance from a program for infrastructure are hereby notified that none of the funds provided under this award may be used for a project for infrastructure unless:
 1. All iron and steel used in the project are produced in the United States--this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;
 2. All manufactured products used in the project are produced in the United States--this means the manufactured product was manufactured in the United States; and cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation; and
 3. All construction materials are manufactured in the United States--this means that all manufacturing processes for the construction material occurred in the United States. This excludes cement and cementitious materials, aggregates such as stone, sand, or gravel, or aggregate binding agents or additives.

The Buy America preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project, but are not an integral part of the structure or permanently affixed to the infrastructure project.

Waivers

When necessary, recipients may apply for, and the agency may grant, a waiver from these requirements. The agency should notify the recipient for information on the process for requesting a waiver from these requirements.

This provision does not prohibit a recipient or an applicant for a grant from providing information that is directly related to the grant or the application for the grant to the granting agency.

1. When the Federal agency has made a determination that one of the following exceptions applies, the awarding official may waive the application of the domestic content procurement preference in any case in which the agency determines that:
 - a. Applying the domestic content procurement preference would be inconsistent with the public interest;
 - b. The types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or
 - c. The inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent.

A request to waive the application of the domestic content procurement preference must be in writing. The agency will provide instructions on the format, contents, and supporting materials required for any waiver request. Waiver requests are subject to public comment periods of no less than 15 days and must be reviewed by the Made in America Office.

There may be instances where an award qualifies, in whole or in part, for an existing waiver.

19. To comply with reporting requirements of the Federal Funding and Accountability Transparency Act (FFATA), the sub-grantee agrees to provide The District with copies of all contracts, sub-grants, and or amendments to either such documents, which are funded by funds allotted in this agreement.

Compliance with this section is acknowledged by signing the subaward cover page of this packet.

South Tahoe Public Utility District NOTICE OF SUBAWARD

SECTION B

Description of Services, Scope of Work, and Deliverables

This project will increase the resilience and durability of the aging water main infrastructure and eliminate a known area of leakage and severely deteriorated and deficient steel water mains. The project will increase available fire flow volumes and coverage area along the pipeline replacement length and provide adequate FH numbers per code requirements. IVGID will replace 2300 linear feet of 6-inch water main with a new 8-inch water main to meet 2018 IFC code requirements. The population served by this project is 400. The total population served by the district is 3,000.

Incline Village General Improvement District, hereinafter referred to as Subrecipient, agrees to provide the following services and reports according to the identified timeframes:

Scope of Work for Subrecipient

Crystal Peak Water Main Replacement Project

Task	Sub-Task	Description	Start Date	End Date
1	1.1	Project Administration Semi-annual reporting	January 2022	February 2022
2		Planning and Design	As needed	
	2.1	Develop design plans and specifications	March 2022	December 2022
	2.2	Permitting with Washoe County	October 2022	November 2022
3		Construct and Install		
	3.1	Advertise for Bid	December 2022	December 2022
	3.2	Select contractor/Execute Contract	January 2023	January 2023
	3.3	Construction	May 2023	October 2023
4		Construction Administration		
	4.1	Provide Technical oversight	May 2023	October 2023
5		Construction/Implementation Contingency		
	5.1	Budget for 10% contingency	May 2023	October 2023

Compliance with this section is acknowledged by signing the subaward cover page of this packet.

South Tahoe Public Utility District NOTICE OF SUBAWARD

SECTION C

Budget and Financial Reporting Requirements

Subrecipient agrees to adhere to the following budget:

Approved Budget Category	Cost Classification	Budget
Construction	2,130 LF of 8-inch water main at	Grant Amount: \$204,528.00 IVGID Match: \$204,528.00 Total: \$409,056.00.

South Tahoe Public Utility District

NOTICE OF SUBAWARD

- Equipment purchased with these funds belongs to the federal program from which this funding was appropriated and shall be returned to the program upon the termination of this agreement.
- Travel expenses, per diem, and other related expenses must conform to the procedures and rates allowed for State officers and employees. It is the Policy of the Board of Examiners to restrict contractors/ Subrecipients to the same rates and procedures allowed State Employees. The State of California reimburses at rates comparable to the rates established by the US General Services Administration, with some exceptions (State Administrative Manual 0200.0 and 0320.0).
- The program Contract Monitor or Program Manager shall, when federal funding requires a specific match, maintenance of effort (MOE), "in-kind", or earmarking (set-aside) of funds for a specific purpose, have the means necessary to identify that the match, MOE, "in-kind", or earmarking (set-aside) has been accomplished at the end of the grant year. If a specific vendor or subrecipient has been identified in the grant application to achieve part or all of the match, MOE, "in-kind", or earmarking (set-aside), then this shall also be identified in the scope of work as a requirement and a deliverable, including a report of accomplishment at the end of each quarter to document that the match, MOE, "in-kind", or earmarking (set-aside) was achieved. These reports shall be held on file in the program for audit purposes, and shall be furnished as documentation for match, MOE, "in-kind", or earmarking (set-aside) reporting on the Financial Status Report (FSR) 90 days after the end of the grant period.

The Subrecipient agrees:

To request reimbursement according to the schedule specified below for the actual expenses incurred related to the Scope of Work during the subaward period.

- Total reimbursement through this subaward will not exceed \$204,528.00.
- Requests for Reimbursement will be accompanied by supporting documentation, including a line item description of expenses incurred;
- Additional expenditure detail will be provided upon request from the District
- To cooperate with STPUD as reasonably required to carry out the purposes of this Agreement.
- To complete all applicable Federal and State Environmental Documentation, as required, and obtain and retain in effect for the duration of this Agreement all governmental licenses and permits required for completion of the Project.
- To comply with the provisions of the Grant Agreement when administrating the Project.
- To furnish a Contract Administrator who will be responsible for assuring that the duties described in this Agreement are carried out.

Additionally, the Subrecipient agrees to provide:

- A complete financial accounting of all expenditures to The District within 30 days of the CLOSE OF THE SUBAWARD PERIOD. Any unobligated funds shall be returned to The District at that time, or, if not already requested, shall be deducted from the final award.
- Any work performed after the BUDGET PERIOD will not be reimbursed.
- If a Request for Reimbursement (RFR) is received after the 45-day closing period, The District may not be able to provide reimbursement.
- If a credit is owed to The District after the 45-day closing period, the funds must be returned to The District within 30 days of identification.

The District agrees:

- To administer the Grant Agreement, attached hereto and incorporated by reference herein, as is fully set forth in a manner consistent with the terms of the Grant Agreement.
- To process reimbursement requests in accordance with the Grant Agreement requirements and in the amounts set forth in the application budget, which budget is attached hereto as SECTION C and incorporated herein by reference.
- To oversee the progress of the Program in accordance with the Grant Agreement requirements.
- To comply with all applicable federal, state, and local laws in administering the grant funds, specifically including those set forth in the Agreement.
- The District reserves the right to hold reimbursement under this subaward until any delinquent forms, reports, and expenditure documentation are submitted to and accepted by the Department.

Both parties agree:

- At least one annual site visit/monitoring.
- All reports of expenditures and requests for reimbursement processed by The District are SUBJECT TO AUDIT.
- This subaward agreement may be TERMINATED by either party prior to the date set forth on the Notice of Subaward, provided the termination shall not be effective until 30 days after a party has served written notice upon the other party. This agreement may be terminated by mutual consent of both parties or unilaterally by either party without cause. The parties expressly agree that this Agreement shall be terminated immediately if, for any reason, the District, and/or federal funding ability to satisfy this Agreement is withdrawn, limited, or impaired.

Financial Reporting Requirements

- A Request for Reimbursement is due on a quarterly basis, based on the terms of the subaward agreement, no later than the 30th of the month.
- Reimbursement is based on actual expenditures incurred during the period being reported.
- Payment will not be processed without all reporting being current.
- Reimbursement may only be claimed for expenditures approved within the Notice of Subaward.

South Tahoe Public Utility District NOTICE OF SUBAWARD

SECTION D

Request for Reimbursement

SUMMARY OF EXPENSE CERTIFICATION FOR PURCHASE/PROFESSIONAL OR CONSULTANT SERVICES, CONSTRUCTION OR DIRECT (Operating Expenses)

Agency: Incline Village General Improvement District

Project: Fire Flow Capacity Improvements and Hydrant Installation

DATE: _____

AGREEMENT #: 22-DG-11052012-124

INVOICE #: _____

BILLING PERIOD: _____

Vendor	Item Description	Receipt Invoice Date	Total of Receipt	Line Item

Total Amount Invoiced:	\$ -
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By signing below, I certify that the above expenditures accrued during this invoicing period have not been used in violation of State law or this Agreement.

Administrative Officer
Date

South Tahoe Public Utility District
NOTICE OF SUBAWARD
SECTION E

Audit Information Request

1. Non-Federal entities that **expend** \$750,000.00 or more in total federal awards are required to have a single or program-specific audit conducted for that year, in accordance with 2 CFR § 200.501(a).
2. Did your organization expend \$750,000 or more in all federal awards during your organization's most recent fiscal year? YES NO
3. When does your organization's fiscal year end? June 30
4. What is the official name of your organization? Incline Village General Improvement District
5. How often is your organization audited? Yearly
6. When was your last audit performed? September/October 2022
7. What time-period did your last audit cover? July 1, 2021 - June 30, 2022
8. Which accounting firm conducted your last audit? Davis Farr LLP

Compliance with this section is acknowledged by signing the subaward cover page of this packet.

South Tahoe Public Utility District NOTICE OF SUBAWARD

SECTION F Matching Funds Agreement

This Matching Funds Agreement is entered into between South Tahoe Public Utility District (referred to as "District") and Incline Village General Improvement District (referred to as "Subrecipient").

Program Name	Tahoe Water for Fire Suppression Partnership	Subrecipient Name	Incline Village General Improvement District
Federal Grant Number	22-DG-124 STPUD	Contact Name	
Federal Amount	\$204,528.00	Address	1220 Sweetwater Road Incline Village, NV 89451
Non-Federal (Match) Amount	\$204,528.00		
Total Award	\$409,056.00		
Performance Period	July 1, 2022, through December 31, 2023		

Under the terms and conditions of this Agreement, the Subrecipient agrees to complete the Project as described in the Description of Services, Scope of Work, and Deliverables. Non-Federal (Match) funding is required to be documented and submitted with the Monthly Financial Status and Request for Funds Request and will be verified during subrecipient monitoring.

FINANCIAL SUMMARY FOR MATCHING FUNDS

Total Amount Awarded	\$409,528.00
Required Match Percentage 50%	
Total Required Match	\$204,528.00

Approved Budget Category		Budgeted Match	
1	Construction	\$	\$204,528.00
2		\$	
3		\$	
4		\$	
5		\$	
6		\$	
7		\$	
8		\$	
	Total	\$	\$204,528.00

Compliance with this section is acknowledged by signing the subaward cover page of this packet.

ATTACHMENT D



**Contract Documents
for
CRYSTAL PEAK DISTRIBUTION WATERMAIN IMPROVEMENTS**

IVGID Project Number 2299WS1705
PWP No. WA-2023-032

Issued for Bidding
December 30, 2022

Prepared for:
INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT
Public Works Department

Prepared by:



20 Vine Street
Reno, Nevada 89503

ADDENDUM NO. 1

Crystal Peak Distribution Watermain Improvements Project Number 2299WS1705

PART 1 - GENERAL

1.1 SCOPE

This Addendum forms a portion of the Bid Documents, and modifies those documents as described below.

1.2 ACKNOWLEDGMENT

Acknowledge receipt of this Addendum in the space provided on page 3 of the Bid Form.

PART 2 - REVISIONS TO DOCUMENTS

2.1 Project Work Schedule

There is to be no work from July 1 through July 9, 2023. All construction equipment, tools and vehicles are to be stored at the Preston Field staging area and site completely accessible to traffic.

2.2 Prevailing Wages – Davis Bacon Updated Rates

See new Davis Bacon Wage Decision NV20220026 dated January 27, 2023.

END OF ADDENDUM 1

"General Decision Number: NV20230026 01/27/2023

Superseded General Decision Number: NV20220026

State: Nevada

Construction Type: Heavy
HEAVY CONSTRUCTION PROJECTS (including sewer/water construction).

County: Washoe County in Nevada.

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658. Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60).

<p>If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022:</p>	<ul style="list-style-type: none"> . Executive Order 14026 generally applies to the contract. . The contractor must pay all covered workers at least \$16.20 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in 2023.
<p>If the contract was awarded on or between January 1, 2015 and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022:</p>	<ul style="list-style-type: none"> . Executive Order 13658 generally applies to the contract. . The contractor must pay all covered workers at least \$12.15 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on that contract in 2023.

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker protections under the Executive Orders is available at <http://www.dol.gov/whd/govcontracts>.

Modification Number	Publication Date
0	01/06/2023
1	01/27/2023

CARP0971-013 07/01/2022

	Rates	Fringes
CARPENTER (Includes Form Work)...	\$ 34.13	19.53

ELEC0401-011 01/01/2022

	Rates	Fringes
ELECTRICIAN.....	\$ 42.50	20.95

ENGI0003-015 07/01/2021

	Rates	Fringes
POWER EQUIPMENT OPERATOR		
GROUP 08.....	\$ 44.03	25.02
GROUP 10.....	\$ 44.70	25.02
GROUP 10A.....	\$ 42.72	24.50
GROUP 11.....	\$ 45.13	25.02
GROUP 11A.....	\$ 46.77	25.02

GROUP 8: Sheepsfoot

GROUP 10: Grade Setter

GROUP 10A: Power Shovels (up to and including one [1] cu. yd.)

GROUP 11: Power Shovels (over one [1] cu. yd. and up to and including seven [7] cu. yds. m.r.c.)

GROUP 11A: Power Shovels (over seven [7] cu. yds. m.r.c.)

ENGI0003-030 07/01/2020

	Rates	Fringes
POWER EQUIPMENT OPERATOR (09) Mechanic and Backhoe Loader Combo.....	\$ 42.18	24.50

ENGI0012-014 10/01/2020

	Rates	Fringes
POWER EQUIPMENT OPERATOR (Crane)		
GROUP 12.....	\$ 52.94	26.65
GROUP 16.....	\$ 54.36	26.65
GROUP 17.....	\$ 54.86	26.65
GROUP 19.....	\$ 56.89	26.65
GROUP 20.....	\$ 57.50	26.65
GROUP 21.....	\$ 58.11	26.65
GROUP 22.....	\$ 58.87	26.65
GROUP 23.....	\$ 59.33	26.65

GROUP 12: Crane Operator (up to including 40 ton capacity)

GROUP 16: Crane Operator (over 40 tons up to and including 79 tons)

GROUP 17: Crane Operator (Including 80 tons up to and

including 150 tons)

GROUP 19: Crane Operator (over 150 tons up to and including 200 tons)

GROUP 20: Crane Operator (over 200 tons up to and including 250 tons)

GROUP 21: Crane Operator (over 250 tons up to and including 300 tons)

GROUP 22: Crane Operator (over 300 tons up to and including 350 tons)

GROUP 23: Crane Operator (over 350 tons)

* ENGI0012-021 10/01/2022

	Rates	Fringes
POWER EQUIPMENT OPERATOR		
GROUP 1.....	\$ 49.89	30.85
GROUP 4.....	\$ 50.48	30.85
GROUP 8.....	\$ 50.77	30.85
GROUP 12.....	\$ 50.77	30.85

POWER EQUIPMENT OPERATOR CLASSIFICATIONS

Group 1: Oiler

Group 4: Screed Operator (Asphalt or Concrete); Rock Wheel Saw/Trencher

Group 8: Compactor (self-propelled); Drilling Machine Operator

Group 12: Vermeer Rock Trencher (or similar type).

IRON0416-002 10/01/2022

	Rates	Fringes
IRONWORKER, REINFORCING.....	\$ 42.71	36.13

IRON0433-002 10/01/2022

	Rates	Fringes
IRONWORKER, STRUCTURAL.....	\$ 42.71	36.13

* LABO0169-003 10/01/2022

	Rates	Fringes
LABORER		
(1) Common or General; Cones/ Barricades/ Barrels- Setter/Mover/Sweeper.....	\$ 30.05	15.02
(1A) Flagger.....	\$ 27.18	15.02
(3) Asphalt Shoveler, Spreader and Distributor; Concrete Saw (Hand Held/Walk Behind); Mason		

Tender - Cement/Concrete;...\$ 30.30	15.02
(4) Asphalt Raker;	
Pipelayer.....\$ 30.55	15.02

PLAS0797-009 07/01/2022

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER...\$ 45.04		16.92

SUNV2014-026 09/08/2016

	Rates	Fringes
OPERATOR: Backhoe/Excavator/Trackhoe.....\$ 32.26		17.65
OPERATOR: Bobcat/Skid Steer/Skid Loader.....\$ 34.97		0.00
OPERATOR: Broom/Sweeper.....\$ 36.66		12.22
OPERATOR: Grader/Blade.....\$ 26.49		7.78
OPERATOR: Loader.....\$ 33.53		17.10
OPERATOR: Paver (Asphalt, Aggregate, and Concrete).....\$ 29.57		0.00
OPERATOR: Roller.....\$ 33.69		12.22
TRUCK DRIVER: Dump Truck.....\$ 22.28		0.00

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at <https://www.dol.gov/agencies/whd/government-contracts>.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of ""identifiers"" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than ""SU"" or ""UAVG"" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

Survey Rate Identifiers

Classifications listed under the ""SU"" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current

negotiated/CBA rate of the union locals from which the rate is based.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- * an existing published wage determination
- * a survey underlying a wage determination
- * a Wage and Hour Division letter setting forth a position on a wage determination matter
- * a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour National Office because National Office has responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISIO"

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INVITATION TO BID

Sealed proposals will be received at the offices of the Incline Village General Improvement District (IVGID or District) Public Works Department, located at 1220 Sweetwater Road, Incline Village, Washoe County, Nevada, **until 2:00 p.m February 9, 2023**, at which time they will be publicly opened and read for:

Crystal Peak Distribution Watermain Improvements IVGID Project Number 2299WS1705

The Project includes the following Work:

Bid Schedule Crystal Peak Distribution Watermain Improvements: Installation of approximately 2,280 LF of 8" DR-14 PVC or Class 350 DIP water main in Washoe Co. ROW. Connection to (E) 8" water main in Washoe Co. ROW. Re-connect existing domestic service lines. Construct three (3) new fire hydrant assemblies. Construct one (1) combination air valve.

The Work also includes: Abandonment of specified lines and valves, traffic control, maintain residential and business driveway access, erosion & sediment controls, pavement restoration, replacement of existing features, including vegetation, concrete, and other utilities removed and/or damaged by construction activity, acquisition of Washoe County street cut permits and all related appurtenances; compliance with County permit conditions and working within Right of Ways in Incline Village, Washoe County, Nevada.

The Engineers Estimate for this project is \$1,200,000. The Project has a total duration of 110 calendar days.

Bidding Documents, including Plans and Specifications, may be obtained at the Owner's Planet Bids website (<https://www.planetbids.com/portal/portal.cfm?CompanyID=30437>). Prospective Bidders are urged to register with the designated website as a plan holder, even if Bidding Documents are obtained from a plan room or source other than the designated website in either electronic or paper format. The designated website will be updated periodically with addenda, lists of registered plan holders, reports, and other information relevant to submitting a Bid for the Project. All official notifications, including link to virtual pre-bid meeting, addenda, and other Bidding Documents will be offered only through the designated website. Neither Owner nor Engineer will be responsible for Bidding Documents, including addenda, if any, obtained from sources other than the designated website. Contract documents are available for examination by contacting the IVGID Engineering Division office.

Bidders on this work will be required to comply with Executive Order 11246 (Equal Employment Opportunity), the Davis-Bacon Act, the Copeland (Anti-Kickback) Act, the Contract Work Hours and Safety Standards Act, Disadvantaged Business Enterprise (DBE), Build America Buy America Act, and the Labor Standard Provisions for State-Assisted Construction Contracts as explained in the Contract Documents, and all applicable state and local laws and regulations.

This is a Prevailing Wage project that is to be paid for in part by both local and federal funds; therefore minimum prevailing wage rates published by both the State and Federal Departments of Labor are applicable. Bidder shall comply with the State of Nevada Commissioner of Labor and the Federal Davis-Bacon and Related Acts, as applicable. The PWP number for this project is WA-2023-032.

No proposal will be accepted from a Contractor who is not licensed in accordance with the laws of this State to perform the work herein described. IVGID reserves the right to reject any or all bids pursuant to Nevada Law; to award a contract for less than all the work if funds now available are insufficient for completion of the total project; to waive any informalities or irregularities therein; and/or to award the bid to the lowest responsible bidder.

A non-mandatory and virtual pre-bid conference will be held on **January 26, 2023 at 10:00 a.m.** A link to this meeting will be sent to all potential bidders via the PlanetBids website. All potential bidders are urged to attend.

Any questions concerning this Project should be directed to the IVGID Engineering office at 775-832-1267. Last day for questions will be **February 2, 2023 by 3:00 p.m.**

INSTRUCTIONS TO BIDDERS

ARTICLE 1—DEFINED TERMS

- 1.01 Terms used in these Instructions to Bidders have the meanings indicated in the General Conditions and Supplementary Conditions. Additional terms used in these Instructions to Bidders have the meanings indicated below:
- A. *Issuing Office*—The office from which the Bidding Documents are to be issued, and which registers plan holders.

ARTICLE 2—BIDDING DOCUMENTS

- 2.01 Bidder shall obtain a complete set of Bidding Requirements and proposed Contract Documents (together, the Bidding Documents). See the Agreement for a list of the Contract Documents. It is Bidder's responsibility to determine that it is using a complete set of documents in the preparation of a Bid. Bidder assumes sole responsibility for errors or misinterpretations resulting from the use of incomplete documents, by Bidder itself or by its prospective Subcontractors and Suppliers.
- 2.02 Bidding Documents are made available for the sole purpose of obtaining Bids for completion of the Project and permission to download or distribution of the Bidding Documents does not confer a license or grant permission or authorization for any other use. Authorization to download documents, or other distribution, includes the right for plan holders to print documents solely for their use, and the use of their prospective Subcontractors and Suppliers, provided the plan holder pays all costs associated with printing or reproduction. Printed documents may not be re-sold under any circumstances.
- 2.03 Owner has established a Bidding Documents Website as indicated in the Advertisement or invitation to bid. Owner recommends that Bidder register as a plan holder at such website, and obtain a complete set of the Bidding Documents from such website. Bidders may rely that sets of Bidding Documents obtained from the Bidding Documents Website are complete, unless an omission is blatant. Registered plan holders will receive Addenda issued by Owner.
- 2.04 Plan rooms (including construction information subscription services, and electronic and virtual plan rooms) may distribute the Bidding Documents, or make them available for examination. Those prospective bidders that obtain an electronic (digital) copy of the Bidding Documents from a plan room are encouraged to register as plan holders from the Bidding Documents Website. Owner is not responsible for omissions in Bidding Documents or other documents obtained from plan rooms, or for a Bidder's failure to obtain Addenda from a plan room.
- 2.05 *Electronic Documents*
- A. When the Bidding Requirements indicate that electronic (digital) copies of the Bidding Documents are available, such documents will be made available to the Bidders as Electronic Documents in the manner specified above.
1. Bidding Documents will be provided in Adobe PDF (Portable Document Format) (.pdf) that is readable by Adobe Acrobat Reader Version XI Standard or later. It is the intent of the Engineer and Owner that such Electronic Documents are to be exactly representative of the paper copies of the documents. However, because the Owner and Engineer cannot totally control the transmission and receipt of Electronic Documents

nor the Contractor's means of reproduction of such documents, the Owner and Engineer cannot and do not guarantee that Electronic Documents and reproductions prepared from those versions are identical in every manner to the paper copies.

- B. Unless otherwise stated in the Bidding Documents, the Bidder may use and rely upon complete sets of Electronic Documents of the Bidding Documents, described in Paragraph 2.05.A above. However, Bidder assumes all risks associated with differences arising from transmission/receipt of Electronic Documents versions of Bidding Documents and reproductions prepared from those versions and, further, assumes all risks, costs, and responsibility associated with use of the Electronic Documents versions to derive information that is not explicitly contained in printed paper versions of the documents, and for Bidder's reliance upon such derived information.

ARTICLE 3—QUALIFICATIONS OF BIDDERS

3.01 To demonstrate Bidder's qualifications to perform the Work, after submitting its Bid and within 48 hours of Owner's request, Bidder must submit the following information:

- A. Written evidence establishing its qualifications such as financial data, previous experience, and present commitments.
- B. A written statement that Bidder is authorized to do business in the state where the Project is located, or a written certification that Bidder will obtain such authority prior to the Effective Date of the Contract.
- C. Washoe County Business License prior to commencing construction.
- D. Such licenses as may be required by the laws of the State of Nevada for the performance of work specified in the Contract Documents. Such licenses are required at the time of submitting bid. One time raise in licensing monetary limits shall be approved by the State of Nevada prior to the time of submitting bid and shall be submitted with the bid.
- E. Each Bidder submitting a Bid Proposal to the Owner on a public work project whose estimated cost exceeds \$250,000 is responsible for ascertaining whether the Bidder intends to utilize the referenced statute for five percent (5%) preference and is also eligible for the bidder preference and other matters relating thereto provided in NRS Chapter 338.0117. The Bidder claiming the bid preference shall submit with their Bid Form:
 - 1. Certificate of Eligibility: A valid "Certificate of Eligibility" issued by the State of Nevada Contractor's Board, and
 - 2. Public Works Bidder's Preference Affidavit: A fully-executed copy of the Public Works Bidder's Preference Affidavit as proof of the Contractor's compliance with the provisions of NRS 338.

Failure to submit the Certificate of Eligibility and Affidavit with your Bid shall result in a waiver of any Bidder preference.

3.02 *Bid Form:*

- A. Bidder is to submit the following information with its Bid, to demonstrate Bidder's qualifications to perform the Work. Bids without such documentation included will be deemed Non-Responsive:

1. A list of all first-tier subcontractors, equipment, and materials suppliers that will supply more than five percent (5%) of the bid amount. If the Contractor intends to self-perform any portion of the Work exceeding five percent (5%) of the Bid Amount, the Contractor must also include the Contractor's name and identify the labor or portion of the Work the Contractor will self-perform in the list, as required by NRS 338.141.
 2. Within two (2) hours after the opening of Bids, those bidders submitting the three lowest Bids must submit the names of each first-tier subcontractor, equipment and material supplier that will supply more than 1% of the bid amount, or Fifty Thousand Dollars (\$50,000), whichever is greater. If the Contractor intends to self-perform any portion of the Work exceeding one percent (1%) of the Bid Amount or Fifty Thousand Dollars (\$50,000), whichever is greater, the Contractor must also include the Contractor's name and identify the labor or portion of the Work the Contractor will self-perform in the list, as required by NRS 338.141.
 3. A list of similar projects previously completed by Bidder, including contact person with their telephone number and email, and the date the project was completed.
 - a. Contractor is required to have successfully performed five (5) projects of similar scope within the last five (5) years, including a minimum project total cost of \$600,000, contract time of 90 to 120 days, and preferably work performed in the Lake Tahoe basin.
 4. Work history of Job Foreman/Superintendent, Pipe Foreman and Equipment Operator.
 - a. Contractor is required to staff project with a Job Foreman/Superintendent and Pipe Foreman with minimum experience of five (5) years' experience with similar project work and five (5) projects within five (5) years greater than \$500,000.
 5. Bidder's state or other contractor license number, if applicable.
- 3.03 A Bidder's failure to submit required qualification information within the times indicated will result in the Bid being deemed Non-Responsive.
- 3.04 No requirement in this Article 3 to submit information will prejudice the right of Owner to seek additional pertinent information regarding Bidder's qualifications.

ARTICLE 4—PRE-BID CONFERENCE

- 4.01 A virtual non-mandatory pre-bid conference will be held at the date and time indicated in the Advertisement or Invitation to Bid. Representatives of Owner and Engineer will be present to discuss the Project.
- 4.02 Information presented at the pre-bid conference does not alter the Contract Documents. Owner will issue Addenda to make any changes to the Contract Documents that result from discussions

at the pre-bid conference. Information presented, and statements made at the pre-bid conference will not be binding or legally effective unless incorporated in an Addendum.

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

5.01 *Site and Other Areas*

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

5.02 *Existing Site Conditions*

A. *Subsurface and Physical Conditions; Hazardous Environmental Conditions*

1. The Supplementary Conditions identify the following regarding existing conditions at or adjacent to the Site:
 - a. Those reports of explorations and tests of subsurface conditions at or adjacent to the Site that contain Technical Data.
 - b. Those drawings known to Owner of existing physical conditions at or adjacent to the Site, including those drawings depicting existing surface or subsurface structures at or adjacent to the Site (except Underground Facilities), that contain Technical Data.
 - c. Reports and drawings known to Owner relating to Hazardous Environmental Conditions that have been identified at or adjacent to the Site.
 - d. Technical Data contained in such reports and drawings.
2. Owner will make copies of reports and drawings referenced above available to any Bidder on request. These reports and drawings are not part of the Contract Documents, but the Technical Data contained therein upon whose accuracy Bidder is entitled to rely, as provided in the General Conditions, has been identified and established in the Supplementary Conditions. Bidder is responsible for any interpretation or conclusion Bidder draws from any Technical Data or any other data, interpretations, opinions, or information contained in such reports or shown or indicated in such drawings.
3. If the Supplementary Conditions do not identify Technical Data, the default definition of Technical Data set forth in Article 1 of the General Conditions will apply.
4. *Geotechnical Baseline Report/Geotechnical Data Report*: If necessary to the Work, the Bidding Documents will contain a Geotechnical Baseline Report (GBR) and Geotechnical Data Report (GDR).
 - a. As set forth in the Supplementary Conditions, the GBR describes certain select subsurface conditions that are anticipated to be encountered by Contractor during construction in specified locations ("Baseline Conditions"). The GBR is a Contract Document.

- b. The Baseline Conditions in the GBR are intended to reduce uncertainty and the degree of contingency in submitted Bids. However, Bidders cannot rely solely on the Baseline Conditions. Bids should be based on a comprehensive approach that includes an independent review and analysis of the GBR, all other Contract Documents, Technical Data, other available information, and observable surface conditions. Not all potential subsurface conditions are baselined.
 - c. Nothing in the GBR is intended to relieve Bidders of the responsibility to make their own determinations regarding construction costs, bidding strategies, and Bid prices, nor of the responsibility to select and be responsible for the means, methods, techniques, sequences, and procedures of construction, and for safety precautions and programs incident thereto.
 - d. As set forth in the Supplementary Conditions, the GDR is a Contract Document containing data prepared by or for the Owner in support of the GBR.
- B. *Underground Facilities:* Underground Facilities are shown or indicated on the Drawings, pursuant to Paragraph 5.05 of the General Conditions, and not in the drawings referred to in Paragraph 5.02.A of these Instructions to Bidders. Information and data regarding the presence or location of Underground Facilities are not intended to be categorized, identified, or defined as Technical Data.

5.03 *Other Site-related Documents*

- A. In addition to the documents regarding existing Site conditions referred to in Paragraph 5.02.A, the following other documents relating to conditions at or adjacent to the Site are known to Owner and made available to Bidders for reference:
 - 1. None

Owner will make copies of these other Site-related documents available to any Bidder on request.
- B. Owner has not verified the contents of these other Site-related documents, and Bidder may not rely on the accuracy of any data or information in such documents. Bidder is responsible for any interpretation or conclusion Bidder draws from the other Site-related documents.
- C. The other Site-related documents are not part of the Contract Documents.
- D. Bidders are encouraged to review the other Site-related documents, but Bidders will not be held accountable for any data or information in such documents. The requirement to review and take responsibility for documentary Site information is limited to information in (1) the Contract Documents and (2) the Technical Data.

5.04 *Site Visit and Testing by Bidders*

- A. It is recommended that Bidder visit the Site and become familiar with and satisfy Bidder as to the general, local and Site conditions that may affect cost, progress, and performance of the Work.
- B. Bidder is not required to conduct any subsurface testing, or exhaustive investigations of Site conditions.
- C. On request, and to the extent Owner has control over the Site, and schedule permitting, the Owner will provide Bidder general access to the Site to conduct such additional examinations, investigations, explorations, tests, and studies as Bidder deems necessary for

preparing and submitting a successful Bid. Owner will not have any obligation to grant such access if doing so is not practical because of existing operations, security or safety concerns, or restraints on Owner's authority regarding the Site. Bidder is responsible for establishing access needed to reach specific selected test sites.

- D. Bidder must comply with all applicable Laws and Regulations regarding excavation and location of utilities, obtain all permits, and comply with all terms and conditions established by Owner or by property owners or other entities controlling the Site with respect to schedule, access, existing operations, security, liability insurance, and applicable safety programs.
- E. Bidder must fill all holes and clean up and restore the Site to its former condition upon completion of such explorations, investigations, tests, and studies.

5.05 *Owner's Safety Program*

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

5.06 *Other Work at the Site*

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

ARTICLE 6—BIDDER'S REPRESENTATIONS AND CERTIFICATIONS

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

- A. The Bid Form that each Bidder will submit contains express representations regarding the Bidder's examination of Project documentation, Site visit, and preparation of the Bid, and certifications regarding lack of collusion or fraud in connection with the Bid. Bidder should review these representations and certifications, and assure that Bidder can make the representations and certifications in good faith, before executing and submitting its Bid.
- B. If Bidder is awarded the Contract, Bidder (as Contractor) will make similar express representations and certifications when it executes the Agreement.

ARTICLE 7—INTERPRETATIONS AND ADDENDA

- 7.01 Owner on its own initiative may issue Addenda to clarify, correct, supplement, or change the Bidding Documents.
- 7.02 Bidder shall submit all questions about the meaning or intent of the Bidding Documents to Engineer through Owner's Planet Bids website.
- 7.03 Interpretations or clarifications considered necessary by Engineer in response to such questions will be issued by Addenda delivered to all registered plan holders. Questions received less than seven days prior to the date for opening of Bids may not be answered.

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

ARTICLE 8—BID SECURITY

- 8.01 A Bid must be accompanied by bid security made payable to Owner in an amount of five percent (5%) of Bidder's maximum Bid price (determined by adding the base bid and all alternates) and in the form of a bid bond issued by a surety meeting the requirements of Paragraph 6.01 of the General Conditions. Such bid bond will be issued in the form included in the Bidding Documents.
- 8.02 The Bid security of the apparent Successful Bidder will be retained until Owner awards the contract to such Bidder, and such Bidder has executed the Contract, furnished the required Contract security, and met the other conditions of the Notice of Award, whereupon the Bid security will be released. If the Successful Bidder fails to execute and deliver the Contract and furnish the required Contract security within 15 days after the Notice of Award, Owner may consider Bidder to be in default, annul the Notice of Award, and the Bid security of that Bidder will be forfeited, in whole in the case of a penal sum bid bond, and to the extent of Owner's damages in the case of a damages-form bond. Such forfeiture will be Owner's exclusive remedy if Bidder defaults.
- 8.03 The Bid security of other Bidders that Owner believes to have a reasonable chance of receiving the award may be retained by Owner until the earlier of 7 days after the Effective Date of the Contract or 61 days after the Bid opening, whereupon Bid security furnished by such Bidders will be released.
- 8.04 Bid security of other Bidders that Owner believes do not have a reasonable chance of receiving the award will be released within 7 days after the Bid opening.

ARTICLE 9—CONTRACT TIMES

- 9.01 The number of days within which, or the dates by which, the Work is to be (a) substantially completed and (b) ready for final payment, and (c) Milestones (if any) are to be achieved, are set forth in the Agreement.
- 9.02 Provisions for liquidated damages, if any, for failure to timely attain a Milestone, Substantial Completion, or completion of the Work in readiness for final payment, are set forth in the Agreement.

ARTICLE 10—SUBSTITUTE AND "OR EQUAL" ITEMS

- 10.01 The Contract for the Work, as awarded, will be on the basis of materials and equipment specified or described in the Bidding Documents without consideration during the bidding and Contract award process of possible substitute or "or-equal" items. In cases in which the Contract allows the Contractor to request that Engineer authorize the use of a substitute or "or-equal" item of material or equipment, application for such acceptance may not be made to and will not be considered by Engineer until after the Effective Date of the Contract.
- 10.02 All prices that Bidder sets forth in its Bid will be based on the presumption that the Contractor will furnish the materials and equipment specified or described in the Bidding Documents, as

supplemented by Addenda. Any assumptions regarding the possibility of post-Bid approvals of "or-equal" or substitution requests are made at Bidder's sole risk.

ARTICLE 11—SUBCONTRACTORS, SUPPLIERS, AND OTHERS

- 11.01 If the Instructions to Bidders require the identity of certain Subcontractors, Suppliers, individuals, or entities to be submitted to Owner in advance of a specified date prior to the Effective Date of the Agreement, the apparent Successful Bidder, and any other Bidder so requested, shall 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.
- 11.02 If requested by Owner, such list must be accompanied by an experience statement with pertinent information regarding similar projects and other evidence of qualification for each such Subcontractor or Supplier. If Owner or Engineer, after due investigation, has reasonable objection to any proposed Subcontractor or Supplier, Owner may, before the Notice of Award is given, request apparent Successful Bidder to submit an acceptable substitute, in which case apparent Successful Bidder will submit a substitute, Bidder's Bid price will be increased (or decreased) by the difference in cost occasioned by such substitution, and Owner may consider such price adjustment in evaluating Bids and making the Contract award.
- 11.03 If apparent Successful Bidder declines to make any such substitution, Owner may award the Contract to the next lowest Bidder that proposes to use acceptable Subcontractors and Suppliers. Declining to make requested substitutions will constitute grounds for forfeiture of the Bid security of any Bidder. Any Subcontractor or Supplier, so listed and against which Owner or Engineer makes no written objection prior to the giving of the Notice of Award will be deemed acceptable to Owner and Engineer subject to subsequent revocation of such acceptance as provided in Paragraph 7.07 of the General Conditions.
- 11.04 Contractor shall not be required to employ any Subcontractor, Supplier, individual or entity against whom Contractor has reasonable objection.

ARTICLE 12—PREPARATION OF BID

- 12.01 The Bid Form is included with the Bidding Documents.
 - A. All blanks on the Bid Form must be completed in ink and the Bid Form signed in ink. Erasures or alterations must be initialed in ink by the person signing the Bid Form. A Bid price must be indicated for each section, Bid item, alternate, adjustment unit price item, and unit price item listed therein.
 - B. If the Bid Form expressly indicates that submitting pricing on a specific alternate item is optional, and Bidder elects to not furnish pricing for such optional alternate item, then Bidder may enter the words "No Bid" or "Not Applicable."
- 12.02 If Bidder has obtained the Bidding Documents as Electronic Documents, then Bidder shall prepare its Bid on a paper copy of the Bid Form printed from the Electronic Documents version of the Bidding Documents. The printed copy of the Bid Form must be clearly legible, printed on 8½ inch by 11-inch paper and as closely identical in appearance to the Electronic Document version of the Bid Form as may be practical. The Owner reserves the right to accept Bid Forms which nominally vary in appearance from the original paper version of the Bid Form, providing that all required information and submittals are included with the Bid.

- 12.03 A Bid by a corporation must be executed in the corporate name by a corporate officer (whose title must appear under the signature), accompanied by evidence of authority to sign. The corporate address and state of incorporation must be shown.
- 12.04 A Bid by a partnership must be executed in the partnership name and signed by a partner (whose title must appear under the signature), accompanied by evidence of authority to sign. The official address of the partnership must be shown.
- 12.05 A Bid by a limited liability company must be executed in the name of the firm by a member or other authorized person and accompanied by evidence of authority to sign. The state of formation of the firm and the official address of the firm must be shown.
- 12.06 A Bid by an individual must show the Bidder's name and official address.
- 12.07 A Bid by a joint venture must be executed by an authorized representative of each joint venturer in the manner indicated on the Bid Form. The joint venture must have been formally established prior to submittal of a Bid, and the official address of the joint venture must be shown.
- 12.08 All names must be printed in ink below the signatures.
- 12.09 The Bid must contain an acknowledgment of receipt of all Addenda, the numbers of which must be filled in on the Bid Form.
- 12.10 Postal and e-mail addresses and telephone number for communications regarding the Bid must be shown.
- 12.11 The Bid must contain evidence of Bidder's authority to do business in the state where the Project is located, or Bidder must certify in writing that it will obtain such authority within the time for acceptance of Bids and attach such certification to the Bid.
- 12.12 If Bidder is required to be licensed to submit a Bid or perform the Work in the state where the Project is located, the Bid must contain evidence of Bidder's licensure, or Bidder must certify in writing that it will obtain such licensure within the time for acceptance of Bids and attach such certification to the Bid. Bidder's state contractor license number, if any, must also be shown on the Bid Form.

ARTICLE 13—BASIS OF BID

- 13.01 The basis of Bid is set in Section 3 – Bid Form. Description of the various basis of Bid are as follows:
 - A. If Bid is Lump Sum
 1. Bidders must submit a Bid on a lump sum basis as set forth in the Bid Form.
 - B. If bid is a Base Bid with Alternates
 1. Bidders must submit a Bid on a lump sum basis for the base Bid and include a separate price for each alternate described in the Bidding Documents and as provided for in the Bid Form. The price for each alternate will be the amount added to or deleted from the base Bid if Owner selects the alternate.
 2. In the comparison of Bids, alternates will be applied in the same order of priority as listed in the Bid Form.

C. If bid is a Unit Price

1. Bidders must submit a Bid on a unit price basis for each item of Work listed in the unit price section of the Bid Form.
2. The "Bid Price" (sometimes referred to as the extended price) for each unit price Bid item will be the product of the "Estimated Quantity," which Owner or its representative has set forth in the Bid Form, for the item and the corresponding "Bid Unit Price" offered by the Bidder. The total of all unit price Bid items will be the sum of these "Bid Prices"; such total will be used by Owner for Bid comparison purposes. The final quantities and Contract Price will be determined in accordance with Paragraph 13.03 of the General Conditions.
3. Discrepancies between the multiplication of units of Work and unit prices will be resolved in favor of the unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum.

ARTICLE 14—SUBMITTAL OF BID

- 14.01 The unbound copy of the Bid Form is to be completed and submitted with the Bid security and the other documents required to be submitted under the terms of Article 2 of the Bid Form.
- 14.02 A Bid must be received no later than the date and time prescribed and at the place indicated in the Advertisement or invitation to bid and must be enclosed in a plainly marked and sealed envelope with the Project title, and, if applicable, the designated portion of the Project for which the Bid is submitted, the name and address of Bidder, and must be accompanied by the Bid security and other required documents. If a Bid is sent by mail or other delivery system, the sealed envelope containing the Bid must be enclosed in a separate package plainly marked on the outside with the notation "BID ENCLOSED." A mailed Bid must be addressed to the location designated in the Advertisement.
- 14.03 The Bidder assumes the sole responsibility for timely delivery of its Bid, regardless of the method of delivery. Bids received after the date and time prescribed for the opening of bids, or not submitted at the correct location or in the designated manner, will not be accepted and will be returned to the Bidder unopened.

ARTICLE 15—MODIFICATION AND WITHDRAWAL OF BID

- 15.01 An unopened Bid may be withdrawn by an appropriate document duly executed in the same manner that a Bid must be executed and delivered to the place where Bids are to be submitted prior to the date and time for the opening of Bids. Upon receipt of such notice, the unopened Bid will be returned to the Bidder.
- 15.02 If a Bidder wishes to modify its Bid prior to Bid opening, Bidder must withdraw its initial Bid in the manner specified in Paragraph 15.01 and submit a new Bid prior to the date and time for the opening of Bids.
- 15.03 If within 24 hours after Bids are opened any Bidder files a duly signed written notice with Owner and promptly thereafter demonstrates to the reasonable satisfaction of Owner that there was a material and substantial mistake in the preparation of its Bid, the Bidder may withdraw its Bid,

and the Bid security will be returned. Thereafter, if the Work is rebid, the Bidder will be disqualified from further bidding on the Work.

ARTICLE 16—OPENING OF BIDS

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

ARTICLE 17—EVALUATION OF BIDS AND AWARD OF CONTRACT

- 17.01 Owner reserves the right to reject any or all Bids pursuant to Nevada state law, including without limitation, nonconforming, nonresponsive, unbalanced, or conditional Bids. Owner also reserves the right to waive all minor Bid informalities not involving price, time, or changes in the Work.
- 17.02 Owner will reject the Bid of any Bidder that Owner finds, after reasonable inquiry and evaluation, to not be responsible.
- 17.03 If Bidder purports to add terms or conditions to its Bid, takes exception to any provision of the Bidding Documents, or attempts to alter the contents of the Contract Documents for purposes of the Bid, whether in the Bid itself or in a separate communication to Owner or Engineer, then Owner will reject the Bid as nonresponsive.
- 17.04 If Owner awards the contract for the Work, such award will be to the responsible Bidder submitting the lowest responsive Bid.
- 17.05 *Evaluation of Bids*
 - A. In evaluating Bids, Owner will consider whether the Bids comply with the prescribed requirements, and such alternates, unit prices, and other data, as may be requested in the Bid Form or prior to the Notice of Award.
 - B. If the Unit Bid Item prices and/or schedule of values of a prospective Bidder's Bid are obviously unbalanced, either in excess or below the reasonable cost analysis values, the Bid may be rejected. All bids with separately-priced line items shall be analyzed to determine if the prices are unbalanced. A Bid may be rejected if Owner determines that the lack of balance poses an unacceptable risk to Owner. A Bid with unbalanced pricing may increase performance risk and could result in payment of unreasonably high prices. Unbalanced pricing exists when, despite an acceptable total evaluated price, the price of one or more bid items is significantly over- or understated, as indicated by the application of cost or price analysis techniques. The greatest risks associated with unbalanced pricing occur when:
 - 1. Overpricing of startup work, mobilization, or early items of work ("front-end loading") would cause a Bidder to receive substantial up-front payment;
 - 2. Base quantities and option quantities are separate line items;
 - 3. The quantities as bid are incorrect and the contract cost will be increased when quantities are corrected; and/or

4. On items when the quantities may vary, if the anticipated variation in quantity would result in the lower Bidder not remaining as the low bidder.
- C. More than one Bid for the same Work from an individual or entity under the same or different names will not be considered. Reasonable grounds for believing that any Bidder has an interest in more than one Bid for the Work may be cause for disqualification of that Bidder and the rejection of all Bids in which that Bidder has an interest.
- D. 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.
- E. In evaluating whether a Bidder is responsible, Owner will consider the qualifications of the Bidder and may consider the qualifications and experience of Subcontractors and Suppliers proposed for those portions of the Work for which the identity of Subcontractors and Suppliers must be submitted as provided in the Bidding Documents.
- F. Owner may conduct such investigations as Owner deems necessary to establish the responsibility, qualifications, and financial ability of Bidders and any proposed Subcontractors or Suppliers.
- G. If the Contract is to be awarded, Owner will award the Contract to the Bidder whose Bid is in the best interest of the Project.
- H. Owner reserves the right to reduce the Scope of Work up to twenty-five percent (25%) of the total Bid price by deleting items and/or reducing the Scope of Work without invalidating the Bid, if necessary, to reduce the cost of the project to within the Engineer's Estimate and/or Owner's budget.
- I. Any Bidder which submitted a Bid to Owner may protest the recommendation of award in accordance with procedures as set forth in NRS 338.

ARTICLE 18—BONDS AND INSURANCE

- 18.01 Article 6 of the General Conditions, as may be modified by the Supplementary Conditions, sets forth Owner's requirements as to performance and payment bonds and insurance. When the Successful Bidder delivers the executed Agreement to Owner, it must be accompanied by one (1) copy of each of the required bonds and insurance documentation.
- 18.02 Article 8, Bid Security, of these Instructions, addresses any requirements for providing bid bonds as part of the bidding process.

ARTICLE 19—SIGNING OF AGREEMENT

- 19.01 When Owner issues a Notice of Award to the Successful Bidder, it will be accompanied by the other Contract Documents as identified in the Agreement. Within 10 business days thereafter, Successful Bidder must execute the Agreement and any bonds and insurance documentation required to be delivered by the Contract Documents to Owner. Within 20 business days thereafter, Owner will deliver one fully executed counterpart of the Agreement to Successful Bidder, together with electronic copies of the Contract Documents as stated in Paragraph 2.02 of the General Conditions.

ARTICLE 20—SALES AND USE TAXES

- 20.01 Owner is exempt from Nevada state sales and use taxes on materials and equipment to be incorporated in the Work (Exemption No. 88-760004K). Per Section 15, Chapter 338 of the NRS, each contractor, subcontractor and other person who provides labor, equipment, materials, supplies or services for the Work will comply with the requirements of all applicable state and local laws, including, without limitation, any applicable licensing requirements and requirements for the payment of sales and use taxes on equipment, materials and supplies provided for the Work. Said taxes must not be included in the Bid. Refer to Paragraph SC-7.10 of the Supplementary Conditions for additional information.

ARTICLE 21—NEVADA REVISED STATUTES

- 21.01 Each and every provision of Chapters 332, 338 and 339 of the Nevada Revised Statutes (NRS) and other laws required to be inserted in these Contract Documents shall be deemed to be inserted herein, and the Contract Documents shall be read and enforced as though they are included herein.
- 21.02 In accordance with NRS 338, the Successful Contractor shall report the name and address of each subcontractor to the Owner and Washoe County Labor Commissioner if the estimated total price of the Contract exceeds \$100,000.
- 21.03 Apprenticeship Utilization Act: Bidder is responsible for complying with the Apprenticeship Utilization Act and all laws related thereto. Per the Act, absent a waiver for good cause, bidder and all lower-tiered contractors of bidder are required to utilize at least a certain number of labor hours of an apprentice for each craft that bidder or its lower-tiered contractors employ more than 3 employees. Bidder must complete and submit the Project Workforce Utilization Checklist with the bid submission package. If there are any changes to the anticipated workforce, which may have an impact on compliance with the Apprenticeship Utilization Act, bidder and all lower-tiered contractors must submit revised Project Workforce Utilization Checklist form(s) and Request for Waiver form (if applicable) within ten (10) calendar days of the change. The apparent low bidder must submit a Request for Waiver form, if bidder is requesting that IVGID submit a request for a waiver for the Bidder or any of its lower-tiered contractors, on the form provided by the Office of the Labor Commissioner. The acceptance or denial of any Request for Waiver shall not serve as a basis to adjust the bid. The issuance of the Notice to Proceed will not be delayed due to pending waiver determinations, appeals, or related proceedings. IVGID reserves the right to accept or reject any Request for Waiver form and to submit the same to the Labor Commissioner in its sole and absolute discretion. Further information on the Apprenticeship Utilization Act may be found at the Office of the Labor Commissioner's website: http://labor.nv.gov/Apprenticeship_Utilization_Act/Apprenticeship_Utilization_Act/.

ARTICLE 22—HISTORICAL AND ARCHAEOLOGICAL

- 22.01 If, during the course of construction, evidence of deposits of historical or archaeological interest is found, the Contractor shall cease operation(s) affecting the find and shall notify the Owner. No

further disturbance of the deposits shall ensue until the Owner has notified the Contractor that he may proceed.

ARTICLE 23—SAFETY AND HEALTH REGULATIONS FOR CONSTRUCTION

- 23.01 These construction documents are to be governed at all times by applicable provisions of the Federal Law, including but not limited to the latest amendment of the following:
- A. Williams-Steiger Occupational Safety and Health Act of 1970, Public Law 94-596
 - B. Part 1910 -- Occupational Safety and Health Standards, Chapter XVII of Title 29, Code of Federal Regulations
 - C. Part 1926 -- Safety and Health Regulations for Construction, Chapter XVII of Title 29, Code of Federal Regulations.

ARTICLE 24—NONDISCRIMINATION IN EMPLOYMENT

- 24.01 A contract for the work hereunder will obligate the Contractor and subcontractor(s) to not discriminate in employment practices and to certify to affirmative action plans.
- 24.02 If requested, Bidders shall submit a compliance report concerning their employment practices and policies in order to maintain their eligibility to receive the award of the contract.
- 24.03 Successful bidders shall, if requested, submit a list of all subcontractors who will perform work on the project, and written signed statements from authorized agents of the labor pools with which they will or may deal for employees on the work, together with supporting information to the effect that said labor pools' practices and policies are in conformity with Executive Order 11246, and that said labor pools will affirmatively cooperate in or offer no hindrance to the recruitment, employment, and equal treatment of employees seeking employment and performing work under the contract, or a certification as to what efforts have been made to secure such statements when such agents or labor pools have failed or refused to furnish same prior to the award of the contract.
- 24.04 Bidder shall submit with his bid, if requested, a statement on separate instrument of whether Bidder has performed work under E. O. 11246, and shall list those projects by project location and date(s) of work performance.

ARTICLE 25—ANTI-KICKBACK AND MINIMUM WAGE RATES

- 25.01 The Contractor shall comply with the regulations of the Secretary of Labor made pursuant to the Anti-Kickback Act of 13 June 1934, 40 USC 276 (c), including any amendments or modifications. The Contractor shall cause appropriate provisions to be inserted in subcontracts to ensure compliance by all subcontractors, except as the Secretary of Labor may specifically provide for reasonable limitations, variations, tolerances, and exemptions from the requirements thereof. Particular attention is invited to the requirements of filing weekly affidavits with the Owner with respect to wages. Also, the Contractor shall comply with Public Law 403 of 74 USC, setting out minimum wage rates as hereinafter specified.

- 25.02 The work to be performed, as described in these Bidding Documents, is to be paid for in part by both local and federal funds; therefore minimum prevailing wage rates published by both the State and Federal Departments of Labor are applicable. Bidder shall comply with the State of Nevada Commissioner of Labor and the Federal Davis-Bacon and Related Acts, as applicable. In the case of differences between the two lists of wage rates, the Bidder shall pay not less than the higher rates indicated therein for the respective crafts. See Supplementary Conditions.
- 25.03 The Owner does not guarantee that labor can be procured for the minimum wages published by the State and Federal Governments. The rates of wages listed are minimum only, below which the Bidder cannot pay, and they do not constitute a representation that labor can be procured for the minimum listed.

ARTICLE 26—DISADVANTAGED BUSINESS ENTERPRISE (DBE) SOLICITATION

- 26.01 Each Bidder must fully comply with the requirements, terms, and conditions of the DBE requirements specified.
- 26.02 Requirements:
- A. It is the policy of the Owner that minority businesses shall have the maximum feasible opportunity to participate in the performance of contracts performed under state loan programs.
 - B. The Bidder agrees to use its best efforts to carry out this DBE policy through award of subconsultants to disadvantaged business enterprises.
 - A. All Bidders shall attach to the bid proposal documentation demonstrating that they have made a good faith effort and have taken affirmative steps to ensure that at least twelve percent (12%) of the total bid was made available on a competitive basis to Disadvantaged Business Enterprise (DBE). Bids without said documentation attached will be deemed non-responsive.
- 26.03 *Source for DBE Contractors/Subcontractors*
- A. Bidders may contact the following sources regarding DBE construction Contractors and subcontractors for this project:

State of Nevada Department of Transportation
Contract Compliance Division
Nevada Unified Certification Program
1263 S. Stewart Street
Carson City NV 89712-0002
(775) 888-7497
www.nevadadbbe.com

ARTICLE 27—BUY AMERICAN PROVISIONS

- 27.01 In accordance with Title 23 CFR 635.410, permanently incorporated steel and/or iron materials on Federal-Aid projects shall be domestically produced regardless of the percentage they comprise in a manufactured product or form they take.
- 27.02 Minimal use of foreign steel materials will be permitted provided the cost of said materials does not exceed 1/10 of 1% of the total contract cost or \$2,500.00, whichever is greater. The combined cost of foreign steel and/or iron materials will be the value of the materials as they are delivered to the contract, documented by invoice or bill of sale to the contractor. Submit for review a request to use foreign materials prior to their use. Do not incorporate any foreign steel materials into the project without approval.
- 27.03 To qualify as domestic steel, all manufacturing processes, including manufacture, fabrication, grinding, drilling, welding, finishing, coating, and assembly of product containing steel and/or iron materials, must have been performed in the United States. To further define the coverage, a domestic product is a manufactured steel and/or iron materials construction material that was produced in one of the 50 states, the District of Columbia, Puerto Rico, or in the territories or possessions of the United States. Raw materials used in the steel and/or production may be imported. Raw materials such as iron ore, limestone, waste products, etc. which are used in the manufacturing process to produce steel and/or iron materials products. Waste products include scrap; i.e., steel no longer useful in its present form from old automobiles, machinery, pipe, railroad rail, steel trimmings from mills or product manufacturing, and the like. Extracting, crushing, and handling the raw materials which are customary to prepare them for transporting are exempt from Buy America. The use of foreign steel or iron billets is not acceptable under Buy America.
- 27.04 The Build America, Buy America Act (BABA) of the Infrastructure Investment and Job Act (IIJA) (Pub. L. No. 117-58 §§ 70901-52) expands the requirements of the Buy America Act to include permanently incorporated construction materials on Federal-aid projects.
- 27.05 A “construction material” as defined under BABA shall include any article, material, or supply - other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as sand, stone, or gravel; or aggregate binding agents or additives - that is or consists primarily of the following:
- A. Non-ferrous metals;
 - B. Plastic and polymer-based products, including but not limited to polyvinylchloride, composite building materials, and polymers used in fiber optic cables;
 - C. Glass (including optic glass);
 - D. Lumber; or
 - E. Drywall
- 27.06 Items that consist of two or more of the listed materials that have been combined together through a manufacturing process, and items that include at least one of the listed materials

combined with a material that is not listed through a manufacturing process, should be considered as manufactured products rather than construction materials.

- 27.07 All construction materials must be manufactured in the United States. This means that all manufacturing processes for the construction material occurred in the United States.
- 27.08 Provide a Certificate of Materials Origin, using NDOT form 020-095, certifying materials comply with Buy America and BABA requirements as specified above. Submit the certification prior to installation of the material or product. Unless a Certificate of Materials Origin has been provided, the materials will be considered *of foreign origin*.

END OF INSTRUCTIONS

APPRENTICESHIP UTILIZATION ACT – SENATE BILL 207 (2019)

The Legislature hereby finds and declares that: 1. A skilled workforce in construction is essential to the economic well-being of this State; 2. Apprenticeship programs are a proven method of training a skilled workforce in construction; and 3. Requiring the use of apprentices on the construction of public works will ensure the availability of a skilled workforce in construction in the future for this State.

Sec. 1.7. 1. Notwithstanding any other provision of this chapter and except as otherwise provided in this section, a contractor or subcontractor engaged in vertical construction who employs a worker on a public work pursuant to NRS 338.040 shall use one or more apprentices for at least 10 percent of the total hours of labor worked for each apprenticed craft or type of work to be performed on the public work for which more than three workers are employed.

2. Notwithstanding any other provision of this chapter and except as otherwise provided in this section, a contractor or subcontractor engaged in horizontal construction who employs a worker on a public work pursuant to NRS 338.040 shall use one or more apprentices for at least 3 percent of the total hours of labor worked for each apprenticed craft or type of work to be performed on the public work for which more than three workers are employed.

Horizontal Construction NRS 338.010 - Subdivision 13. “Horizontal Construction” means the construction of any fixed work, including any irrigation, drainage, water supply, flood control, harbor, railroad, highway, tunnel, airport or airway, sewer, sewage disposal plant or water treatment facility and any ancillary vertical components thereof, bridge, inland waterway, pipeline for the transmission of petroleum or any other liquid or gaseous substance, pier, and work incidental thereto. The term does not include vertical construction, the construction of any terminal or other building of an airport or airway, or the construction of any other building.

Vertical Construction NRS 338.010 - Subdivision 24. “Vertical Construction” means the construction or remodeling of any building, structure or other improvement that is predominantly vertical, including, without limitation, a building, structure or improvement for the support, shelter and enclosure of persons, animals, chattels or movable property of any kind, and any improvement appurtenant thereto.

Complex or Hazardous Work - The Labor Commissioner will view complex and hazardous work to include, but not be limited to, work performed on a public work project that is traditionally not performed by Apprentices pursuant to their Apprentice Agreement, Collective Bargaining Agreement, and/or any other written justification demonstrating that the work to be performed should not be performed by Apprentices.

A Public Body/Awarding Body, upon the request of a contractor or subcontractor, **MAY** submit a request for a modification or waiver of the percentage of hours of labor of one or more apprentices prior to (1) the bid advertisement; (2) the bid opening; or (3) the award of the contract if, “Good Cause” exists. The Labor Commissioner may also grant a waiver from the requirements of SB 207 after work on the public work has commenced.

Sample Forms and information on SB 207 can be found at:

http://labor.nv.gov/Apprenticeship_Utilization_Act/Apprenticeship_Utilization_Act/

Additional information on Public Works Projects and Prevailing Wages by region can be found at www.labor.nv.gov or by following the links below.

http://labor.nv.gov/PrevailingWage/Public_Works_Prevailing_Wages/

<http://labor.nv.gov/uploadedFiles/labornvgov/content/home/features/PWP%20Handbook%20June%202019.pdf>

GUIDELINES FOR AWARDING BODIES AND CONTRACTORS/SUBCONTRACTORS

1. Senate Bill 207 applies to Public Works Projects (NRS 338.010 – Subdivision 23) over \$100,000. (Exemptions may apply – See NRS sections 338.011 and 338.090.)
2. For each Public Works Project (PWP) Bid Advertisement, Bid Opening, and Contract, the Public Body/Awarding Body should include the requirements of Senate Bill 207. The Public Body/Awarding Body should also determine if the PWP requires the performance of uniquely complex or hazardous work.
3. Contractors/Subcontractors should determine if they can meet the Apprenticeship % requirements set forth in SB 207 or need to request Apprentices from a Registered Apprenticeship Program. Contractors/Subcontractors can request Apprentices using the Apprenticeship Request Form or request Apprentices in writing from a Registered Apprenticeship Program. *(Written documentation will be required by the Labor Commissioner if a Request for Waiver is submitted.)*
4. If the Apprenticeship Request is approved and Apprentices are dispatched, an Apprenticeship Agreement may need to be executed between the Registered Apprenticeship Program and the Contractor/Subcontractor.
5. Apprenticeship Issues - Issues and/or complaints regarding the qualifications and/or work of an Apprentice that is dispatched should be directed to the Registered Apprenticeship Program or the State of Nevada Apprenticeship Council. Please follow link <http://owinn.nv.gov/Apprenticeship/AboutSAC/>.
6. A Request for Waiver **MAY** be submitted by the **PUBLIC BODY/AWARDING BODY** to the Office of the Labor Commissioner if: (1) No Registered Apprenticeship Programs exist in the jurisdiction for the craft/type of work required for the PWP; (2) A request for Apprentices was denied or not acted upon within 5 business days; or (3) The PWP requires the performance of uniquely complex or hazardous work.
7. **ONLY THE PUBLIC BODY/AWARDING BODY CAN SUBMIT A REQUEST FOR WAIVER. REQUESTS FOR WAIVERS SHOULD BE SUBMITTED AS SOON AS POSSIBLE.**
8. Within 15 days of receipt of the Request for Waiver, the Office of the Labor Commissioner will issue a Decision/Determination granting or denying the Request for Waiver on the form that was submitted.
9. The Public Body/Awarding Body, Contractor, or Subcontractor can appeal the Decision/Determination within 10 days of issuance.
10. The Public Body/Awarding Body shall monitor the PWP consistent with the laws and regulations set forth in Nevada Revised Statutes (NRS) section 338 and Nevada Administrative Code (NAC) section 338. If a Waiver has not been granted the Public Body/Awarding Body shall ensure that certified payroll reports and any other required documentation are submitted and maintained demonstrating compliance with SB 207.

For additional information please contact us at:

Office of the Labor Commissioner
1818 College Parkway, Suite 102
Carson City, NV 89706 775-684-1890

AUA@labor.nv.gov

Office of the Labor Commissioner
3300 W. Sahara Avenue, Suite 225
Las Vegas, NV 89102 702-486-2650

AUA@labor.nv.gov

TOLL FREE: 1-800-992-0900 Ext. 4850 - www.labor.nv.gov

SECTION 3 - BID FORM

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

ARTICLE 1—OWNER AND BIDDER

1.01 This Bid is submitted to:

Incline Village General Improvement District
Public Works Department
1220 Sweetwater Road
Incline Village NV 89451
775-832-1267

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

ARTICLE 2—ATTACHMENTS TO THIS BID

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

- A. Required Bid security;
- B. List of Proposed Subcontractors;
- C. List of Proposed Suppliers;
- D. Evidence of authority to do business in the state of Nevada, or a written covenant to obtain such authority within the time for acceptance of Bids;
- E. Contractor's license number as evidence of Bidder's State Contractor's License, or a covenant by Bidder to obtain said license within the time for acceptance of Bids;
- F. Required Bidder Qualification Statement with supporting data

ARTICLE 3—BASIS OF BID—UNIT PRICES BID

3.01 Bidder will complete the Work in accordance with the Contract Documents for the following Unit Price(s):

BID SCHEDULE					
Item No.	Description	Estimated Quantity	Unit	Unit Price	Bid Price
1	Mobilization/Demobilization	1	LS	n/a	55,000
2	Temporary Traffic Control	1	LS	n/a	71,000
3	Environmental Protection	1	LS	n/a	6,500
4	WL Connection Assembly Sheet P1 Section A-A	1	LS	n/a	45,000
5	WL Connection Assembly Sheet P3 Station 32+15	1	LS	n/a	30,900
6	8" Water Line	2,280	LF	159	362,520
7	8" Gate Valve	6	EA	6,550	39,300
8	Fire Hydrant Assembly	3	EA	18,100	54,300
9	Water Service Re-connects	15	EA	5,865	87,975
10	Abandon Existing Water Valve	3	EA	250	750
11	1" Combination Air Valve	1	EA	8,200	8,200
12	Bollards	2	EA	1,890	3780
13	Cut and Cap Water Main or Cut and Plug Existing Pipe	8	EA	230	1,840
14	Roadway & Existing Facility Repair	1	LS	n/a	344,046
Total Bid Price (Sum of Items 1 thru 14)					\$ 1,111,111

A. Bidder acknowledges that:

1. Each Bid Unit Price includes an amount considered by Bidder to be adequate to cover Contractor's overhead and profit for each separately identified item, and
2. Estimated quantities are not guaranteed, and are solely for the purpose of comparison of Bids, and final payment for all Unit Price Work will be based on actual quantities, determined as provided in the Contract Documents.

Quantities are not guaranteed. Final Payment will be based upon actual quantity of work performed.

ARTICLE 4—TIME OF COMPLETION

- 4.01 Bidder agrees that the Work will be substantially complete and will be completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions on or before the dates or within the number of calendar days indicated in the Agreement.
- 4.02 Bidder accepts the provisions of the Agreement as to liquidated damages.

ARTICLE 5—BIDDER’S ACKNOWLEDGEMENTS: ACCEPTANCE PERIOD, INSTRUCTIONS, AND RECEIPT OF ADDENDA

5.01 *Bid Acceptance Period*

- A. This Bid will remain subject to acceptance for 60 days after the Bid opening, or for such longer period of time that Bidder may agree to in writing upon request of Owner.

5.02 *Instructions to Bidders*

- A. Bidder accepts all of the terms and conditions of the Instructions to Bidders, including without limitation those dealing with the disposition of Bid security.

5.03 *Receipt of Addenda*

- A. Bidder hereby acknowledges receipt of the following Addenda:

Addendum Number	Addendum Date
1	1/27/23

ARTICLE 6—BIDDER’S REPRESENTATIONS AND CERTIFICATIONS

6.01 *Bidder’s Representations*

- A. In submitting this Bid, Bidder represents the following:
 1. Bidder has examined and carefully studied the Bidding Documents, including Addenda.
 2. Bidder has visited the Site, conducted a thorough visual examination of the Site and adjacent areas, and become familiar with the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
 3. Bidder is familiar with all Laws and Regulations that may affect cost, progress, and performance of the Work.
 4. Bidder has carefully studied the reports of explorations and tests of subsurface conditions at or adjacent to the Site and the drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, with respect to the Technical Data in such reports and drawings.
 5. Bidder has carefully studied the reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, with respect to Technical Data in such reports and drawings.

6. Bidder has considered the information known to Bidder itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Bidding Documents; and the Technical Data identified in the Supplementary Conditions or by definition, with respect to the effect of such information, observations, and Technical Data on (a) the cost, progress, and performance of the Work; (b) the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder, if selected as Contractor; and (c) Bidder's (Contractor's) safety precautions and programs.
7. Based on the information and observations referred to in the preceding paragraph, Bidder agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.
8. Bidder is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Bidding Documents.
9. Bidder has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bidding Documents, and of discrepancies between Site conditions and the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
10. The Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
11. The submission of this Bid constitutes an incontrovertible representation by Bidder that without exception the Bid and all prices in the Bid are premised upon performing and furnishing the Work required by the Bidding Documents.

6.02 *Bidder's Certifications*

A. The Bidder certifies the following:

1. This Bid is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any collusive agreement or rules of any group, association, organization, or corporation.
2. Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid.
3. Bidder has not solicited or induced any individual or entity to refrain from bidding.
4. Bidder has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the Contract. For the purposes of this Paragraph 8.02.A:
 - a. Corrupt practice means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process.
 - b. Fraudulent practice means an intentional misrepresentation of facts made (a) to influence the bidding process to the detriment of Owner, (b) to establish bid prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition.
 - c. Collusive practice means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish bid prices at artificial, non-competitive levels.

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

BIDDER hereby submits this Bid as set forth above:

Bidder:

Burdick Excavating Co Inc

(typed or printed name of organization)

By:



(individual's signature)

Name:

Linda Burdick

(typed or printed)

Title:

President

(typed or printed)


Date:

2/9/23

(typed or printed)

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

Attest:



(individual's signature)

Name:

Ryan Kellogg

(typed or printed)

Title:

Project Manager

(typed or printed)

Date:

2/9/23

(typed or printed)

Address for giving notices:

PO BOX 22330, Carson Cty, NV 89721

Bidder's Contact:

Name:

Linda Burdick

(typed or printed)

Title:

President

(typed or printed)

Phone:

775-297-4566

Email:

Lburdick@burdickexc.com

Address:

PO BOX 22330

Carson City, NV 89721

Bidder's Contractor License No.: (if applicable) 22629

ADDITIONAL INFORMATION REQUIRED AT BID
Reference Instructions to Bidders Section 2

List three (3) similar projects completed by Contractor within the last 5 years:

Contact Name & Phone No.	Description of Work	Date Complete	Cost
See attached company resume			

Work Experience: List years of experience with similar projects, project descriptions, locations and costs, for proposed Job Foreman/ Superintendent:

Forman/Super's Name	Title	Years' Experience	
Randy Burdick	Superintendent/owner	42	
Name & Location of Project	Description	Project Cost	Date Completed
All prior projects on compant resume			
Name & Location of Project	Description	Project Cost	Date Completed
Name & Location of Project	Description	Project Cost	Date Completed
Name & Location of Project	Description	Project Cost	Date Completed

BURDICK EXCAVATING CO INC
P.O. Box 22330
Carson City, NV 89721
775-297-4566
NV #0022629 – CA #476659

2022 CARSON RIVER BANK STABILIZATION

Owner: Carson Valley Conservation District
1603 Esmeralda Ave, Minden, Nevada 89423

Contact Person: Shaker Gorla
sgorla@roanderson.com

Start Date: November 2022

Completion Date: December 2022

Contract Amount: \$372,674

Description: Water quality improvement project stabilizing the banks of the Carson River near Genoa. Work included diverting river flows, stormwater controls, rock slope protection, grading, stabilization, reestablishing river banks and BMPs/erosion control measures.

LOWER WOOD CREEK WATER QUALITY IMPROVEMENT PROJECT

Owner: Washoe County CSD
1001 East 9th St, Reno, NV 89520

Contact Person: Bill Wardell
Wwardell@washoecounty.gov , 775-750-7325

Start Date: July 2021

Completion Date: October 2021

Contract Amount: \$2,387,930

Description: Water quality improvement project within Incline Village that includes construction of AC Pavement sections for paths, roads and driveway approaches, curb and gutter, storm drain and infiltration facilities. Project required coordination with environmental agencies, Nevada Department of Wildlife and North Tahoe Conservation District to allow for work in the waterways to relocate the culvert crossing of Lower Wood Creek and Southwood Blvd in Incline Village.

NTPUD NORTH TAHOE REGIONAL PARK FIELD #4 RENOVATION AND PEDESTRIAN PATH

Owner: North Tahoe Public Utility District
875 National Ave, Tahoe Vista, CA 96148

Contact Person: Nathan Chorey, P.E.
Nchorey@NTPUD.org, 530-553-5424

Start Date: May 2021

Completion Date: August 2021

Contract Amount: \$1,828,599.28

Description: This Contract included the removal, replacement, and enlargement of an existing synthetic turf field soccer field, field drainage improvements, new paved pedestrian paths and associated site improvements and landscaping. This project required large amounts of field adjustment due to substantial unknown/misrepresented conditions discovered in the field.

TENTH AND CURRY WATER MAIN EXTENSION PROJECT

Owner: Carson City
201 North Carson Street Suite 2, Carson City, NV 89701

Contact Person: Jeff A. Freeman.
JAFreeman@Carson.org, 775-283-7094

Start Date: April 2021

Completion Date: July 2021

Contract Amount: \$312,061.00

Description: This project included installing 505 linear feet of 12-inch water main, 1 water service, two fire hydrants, remove and replace four storm water drop inlets, install one new storm water drop inlet, concrete work, asphalt and concrete patching, abandonment of existing 4-inch water main, cut-in one 12-inch gate valve and associated work.

COLDSTREAM ROAD-DONNER CREEK STRUCTURE REPLACEMENT PROJECT

Owner: Town of Truckee
1001 Airport Road, Truckee, CA 96161

Contact Person: Mike Vaughn ,P.E.
mvaughn@townoftruckee, 530-582-2923

Start Date: August 2020

Completion Date: November 16th 2020

Contract Amount: \$1,659,537.00

Description: Replacement of approximately 114 lf of existing CMP culvert in a stream bed under Coldstream Road in three stages, including 30" bypass system, 24 hours a day, under the roadway, pumping ground water via 5 pumps into a Baker Tank, then through 1,700 lf of victaulic piping to irrigation heads, compliance with CA Water Quality Board with our QSP, installation of 45 concrete (990 tons) of prefabricated pedestals, arches and wing walls. Excavation of 25' in the streambed,

placement of concrete with a 50 ton crane, temporary and permanent BMPs, rock slope protection, ornamental railings, AB and AC and striping.

TAHOE PINES CAMPGROUND REHABILITATION- Contract #19-24479, Project #136712

Owner: California Tahoe Conservancy (CTC)
1061 3rd Street, S. Lake Tahoe , CA. 96150
Contact - Mark Sedlock, mark.sedlock@tahoe.ca.gov 530-572-4956

Project Administration: Department of General Services (DGS)
707 3rd Street, 4th Floor, W. Sacramento, CA. 9569025
Contact: Brad Tress, brad.tress@dgs.ca.gov

Start Date : May 1, 2020

Completion Date: October 15, 20120

Contract Amount: \$725,235.60

Description of Work: Installation of temporary BMPs (work was adjacent to the Upper Truckee River), Parking lot removal and replacement, Rough and Finish Grading, Placement of Bridge Structure (including form and pour footings, piers and abutments and finish bridge slab, with RSP on banks), Forestry Gates, Drainage improvements, Planting and Irrigation.

2020 SEWER IMPROVEMENTS PROJECT

Owner: South Tahoe Public Utility District (STPUD)
1275 Meadow Crest Drive, S. Lake Tahoe, CA. 96150

Engineer: Brent Goligoski
bgoligoski@stpud.dst.ca.us

Contract Amount: \$2,329,393.50

Start Date: May 2020

Completion Date: August 2020

Description: Renovate STPUD Maintenance Facility including temporary and permanent BMP's, drainage upgrades, rock-lined channels, rough and finish grading, placing AB and AC paving. The majority of the project was replacement of an existing sewer line. The project was a 15' cut in an SEZ requiring wet wells, five pumps 24 hours a day, staked trench boxes, with a very deteriorated roadway sometimes failing 17' beyond the 4' trench specified, with a plethora of unknown utilities not shown on the plans. In performing the sewer laterals to 45 residences, one electrical conduit was shown on the plans, and we encountered between 16 and 36 existing conduits. We engaged NorCal with a vacuum truck to assist in locating and excavating around all the existing conduits. Roadway was ultimately ground and overlaid, then stripped.

UPPER AMERICAN RIVER NORTHSORE RV CAMPGROUND REHABILITATION

Owner: Supply Chain Service
Sacramento Municipal Utility District
4401 Bradshaw Rd
Mail Stop EA404
Sacramento, CA 95827

Contact Person: Doug Moore, MBA
Procurement Specialist
douglas.moore@smud.org
916-732-7069

Project Design: CARDNO
295 Hwy 50
Zephyr Cove, NV 89448

Contract Amount: \$3,719,092.56

Project Completion Date: December 2019

Description: Renovation and expansion of an existing campground facility at Loon Lake in Desolation in California which is off the grid in El Dorado National Forest on USFS property. Sacramento Municipal Utility District administered the project.

The project involved (first snow removal in June of 2019) massive rock excavation to build a 25 site campground on Loon Lake, 3,200 LF waterline in rock, 4,000 gallon above ground water tank, 1,000 gallon below grade water tank, refurbish of an existing concrete vault toilet, installation of 2 each prefabricated vault toilets, generator building and generator for the water system. Assemble and install campground furniture, drainage upgrades, base and paving/stripping, signage, traffic control, temporary and permanent erosion control measures, USFS gates, concrete work.

The bidding protocol on this, as well as the following 2018 SMUD project listed, was an RFP, that awarded the project based on your experience. We were awarded these projects even though we were not the low bidder.

2019 NORTH TAHOE REGIONAL PARK MULTI-PURPOSE TRAILHEAD IMPROVEMENTS PROJECT

Owner: North Tahoe Public Utility District

875 National Ave.
Tahoe Vista, CA

Contact Person:

Brad Johnson, PE
875 National Avenue
Tahoe Vista, CA 96148
530-546-4212

Project Design:

Auerbach Engineering
645 W. Lake Blvd, Tahoe City, CA 96145

Contract Amount:

\$494,651.71

Project Completion Date:

July 2019

Description of Work:

Prep for new bike trail and parking lot, base and pave/stripping,
Fabricate a gazebo, drainage improvements, mass and finish
Grading, concrete work, temporary and permanent erosion
control measures.

UPPER AMERICAN RIVER SUNSET CAMPGROUND REHABILITATION PROJECT

Owner:

Supply Chain Service
Sacramento Municipal Utility District
4401 Bradshaw Rd
Mail Stop EA404
Sacramento, CA 95827

Contact Person:

Doug Moore, MBA
Procurement Specialist
douglas.moore@smud.org
916-732-7069

Project Design:

CARDNO
295 Hwy 50
Zephyr Cove, NV 89448

Contract Amount:

\$9,513,604.00

Projected Completion Date: June 2019. Actual Completion November 2018

Description of Work: Complete renovation of 131 single, double and triple campsites, on a 30 acre peninsula off the grid in the El Dorado National Forest on USFS land for Sacramento Municipal Utility District.

Work included demolition of existing facilities, tree falling, BMP installation and maintenance, as well as rough and finished grading of spurs, campsites, and loop roads. New 13,000 LF HDPE waterline and laterals, 30,000 gallon water tank, AC paving of all spurs, loops, access road, rock drainage channels, shower building, 15 each prefabricated vault toilets, campsite furniture, and USFS gates. Also signage, timber steps, trails to lake, entry Kiosk building, propane tank and enclosure.

This was a two year project, and we finished 99% of the work by 10/18 as opposed to 12/19 per our contract, with the exception of minor caulking by a subcontractor on the water tank that was completed in 2019.

TRUCKEE RIVER INTERCEPTOR MH 81 TO MH 83

Owner: Tahoe Truckee Sanitation Agency
13720 Butterfield Drive
Truckee, CA 96161

Contact Person: Griffin LaRue
General Manager
lgriffin@ttsa.net

Project Design: CH2M
2525 Airpark Drive
Redding, CA 96001

Contract Amount: \$2,256,728.00

Projected Completion Date: October 2018

Description of Work: Removal and replacement of approximately 1,800 LF of gravity 36" RCP sewer line adjacent to the Truckee River. A 24 hour by-pass was in place for the duration of the project. Work was also performed on private property, including replacement of existing paver driveway, planting, AC paving, striping, QSP reporting, and revegetation.

EAST INCLINE VILLAGE PHASE 1 WATER QUALITY IMPROVEMENT PROJECT

Owner: Washoe County
Community Services Department – Engineering & Capital Projects
Division
1001 East Ninth Street
Reno, NV 89512

Contact Person: Joaquin Tabadda
Project Manager
jtabbada@washoecounty.us

Project Design: Lumos & Associates
800 E. College Parkway
Carson City, NV 89706

Contract Amount: \$3,057,455.00

Projected Completion Date: September 2017

Description of Work: Installation of upgrades to drainage system, infiltration basins, HDPE, sediment cans, catch basins, shoulder stabilization, concrete curb & gutter, rock-lined channels, rock slope protection, AC Paving, utility relocations, revegetation.

DIAMOND PEAK LODGEPOLE DRAINAGE EMERGENCY REPAIRS

Owner: Incline Village General Improvement District
1220 Sweetwater Road
Incline Village, NV 89451

Contact Person: Brad Johnson
Project Manager
baj@ivgid.org

Project Design: CH2MHILL
52525 Airpark Dr.
Redding, CA 96001

Contract Amount: \$395,000.00

Projected Completion Date: October 2017

Description of Work: Remove & replace approximately 1,950 LF of live 24" and 30" drainage culvert from the face of Diamond Peak Ski area, including 24 hour bypass of water. 48", 30" and 24" drop inlets, concrete cut-off walls, water pollution control, trench safety, and revegetation.

WASTEWATER TREATMENT PLANT DECANT FACILITY PROJECT

Owner: Incline Village General Improvement District
1220 Sweetwater Road
Incline Village, NV 89451

Contact Person: Brad Johnson
Project Manager
baj@ivgid.org

Project Design: Farr West Engineering
5510 Longley Lane
Reno, NV 89511

Contract Amount: \$417,555.00

Projected Completion Date: October 2017

Description of Work: Install approximately 400 LF of modular gravity retaining wall, rolled curb and gutter, relocate hydrant, chain link fence, tie into existing manhole, BMP's, AC paving and revegetation.

RANCHO SAN RAFAEL IRRIGATION RECONSTRUCTION PROJECT PHASE 2

Owner: Washoe County
Community Services Department - Water Resources
1001 East Ninth Street
Reno, NV 89512

Contact Person: Alan Jones
Project Manager
ajones@washoecounty.us

Project Design: Brian Martinezmoles
Wood Rodgers Inc.
5440 Reno Corporate Dr.
Reno, NV 89511

Contract Amount: \$1,200,315.00

Projected Completion Date: February 2017

Description of Work: BMP's, installation of approximately 3,200 LF of 8" main, 1,130 LF of 4" main, 38,000 LF of laterals, 407 each 8005 series heads, 246 each 5000 series heads, 31 each Van 151804 heads, Rainbird two-wire controller and decoder, all associated appurtenances, revegetation.

REPLACEMENT OF COMFORT STATION #1, #3, #7, #8

Owner: Department of Conservation & Natural Recourse
Nevada Division of State Parks
901 S. Stewart Street
Carson City, NV 89701

Contact Person: Marc LePire
Project Manager
mlepire@parks.nv.gov

Project Design: Joe Cyphers
901 S. Stewart Street
Carson City, NV 89701

Contract Amount: \$2,037,276.00

Projected Completion Date: May 2017

Description of Work: BMP's , demolish (5) comfort stations, (some stations contained hazardous material), grade pads, form and pour footings, bring utilities to structures, install new transformers, remove and replace concrete sidewalks, place pre-fabricated comfort stations, install iron fencing, revegetation.

ZEPHYR COVE WATER QUALITY IMPROVEMENT PROJECT PHASE 1

Owner: Nevada Tahoe Conservation District
400 Dorla Court
Zephyr Cove, NV 89448

Contact Person: Meghan Kelly
Project Manager
mkelly@ntcd.org

Project Design: Meghan Kelly
400 Dorla Court
Zephyr Cove, NV 89448

Contract Amount: \$128,072.54

Completion Date: November 1, 2016

Description of Work: BMP's, restoration of beachfront drainage facilities, curb and gutter, granite rock landings, AC Paving.

BURKE CREEK HWY 50 CROSSING & REALIGNMENT PROJECT – PHASE 1

Owner: Nevada Tahoe Conservation District
400 Dorla Court
Zephyr Cove, NV 89448

Contact Person: Meghan Kelly
Project Manager
mkelly@ntcd.org

Project Design: Meghan Kelly
400 Dorla Court
Zephyr Cove, NV 89448

Contract Amount: \$944,385.11

Completion Date: October 31, 2016

Description of Work: BMP's, realignment of existing Burke Creek, drainage upgrades, utility re-locates and culvert crossing on Hwy 50, Stateline, NV, rock outfall, headwall, curb and gutter, revegetation, paving. This involved bypass of running water in Burke Creek.

2016 WATERMAIN REPLACEMENT & FIRE FLOW ENHANCEMENT PROJECT

Owner: Incline Village General Improvement District
1220 Sweetwater Road
Incline Village, NV 89451

Contact Person: Michel Lefrancois
Project Engineer
mtl@ivgid.org

Project Design: Michel Lefrancois
1220 Sweetwater Road
Incline Village, NV 89451
mtl@ivgid.org

Contract Amount: \$741,431.12

Completion Date: October 31, 2016

Description of Work: BMP's, upgrade of water mains and lateral facilities, paving, revegetation.

COMMUNITY PLAY FIELDS EXPANSION PROJECT PHASE 1

Owner: City of South Lake Tahoe
1052 Tata Lane
South Lake Tahoe, CA 96150

Contact Person: Chuck Taylor
Project Engineer
ctaylor@cityofslt.us

Project Design: Chuck Taylor
1052 Tata Lane
South Lake Tahoe, CA 96150
ctaylor@cityofslt.us

Contract Amount: \$391,556.84

Completion Date: August 18, 2016

Description of Work: BMP's, Tree removal, (178 ea.), mass grading for (2) soccer fields, application of amendments, installation of paver sidewalks, curb/gutter, QSP responsibilities.

SIERRA TRACT PHASE 3 & 4 EROSION CONTROL PROJECT

Owner: City of South Lake Tahoe
Dept. of Public Works
1052 Tata Lane
SLT, CA 96150

Contact Person: Stan Hill
Project Manager
shill@cityofslt.us

Project Design: CDM Smith
12313 Soaring Way, STE 2-D
Truckee, CA 96161
Stephan Schusterschustersl@cdmsmith.com

Contract Amount: \$4,375,436.00

Contract Completion Date: August 2016

Description of Work: Tree removal, bypass streams to construct basins, bypass storm drains to construct new storm drains, concrete curb & gutter, adjust utilities to grade, earthwork, concrete structures, paving, striping, landscaping, BMP's, re-vegetation.

SNOW CREEK SEZ RESTORATION PROJECT

Owner: County of Placer
P.O. Box 336
Kings Beach, CA. 96143

Contact Person: Kansas McGahan – RE
kmgahan@placer.ca.gov

Project Design: Stefan Shuster, P.E. – CDM Smith
shusterSL@cdmsmith.com

Contract Amount: \$1,626,163.19

Completion Date: June 2014

Description of Work: Re-establishing a creek bed by re-grading approximately 3 acres, building boardwalks for walk paths, RR car bridge. Major drainage improvements, tie-in to existing utilities, curb and gutter, paver sidewalks, re-vegetation, planting and irrigation.

WEST PLUMB LANE 10-INCH MAIN ADDITION, 12-INCH DANIEL WEBSTER SUCTION ADDITION AND MAIN ABANDONMENTS

Owner: Truckee Meadows Water Authority

1355 Capital Blvd, (P.O. Box30013)
Reno, NV 89520

Contact Person:

Scott Benedict – Design Engineer
sbenedict@tmwa.com

Project Management:

Mike Haliburton
775-834-8030

Contract Amount:

\$980,949.07

Completion Date:

May 2013

Description of Work:

Approximately 4,625 LF of 8", 10" and 12" ductile iron waterline, hot tap, hydrants, ARV, 58 each service laterals, connections to main, drainage improvements, traffic control, AC patching, abandonment of existing waterline with the use of grout.

HOMEWOOD WATER QUALITY IMPROVEMENT PROJECT PHASE 1 & 1A

Owner: Placer County Department of Public Works
Tahoe Engineering Division
P.O. Box 336, Kings Beach, CA. 96143

Contact Person: Kansas McGahan
kmcgahan@placer.ca.gov

Project Management: Nicols Engeering, Anna Henke
ahenke@ncenet.com

Contract Amount: \$1,022,562.50

Completion Date: October 2012

Description of Work: Water pollution control, Drainage improvements including sediment basins, rock-lined channels, rock walls, relocation of existing utility lines, HDPE and RCP drainage pipe, infiltration trenches, geo-block pavers, re-vegetation measures, traffic control, base and paving.

CAVE ROCK WATER SYSTEMS IMPROVEMENT, PHASE 2A

Owner: Douglas County Public Works
1120 Airport Rd., Bldg F-2
Minden, NV 89423

Contact Person: Cathy Poole,(No longer with Douglas County)
Ron Roman
(775) 782-6480

Contract Amount: \$659,629.38

Completion Date: February 2012

Description of Work: Traffic control, BMP's, replacement of water lines, laterals and hydrants, boring across Route 50, installation of baffles in clear well, AC Paving, re-vegetation.

2011 LUCERNE WATER TRANSMISSION MAIN INSTALLATION

Owner: Town of Minden
1604 Esmeralda Drive
Minden, NV 89423

Contact Person: Resource Concepts, Inc.
Tim Russell
tim@rci-nv.com

Contract Amount: \$1,131,067.70
Completion Date: March 2012
Description of Work: Installation of 36", 30", 24" and 12" ductile iron waterline at 4-15 feet depth in wet conditions. Bore across route 395, irrigation planting, curbs/gutters and sidewalks, traffic control, re-vegetation, AC paving

INCLINE VILLAGE CULVERT REPLACEMENT

Owner: Incline Village General Improvement District
1220 Sweetwater Rd
Incline Village, NV 89451
Contact Person: Brad Johnson
brad_johnson@ivgid.org
Project Management: Cardno-Entrix
Charles Miller
charley.miller@cardno.com
Contract Amount: \$823,592.00
Completion Date: November 2011
Description of work: Stream bypass for installation of pre-cast concrete culverts, wing walls, BMP's, traffic control, relocate utilities, AC paving, landscape/irrigation, re-vegetation

GRIZZLY MOUNTAIN WATERLINE REPLACEMENT

Owner: South Tahoe Public Utility District
1275 Meadow Crest Drive
South Lake Tahoe, CA 96150
Contact Person: Jim Hoggatt (now retired)
Replaced by: Shannan Cotulla
(530) 544-6474
Project Management: STPUD
Contract Amount: \$1,375,285.46
Completion Dare: June 2011
Description of work: Installation of waterline, hydrants, services, BMP, AC Paving, Traffic Control, re-vegetation

VAN SICKLE BI-STATE PARK

This was the second and final year of a two year project with Nevada State Parks.

Owner: Nevada Division of State Parks
901 S. Stewart St
Carson City, NV

Contact Person: Mark Davis (2010 representative)
markcdavis@parks.nv.gov

Project Management: Mark Davis

Contract Amount: \$2,479,394.00

Completion Date: September 2010

Description of Work: Clear and Grub, rough grading, water/sewer/drainage, curb and gutter, rock slope protection rock-lined ditches roadway prep with base and paving, parking lots, dam revetment, park furniture and restroom, irrigation and landscaping, planting, re-vegetation, BMPs and traffic control, pervious concrete, forestry gates

INCLINE AND THIRD CREEK RESTORATION-INCLINE WAY CULVERT REPLACEMENT

Owner: Incline Village General Improvement District
Brad Johnson, Sr. Engineer
1220 Sweetwater Road
Incline Village, NV 89451
Email: brad_johnson@IVGID.ORG

Contact Person: Cardno-Entrix
Charles Miller, Design Engineer
(530)542-0201
charley.miller@cardno.com

Contract Amount: \$1,546,860.00

Completion Date: October 2010

Description of Work: By pass of two creeks to place precast spanned culverts, relocate existing water and sewer lines, Traffic control, BMPs, Stream restoration work including spawning pools and falls, rock and log placement, rock slope protection, re-vegetation, AC paving

AL TAHOE EROSION CONTROL PROJECT 1 – Stage 2

Owner: City of S. Lake Tahoe
1052 Tata Lane
S. Lake Tahoe, CA. 96150

Contact Person: Stan Hill
(530) 542-7415
shill@cityofslt.us

Project Management: Mark Frisina, Inspector for Wood Rodgers
(775)745-0807

Contract Amount: \$1,423,738.30

Completion Date: September 2010

Description of Work: Drainage facilities, Traffic Control, Permeable Asphalt Paving, Pervious Concrete, Media Filters, Site Utilities, BMP's, Curb and Gutter, Permeable Pavers, manholes, re-vegetation.

THIRD CREEK RESTORATION PROJECT

Owner: Incline Village General Improvement District
1220 Sweetwater Rd
Incline Village, NV 89451

Contact Person: Brad Johnson
(775) 832-1203
brad_johnson@ivgid.org

Contract Amount: \$833,182.00

Completion Date: September 2009

Description of work: Clear & grub, drainage installation, dewatering, excavation, soil wraps, spawning gravel, cobble, rock placement, log grade controls, pedestrian bridges, 11 types of re-vegetation, irrigation, traffic control, AC paving.

CRYSTAL BAY PHASE 1B & 11A WATER QUALITY IMPROVEMENTS

Owner: Washoe County Dept. of Public Works
1001 East 9th Street
Reno, NV 89520

Contact Person: Kris Kline
(775) 328-2040

Contract Amount: \$653,135.75

Completion Date: July 2009
Description of Work: Drainage improvements, rock slope protection, retaining walls, re-vegetation, erosion control blocks, AC paving

**UPPER TRUCKEE RIVER STREAM ENVIRONMENT ZONE RESTORATION PROJECT –
Middle Reach 3 & 4**

Owner: City of South Lake Tahoe
1052 Tata Lane
S. Lake Tahoe, CA. 96150

Contact Person: Stan Hill (530) 542-6030
shill@cityofslt.us

Design Firm: Cardno-Entrix
1048 Ski Run Blvd
S. Lake Tahoe, CA. 96150

Contact Person: Loren Roach – Project Engineer (530) 307-0466
lroach@manhard.com

Contract Date: July 1, 2008 – This is a three year project.

Contract Amount: \$4,497,904.18

Description of Work: Re-channelization of approximately 4,000 lf of existing river bed for the Upper Truckee River, including a temporary river crossing, erosion control measures of silt fencing, sediment logs, silt curtain, 3,400 lf of 4' x 10' water berm, dewatering treatment, temporary SEZ roads, cut/fill of approx. 45,000 cy, many types of re-vegetation, creation of flood plain, irrigation system of 17 acres for three years, AC paving, planting.

We completed two years of construction this season, but were unable to continue due to limited building season in the Tahoe basin, and the contract requirement for the vegetation in the new channel develop for a stand alone season. We will irrigate during the 2009 season, and then tie-in the new channel to the old in 2010.

TAHOE LAKE ELEMENTARY SCHOOL BMP AND ACCESS PROJECT

Owner: Tahoe Truckee Unified School District
11839 Donner Pass Road
Truckee, CA. 96161

Contact Person: Anna Klovstad (530) 587-6109
aklovstad@ttusd.org

Contract Amount: \$611,663.73
Completion Date: November 2008
Description of Work: Drainage improvements, including OMPI inlets, CMP, energy dissipaters. Adjust utilities, AC parking lot, striping, signage, rock retaining wall, landscaping and irrigation, fencing, sidewalks, curb/gutters.

TAHOE PINES EROSION CONTROL PROJECT

Owner: Placer County Department of Public Works
Tahoe Design Division
10825 Pioneer Trail, Suite 105
Truckee, CA. 96161
Contact Person: Brian Stewart, Sr. Civil Engineer (530)581-6238
bstewart@placer.ca.gov
Contract Amount: \$841,940.00
Completion Date: June 2007
Description of Work: Drainage improvements including curb and gutter, drain inlets, sedimentation cans, rock-lined channels, rock retaining walls, asphalt concrete paving, re-vegetation.

SAWMILL 1A BIKE PATH

Owner: County of El Dorado, Department of Transportation
Tahoe Engineering
924B Emerald Bay Road
S. Lake Tahoe, CA. 86150
Contact Person: Steve Kooyman, Sr. Engineer
(530)573-7900
Contract Amount: \$1,213,710.40
Completion Date: Substantial Completion August 2007
Description of Work: Installation of erosion control measures, clear and grub, drainage improvements, construction of asphalt bike path, 690' of an elevated bike path, rock-lined ditches, rock-bowls, re-vegetation.

SIERRA TRACT EROSION CONTROL PROJECT PHASE 1A

Owner: City of South Lake Tahoe
1052 Tata Lane
S. Lake Tahoe, CA. 96150

Contact Person: Stan Hill
shill@cityofslt.us

Contract Amount: \$1,100,115.00

Completion Date: October 2007

Description of Work: Drainage improvements including 24" and 18" HDPE pipe, drain inlets, manholes, curb and gutter, relocate water/sewer/gas utilities, construction of sedimentation basin, asphalt paving, re-vegetation.

EFFLUENT EXPORT PIPELINE – SEGMENT ONE

Owner: Incline Village General Improvement District
1220 Sweetwater Road
Incline Village, NV 89450

Contact Person: Brad Johnson
brad_johnson@ivgid.org

Contract Amount: \$8,087,937.00

Completion Date: June 2006

Description of Work: 12,880 lf of 16" ductile iron, Air Reducing Valves, Blow-offs, 4" HDPE, 1,600 lf of 8" waterline in the southbound lane of State Route 28 from Sand Harbor to Lakeshore Drive in Incline Village, NV. 24 hour traffic control, concrete cap, water service laterals, AC grind and overlay. Extensive rock excavation and removal.

MARTIS VALLEY ROUNDABOUT

Owner: Town of Truckee and 267 Partners
10183 Truckee Airport Road
Truckee, CA. 96161

Contact Person: Todd Landry
(530) 581-7710 or
Robert Burton R.E.
(916) 759-0340

Contract Amount: \$1,995,440.30

Completion Date: October 2006

Description of Work: Drainage improvements including curb and gutter, drain inlets, underground utilities, stamped concrete, roundabout, sidewalks, signage, grind and pave, irrigation.

**BLACKWOOD CANYON BRIDGE CONSTRUCTION
AND CHANNEL RESTORATION**

Owner: U.S. Department of Agriculture
631 Coyote Street, Nevada City, CA. 95959

Contact Person: Tom Torres
(530) 543-2696

Contract Amount: \$3,651,497.00

Completion Date: November 2006

Description of Work: Remove and replace bridge, install BMP's, build temporary bypass road over Blackwood Creek, re-build and contour, including fish ladders in Blackwood Creek for approximately 520 lf utilizing 9847 cy of native material and 7,089 tons of rock. Base and pave, re-vegetation.

INTERSTATE 80/STATE ROUTE 89 INTERCHANGE IMPROVEMENTS

Owner: Town of Truckee
10183 Truckee Airport Road
Truckee, CA. 96161

Contact Person: Dan Wilkins
(530) 581-7700

Contract Amount: \$3,636,971.65

Completion Date: December 2005

Description of Work: Construction of the I-80, SR 89 interchanges including an urban dual lane roundabout. Major features among others include the installation of stamped concrete, lighted overhead signs, demolition of existing interchange. Curb and gutter, sidewalk improvements, vegetation and landscaping, asphalt paving, thermoplastic engraved striping, retaining wall installation and drainage improvements, traffic control, BMP's and turbidity reports, rock slope protection on banks under overpass, rock-lined channels.

UPPER HIGHLANDS WATER TANK

Owner: Tahoe City Public Utility District
P.O. Box 5249
Tahoe City, CA. 96145

Contact Person: Jack Beckman (now retired, ask for John or Matt in engineering)
(530) 583-3796

Contract Amount: \$2,726,689.00

Completion Date: December 2005

Description of Work: Construction of a 1.2 MG steel water storage tank, booster pump station and building, 3.200 LF of water distribution piping and appurtenances in rocky conditions, vegetation and erosion control installation and monitoring. Pump house and AC access roads.

LAKE TAHOE PARK EROSION CONTROL PROJECT

Owner: Placer County Department of Public Works
Tahoe Design Division
10825 Pioneer Trail, Suite 105
Truckee, CA. 96161

Contact Person: Brian Stewart, Sr. Civil Engineer
(530) 581-6216
bstewart@placer.ca.gov

Contract Amount: \$3,121,000.00

Completion Date: November 2006

Description of Work: Scope of work included traffic control, clearing and grubbing, site grading, excavating roadside channels and swales, removing existing trees, fences and boulders, relocating signs, saw cutting and removing existing asphalt paving, asphalt paving, constructing concrete headwalls, installing new storm drain piping, constructing rock lined ditches, sediment traps, drainage inlets and manholes, installing detention/infiltration basins, re-vegetation, waterline relocation and other requirements within extreme time constraints, irrigation, planting.

LOYALTON BUSINESS PARK

Owner: Sierra Pacific Industries
Redding, California

Contact Person: Gary Blanc
(530) 378-8149

Contract Amount: \$945,600.00
Completion Date: April 2005
Description of Work: Site preparation for 15-acre Business Park including the installation of all utilities, drainage and parking lot facilities.

THIRD CREEK RESTORATION

Owner: Incline Village General Improvement District
1220 Sweetwater Road, Incline Village, NV
Contact Person: Joe Pomeroy
(775) 831-1269
Contract Amount: \$845,000.00
Completion Date: November, 2004
Description of Work: Stream channelization for fish spawning, bridge abutment and span construction with a temporary bypass, utilities, rock work and restoration in a Stream Environmental Zone.

GLORENE AND 8TH STREET EROSION CONTROL PROJECT

Owner: City of South Lake Tahoe
1052 Tata Lane
S. Lake Tahoe, CA. 96150
Contact Person: Steve Peck
(No longer with City, now with Cardno-Entrix)
stephen.peck@cardno.com
Contract Amount: \$2,840,774.35
Completion Date: September 2004
Description of Work: Install drainage facilities including 30" to 12" RCP and HDPE, concrete curb and gutter, rock-lined channels, rock slope protection, concrete fore bays, and adjust utilities. Construction of sediment basins, appurtenances, concrete valley gutter, 48" to 72" storm drain inlets, sod transplant, propagated mat, landscape replacement and AC paving.

END

NRS 338.141: List of Subcontractors and Contractor Self Performance Exceeding Five Percent (5%) of Bid Amount

List below the name, address and contractor's or business license number of each first tier subcontractor, equipment or materials supplier who will provide labor, equipment or supplies on the project for which the subcontractor or supplier will be paid an amount exceeding five percent (5%) of the contractor's base bid. For each subcontractor/ supplier listed, also describe the kind of work, equipment or materials the subcontractor/ supplier will provide. (Use an additional sheet, if necessary.)

Prime Contractor's Name, Address & Phone No.	Nevada Contractor License No./License Limit
Burdick Excavating Co Inc - PO BOX 22330 Carson City, NV 89721 - 775-297-4566	22629 - Unlimited
Kind of Work/Supplies	% of Work/Supplies
Description of work being self-performed by Contractor: All work not listed by others	5.8

Subcontractor or Supplier Name, Address & Phone No.	Nevada Contractor License No./License Limit
Colbre Grading and Paving of Nevada Inc 1528 US HWY 395N Ste 245, Gardnerville, NV 89410 775-265-7434	52639 / \$1,000,000
Kind of Work/Supplies	% of Work/Supplies
Asphalt Paving	20.6%

Subcontractor or Supplier Name, Address & Phone No.	Nevada Contractor License No./License Limit
Western Nevada Supply Co 950 S Rock Blvd, Sparks, NV 89431 775-359-5800	SUPPLIER
Kind of Work/Supplies	% of Work/Supplies
Pipe Materials	16.7%

Subcontractor or Supplier Name, Address & Phone No.	Nevada Contractor License No./License Limit
Kind of Work/Supplies	% of Work/Supplies

Subcontractor or Supplier Name, Address & Phone No.	Nevada Contractor License No./License Limit
Kind of Work/Supplies	% of Work/Supplies

NRS 338.141: List of Subcontractors and Contractor Self Performance Exceeding One Percent (1%) of Bid Amount or \$50,000, whichever is greater (Two Hour List)

List below the name, address and contractor's or business license number of each first tier subcontractor, equipment or materials supplier who will provide labor, equipment or supplies on the project for which the subcontractor or supplier will be paid an amount exceeding one percent (1%) of the contractor's base bid. For each subcontractor/ supplier listed, also describe the kind of work, equipment or materials the subcontractor/ supplier will provide. (Use an additional sheet, if necessary.)

Prime Contractor's Name, Address & Phone No.	Nevada Contractor License No./License Limit
Burdick Excavating Co Inc - PO BOX 22330 Carson City, NV 89721 - 775-297-4566	22629 - Unlimited
Kind of Work/Supplies	% of Work/Supplies
Description of work being self-performed by Contractor: All work not listed by others	59.8

Subcontractor or Supplier Name, Address & Phone No.	Nevada Contractor License No./License Limit
Colbre Grading and Paving of Nevada Inc 1528 US HWY 395N ste 245, Minden, NV 89410 775-265-7434	52639 / \$1,000,000
Kind of Work/Supplies	% of Work/Supplies
Asphalt Paving	20.6%

Subcontractor or Supplier Name, Address & Phone No.	Nevada Contractor License No./License Limit
Western Nevada Supply Co 950 S Rock Blvd, Sparks, NV 89431 775-359-5800	Supplier
Kind of Work/Supplies	% of Work/Supplies
Pipe Materials	16.7%

Subcontractor or Supplier Name, Address & Phone No.	Nevada Contractor License No./License Limit
Intermountain Slurry Seal 1120 Terminal Way Reno, Nevada, 89502 775-358-1355	23657 Unlimited
Kind of Work/Supplies	% of Work/Supplies
Slurry Seal	2.9%

Subcontractor or Supplier Name, Address & Phone No.	Nevada Contractor License No./License Limit
Kind of Work/Supplies	% of Work/Supplies

PUBLIC WORKS BIDDERS PREFERENCE AFFIDAVIT

I, Linda Burdick, on behalf of Burdick Excavating Co Inc ("Contractor"), hereby certify and affirm under penalty of perjury, for purposes of qualifying for a preference in bidding under Nevada Revised Statutes Chapter 338 on Project No. 2299WS1705/WA-2023-032, Project Name Crystal Peak Distribution Watermain Improvements, that the following requirements will be adhered to, documented and attained for the duration of the Project:

1. At least fifty percent (50%) of workers employed on the Project (including Subcontractors) hold a valid driver's license or identification card issued by the Nevada Department of Motor Vehicles;
2. All vehicles used primarily for the Project will be (a) registered and (where applicable) partially apportioned to Nevada; or (b) registered in Nevada;
3. At least fifty percent (50%) of the design professionals who work on the Project (including subcontractors) hold a valid driver's license or identification card issued by the Nevada Department of Motor Vehicles;
4. The Contractor shall maintain and make available for inspection within Nevada all payroll records related to this Project.

Contractor recognizes and accepts that failure to comply with the requirements herein shall be a material breach of the contract and entitle the Incline Village General Improvement District ("Authority") to liquidated damages in the amount set by statute. In addition, the Contractor recognizes and accepts that failure to comply with any requirements herein may lose its certification for preference in bidding for five (5) years and/or the ability to bid on any contracts for public works for one (1) year pursuant to NRS Chapter 338.

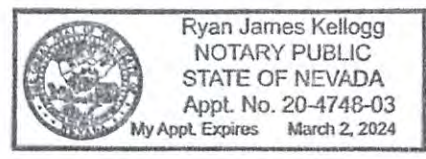
Signature: [Handwritten Signature]

Print Name: Linda Burdick

Title: President Date: 2/9/23

State of Nevada)
County of Lyon)

This instrument was acknowledged before me on this 9th day of February, 20 23, by Linda Burdick (name of person making statement).



[Handwritten Signature]
Notary Signature

NOTARY STAMP

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Placer)

On January 5, 2023 before me, K. Hanley, Notary Public
(insert name and title of the officer)

personally appeared Dona Lisa Buschmann,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.

Signature *K Hanley* (Seal)





This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

Certificate No: 8208535-977442

POWER OF ATTORNEY

KNOWN ALL PERSONS BY THESE PRESENTS: That The Ohio Casualty Insurance Company is a corporation duly organized under the laws of the State of New Hampshire, that Liberty Mutual Insurance Company is a corporation duly organized under the laws of the State of Massachusetts, and West American Insurance Company is a corporation duly organized under the laws of the State of Indiana (herein collectively called the "Companies"), pursuant to and by authority herein set forth, does hereby name, constitute and appoint, Alexis Estrada, Curtis A. Bowden, Dona Lisa Buschmann, Edward D. Johnson, J. Buschmann, Julie A. Shiroma, K. Hanley, Kathy Rangel, Lisa Wilson, Maggie Bender-Johnson, Robert D. Laux

all of the city of Roseville state of CA each individually if there be more than one named, its true and lawful attorney-in-fact to make, execute, seal, acknowledge and deliver, for and on its behalf as surety and as its act and deed, any and all undertakings, bonds, recognizances and other surety obligations, in pursuance of these presents and shall be as binding upon the Companies as if they have been duly signed by the president and attested by the secretary of the Companies in their own proper persons.

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this 2nd day of August, 2022.



Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

By: David M. Carey, Assistant Secretary

Not valid for mortgage, note, loan, letter of credit, currency rate, interest rate or residual value guarantees.

State of PENNSYLVANIA ss
County of MONTGOMERY

On this 2nd day of August, 2022 before me personally appeared David M. Carey, who acknowledged himself to be the Assistant Secretary of Liberty Mutual Insurance Company, The Ohio Casualty Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at Plymouth Meeting, Pennsylvania, on the day and year first above written.



Commonwealth of Pennsylvania - Notary Seal
Teresa Pastella, Notary Public
Montgomery County
My commission expires March 28, 2025
Commission number 1128044
Member, Pennsylvania Association of Notaries

By: Teresa Pastella, Notary Public

For bond and/or Power of Attorney (POA) verification inquiries, please call 610-832-8240 or email HOSUR@libertymutual.com

This Power of Attorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company which resolutions are now in full force and effect reading as follows:

ARTICLE IV - OFFICERS: Section 12. Power of Attorney.

Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When so executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary. Any power or authority granted to any representative or attorney-in-fact under the provisions of this article may be revoked at any time by the Board, the Chairman, the President or by the officer or officers granting such power or authority.

ARTICLE XIII - Execution of Contracts: Section 5. Surety Bonds and Undertakings.

Any officer of the Company authorized for that purpose in writing by the chairman or the president, and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if signed by the president and attested by the secretary.

Certificate of Designation - The President of the Company, acting pursuant to the Bylaws of the Company, authorizes David M. Carey, Assistant Secretary to appoint such attorneys-in-fact as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

Authorization - By unanimous consent of the Company's Board of Directors, the Company consents that facsimile or mechanically reproduced signature of any assistant secretary of the Company, wherever appearing upon a certified copy of any power of attorney issued by the Company in connection with surety bonds, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

I, Renee C. Llewellyn, the undersigned, Assistant Secretary, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company do hereby certify that the original power of attorney of which the foregoing is a full, true and correct copy of the Power of Attorney executed by said Companies, is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 5th day of January, 2023.



By: Renee C. Llewellyn, Assistant Secretary

LMS-12873 LMIC OCIG WAIC Multi Co 02/21

ENTITY INFORMATION

ENTITY INFORMATION

Entity Name:

BURDICK EXCAVATING CO INC

Entity Number:

E0160392010-4

Entity Type:

Domestic Corporation (78)

Entity Status:

Active

Formation Date:

03/11/2010

NV Business ID:

NV20101256627

Termination Date:

Perpetual

Annual Report Due Date:

3/31/2023

REGISTERED AGENT INFORMATION

Name of Individual or Legal Entity:

Linda T. Burdick

Status:

Active

CRA Agent Entity Type:

Registered Agent Type:

Non-Commercial Registered Agent

NV Business ID:

Office or Position:

Jurisdiction:

Street Address:

3489 Zurich Ct, Carson City, NV, 89701, USA

Mailing Address:

P.O. Box 22330, Carson City, NV, 89721, USA

Individual with Authority to Act:

Fictitious Website or Domain Name:

OFFICER INFORMATION

VIEW HISTORICAL DATA

Title	Name	Address	Last Updated	Status
President	LINDA BURDICK	P.O. BOX 22330, CARSON CITY, NV, 89721, USA	03/01/2019	Active
Secretary	RANDY BURDICK	P.O. BOX 22330, CARSON CITY, NV, 89721, USA	03/01/2019	Active
Treasurer	RANDY BURDICK	P.O. BOX 22330, CARSON CITY, NV, 89721, USA	03/01/2019	Active
Director	LINDA BURDICK	P.O. BOX 22330, CARSON CITY, NV, 89721, USA	03/01/2019	Active

Page 1 of 1, records 1 to 4 of 4

CURRENT SHARES

Class/Series	Type	Share Number	Value
	Authorized	75,000	0.010000000000

Page 1 of 1, records 1 to 1 of 1

Number of No Par Value Shares:

0

Total Authorized Capital:

750

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[Name History](#)

[Mergers/Conversions](#)

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Measure up...use licensed contractors.
 (http://www.nbscb.nv.gov/)

License Details

Current Date: 2/9/2023 12:01:35 PM
 License Monetory Limit: Unlimited

License Number: 0022629

Business Primary Name: BURDICK EXCAVATING CO INC

DBA Name: PO BOX 22330

Mailing Address: CARSON CITY, NV 89721 (775) 297-4566

Physical Address: 5 BROWN DR MOUND HOUSE, NV 89706 (775)297-4566

Status: Active

Status Date: 01/05/2022 (mm/dd/yyyy)

Origin Date: 01/22/1985 (mm/dd/yyyy)

Expiration Date: 01/31/2024 (mm/dd/yyyy)

Business Type: Corporation

Classification(s): A-12 Excavating, Grading, Trenching and Surfacing, A-15 Sewers, Drains and Pipes, A-16 Paving of Streets, Driveways and Parking Lots, A-19 Pipeline and Conduits, A-7 Excavating and Grading
 Limitation: A19 IS LIMITED TO WATER LINES ONLY

Principal Name: BURDICK, LINDA THOMAS
 BURDICK, RANDY GEORGE

Relation Description: President Secretary/Treasurer

Qualified Individual(s): BURDICK, RANDY GEORGE
 BURDICK, LINDA THOMAS

Qualifier Type: Trade CMS

Bond Type: Surety
 Bond Number: LP745958540007
 Bond Agent: CHERYL KOIZUMI
 Surety Company: NATONWIDE MUTUAL INS CO
 Bond Amount: \$20,000.00
 Effective Date: 01/21/1990 (mm/dd/yyyy)
 Bond Type: Bond Not Required
 Bond Amount:
 Effective Date: 03/01/2007 (mm/dd/yyyy)

The information contained on these pages are provided as a courtesy and may not reflect recent changes or updates. Neither the completeness nor accuracy is guaranteed. The Nevada State Contractors Board shall have no liability or responsibility for loss and damages arising from the information provided or retrieved from these pages.



NEVADA STATE CONTRACTORS BOARD

5390 KIETZKE LANE, SUITE 102, RENO, NEVADA, 89511 (775) 688-1141 FAX (775) 688-1271, INVESTIGATIONS (775) 688-1150
8400 WEST SUNSET ROAD, SUITE 150, LAS VEGAS, NEVADA, 89113, (702) 486-1100 FAX (702) 486-1190, INVESTIGATIONS (702) 486-1110

CERTIFICATE OF ELIGIBILITY PER NRS 338.147 and NRS 338.1389

CERTIFICATE NUMBER: BPC-00-03-28-0117

BURDICK EXCAVATING CO, INC. (HEREIN THE "GENERAL CONTRACTOR") NEVADA STATE CONTRACTORS' LICENSE NUMBER: 00222629 ORIGINAL ISSUE DATE: 01/22/1985 BUSINESS TYPE: CORPORATION CLASSIFICATION: A-7-EXCAVATING AND GRADING; A-12-EXCAVATING GRADING TRENCHING & SURFACING; A-15-SEWERS, DRAINS & PIPES; A-16-PAVING STREETS, DRIVEWAYS & PARKING LOTS; A-19-PIPELINE & CONDUITS LIMITED TO WATER LINES ONLY MONETARY LICENSE LIMIT: UNLIMITED STATUS: ACTIVE, IS HEREBY ISSUED THIS CERTIFICATE BY THE NEVADA STATE CONTRACTORS' BOARD, BASED UPON THE INFORMATION CONTAINED IN THE STATEMENT OF COMPLIANCE WITH NEVADA REVISED STATUTES (NRS) 338.147 AND NRS 338.1389 AND THE AFFIDAVIT OF CERTIFIED PUBLIC ACCOUNTANT SUBMITTED TO THE NEVADA STATE CONTRACTORS BOARD AS PROOF OF CONTRACTOR'S COMPLIANCE WITH THE PROVISIONS OF NRS 338.147 AND NRS 338.1389. IN ACCORDANCE WITH THE PROVISIONS OF NRS 338.147(3), THE ABOVE-NAMED GENERAL CONTRACTOR AND A CERTIFIED PUBLIC ACCOUNTANT HAVE SUBMITTED FULLY EXECUTED AND NOTARIZED SWORN AFFIDAVITS AS PROOF OF PREFERENTIAL BIDDER STATUS, UNDER PENALTY OF PERJURY, CERTIFYING THAT THE GENERAL CONTRACTOR IS QUALIFIED TO RECEIVE A PREFERENCE IN BIDDING AS SET FORTH IN NRS 338.147 AND NRS 338.1389 AND OTHER MATTERS RELATING THERETO.

THIS CERTIFICATE OF ELIGIBILITY IS ISSUED ON FEBRUARY 1, 2023 AND EXPIRES ON JANUARY 31, 2024, UNLESS REVOKED OR SUSPENDED BY THE NEVADA STATE CONTRACTORS BOARD.




NANCY MATHIAS, LICENSING ADMINISTRATOR DATE 1/20/2023
FOR MARGI A. GREIN, EXECUTIVE OFFICER

The Nevada State Contractors Board assumes no liability or responsibility for the accuracy or validity of the information contained in the Contractors Statement of Compliance or the Affidavit of Certified Public Accountant as Proof of Contractors Compliance with the Provisions of NRS 338.147 and NRS 338.1389. The above-named General Contractor shall bear the responsibility to ascertain the accuracy and validity of the affidavits provided to support the issuance of this certificate.



**INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT
Public Works Department**

Project Workforce Checklist

For Compliance with SB207, the Nevada Apprenticeship Utilization Act, 2019

Project No.: PWP# WA-2023-032 Contractor: Burdick Excavating Co Inc

Craft/Type of Work	More than 3 Employees Anticipated?	Do You Anticipate Needing Waiver?#
Air Balance Technician	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Alarm Installer	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Boilermaker	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Bricklayer (can also include Tile Setter, Terrazzo Workers and Marble Masons)	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Carpenter (can also include Cement Masons, Floor Coverer, Millwright and Piledriver (non-equipment), Plasterers and Terrazzo Workers)	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Cement Mason	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Electrician (includes Communication Technician, Line, Neon Sign and Wireman. Can also include Alarm Installer)	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Elevator Constructor	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Fence Erector	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Flag Person	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Floor Coverer	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Glazier (See also Painters and Allied Trades)	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Highway Striper	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Hod Carrier (includes Brick-Mason Tender and Plaster Tender)	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Iron Worker [can also include Fence Erectors (steel/iron)]	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Laborer [can also include Fence Erector (non-steel/iron), Flag Person, Highway Striper and Traffic Barrier Erector]	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Lubrication and Service Engineer	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Mason (can also include Cement, Plasterer, Tile Setter, Terrazzo Workers and Marble Masons)	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Mechanical Insulator	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Millwright	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Operating Engineer [can also include Equipment Greaser, Piledriver, Soils & Material Tester, Steel Fabricator/Erector (equipment) and Surveyor (non-licensed), and Well Driller]	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Painters and Allied Trades (can also include Glaziers, Floor Coverers and Tapers)	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Piledriver (Non-Equipment)	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>

Continued...

Craft/Type of Work	More than 3 Employees Anticipated?	Do You Anticipate Needing Waiver?†
Plasterer	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Plumber/Pipefitter	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Refrigeration	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Roofer (not sheet metal)	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Sheet Metal Worker (can also include Air Balance Technician)	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Soils & Materials Tester (includes Certified Soil Tester)	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Sprinkler Fitter	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Surveyor (non-licensed)	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Taper	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Tile/Terrazzo Worker, Marble Mason	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Traffic Barrier Erector	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Truck Driver	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Well Driller (see also Operating Engineer)	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
*Other:	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>

† Pursuant to the Labor Commissioner's November 27, 2019 Advisory Opinion, waivers are not required in those crafts/types of work where no recognized apprenticeship program exists in the region where the public work is located. Contractor is responsible for verifying whether recognized apprenticeship programs exist in the region for each craft/type of work to be performed.

* Contractor is responsible for ensuring all crafts/types of work to be performed on the public work are accounted for on this checklist. Attach additional pages if needed.

On behalf of the Contractor listed herein, I affirm that I am fully authorized to acknowledge the anticipated workforce, and acknowledge that changes to the anticipated workforce which may have an impact on compliance with the Nevada Apprenticeship Utilization Act, 2019, will require the submittal of a revised form within ten (10) working days of such change.

Company Name: Burdick Excavating Co Inc

Signed: 

Name and Title: Linda Burdick - President

Date: 2/8/23

SECTION 5

AGREEMENT BETWEEN OWNER AND CONTRACTOR FOR CONSTRUCTION CONTRACT

This Agreement is by and between the **Incline Village General Improvement District** (“Owner” or “IVGID”) and **Burdick Excavating Co Inc, a Domestic Corporation** (“Contractor”). This Agreement will be effective on [TBD] (which is the Effective Date of the Contract). Terms used in this Agreement have the meanings stated in the General Conditions and the Supplementary Conditions.

Owner and Contractor hereby agree as follows:

ARTICLE 1—WORK

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

Bid Schedule, Crystal Peak Distribution Watermain Improvements: Install approximately 2,280 LF 8” DR-14 PVC or Class 350 DIP water main in Washoe Co. ROW. Connect to (E) 8” water main in Washoe Co. ROW. Connect existing domestic service lines. Construct three (3) fire hydrant assemblies. Construct one (1) combination air valve assembly.

The Work also includes: Abandonment of specified lines and valves; traffic control, maintain residential and business driveway access, erosion & sediment controls, pavement restoration, replacement of existing features, including vegetation, concrete, and other utilities removed and/or damaged by construction activity, acquisition of Washoe County street cut permits and all related appurtenances; compliance with County permit conditions and working within Right of Ways in Incline Village, Washoe County, Nevada.

ARTICLE 2—THE PROJECT

- 2.01 The Project, of which the Work under the Contract Documents is a part, is generally described as follows: **Crystal Peak Distribution Watermain Improvements**

ARTICLE 3—ENGINEER

- 3.01 IVGID’s Engineering Division is to act as Owner’s representative, assume all duties and responsibilities of Engineer, and have the rights and authority assigned to Engineer in the Contract.
- 3.02 The part of the Project that pertains to the Work has been designed by the IVGID Engineering Division.

ARTICLE 4—CONTRACT TIMES

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

- B. The OWNER anticipates issuing the Notice to Proceed on or about **March 8, 2023**.
- C. The Work is to be performed within 110 consecutive days.
- D. The Work will be substantially complete on or before **June 16, 2023** and completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions on or before **June 23, 2023**.

4.03 *Liquidated Damages*

- A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial and other losses if the Work is not completed and Milestones not achieved within the Contract Times, as duly modified. The parties also recognize the delays, expense, and difficulties involved in proving, in a legal or arbitration proceeding, the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty):
 - 1. *Substantial Completion*: Contractor shall pay Owner \$1,000 for each day that expires after the time (as duly adjusted pursuant to the Contract) specified above for Substantial Completion, until the Work is substantially complete.
 - 2. *Completion of Remaining Work*: After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Contractor shall pay Owner \$1,000 for each day that expires after such time until the Work is completed and ready for final payment.
 - 4. Liquidated damages for failing to timely attain Substantial Completion, and final completion are not additive, and will not be imposed concurrently.
- B. If Owner recovers liquidated damages for a delay in completion by Contractor, then such liquidated damages are Owner's sole and exclusive remedy for such delay, and Owner is precluded from recovering any other damages, whether actual, direct, excess, or consequential, for such delay, except for special damages (if any) specified in this Agreement.

ARTICLE 5—CONTRACT PRICE

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

- A. For all Unit Price Work, an amount equal to the sum of the extended prices (established for each separately identified item of Unit Price Work as shown on the Bid Form. The total estimated Contract Price is **One Million One Hundred and Eleven Thousand, One Hundred and Eleven Dollars (\$1,111,111.00)**.

The extended prices for Unit Price Work set forth as of the Effective Date of the Contract are based on estimated quantities. As provided in Paragraph 13.03 of the General Conditions, estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by Engineer.

ARTICLE 6—PAYMENT PROCEDURES

6.01 *Submittal and Processing of Payments*

- A. Contractor shall submit Applications for Payment in accordance with Article 15 of the General Conditions. Applications for Payment shall be emailed to rlr@ivgid.org and will be processed by Engineer as provided in the General Conditions.

6.02 *Progress Payments; Retainage*

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

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

- a. Ninety-five percent (95%) of the value of the Work completed (with the balance being retainage).

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

- b. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to ninety-seven and one-half percent (97.5%) of the Work completed, less such amounts set off by Owner pursuant to Paragraph 15.01.E of the General Conditions, and less Engineer's estimate of the value of Work to be completed or corrected as shown on the punch list of items to be completed or corrected prior to final payment.

6.03 *Final Payment*

- A. Upon final completion and acceptance of the Work, and as recommended by Engineer, Owner shall pay the remainder of the Contract Price in accordance with Paragraph 15.06 of the General Conditions.

6.04 *Consent of Surety*

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

6.05 *Interest*

- A. All amounts not paid when due will bear interest at the rate of six percent (6%) per annum.

ARTICLE 7—CONTRACT DOCUMENTS

7.01 *Contents*

- A. The Contract Documents consist of all of the following:
 1. This Agreement.
 2. Contractor's Bid dated February 9, 2023.
 3. Bonds:
 - a. Performance bond (together with power of attorney).
 - b. Payment bond (together with power of attorney).
 4. General Conditions.
 5. Supplementary Conditions.
 6. Specifications as listed in the table of contents of the project manual (copy of list attached).
 7. Drawings (not attached but incorporated by reference) consisting of **eight** sheets with each sheet bearing the following general title: **Crystal Peak Distribution Watermain Improvements**.
 8. Addendum No. 1.
 9. Exhibits to this Agreement (enumerated as follows):
 - a. State of Nevada Prevailing Wage Rates, 2022/2023 for Washoe County, including Amendment 2, and
 - b. Davis Bacon Wage Decision NV20230026 dated January 27, 2023.
 10. The following which may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:
 - a. Notice to Proceed.
 - b. Work Change Directives.
 - c. Change Orders.
- B. The Contract Documents listed in Paragraph 7.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 7.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in the Contract.

ARTICLE 8—REPRESENTATIONS, CERTIFICATIONS, AND STIPULATIONS

8.01 *Contractor's Representations*

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

1. Contractor has examined and carefully studied the Contract Documents, including Addenda.
2. Contractor has visited the Site, conducted a thorough visual examination of the Site and adjacent areas, and become familiar with the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
3. Contractor is familiar with all Laws and Regulations that may affect cost, progress, and performance of the Work.
4. Contractor has carefully studied the reports of explorations and tests of subsurface conditions at or adjacent to the Site and the drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, with respect to the Technical Data in such reports and drawings.
5. Contractor has carefully studied the reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, with respect to Technical Data in such reports and drawings.
6. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Technical Data identified in the Supplementary Conditions or by definition, with respect to the effect of such information, observations, and Technical Data on (a) the cost, progress, and performance of the Work; (b) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (c) Contractor's safety precautions and programs.
7. Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.
8. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
9. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and of discrepancies between Site conditions and the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
10. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
11. Contractor's entry into this Contract constitutes an incontrovertible representation by Contractor that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.

8.02 *Contractor's Certifications*

- A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 8.02:
1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process or in the Contract execution;
 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
 3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
 4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

8.03 *Standard General Conditions*

- A. Owner stipulates that if the General Conditions that are made a part of this Contract are EJCDC® C-700, Standard General Conditions for the Construction Contract (2018), published by the Engineers Joint Contract Documents Committee, and if Owner is the party that has furnished said General Conditions, then Owner has plainly shown all modifications to the standard wording of such published document to the Contractor, in the Supplementary Conditions.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement.

OWNER:

INCLINE VILLAGE G. I. D.

Agreed to:

Matthew Dent, Chairman

Date

Dave Noble, Secretary

Date

Reviewed as to Form:

Joshua Nelson
District Legal Counsel

Date

OWNER'S address for giving notice:
INCLINE VILLAGE G. I. D.
893 Southwood Boulevard
Incline Village, Nevada 89451
775-832-1267- Engineering Division

CONTRACTOR:

Burdick Excavating Co. Inc.

Agreed to:

By: _____
Signature of Authorized Agent

Print or Type Name and Title

Date

If CONTRACTOR is a Corporation, attach evidence of authority to sign.

CONTRACTOR'S address for giving notice:

Burdick Excavating Co., Inc.
PO Box 22330
Carson City, Nevada 89721
775-297-4566

PERFORMANCE BOND

<p>Contractor</p> <p>Name: _____</p> <p>Address (<i>principal place of business</i>): _____</p>	<p>Surety</p> <p>Name: _____</p> <p>Address (<i>principal place of business</i>): _____</p>
<p>Owner</p> <p>Incline Village General Improvement District</p> <p>Mailing address (<i>principal place of business</i>):</p> <p>Public Works Department 1220 Sweetwater Road Incline Village, NV 89451 775-832-1267</p>	<p>Contract</p> <p>Description (<i>name and location</i>):</p> <p>Incline Village GID 2299WS1705 Crystal Peak Distribution Watermain Improvements</p> <p>Contract Price: _____</p> <p>Effective Date of Contract: _____</p>
<p>Bond</p> <p>Bond Amount: _____</p> <p>Date of Bond: _____</p> <p><i>(Date of Bond cannot be earlier than Effective Date of Contract)</i></p> <p>Modifications to this Bond form:</p> <p><input type="checkbox"/> None <input type="checkbox"/> See Paragraph 16</p>	
<p>Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth in this Performance Bond, do each cause this Performance Bond to be duly executed by an authorized officer, agent, or representative.</p>	
<p>Contractor as Principal</p>	<p>Surety</p>
<p>_____ <i>(Full formal name of Contractor)</i></p>	<p>_____ <i>(Full formal name of Surety) (corporate seal)</i></p>
<p>By: _____ <i>(Signature)</i></p>	<p>By: _____ <i>(Signature)(Attach Power of Attorney)</i></p>
<p>Name: _____ <i>(Printed or typed)</i></p>	<p>Name: _____ <i>(Printed or typed)</i></p>
<p>Title: _____</p>	<p>Title: _____</p>
<p>Attest: _____ <i>(Signature)</i></p>	<p>Attest: _____ <i>(Signature)</i></p>
<p>Name: _____ <i>(Printed or typed)</i></p>	<p>Name: _____ <i>(Printed or typed)</i></p>
<p>Title: _____</p>	<p>Title: _____</p>
<p><i>Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner, or other party is considered plural where applicable.</i></p>	

1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.
2. If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except when applicable to participate in a conference as provided in Paragraph 3.
3. If there is no Owner Default under the Construction Contract, the Surety's obligation under this Bond will arise after:
 - 3.1. The Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice may indicate whether the Owner is requesting a conference among the Owner, Contractor, and Surety to discuss the Contractor's performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Paragraph 3.1 will be held within ten (10) business days of the Surety's receipt of the Owner's notice. If the Owner, the Contractor, and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement does not waive the Owner's right, if any, subsequently to declare a Contractor Default;
 - 3.2. The Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and
 - 3.3. The Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.
4. Failure on the part of the Owner to comply with the notice requirement in Paragraph 3.1 does not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.
5. When the Owner has satisfied the conditions of Paragraph 3, the Surety shall promptly and at the Surety's expense take one of the following actions:
 - 5.1. Arrange for the Contractor, with the consent of the Owner, to perform and complete the Construction Contract;
 - 5.2. Undertake to perform and complete the Construction Contract itself, through its agents or independent contractors;
 - 5.3. Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and a contractor selected with the Owners concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Paragraph 7 in excess of the Balance of the Contract Price incurred by the Owner as a result of the Contractor Default; or
 - 5.4. Waive its right to perform and complete, arrange for completion, or obtain a new contractor, and with reasonable promptness under the circumstances:
 - 5.4.1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, make payment to the Owner; or
 - 5.4.2 Deny liability in whole or in part and notify the Owner, citing the reasons for denial.
6. If the Surety does not proceed as provided in Paragraph 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Paragraph 5.4, and the Owner refuses the payment, or the Surety has denied liability, in whole or in part, without further notice, the Owner shall be entitled to enforce any remedy available to the Owner.
7. If the Surety elects to act under Paragraph 5.1, 5.2, or 5.3, then the responsibilities of the Surety to the Owner will not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner

to the Surety will not be greater than those of the Owner under the Construction Contract. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication for:

- 7.1. the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;
 - 7.2. additional legal, design professional, and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Paragraph 5; and
 - 7.3. liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.
8. If the Surety elects to act under Paragraph 5.1, 5.3, or 5.4, the Surety's liability is limited to the amount of this Bond.
 9. The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price will not be reduced or set off on account of any such unrelated obligations. No right of action will accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, successors, and assigns.
 10. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders, and other obligations.
 11. Any proceeding, legal or equitable, under this Bond must be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and must be instituted within two years after a declaration of Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this paragraph are void or prohibited by law, the minimum periods of limitations available to sureties as a defense in the jurisdiction of the suit will be applicable.
 12. Notice to the Surety, the Owner, or the Contractor must be mailed or delivered to the address shown on the page on which their signature appears.
 13. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement will be deemed deleted therefrom and provisions conforming to such statutory or other legal requirement will be deemed incorporated herein. When so furnished, the intent is that this Bond will be construed as a statutory bond and not as a common law bond.
 14. Definitions
 - 14.1. *Balance of the Contract Price*—The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made including allowance for the Contractor for any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.
 - 14.2. *Construction Contract*—The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and changes made to the agreement and the Contract Documents.
 - 14.3. *Contractor Default*—Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with a material term of the Construction Contract.
 - 14.4. *Owner Default*—Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.
 - 14.5. *Contract Documents*—All the documents that comprise the agreement between the Owner and Contractor.
 15. If this Bond is issued for an agreement between a contractor and subcontractor, the term Contractor in this Bond will be deemed to be Subcontractor and the term Owner will be deemed to be Contractor.
 16. Modifications to this Bond are as follows: **None**

SECTION 7 - PAYMENT BOND

Contractor Name: _____ Address <i>(principal place of business)</i> : _____	Surety Name: _____ Address <i>(principal place of business)</i> : _____
Owner: Incline Village General Improvement District Mailing address <i>(principal place of business)</i> : Public Works Department 1220 Sweetwater Road Incline Village, NV 89451	Contract Description <i>(name and location)</i> : Incline Village GID 2299WS1705 Crystal Peak Distribution Watermain Improvements Contract Price: _____ Effective Date of Contract: _____
Bond Bond Amount: _____ Date of Bond: _____ <i>(Date of Bond cannot be earlier than Effective Date of Contract)</i> Modifications to this Bond form: <input type="checkbox"/> None <input type="checkbox"/> See Paragraph 18	
Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth in this Payment Bond, do each cause this Payment Bond to be duly executed by an authorized officer, agent, or representative.	
Contractor as Principal	Surety
_____ <i>(Full formal name of Contractor)</i>	_____ <i>(Full formal name of Surety) (corporate seal)</i>
By: _____ <i>(Signature)</i>	By: _____ <i>(Signature)(Attach Power of Attorney)</i>
Name: _____ <i>(Printed or typed)</i>	Name: _____ <i>(Printed or typed)</i>
Title: _____	Title: _____
Attest: _____ <i>(Signature)</i>	Attest: _____ <i>(Signature)</i>
Name: _____ <i>(Printed or typed)</i>	Name: _____ <i>(Printed or typed)</i>
Title: _____	Title: _____
<i>Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner, or other party is considered plural where applicable.</i>	

1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner to pay for labor, materials, and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference, subject to the following terms.
2. If the Contractor promptly makes payment of all sums due to Claimants, and defends, indemnifies, and holds harmless the Owner from claims, demands, liens, or suits by any person or entity seeking payment for labor, materials, or equipment furnished for use in the performance of the Construction Contract, then the Surety and the Contractor shall have no obligation under this Bond.
3. If there is no Owner Default under the Construction Contract, the Surety's obligation to the Owner under this Bond will arise after the Owner has promptly notified the Contractor and the Surety (at the address described in Paragraph 13) of claims, demands, liens, or suits against the Owner or the Owner's property by any person or entity seeking payment for labor, materials, or equipment furnished for use in the performance of the Construction Contract, and tendered defense of such claims, demands, liens, or suits to the Contractor and the Surety.
4. When the Owner has satisfied the conditions in Paragraph 3, the Surety shall promptly and at the Surety's expense defend, indemnify, and hold harmless the Owner against a duly tendered claim, demand, lien, or suit.
5. The Surety's obligations to a Claimant under this Bond will arise after the following:
 - 5.1. Claimants who do not have a direct contract with the Contractor
 - 5.1.1. have furnished a written notice of non-payment to the Contractor, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were, or equipment was, furnished or supplied or for whom the labor was done or performed, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the Claim; and
 - 5.1.2. have sent a Claim to the Surety (at the address described in Paragraph 13).
 - 5.2. Claimants who are employed by or have a direct contract with the Contractor have sent a Claim to the Surety (at the address described in Paragraph 13).
6. If a notice of non-payment required by Paragraph 5.1.1 is given by the Owner to the Contractor, that is sufficient to satisfy a Claimant's obligation to furnish a written notice of non-payment under Paragraph 5.1.1.
7. When a Claimant has satisfied the conditions of Paragraph 5.1 or 5.2, whichever is applicable, the Surety shall promptly and at the Surety's expense take the following actions:
 - 7.1. Send an answer to the Claimant, with a copy to the Owner, within sixty (60) days after receipt of the Claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed; and
 - 7.2. Pay or arrange for payment of any undisputed amounts.
 - 7.3. The Surety's failure to discharge its obligations under Paragraph 7.1 or 7.2 will not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a Claim, except as to undisputed amounts for which the Surety and Claimant have reached agreement. If, however, the Surety fails to discharge its obligations under Paragraph 7.1 or 7.2, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs thereafter to recover any sums found to be due and owing to the Claimant.
8. The Surety's total obligation will not exceed the amount of this Bond, plus the amount of reasonable attorney's fees provided under Paragraph 7.3, and the amount of this Bond will be credited for any payments made in good faith by the Surety.
9. Amounts owed by the Owner to the Contractor under the Construction Contract will be used for the performance of the Construction Contract and to satisfy claims, if any, under any construction performance bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfying obligations of the Contractor and Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.
10. The Surety shall not be liable to the Owner, Claimants, or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for the payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligation to make payments to or give notice on behalf of Claimants, or otherwise have any obligations to Claimants under this Bond.
11. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders, and other obligations.
12. No suit or action will be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the state in which the project that is the subject of the Construction Contract is located or after the expiration of one year from the date (1) on which the Claimant sent a Claim to the Surety pursuant to Paragraph 5.1.2 or 5.2, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract,

whichever of (1) or (2) first occurs. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit will be applicable.

13. Notice and Claims to the Surety, the Owner, or the Contractor must be mailed or delivered to the address shown on the page on which their signature appears. Actual receipt of notice or Claims, however accomplished, will be sufficient compliance as of the date received.
14. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement will be deemed deleted here from and provisions conforming to such statutory or other legal requirement will be deemed incorporated herein. When so furnished, the intent is that this Bond will be construed as a statutory bond and not as a common law bond.
15. Upon requests by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor and Owner shall promptly furnish a copy of this Bond or shall permit a copy to be made.
16. Definitions
 - 16.1. *Claim*—A written statement by the Claimant including at a minimum:
 - 16.1.1. The name of the Claimant;
 - 16.1.2. The name of the person for whom the labor was done, or materials or equipment furnished;
 - 16.1.3. A copy of the agreement or purchase order pursuant to which labor, materials, or equipment was furnished for use in the performance of the Construction Contract;
 - 16.1.4. A brief description of the labor, materials, or equipment furnished;
 - 16.1.5. The date on which the Claimant last performed labor or last furnished materials or equipment for use in the performance of the Construction Contract;
 - 16.1.6. The total amount earned by the Claimant for labor, materials, or equipment furnished as of the date of the Claim;
 - 16.1.7. The total amount of previous payments received by the Claimant; and
 - 16.1.8. The total amount due and unpaid to the Claimant for labor, materials, or equipment furnished as of the date of the Claim.
 - 16.2. *Claimant*—An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials, or equipment for use in the performance of the Construction Contract. The term Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic's lien or similar statute against the real property upon which the Project is located. The intent of this Bond is to include without limitation in the terms of "labor, materials, or equipment" that part of the water, gas, power, light, heat, oil, gasoline, telephone service, or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials, or equipment were furnished.
 - 16.3. *Construction Contract*—The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and all changes made to the agreement and the Contract Documents.
 - 16.4. *Owner Default*—Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.
 - 16.5. *Contract Documents*—All the documents that comprise the agreement between the Owner and Contractor.
17. If this Bond is issued for an agreement between a contractor and subcontractor, the term Contractor in this Bond will be deemed to be Subcontractor and the term Owner will be deemed to be Contractor.
18. Modifications to this Bond are as follows: **None.**

SECTION 6 - APPLICATION AND CERTIFICATION FOR PAYMENT

TO OWNER:

Incline Village G. I. D., Engineering Dept.
 1220 Sweetwater Road, Incline Village, NV
 775-832-1267

PROJECT: Crystal Peak
 Watermain Distribution
 Improvements

APPLICATION NO:

PERIOD TO

Distribution to:

<input type="checkbox"/>	OWNER
<input type="checkbox"/>	ARCHITECT
<input type="checkbox"/>	CONTRACTOR
<input type="checkbox"/>	ENGINEER

FROM CONTRACTOR:

P.O. Number

CIP Number 2299WS1705
 PWP WA-2023-032
CONTRACT DATE:

CONTRACTOR'S APPLICATION FOR PAYMENT

Application is made for payment, as shown below, in connection with the Contract Continuation Sheet, AIA Document G703, is attached.

1. ORIGINAL CONTRACT SUM	\$ -
2. Net change by Change Orders	\$ -
3. CHANGE IN UNIT PRICE QUANTITIES	\$ -
4. CONTRACT SUM TO DATE (Line 1 ± 3)	\$ -
5. TOTAL COMPLETED & STORED TO DATE (Column G on G703)	\$ -
6. RETAINAGE:	
a. <u>5</u>	\$ -
b. <u> </u>	\$ -
(Column D + E on G703)	
(Column F on G703)	
Total Retainage (Lines 5a + 5b or Total in Column I of G703)	\$ -
7. TOTAL EARNED LESS RETAINAGE (Line 5 Less Line 6 Total)	\$ -
8. LESS PREVIOUS CERTIFICATES FOR PAYMENT (Line 6 from prior Certificate)	\$ -
9. CURRENT PAYMENT DUE	\$ -
10. BALANCE TO FINISH, INCL. RETAINAGE (Line 4 less Line 7)	\$ -

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is now due.

CONTRACTOR:

By: _____ **Date:** _____

State of: _____ County of: _____
 Subscribed and sworn to before me this _____ day of _____
 Notary Public:
 My Commission expires: _____

ENGINEER'S CERTIFICATE FOR PAYMENT

In accordance with the Contract Documents, based on on-site observations and the data comprising the application, the Engineer certifies to the Owner that to the best of the Engineer's knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED \$ -

(Attach explanation if amount certified differs from the amount applied. Initial all figures on this Application and on the Continuation Sheet that are changed to conform with the amount certified.)
OWNER:

By: _____ **Date:** _____

This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Total changes approved in previous months by OWNER:	\$ -	\$ -
Total approved this Month:	\$ -	\$ -
TOTALS:	\$ -	\$ -
NET CHANGES by Change Order:	\$ -	\$ -

CONTINUATION SHEET

ATTACHMENT TO PAY APPLICATION

APPLICATION NUMBER:

PROJECT:

APPLICATION DATE:

Crystal Peak Watermain Distribution Improvements

PERIOD TO:

PROJECT NO: 2299WS1705

A Item No.	B Description of Work	UNIT	Unit Price	Total Price	D Work Completed		F Materials Presently Stored (Not In D or E)	G Total Completed And Stored To Date (D + E + F)	H Balance To Finish (C - G)	I Retainage (If Variable Rate)	J Enter Variable Retainage Rate (%)
					From Previous Application (D + E)	This Period					
1											5.00%
2											5.00%
3											5.00%
4											5.00%
5											5.00%
6											5.00%
7											5.00%
8											5.00%
9											5.00%
10											5.00%
11											5.00%
12											5.00%
13											5.00%
14											5.00%
15											5.00%
16											5.00%
17											5.00%
18											5.00%
19											5.00%
20											5.00%
21											5.00%
22											5.00%
23											5.00%
24											5.00%
25											5.00%
26											5.00%
27											5.00%
28											5.00%
29											5.00%
30											5.00%
31											5.00%
32											5.00%
SUBTOTALS PAGE 2											\$

SECTION 9 - GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

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STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

ARTICLE 1—DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

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

- requirements of the Contract Documents or the acceptability of Work under the Contract Documents; contesting Engineer's decision regarding a Change Proposal; seeking resolution of a contractual issue that Engineer has declined to address; or seeking other relief with respect to the terms of the Contract.
- b. A demand or assertion by Contractor directly to Owner, duly submitted in compliance with the procedural requirements set forth herein, contesting Engineer's decision regarding a Change Proposal, or seeking resolution of a contractual issue that Engineer has declined to address.
 - c. A demand or assertion by Owner or Contractor, duly submitted in compliance with the procedural requirements set forth herein, made pursuant to Paragraph 12.01.A.4, concerning disputes arising after Engineer has issued a recommendation of final payment.
 - d. A demand for money or services by a third party is not a Claim.
11. *Constituent of Concern*—Asbestos, petroleum, radioactive materials, polychlorinated biphenyls (PCBs), lead-based paint (as defined by the HUD/EPA standard), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to Laws and Regulations regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.
 12. *Contract*—The entire and integrated written contract between Owner and Contractor concerning the Work.
 13. *Contract Documents*—Those items so designated in the Agreement, and which together comprise the Contract.
 14. *Contract Price*—The money that Owner has agreed to pay Contractor for completion of the Work in accordance with the Contract Documents.
 15. *Contract Times*—The number of days or the dates by which Contractor shall: (a) achieve Milestones, if any; (b) achieve Substantial Completion; and (c) complete the Work.
 16. *Contractor*—The individual or entity with which Owner has contracted for performance of the Work.
 17. *Cost of the Work*—See Paragraph 13.01 for definition.
 18. *Drawings*—The part of the Contract that graphically shows the scope, extent, and character of the Work to be performed by Contractor.
 19. *Effective Date of the Contract*—The date, indicated in the Agreement, on which the Contract becomes effective.
 20. *Electronic Document*—Any Project-related correspondence, attachments to correspondence, data, documents, drawings, information, or graphics, including but not limited to Shop Drawings and other Submittals, that are in an electronic or digital format.
 21. *Electronic Means*—Electronic mail (email), upload/download from a secure Project website, or other communications methods that allow: (a) the transmission or communication of Electronic Documents; (b) the documentation of transmissions, including sending and receipt; (c) printing of the transmitted Electronic Document by the

recipient; (d) the storage and archiving of the Electronic Document by sender and recipient; and (e) the use by recipient of the Electronic Document for purposes permitted by this Contract. Electronic Means does not include the use of text messaging, or of Facebook, Twitter, Instagram, or similar social media services for transmission of Electronic Documents.

22. *Engineer*—The individual or entity named as such in the Agreement.
23. *Field Order*—A written order issued by Engineer which requires minor changes in the Work but does not change the Contract Price or the Contract Times.
24. *Hazardous Environmental Condition*—The presence at the Site of Constituents of Concern in such quantities or circumstances that may present a danger to persons or property exposed thereto.
 - a. The presence at the Site of materials that are necessary for the execution of the Work, or that are to be incorporated into the Work, and that are controlled and contained pursuant to industry practices, Laws and Regulations, and the requirements of the Contract, is not a Hazardous Environmental Condition.
 - b. The presence of Constituents of Concern that are to be removed or remediated as part of the Work is not a Hazardous Environmental Condition.
 - c. The presence of Constituents of Concern as part of the routine, anticipated, and obvious working conditions at the Site, is not a Hazardous Environmental Condition.
25. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and binding decrees, resolutions, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
26. *Liens*—Charges, security interests, or encumbrances upon Contract-related funds, real property, or personal property.
27. *Milestone*—A principal event in the performance of the Work that the Contract requires Contractor to achieve by an intermediate completion date, or by a time prior to Substantial Completion of all the Work.
28. *Notice of Award*—The written notice by Owner to a Bidder of Owner's acceptance of the Bid.
29. *Notice to Proceed*—A written notice by Owner to Contractor fixing the date on which the Contract Times will commence to run and on which Contractor shall start to perform the Work.
30. *Owner*—The individual or entity with which Contractor has contracted regarding the Work, and which has agreed to pay Contractor for the performance of the Work, pursuant to the terms of the Contract.
31. *Progress Schedule*—A schedule, prepared and maintained by Contractor, describing the sequence and duration of the activities comprising Contractor's plan to accomplish the Work within the Contract Times.
32. *Project*—The total undertaking to be accomplished for Owner by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the Work to be performed under the Contract Documents is a part.

33. *Resident Project Representative*—The authorized representative of Engineer assigned to assist Engineer at the Site. As used herein, the term Resident Project Representative (RPR) includes any assistants or field staff of Resident Project Representative.
34. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work will be judged.
35. *Schedule of Submittals*—A schedule, prepared and maintained by Contractor, of required submittals and the time requirements for Engineer’s review of the submittals.
36. *Schedule of Values*—A schedule, prepared and maintained by Contractor, allocating portions of the Contract Price to various portions of the Work and used as the basis for reviewing Contractor’s Applications for Payment.
37. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Contract Documents.
38. *Site*—Lands or areas indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements, and such other lands or areas furnished by Owner which are designated for the use of Contractor.

See SC-1.01

39. *Specifications*—The part of the Contract that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.
40. *Subcontractor*—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work.
41. *Submittal*—A written or graphic document, prepared by or for Contractor, which the Contract Documents require Contractor to submit to Engineer, or that is indicated as a Submittal in the Schedule of Submittals accepted by Engineer. Submittals may include Shop Drawings and Samples; schedules; product data; Owner-delegated designs; sustainable design information; information on special procedures; testing plans; results of tests and evaluations, source quality-control testing and inspections, and field or Site quality-control testing and inspections; warranties and certifications; Suppliers’ instructions and reports; records of delivery of spare parts and tools; operations and maintenance data; Project photographic documentation; record documents; and other such documents required by the Contract Documents. Submittals, whether or not approved or accepted by Engineer, are not Contract Documents. Change Proposals, Change Orders, Claims, notices, Applications for Payment, and requests for interpretation or clarification are not Submittals.
42. *Substantial Completion*—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended.

The terms “substantially complete” and “substantially completed” as applied to all or part of the Work refer to Substantial Completion of such Work.

43. *Successful Bidder*—The Bidder to which the Owner makes an award of contract.
44. *Supplementary Conditions*—The part of the Contract that amends or supplements these General Conditions.
45. *Supplier*—A manufacturer, fabricator, supplier, distributor, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or a Subcontractor.
46. *Technical Data*
 - a. Those items expressly identified as Technical Data in the Supplementary Conditions, with respect to either (1) existing subsurface conditions at or adjacent to the Site, or existing physical conditions at or adjacent to the Site including existing surface or subsurface structures (except Underground Facilities) or (2) Hazardous Environmental Conditions at the Site.
 - b. If no such express identifications of Technical Data have been made with respect to conditions at the Site, then Technical Data is defined, with respect to conditions at the Site under Paragraphs 5.03, 5.04, and 5.06, as the data contained in boring logs, recorded measurements of subsurface water levels, assessments of the condition of subsurface facilities, laboratory test results, and other factual, objective information regarding conditions at the Site that are set forth in any geotechnical, environmental, or other Site or facilities conditions report prepared for the Project and made available to Contractor.
 - c. Information and data regarding the presence or location of Underground Facilities are not intended to be categorized, identified, or defined as Technical Data, and instead Underground Facilities are shown or indicated on the Drawings.
47. *Underground Facilities*—All active or not-in-service underground lines, pipelines, conduits, ducts, encasements, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or systems at the Site, including but not limited to those facilities or systems that produce, transmit, distribute, or convey telephone or other communications, cable television, fiber optic transmissions, power, electricity, light, heat, gases, oil, crude oil products, liquid petroleum products, water, steam, waste, wastewater, storm water, other liquids or chemicals, or traffic or other control systems. An abandoned facility or system is not an Underground Facility.
48. *Unit Price Work*—Work to be paid for on the basis of unit prices.
49. *Work*—The entire construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction; furnishing, installing, and incorporating all materials and equipment into such construction; and may include related services such as testing, start-up, and commissioning, all as required by the Contract Documents.
50. *Work Change Directive*—A written directive to Contractor issued on or after the Effective Date of the Contract, signed by Owner and recommended by Engineer, ordering an addition, deletion, or revision in the Work.

1.02 Terminology

- A. The words and terms discussed in Paragraphs 1.02.B, C, D, and E are not defined terms that require initial capital letters, but, when used in the Bidding Requirements or Contract Documents, have the indicated meaning.
- B. *Intent of Certain Terms or Adjectives:* The Contract Documents include the terms “as allowed,” “as approved,” “as ordered,” “as directed” or terms of like effect or import to authorize an exercise of professional judgment by Engineer. In addition, the adjectives “reasonable,” “suitable,” “acceptable,” “proper,” “satisfactory,” or adjectives of like effect or import are used to describe an action or determination of Engineer as to the Work. It is intended that such exercise of professional judgment, action, or determination will be solely to evaluate, in general, the Work for compliance with the information in the Contract Documents and with the design concept of the Project as a functioning whole as shown or indicated in the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective is not intended to and shall not be effective to assign to Engineer any duty or authority to supervise or direct the performance of the Work, or any duty or authority to undertake responsibility contrary to the provisions of Article 10 or any other provision of the Contract Documents.
- C. *Day:* The word “day” means a calendar day of 24 hours measured from midnight to the next midnight.
- D. *Defective:* The word “defective,” when modifying the word “Work,” refers to Work that is unsatisfactory, faulty, or deficient in that it:
1. does not conform to the Contract Documents;
 2. does not meet the requirements of any applicable inspection, reference standard, test, or approval referred to in the Contract Documents; or
 3. has been damaged prior to Engineer’s recommendation of final payment (unless responsibility for the protection thereof has been assumed by Owner at Substantial Completion in accordance with Paragraph 15.03 or Paragraph 15.04).
- E. *Furnish, Install, Perform, Provide*
1. The word “furnish,” when used in connection with services, materials, or equipment, means to supply and deliver said services, materials, or equipment to the Site (or some other specified location) ready for use or installation and in usable or operable condition.
 2. The word “install,” when used in connection with services, materials, or equipment, means to put into use or place in final position said services, materials, or equipment complete and ready for intended use.
 3. The words “perform” or “provide,” when used in connection with services, materials, or equipment, means to furnish and install said services, materials, or equipment complete and ready for intended use.
 4. If the Contract Documents establish an obligation of Contractor with respect to specific services, materials, or equipment, but do not expressly use any of the four words “furnish,” “install,” “perform,” or “provide,” then Contractor shall furnish and install said services, materials, or equipment complete and ready for intended use.

- F. *Contract Price or Contract Times*: References to a change in “Contract Price or Contract Times” or “Contract Times or Contract Price” or similar, indicate that such change applies to (1) Contract Price, (2) Contract Times, or (3) both Contract Price and Contract Times, as warranted, even if the term “or both” is not expressed.
- G. Unless stated otherwise in the Contract Documents, words or phrases that have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with such recognized meaning.

ARTICLE 2—PRELIMINARY MATTERS

2.01 *Delivery of Performance and Payment Bonds; Evidence of Insurance*

- A. *Performance and Payment Bonds*: When Contractor delivers the signed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner the performance bond and payment bond (if the Contract requires Contractor to furnish such bonds).
- B. *Evidence of Contractor’s Insurance*: ~~When Contractor delivers the signed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner, with copies to each additional insured (as identified in the Contract), the certificates, endorsements, and other evidence of insurance required to be provided by Contractor in accordance with Article 6, except to the extent the Supplementary Conditions expressly establish other dates for delivery of specific insurance policies.~~
- C. *Evidence of Owner’s Insurance*: ~~After receipt of the signed counterparts of the Agreement and all required bonds and insurance documentation, Owner shall promptly deliver to Contractor, with copies to each additional insured (as identified in the Contract), the certificates and other evidence of insurance required to be provided by Owner under Article 6.~~

See SC-2.01

2.02 *Copies of Documents*

- A. ~~Owner shall furnish to Contractor four printed copies of the Contract (including one fully signed counterpart of the Agreement), and one copy in electronic portable document format (PDF). Additional printed copies will be furnished upon request at the cost of reproduction.~~

See SC-2.02

- B. Owner shall maintain and safeguard at least one original printed record version of the Contract, including Drawings and Specifications signed and sealed by Engineer and other design professionals. Owner shall make such original printed record version of the Contract available to Contractor for review. Owner may delegate the responsibilities under this provision to Engineer.

2.03 *Before Starting Construction*

- A. *Preliminary Schedules*: Within 10 days after the Effective Date of the Contract (or as otherwise required by the Contract Documents), Contractor shall submit to Engineer for timely review:
 1. a preliminary Progress Schedule indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract;
 2. a preliminary Schedule of Submittals; and

3. a preliminary Schedule of Values for all of the Work which includes quantities and prices of items which when added together equal the Contract Price and subdivides the Work into component parts in sufficient detail to serve as the basis for progress payments during performance of the Work. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work.

2.04 *Preconstruction Conference; Designation of Authorized Representatives*

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

2.05 *Acceptance of Schedules*

- A. At least 10 days before submission of the first Application for Payment a conference, attended by Contractor, Engineer, and others as appropriate, will be held to review the schedules submitted in accordance with Paragraph 2.03.A. No progress payment will be made to Contractor until acceptable schedules are submitted to Engineer.
 1. The Progress Schedule will be acceptable to Engineer if it provides an orderly progression of the Work to completion within the Contract Times. Such acceptance will not impose on Engineer responsibility for the Progress Schedule, for sequencing, scheduling, or progress of the Work, nor interfere with or relieve Contractor from Contractor's full responsibility therefor.
 2. Contractor's Schedule of Submittals will be acceptable to Engineer if it provides a workable arrangement for reviewing and processing the required submittals.
 3. Contractor's Schedule of Values will be acceptable to Engineer as to form and substance if it provides a reasonable allocation of the Contract Price to the component parts of the Work.
 4. If a schedule is not acceptable, Contractor will have an additional 10 days to revise and resubmit the schedule.

2.06 *Electronic Transmittals*

- A. Except as otherwise stated elsewhere in the Contract, the Owner, Engineer, and Contractor may send, and shall accept, Electronic Documents transmitted by Electronic Means.
- B. If the Contract does not establish protocols for Electronic Means, then Owner, Engineer, and Contractor shall jointly develop such protocols.
- C. Subject to any governing protocols for Electronic Means, when transmitting Electronic Documents by Electronic Means, the transmitting party makes no representations as to long-term compatibility, usability, or readability of the Electronic Documents resulting from the

recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the Electronic Documents.

ARTICLE 3—CONTRACT DOCUMENTS: INTENT, REQUIREMENTS, REUSE

3.01 *Intent*

- A. The Contract Documents are complementary; what is required by one Contract Document is as binding as if required by all.
- B. It is the intent of the Contract Documents to describe a functionally complete Project (or part thereof) to be constructed in accordance with the Contract Documents.
- C. ~~Unless otherwise stated in the Contract Documents, if there is a discrepancy between the electronic versions of the Contract Documents (including any printed copies derived from such electronic versions) and the printed record version, the printed record version will govern.~~

See SC-3.01

- D. The Contract supersedes prior negotiations, representations, and agreements, whether written or oral.
- E. Engineer will issue clarifications and interpretations of the Contract Documents as provided herein.
- F. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation will be deemed stricken, and all remaining provisions will continue to be valid and binding upon Owner and Contractor, which agree that the Contract Documents will be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.
- G. Nothing in the Contract Documents creates:
 - 1. any contractual relationship between Owner or Engineer and any Subcontractor, Supplier, or other individual or entity performing or furnishing any of the Work, for the benefit of such Subcontractor, Supplier, or other individual or entity; or
 - 2. any obligation on the part of Owner or Engineer to pay or to see to the payment of any money due any such Subcontractor, Supplier, or other individual or entity, except as may otherwise be required by Laws and Regulations.

3.02 *Reference Standards*

- A. *Standards Specifications, Codes, Laws and Regulations*
 - 1. Reference in the Contract Documents to standard specifications, manuals, reference standards, or codes of any technical society, organization, or association, or to Laws or Regulations, whether such reference be specific or by implication, means the standard specification, manual, reference standard, code, or Laws or Regulations in effect at the time of opening of Bids (or on the Effective Date of the Contract if there were no Bids), except as may be otherwise specifically stated in the Contract Documents.
 - 2. No provision of any such standard specification, manual, reference standard, or code, and no instruction of a Supplier, will be effective to change the duties or responsibilities of Owner, Contractor, or Engineer from those set forth in the part of the Contract

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Documents prepared by or for Engineer. No such provision or instruction shall be effective to assign to Owner or Engineer any duty or authority to supervise or direct the performance of the Work, or any duty or authority to undertake responsibility 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 issued pursuant to Paragraph 11.01.
2. *Contractor's Review of Contract Documents:* If, before or during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents, or between the Contract Documents and (a) any applicable Law or Regulation, (b) actual field conditions, (c) any standard specification, manual, reference standard, or code, or (d) any instruction of any Supplier, then Contractor shall promptly report it to Engineer in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Paragraph 7.15) until the conflict, error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract issued pursuant to Paragraph 11.01.
3. Contractor shall not be liable to Owner or Engineer for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless Contractor had actual knowledge thereof.

B. *Resolving Discrepancies*

1. Except as may be otherwise specifically stated in the Contract Documents, the provisions of the part of the Contract Documents prepared by or for Engineer take precedence in resolving any conflict, error, ambiguity, or discrepancy between such provisions of the Contract Documents and:
 - a. the provisions of any standard specification, manual, reference standard, or code, or the instruction of any Supplier (whether or not specifically incorporated by reference as a Contract Document); or
 - b. the provisions of any Laws or Regulations applicable to the performance of the Work (unless such an interpretation of the provisions of the Contract Documents would result in violation of such Law or Regulation).

3.04 *Requirements of the Contract Documents*

- A. During the performance of the Work and until final payment, Contractor and Owner shall submit to the Engineer in writing all matters in question concerning the requirements of the Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Contract Documents, as soon as

possible after such matters arise. Engineer will be the initial interpreter of the requirements of the Contract Documents, and judge of the acceptability of the Work.

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

3.05 *Reuse of Documents*

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

ARTICLE 4—COMMENCEMENT AND PROGRESS OF THE WORK

4.01 *Commencement of Contract Times; Notice to Proceed*

- A. The Contract Times will commence to run on the 30th day after the Effective Date of the Contract or, if a Notice to Proceed is given, on the day indicated in the Notice to Proceed. A Notice to Proceed may be given at any time within 30 days after the Effective Date of the Contract. ~~In no event will the Contract Times commence to run later than the 60th day after the day of Bid opening or the 30th day after the Effective Date of the Contract, whichever date is earlier.~~

See SC-4.01

4.02 *Starting the Work*

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

4.03 *Reference Points*

- A. ~~Owner shall provide engineering surveys to establish reference points for construction which in Engineer's judgment are necessary to enable Contractor to proceed with the Work.~~ Contractor shall be responsible for laying out the Work, shall protect and preserve the established reference points and property monuments, and shall make no changes or relocations without the prior written approval of Owner. Contractor shall report to Engineer whenever any reference point or property monument is lost or destroyed or requires relocation because of necessary changes in grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points or property monuments by professionally qualified personnel.

See SC-4.03

4.04 *Progress Schedule*

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

See SC-4.04

4.05 *Delays in Contractor's Progress*

- A. If Owner, Engineer, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress of the Work, then Contractor shall be entitled to an equitable adjustment in Contract Price or Contract Times.
- B. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delay, disruption, or interference caused by or within the control of Contractor. Delay, disruption, and interference attributable to and within the control of a Subcontractor or Supplier shall be deemed to be within the control of Contractor.
- C. If Contractor's performance or progress is delayed, disrupted, or interfered with by unanticipated causes not the fault of and beyond the control of Owner, Contractor, and those for which they are responsible, then Contractor shall be entitled to an equitable adjustment in Contract Times. Such an adjustment will be Contractor's sole and exclusive remedy for the delays, disruption, and interference described in this paragraph. Causes of delay, disruption, or interference that may give rise to an adjustment in Contract Times under this paragraph include but are not limited to the following:
1. Severe and unavoidable natural catastrophes such as fires, floods, epidemics, and earthquakes;

2. Abnormal weather conditions;
 3. Acts or failures to act of third-party utility owners or other third-party entities (other than those third-party utility owners or other third-party entities performing other work at or adjacent to the Site as arranged by or under contract with Owner, as contemplated in Article 8); and
 4. Acts of war or terrorism.
- D. Contractor's entitlement to an adjustment of Contract Times or Contract Price is limited as follows:
1. Contractor's entitlement to an adjustment of the Contract Times is conditioned on the delay, disruption, or interference adversely affecting an activity on the critical path to completion of the Work, as of the time of the delay, disruption, or interference.
 2. Contractor shall not be entitled to an adjustment in Contract Price for any delay, disruption, or interference if such delay is concurrent with a delay, disruption, or interference caused by or within the control of Contractor. Such a concurrent delay by Contractor shall not preclude an adjustment of Contract Times to which Contractor is otherwise entitled.
 3. Adjustments of Contract Times or Contract Price are subject to the provisions of Article 11.
- E. Each Contractor request or Change Proposal seeking an increase in Contract Times or Contract Price must be supplemented by supporting data that sets forth in detail the following:
1. The circumstances that form the basis for the requested adjustment;
 2. The date upon which each cause of delay, disruption, or interference began to affect the progress of the Work;
 3. The date upon which each cause of delay, disruption, or interference ceased to affect the progress of the Work;
 4. The number of days' increase in Contract Times claimed as a consequence of each such cause of delay, disruption, or interference; and
 5. The impact on Contract Price, in accordance with the provisions of Paragraph 11.07.
- Contractor shall also furnish such additional supporting documentation as Owner or Engineer may require including, where appropriate, a revised progress schedule indicating all the activities affected by the delay, disruption, or interference, and an explanation of the effect of the delay, disruption, or interference on the critical path to completion of the Work.
- F. Delays, disruption, and interference to the performance or progress of the Work resulting from the existence of a differing subsurface or physical condition, an Underground Facility that was not shown or indicated by the Contract Documents, or not shown or indicated with reasonable accuracy, and those resulting from Hazardous Environmental Conditions, are governed by Article 5, together with the provisions of Paragraphs 4.05.D and 4.05.E.
- G. Paragraph 8.03 addresses delays, disruption, and interference to the performance or progress of the Work resulting from the performance of certain other work at or adjacent to the Site.

ARTICLE 5—SITE; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS

5.01 *Availability of Lands*

- A. Owner shall furnish the Site. Owner shall notify Contractor in writing of any encumbrances or restrictions not of general application but specifically related to use of the Site with which Contractor must comply in performing the Work.
- B. Upon reasonable written request, Owner shall furnish Contractor with a current statement of record legal title and legal description of the lands upon which permanent improvements are to be made and Owner's interest therein as necessary for giving notice of or filing a mechanic's or construction lien against such lands in accordance with applicable Laws and Regulations.
- C. Contractor shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

5.02 *Use of Site and Other Areas*

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

- 1. Contractor shall confine construction equipment, temporary construction facilities, the storage of materials and equipment, and the operations of workers to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and such other adjacent areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility for (a) damage to the Site; (b) damage to any such other adjacent areas used for Contractor's operations; (c) damage to any other adjacent land or areas, or to improvements, structures, utilities, or similar facilities located at such adjacent lands or areas; and (d) for injuries and losses sustained by the owners or occupants of any such land or areas; provided that such damage or injuries result from the performance of the Work or from other actions or conduct of the Contractor or those for which Contractor is responsible.

See SC -5.02

- 2. If a damage or injury claim is made by the owner or occupant of any such land or area because of the performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible, Contractor shall (a) take immediate corrective or remedial action as required by Paragraph 7.13, or otherwise; (b) promptly attempt to settle the claim as to all parties through negotiations with such owner or occupant, or otherwise resolve the claim by arbitration or other dispute resolution proceeding, or in a court of competent jurisdiction; and (c) to the fullest extent permitted by Laws and Regulations, indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, from and against any such claim, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable, brought by any such owner or occupant against Owner, Engineer, or any other party indemnified hereunder to the extent caused directly or indirectly, in whole or in part by,

or based upon, Contractor's performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible.

- B. *Removal of Debris During Performance of the Work:* During the progress of the Work the Contractor shall keep the Site and other adjacent areas free from accumulations of waste materials, rubbish, and other debris. Removal and disposal of such waste materials, rubbish, and other debris will conform to applicable Laws and Regulations.
- C. *Cleaning:* Prior to Substantial Completion of the Work Contractor shall clean the Site and the Work and make it ready for utilization by Owner. At the completion of the Work Contractor shall remove from the Site and adjacent areas all tools, appliances, construction equipment and machinery, and surplus materials and shall restore to original condition all property not designated for alteration by the Contract Documents.
- D. *Loading of Structures:* Contractor shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall Contractor subject any part of the Work or adjacent structures or land to stresses or pressures that will endanger them.

5.03 *Subsurface and Physical Conditions*

- A. *Reports and Drawings:* The Supplementary Conditions identify:
 - 1. Those reports of explorations and tests of subsurface conditions at or adjacent to the Site that contain Technical Data;
 - 2. Those drawings of existing physical conditions at or adjacent to the Site, including those drawings depicting existing surface or subsurface structures at or adjacent to the Site (except Underground Facilities), that contain Technical Data; and
 - 3. Technical Data contained in such reports and drawings.
- B. *Underground Facilities:* Underground Facilities are shown or indicated on the Drawings, pursuant to Paragraph 5.05, and not in the drawings referred to in Paragraph 5.03.A. Information and data regarding the presence or location of Underground Facilities are not intended to be categorized, identified, or defined as Technical Data.
- C. ~~*Reliance by Contractor on Technical Data:* Contractor may rely upon the accuracy of the Technical Data expressly identified in the Supplementary Conditions with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely upon the accuracy of the Technical Data as defined in Paragraph 1.01.A.46.b.~~

See SC-5.03

- D. *Limitations of Other Data and Documents:* Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, with respect to:
 - 1. The completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto;

2. Other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings;
3. The contents of other Site-related documents made available to Contractor, such as record drawings from other projects at or adjacent to the Site, or Owner's archival documents concerning the Site; or
4. Any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions, or information.

See SC-5.03

5.04 *Differing Subsurface or Physical Conditions*

- A. ~~Notice by Contractor: If Contractor believes that any subsurface or physical condition that is uncovered or revealed at the Site:~~
- ~~1. is of such a nature as to establish that any Technical Data on which Contractor is entitled to rely as provided in Paragraph 5.03 is materially inaccurate;~~
 - ~~2. is of such a nature as to require a change in the Drawings or Specifications;~~
 - ~~3. Differs materially from that shown or indicated in the Contract Documents; or~~
 - ~~4. Is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents;~~

~~then Contractor shall, promptly after becoming aware thereof and before further disturbing the subsurface or physical conditions or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), notify Owner and Engineer in writing about such condition. Contractor shall not further disturb such condition or perform any Work in connection therewith (except with respect to an emergency) until receipt of a written statement permitting Contractor to do so.~~

See SC-5.04

- B. *Engineer's Review:* After receipt of written notice as required by the preceding paragraph, Engineer will promptly review the subsurface or physical condition in question; determine whether it is necessary for Owner to obtain additional exploration or tests with respect to the condition; conclude whether the condition falls within any one or more of the differing site condition categories in Paragraph 5.04.A; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the Contractor's resumption of Work in connection with the subsurface or physical condition in question and the need for any change in the Drawings or Specifications; and advise Owner in writing of Engineer's findings, conclusions, and recommendations.
- C. *Owner's Statement to Contractor Regarding Site Condition:* After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the subsurface or physical condition in question, addressing the resumption of Work in connection with such condition, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations, in whole or in part.

- D. *Early Resumption of Work*: If at any time Engineer determines that Work in connection with the subsurface or physical condition in question may resume prior to completion of Engineer's review or Owner's issuance of its statement to Contractor, because the condition in question has been adequately documented, and analyzed on a preliminary basis, then the Engineer may at its discretion instruct Contractor to resume such Work.
- E. *Possible Price and Times Adjustments*
1. Contractor shall be entitled to an equitable adjustment in Contract Price or Contract Times, to the extent that the existence of a differing subsurface or physical condition, or any related delay, disruption, or interference, causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:
 - a. Such condition must fall within any one or more of the categories described in Paragraph 5.04.A;
 - b. With respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03; and,
 - c. Contractor's entitlement to an adjustment of the Contract Times is subject to the provisions of Paragraphs 4.05.D and 4.05.E.
 2. Contractor shall not be entitled to any adjustment in the Contract Price or Contract Times with respect to a subsurface or physical condition if:
 - a. Contractor knew of the existence of such condition at the time Contractor made a commitment to Owner with respect to Contract Price and Contract Times by the submission of a Bid or becoming bound under a negotiated contract, or otherwise;
 - b. The existence of such condition reasonably could have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site and contiguous areas expressly required by the Bidding Requirements or Contract Documents to be conducted by or for Contractor prior to Contractor's making such commitment; or
 - c. Contractor failed to give the written notice required by Paragraph 5.04.A.
 3. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Price or Contract Times, then any such adjustment will be set forth in a Change Order.

See SC-5.04.E.4

- ~~4. Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Price or Contract Times, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the subsurface or physical condition in question.~~
- F. *Underground Facilities; Hazardous Environmental Conditions*: Paragraph 5.05 governs rights and responsibilities regarding the presence or location of Underground Facilities. Paragraph 5.06 governs rights and responsibilities regarding Hazardous Environmental Conditions. The provisions of Paragraphs 5.03 and 5.04 are not applicable to the presence or location of Underground Facilities, or to Hazardous Environmental Conditions.

5.05 *Underground Facilities*

- A. *Contractor's Responsibilities:* Unless it is otherwise expressly provided in the Supplementary Conditions, the cost of all of the following are included in the Contract Price, and Contractor shall have full responsibility for:
1. reviewing and checking all information and data regarding existing Underground Facilities at the Site;
 2. complying with applicable state and local utility damage prevention Laws and Regulations;
 3. Verifying the actual location of those Underground Facilities shown or indicated in the Contract Documents as being within the area affected by the Work, by exposing such Underground Facilities during the course of construction;
 4. coordination of the Work with the owners (including Owner) of such Underground Facilities, during construction; and
 5. the safety and protection of all existing Underground Facilities at the Site, and repairing any damage thereto resulting from the Work.
- B. *Notice by Contractor:* If Contractor believes that an Underground Facility that is uncovered or revealed at the Site was not shown or indicated on the Drawings, or was not shown or indicated on the Drawings with reasonable accuracy, then Contractor shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), notify Owner and Engineer in writing regarding such Underground Facility.
- C. *Engineer's Review:* Engineer will:
1. promptly review the Underground Facility and conclude whether such Underground Facility was not shown or indicated on the Drawings, or was not shown or indicated with reasonable accuracy;
 2. identify and communicate with the owner of the Underground Facility; prepare recommendations to Owner (and if necessary issue any preliminary instructions to Contractor) regarding the Contractor's resumption of Work in connection with the Underground Facility in question;
 3. obtain any pertinent cost or schedule information from Contractor; determine the extent, if any, to which a change is required in the Drawings or Specifications to reflect and document the consequences of the existence or location of the Underground Facility; and
 4. advise Owner in writing of Engineer's findings, conclusions, and recommendations.
- During such time, Contractor shall be responsible for the safety and protection of such Underground Facility.
- D. *Owner's Statement to Contractor Regarding Underground Facility:* After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the Underground Facility in question addressing the resumption of Work in connection with such Underground Facility, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations in whole or in part.

E. *Early Resumption of Work*: If at any time Engineer determines that Work in connection with the Underground Facility may resume prior to completion of Engineer's review or Owner's issuance of its statement to Contractor, because the Underground Facility in question and conditions affected by its presence have been adequately documented, and analyzed on a preliminary basis, then the Engineer may at its discretion instruct Contractor to resume such Work.

F. *Possible Price and Times Adjustments*

1. Contractor shall be entitled to an equitable adjustment in the Contract Price or Contract Times, to the extent that any existing Underground Facility at the Site that was not shown or indicated on the Drawings, or was not shown or indicated with reasonable accuracy, or any related delay, disruption, or interference, causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:
 - a. With respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03;
 - b. Contractor's entitlement to an adjustment of the Contract Times is subject to the provisions of Paragraphs 4.05.D and 4.05.E; and
 - c. Contractor gave the notice required in Paragraph 5.05.B.
2. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Price or Contract Times, then any such adjustment will be set forth in a Change Order.
3. Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Price or Contract Times, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the Underground Facility in question.
4. The information and data shown or indicated on the Drawings with respect to existing Underground Facilities at the Site is based on information and data (a) furnished by the owners of such Underground Facilities, or by others, (b) obtained from available records, or (c) gathered in an investigation conducted in accordance with the current edition of ASCE 38, Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data, by the American Society of Civil Engineers. If such information or data is incorrect or incomplete, Contractor's remedies are limited to those set forth in this Paragraph 5.05.F.

5.06 *Hazardous Environmental Conditions at Site*

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

- ~~1. Those reports known to Owner relating to Hazardous Environmental Conditions that have been identified at or adjacent to the Site;~~
- ~~2. Drawings known to Owner relating to Hazardous Environmental Conditions that have been identified at or adjacent to the Site; and~~
- ~~3. Technical Data contained in such reports and drawings.~~

- ~~B. *Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the accuracy of the Technical Data expressly identified in the Supplementary Conditions with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely on the accuracy of the Technical Data as defined in Paragraph 1.01.A.46.b. Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, with respect to:~~
- ~~1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto;~~
 - ~~2. Other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or~~
 - ~~3. Any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions or information.~~

See SC-5.06

- C. Contractor shall not be responsible for removing or remediating any Hazardous Environmental Condition encountered, uncovered, or revealed at the Site unless such removal or remediation is expressly identified in the Contract Documents to be within the scope of the Work.
- D. Contractor shall be responsible for controlling, containing, and duly removing all Constituents of Concern brought to the Site by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible, and for any associated costs; and for the costs of removing and remediating any Hazardous Environmental Condition created by the presence of any such Constituents of Concern.
- E. If Contractor encounters, uncovers, or reveals a Hazardous Environmental Condition whose removal or remediation is not expressly identified in the Contract Documents as being within the scope of the Work, or if Contractor or anyone for whom Contractor is responsible creates a Hazardous Environmental Condition, then Contractor shall immediately: (1) secure or otherwise isolate such condition; (2) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by Paragraph 7.15); and (3) notify Owner and Engineer (and promptly thereafter confirm such notice in writing). Owner shall promptly consult with Engineer concerning the necessity for Owner to retain a qualified expert to evaluate such condition or take corrective action, if any. Promptly after consulting with Engineer, Owner shall take such actions as are necessary to permit Owner to timely obtain required permits and provide Contractor the written notice required by Paragraph 5.06.F. If Contractor or anyone for whom Contractor is responsible created the Hazardous Environmental Condition in question, then Owner may remove and remediate the Hazardous Environmental Condition, and impose a set-off against payments to account for the associated costs.
- F. Contractor shall not resume Work in connection with such Hazardous Environmental Condition or in any affected area until after Owner has obtained any required permits related thereto, and delivered written notice to Contractor either (1) specifying that such condition

and any affected area is or has been rendered safe for the resumption of Work, or (2) specifying any special conditions under which such Work may be resumed safely.

- G. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, as a result of such Work stoppage, such special conditions under which Work is agreed to be resumed by Contractor, or any costs or expenses incurred in response to the Hazardous Environmental Condition, then within 30 days of Owner's written notice regarding the resumption of Work, Contractor may submit a Change Proposal, or Owner may impose a set-off. Entitlement to any such adjustment is subject to the provisions of Paragraphs 4.05.D, 4.05.E, 11.07, and 11.08.
- H. If, after receipt of such written notice, Contractor does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special conditions, then Owner may order the portion of the Work that is in the area affected by such condition to be deleted from the Work, following the contractual change procedures in Article 11. Owner may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Article 8.
- I. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court, arbitration, or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition, provided that such Hazardous Environmental Condition (1) was not shown or indicated in the Drawings, Specifications, or other Contract Documents, identified as Technical Data entitled to limited reliance pursuant to Paragraph 5.06.B, or identified in the Contract Documents to be included within the scope of the Work, and (2) was not created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.I obligates Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.
- J. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the failure to control, contain, or remove a Constituent of Concern brought to the Site by Contractor or by anyone for whom Contractor is responsible, or to a Hazardous Environmental Condition created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.J obligates Contractor to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.
- K. The provisions of Paragraphs 5.03, 5.04, and 5.05 do not apply to the presence of Constituents of Concern or to a Hazardous Environmental Condition uncovered or revealed at the Site.

ARTICLE 6—BONDS AND INSURANCE

6.01 *Performance, Payment, and Other Bonds*

- A. Contractor shall furnish a performance bond and a payment bond, each in an amount at least equal to the Contract Price, as security for the faithful performance and payment of Contractor's obligations under the Contract. These bonds must remain in effect until one year after the date when final payment becomes due or until completion of the correction period specified in Paragraph 15.08, whichever is later, except as provided otherwise by Laws or Regulations, the terms of a prescribed bond form, the Supplementary Conditions, or other provisions of the Contract.
- B. Contractor shall also furnish such other bonds (if any) as are required by the Supplementary Conditions or other provisions of the Contract.
- C. All bonds must be in the form included in the Bidding Documents or otherwise specified by Owner prior to execution of the Contract, except as provided otherwise by Laws or Regulations, and must be issued and signed by a surety named in "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Department Circular 570 (as amended and supplemented) by the Bureau of the Fiscal Service, U.S. Department of the Treasury. A bond signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual's authority to bind the surety. The evidence of authority must show that it is effective on the date the agent or attorney-in-fact signed the accompanying bond.
- D. Contractor shall obtain the required bonds from surety companies that are duly licensed or authorized, in the state or jurisdiction in which the Project is located, to issue bonds in the required amounts.
- E. If the surety on a bond furnished by Contractor is declared bankrupt or becomes insolvent, or the surety ceases to meet the requirements above, then Contractor shall promptly notify Owner and Engineer in writing and shall, within 20 days after the event giving rise to such notification, provide another bond and surety, both of which must comply with the bond and surety requirements above.
- F. If Contractor has failed to obtain a required bond, Owner may exclude the Contractor from the Site and exercise Owner's termination rights under Article 16.
- G. Upon request to Owner from any Subcontractor, Supplier, or other person or entity claiming to have furnished labor, services, materials, or equipment used in the performance of the Work, Owner shall provide a copy of the payment bond to such person or entity.
- H. Upon request to Contractor from any Subcontractor, Supplier, or other person or entity claiming to have furnished labor, services, materials, or equipment used in the performance of the Work, Contractor shall provide a copy of the payment bond to such person or entity.

6.02 *Insurance—General Provisions*

- A. Owner and Contractor shall obtain and maintain insurance as required in this article and in the Supplementary Conditions.

See SC-6.02

- B. All insurance required by the Contract to be purchased and maintained by Owner or Contractor shall be obtained from insurance companies that are duly licensed or authorized in the state or jurisdiction in which the Project is located to issue insurance policies for the required limits and coverages. Unless a different standard is indicated in the Supplementary Conditions, all companies that provide insurance policies required under this Contract shall have an A.M. Best rating of A-VII or better.
- C. Alternative forms of insurance coverage, including but not limited to self-insurance and "Occupational Accident and Excess Employer's Indemnity Policies," are not sufficient to meet the insurance requirements of this Contract, unless expressly allowed in the Supplementary Conditions.
- D. Contractor shall deliver to Owner, with copies to each additional insured identified in the Contract, certificates of insurance and endorsements establishing that Contractor has obtained and is maintaining the policies and coverages required by the Contract. Upon request by Owner or any other insured, Contractor shall also furnish other evidence of such required insurance, including but not limited to copies of policies, documentation of applicable self-insured retentions (if allowed) and deductibles, full disclosure of all relevant exclusions, and evidence of insurance required to be purchased and maintained by Subcontractors or Suppliers. In any documentation furnished under this provision, Contractor, Subcontractors, and Suppliers may block out (redact) (1) any confidential premium or pricing information and (2) any wording specific to a project or jurisdiction other than those applicable to this Contract.
- E. Owner shall deliver to Contractor, with copies to each additional insured identified in the Contract, certificates of insurance and endorsements establishing that Owner has obtained and is maintaining the policies and coverages required of Owner by the Contract (if any). Upon request by Contractor or any other insured, Owner shall also provide other evidence of such required insurance (if any), including but not limited to copies of policies, documentation of applicable self-insured retentions (if allowed) and deductibles, and full disclosure of all relevant exclusions. In any documentation furnished under this provision, Owner may block out (redact) (1) any confidential premium or pricing information and (2) any wording specific to a project or jurisdiction other than those relevant to this Contract.
- F. Failure of Owner or Contractor to demand such certificates or other evidence of the other party's full compliance with these insurance requirements, or failure of Owner or Contractor to identify a deficiency in compliance from the evidence provided, will not be construed as a waiver of the other party's obligation to obtain and maintain such insurance.
- G. In addition to the liability insurance required to be provided by Contractor, the Owner, at Owner's option, may purchase and maintain Owner's own liability insurance. Owner's liability policies, if any, operate separately and independently from policies required to be provided by Contractor, and Contractor cannot rely upon Owner's liability policies for any of Contractor's obligations to the Owner, Engineer, or third parties.
- H. Contractor shall require:
 - 1. Subcontractors to purchase and maintain worker's compensation, commercial general liability, and other insurance that is appropriate for their participation in the Project, and to name as additional insureds Owner and Engineer (and any other individuals or entities

identified in the Supplementary Conditions as additional insureds on Contractor's liability policies) on each Subcontractor's commercial general liability insurance policy; and

2. Suppliers to purchase and maintain insurance that is appropriate for their participation in the Project.
 - I. If either party does not purchase or maintain the insurance required of such party by the Contract, such party shall notify the other party in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage.
 - J. If Contractor has failed to obtain and maintain required insurance, Contractor's entitlement to enter or remain at the Site will end immediately, and Owner may impose an appropriate set-off against payment for any associated costs (including but not limited to the cost of purchasing necessary insurance coverage), and exercise Owner's termination rights under Article 16.

See SC-6.02

- L. Without prejudice to any other right or remedy, if a party has failed to obtain required insurance, the other party may elect (but is in no way obligated) to obtain equivalent insurance to protect such other party's interests at the expense of the party who was required to provide such coverage, and the Contract Price will be adjusted accordingly.
- M. Owner does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect Contractor or Contractor's interests. Contractor is responsible for determining whether such coverage and limits are adequate to protect its interests, and for obtaining and maintaining any additional insurance that Contractor deems necessary.
- N. The insurance and insurance limits required herein will not be deemed as a limitation on Contractor's liability, or that of its Subcontractors or Suppliers, under the indemnities granted to Owner and other individuals and entities in the Contract or otherwise.
- O. All the policies of insurance required to be purchased and maintained under this Contract will contain a provision or endorsement that the coverage afforded will not be canceled, or renewal refused, until at least 10 days prior written notice has been given to the purchasing policyholder. Within three days of receipt of any such written notice, the purchasing policyholder shall provide a copy of the notice to each other insured and Engineer.

6.03 *Contractor's Insurance*

- A. *Required Insurance:* Contractor shall purchase and maintain Worker's Compensation, Commercial General Liability, and other insurance pursuant to the specific requirements of the Supplementary Conditions.

See SC-6.03

- B. *General Provisions:* The policies of insurance required by this Paragraph 6.03 as supplemented must:
 1. include at least the specific coverages required;
 2. be written for not less than the limits provided, or those required by Laws or Regulations, whichever is greater;

3. remain in effect at least until the Work is complete (as set forth in Paragraph 15.06.D), and longer if expressly required elsewhere in this Contract, and at all times thereafter when Contractor may be correcting, removing, or replacing defective Work as a warranty or correction obligation, or otherwise, or returning to the Site to conduct other tasks arising from the Contract;
 4. apply with respect to the performance of the Work, whether such performance is by Contractor, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable; and
 5. include all necessary endorsements to support the stated requirements.
- C. *Additional Insureds*: The Contractor's commercial general liability, automobile liability, employer's liability, umbrella or excess, pollution liability, and unmanned aerial vehicle liability policies, if required by this Contract, must:
1. include and list as additional insureds Owner and Engineer, and any individuals or entities identified as additional insureds in the Supplementary Conditions;
 2. include coverage for the respective officers, directors, members, partners, employees, and consultants of all such additional insureds;
 3. afford primary coverage to these additional insureds for all claims covered thereby (including as applicable those arising from both ongoing and completed operations);
 4. not seek contribution from insurance maintained by the additional insured; and
 5. As to commercial general liability insurance, apply to additional insureds with respect to liability caused in whole or in part by Contractor's acts or omissions, or the acts and omissions of those working on Contractor's behalf, in the performance of Contractor's operations.

See SC-6.03

6.04 *Builder's Risk and Other Property Insurance*

- A. ~~*Builder's Risk*: Unless otherwise provided in the Supplementary Conditions, Contractor shall purchase and maintain builder's risk insurance upon the Work on a completed value basis, in the amount of the Work's full insurable replacement cost (subject to such deductible amounts as may be provided in the Supplementary Conditions or required by Laws and Regulations). The specific requirements applicable to the builder's risk insurance are set forth in the Supplementary Conditions.~~

See SC-6.04

- B. *Property Insurance for Facilities of Owner Where Work Will Occur*: Owner is responsible for obtaining and maintaining property insurance covering each existing structure, building, or facility in which any part of the Work will occur, or to which any part of the Work will attach or be adjoined. Such property insurance will be written on a special perils (all-risk) form, on a replacement cost basis, providing coverage consistent with that required for the builder's risk insurance, and will be maintained until the Work is complete, as set forth in Paragraph 15.06.D.

- C. *Property Insurance for Substantially Complete Facilities:* Promptly after Substantial Completion, and before actual occupancy or use of the substantially completed Work, Owner will obtain property insurance for such substantially completed Work, and maintain such property insurance at least until the Work is complete, as set forth in Paragraph 15.06.D. Such property insurance will be written on a special perils (all-risk) form, on a replacement cost basis, and provide coverage consistent with that required for the builder's risk insurance. The builder's risk insurance may terminate upon written confirmation of Owner's procurement of such property insurance.
- D. *Partial Occupancy or Use by Owner:* If Owner will occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work, as provided in Paragraph 15.04, then Owner (directly, if it is the purchaser of the builder's risk policy, or through Contractor) will provide advance notice of such occupancy or use to the builder's risk insurer, and obtain an endorsement consenting to the continuation of coverage prior to commencing such partial occupancy or use.
- E. *Insurance of Other Property; Additional Insurance:* If the express insurance provisions of the Contract do not require or address the insurance of a property item or interest, then the entity or individual owning such property item will be responsible for insuring it. If Contractor elects to obtain other special insurance to be included in or supplement the builder's risk or property insurance policies provided under this Paragraph 6.04, it may do so at Contractor's expense.

6.05 *Property Losses; Subrogation*

- A. The builder's risk insurance policy purchased and maintained in accordance with Paragraph 6.04 (or an installation floater policy if authorized by the Supplementary Conditions), will contain provisions to the effect that in the event of payment of any loss or damage the insurer will have no rights of recovery against any insureds thereunder, or against Engineer or its consultants, or their officers, directors, members, partners, employees, agents, consultants, or subcontractors.
 - 1. Owner and Contractor waive all rights against each other and the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from any of the perils, risks, or causes of loss covered by such policies and any other property insurance applicable to the Work; and, in addition, waive all such rights against Engineer, its consultants, all individuals or entities identified in the Supplementary Conditions as builder's risk or installation floater insureds, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, under such policies for losses and damages so caused.
 - 2. None of the above waivers extends to the rights that any party making such waiver may have to the proceeds of insurance held by Owner or Contractor as trustee or fiduciary, or otherwise payable under any policy so issued.
- B. Any property insurance policy maintained by Owner covering any loss, damage, or consequential loss to Owner's existing structures, buildings, or facilities in which any part of the Work will occur, or to which any part of the Work will attach or adjoin; to adjacent structures, buildings, or facilities of Owner; or to part or all of the completed or substantially completed Work, during partial occupancy or use pursuant to Paragraph 15.04, after Substantial Completion pursuant to Paragraph 15.03, or after final payment pursuant to

Paragraph 15.06, will contain provisions to the effect that in the event of payment of any loss or damage the insurer will have no rights of recovery against any insureds thereunder, or against Contractor, Subcontractors, or Engineer, or the officers, directors, members, partners, employees, agents, consultants, or subcontractors of each and any of them, and that the insured is allowed to waive the insurer's rights of subrogation in a written contract executed prior to the loss, damage, or consequential loss.

1. Owner waives all rights against Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from fire or any of the perils, risks, or causes of loss covered by such policies.
- C. The waivers in this Paragraph 6.05 include the waiver of rights due to business interruption, loss of use, or other consequential loss extending beyond direct physical loss or damage to Owner's property or the Work caused by, arising out of, or resulting from fire or other insured peril, risk, or cause of loss.
- D. Contractor shall be responsible for assuring that each Subcontract contains provisions whereby the Subcontractor waives all rights against Owner, Contractor, all individuals or entities identified in the Supplementary Conditions as insureds, the Engineer and its consultants, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, relating to, or resulting from fire or other peril, risk, or cause of loss covered by builder's risk insurance, installation floater, and any other property insurance applicable to the Work.

6.06 *Receipt and Application of Property Insurance Proceeds*

- A. Any insured loss under the builder's risk and other policies of property insurance required by Paragraph 6.04 will be adjusted and settled with the named insured that purchased the policy. Such named insured shall act as fiduciary for the other insureds, and give notice to such other insureds that adjustment and settlement of a claim is in progress. Any other insured may state its position regarding a claim for insured loss in writing within 15 days after notice of such claim.
- B. Proceeds for such insured losses may be made payable by the insurer either jointly to multiple insureds, or to the named insured that purchased the policy in its own right and as fiduciary for other insureds, subject to the requirements of any applicable mortgage clause. A named insured receiving insurance proceeds under the builder's risk and other policies of insurance required by Paragraph 6.04 shall maintain such proceeds in a segregated account, and distribute such proceeds in accordance with such agreement as the parties in interest may reach, or as otherwise required under the dispute resolution provisions of this Contract or applicable Laws and Regulations.
- C. If no other special agreement is reached, Contractor shall repair or replace the damaged Work, using allocated insurance proceeds.

ARTICLE 7—CONTRACTOR’S RESPONSIBILITIES

7.01 *Contractor’s Means and Methods of Construction*

- A. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction.
- B. If the Contract Documents note, or Contractor determines, that professional engineering or other design services are needed to carry out Contractor’s responsibilities for construction means, methods, techniques, sequences, and procedures, or for Site safety, then Contractor shall cause such services to be provided by a properly licensed design professional, at Contractor’s expense. Such services are not Owner-delegated professional design services under this Contract, and neither Owner nor Engineer has any responsibility with respect to (1) Contractor’s determination of the need for such services, (2) the qualifications or licensing of the design professionals retained or employed by Contractor, (3) the performance of such services, or (4) any errors, omissions, or defects in such services.

See SC-7.01C

7.02 *Supervision and Superintendence*

- A. Contractor shall supervise, inspect, and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents.
- B. At all times during the progress of the Work, Contractor shall assign a competent resident superintendent who will not be replaced without written notice to Owner and Engineer except under extraordinary circumstances.

7.03 *Labor; Working Hours*

- A. Contractor shall provide competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. Contractor shall maintain good discipline and order at the Site.
- B. Contractor shall be fully responsible to Owner and Engineer for all acts and omissions of Contractor’s employees; of Suppliers and Subcontractors, and their employees; and of any other individuals or entities performing or furnishing any of the Work, just as Contractor is responsible for Contractor’s own acts and omissions.
- C. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site will be performed during regular working hours, Monday through Friday. Contractor will not perform Work on a Saturday, Sunday, or any legal holiday. Contractor may perform Work outside regular working hours or on Saturdays, Sundays, or legal holidays only with Owner’s written consent, which will not be unreasonably withheld.

7.04 *Services, Materials, and Equipment*

- A. Unless otherwise specified in the Contract Documents, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the

performance, testing, start up, and completion of the Work, whether or not such items are specifically called for in the Contract Documents.

- B. All materials and equipment incorporated into the Work must be new and of good quality, except as otherwise provided in the Contract Documents. All special warranties and guarantees required by the Specifications will expressly run to the benefit of Owner. If required by Engineer, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment.
- C. All materials and equipment must be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise may be provided in the Contract Documents.

See SC-7.04

7.05 "Or Equals"

- A. *Contractor's Request; Governing Criteria:* Whenever an item of equipment or material is specified or described in the Contract Documents by using the names of one or more proprietary items or specific Suppliers, the Contract Price has been based upon Contractor furnishing such item as specified. The specification or description of such an item is intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or is followed by words reading that no like, equivalent, or "or equal" item is permitted, Contractor may request that Engineer authorize the use of other items of equipment or material, or items from other proposed Suppliers, under the circumstances described below.
 - 1. If Engineer in its sole discretion determines that an item of equipment or material proposed by Contractor is functionally equal to that named and sufficiently similar so that no change in related Work will be required, Engineer will deem it an "or equal" item. For the purposes of this paragraph, a proposed item of equipment or material will be considered functionally equal to an item so named if:
 - a. in the exercise of reasonable judgment Engineer determines that the proposed item:
 - 1) is at least equal in materials of construction, quality, durability, appearance, strength, and design characteristics;
 - 2) will reliably perform at least equally well the function and achieve the results imposed by the design concept of the completed Project as a functioning whole;
 - 3) has a proven record of performance and availability of responsive service; and
 - 4) is not objectionable to Owner.
 - b. Contractor certifies that, if the proposed item is approved and incorporated into the Work:
 - 1) there will be no increase in cost to the Owner or increase in Contract Times; and
 - 2) the item will conform substantially to the detailed requirements of the item named in the Contract Documents.
- B. *Contractor's Expense:* Contractor shall provide all data in support of any proposed "or equal" item at Contractor's expense.

- C. *Engineer's Evaluation and Determination:* Engineer will be allowed a reasonable time to evaluate each "or-equal" request. Engineer may require Contractor to furnish additional data about the proposed "or-equal" item. Engineer will be the sole judge of acceptability. No "or-equal" item will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an "or-equal," which will be evidenced by an approved Shop Drawing or other written communication. Engineer will advise Contractor in writing of any negative determination.
- D. *Effect of Engineer's Determination:* Neither approval nor denial of an "or-equal" request will result in any change in Contract Price. The Engineer's denial of an "or-equal" request will be final and binding, and may not be reversed through an appeal under any provision of the Contract.
- E. *Treatment as a Substitution Request:* If Engineer determines that an item of equipment or material proposed by Contractor does not qualify as an "or-equal" item, Contractor may request that Engineer consider the item a proposed substitute pursuant to Paragraph 7.06.

7.06 *Substitutes*

- A. *Contractor's Request; Governing Criteria:* Unless the specification or description of an item of equipment or material required to be furnished under the Contract Documents contains or is followed by words reading that no substitution is permitted, Contractor may request that Engineer authorize the use of other items of equipment or material under the circumstances described below. To the extent possible such requests must be made before commencement of related construction at the Site.
 - 1. Contractor shall submit sufficient information as provided below to allow Engineer to determine if the item of material or equipment proposed is functionally equivalent to that named and an acceptable substitute therefor. Engineer will not accept requests for review of proposed substitute items of equipment or material from anyone other than Contractor.
 - 2. The requirements for review by Engineer will be as set forth in Paragraph 7.06.B, as supplemented by the Specifications, and as Engineer may decide is appropriate under the circumstances.
 - 3. Contractor shall make written application to Engineer for review of a proposed substitute item of equipment or material that Contractor seeks to furnish or use. The application:
 - a. will certify that the proposed substitute item will:
 - 1) perform adequately the functions and achieve the results called for by the general design;
 - 2) be similar in substance to the item specified; and
 - 3) be suited to the same use as the item specified.
 - b. will state:
 - 1) the extent, if any, to which the use of the proposed substitute item will necessitate a change in Contract Times;
 - 2) whether use of the proposed substitute item in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract

- with Owner for other work on the Project) to adapt the design to the proposed substitute item; and
- 3) whether incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty.
- c. will identify:
 - 1) all variations of the proposed substitute item from the item specified; and
 - 2) available engineering, sales, maintenance, repair, and replacement services.
 - d. will contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including but not limited to changes in Contract Price, shared savings, costs of redesign, and claims of other contractors affected by any resulting change.
- B. *Engineer's Evaluation and Determination:* Engineer will be allowed a reasonable time to evaluate each substitute request, and to obtain comments and direction from Owner. Engineer may require Contractor to furnish additional data about the proposed substitute item. Engineer will be the sole judge of acceptability. No substitute will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an acceptable substitute. Engineer's determination will be evidenced by a Field Order or a proposed Change Order accounting for the substitution itself and all related impacts, including changes in Contract Price or Contract Times. Engineer will advise Contractor in writing of any negative determination.
- C. *Special Guarantee:* Owner may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute.
- D. *Reimbursement of Engineer's Cost:* Engineer will record Engineer's costs in evaluating a substitute proposed or submitted by Contractor. Whether or not Engineer approves a substitute so proposed or submitted by Contractor, Contractor shall reimburse Owner for the reasonable charges of Engineer for evaluating each such proposed substitute. Contractor shall also reimburse Owner for the reasonable charges of Engineer for making changes in the Contract Documents (or in the provisions of any other direct contract with Owner) resulting from the acceptance of each proposed substitute.
- E. *Contractor's Expense:* Contractor shall provide all data in support of any proposed substitute at Contractor's expense.
- F. *Effect of Engineer's Determination:* If Engineer approves the substitution request, Contractor shall execute the proposed Change Order and proceed with the substitution. The Engineer's denial of a substitution request will be final and binding, and may not be reversed through an appeal under any provision of the Contract. Contractor may challenge the scope of reimbursement costs imposed under Paragraph 7.06.D, by timely submittal of a Change Proposal.

7.07 Concerning Subcontractors and Suppliers

- A. Contractor may retain Subcontractors and Suppliers for the performance of parts of the Work. Such Subcontractors and Suppliers must be acceptable to Owner. The Contractor's retention of a Subcontractor or Supplier for the performance of parts of the Work will not relieve

Contractor's obligation to Owner to perform and complete the Work in accordance with the Contract Documents.

See SC-7.07

- B. Contractor shall retain specific Subcontractors and Suppliers for the performance of designated parts of the Work if required by the Contract to do so.
- C. Subsequent to the submittal of Contractor's Bid or final negotiation of the terms of the Contract, Owner may not require Contractor to retain any Subcontractor or Supplier to furnish or perform any of the Work against which Contractor has reasonable objection.
- D. Prior to entry into any binding subcontract or purchase order, Contractor shall submit to Owner the identity of the proposed Subcontractor or Supplier (unless Owner has already deemed such proposed Subcontractor or Supplier acceptable during the bidding process or otherwise). Such proposed Subcontractor or Supplier shall be deemed acceptable to Owner unless Owner raises a substantive, reasonable objection within 5 days.
- E. Owner may require the replacement of any Subcontractor or Supplier. Owner also may require Contractor to retain specific replacements; provided, however, that Owner may not require a replacement to which Contractor has a reasonable objection. If Contractor has submitted the identity of certain Subcontractors or Suppliers for acceptance by Owner, and Owner has accepted it (either in writing or by failing to make written objection thereto), then Owner may subsequently revoke the acceptance of any such Subcontractor or Supplier so identified solely on the basis of substantive, reasonable objection after due investigation. Contractor shall submit an acceptable replacement for the rejected Subcontractor or Supplier.
- F. If Owner requires the replacement of any Subcontractor or Supplier retained by Contractor to perform any part of the Work, then Contractor shall be entitled to an adjustment in Contract Price or Contract Times, with respect to the replacement; and Contractor shall initiate a Change Proposal for such adjustment within 30 days of Owner's requirement of replacement.
- G. No acceptance by Owner of any such Subcontractor or Supplier, whether initially or as a replacement, will constitute a waiver of the right of Owner to the completion of the Work in accordance with the Contract Documents.
- H. On a monthly basis, Contractor shall submit to Engineer a complete list of all Subcontractors and Suppliers having a direct contract with Contractor, and of all other Subcontractors and Suppliers known to Contractor at the time of submittal.
- I. Contractor shall be solely responsible for scheduling and coordinating the work of Subcontractors and Suppliers.
- J. The divisions and sections of the Specifications and the identifications of any Drawings do not control Contractor in dividing the Work among Subcontractors or Suppliers, or in delineating the Work to be performed by any specific trade.
- K. All Work performed for Contractor by a Subcontractor or Supplier must be pursuant to an appropriate contractual agreement that specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract for the benefit of Owner and Engineer.

- L. Owner may furnish to any Subcontractor or Supplier, to the extent practicable, information about amounts paid to Contractor for Work performed for Contractor by the Subcontractor or Supplier.
- M. Contractor shall restrict all Subcontractors and Suppliers from communicating with Engineer or Owner, except through Contractor or in case of an emergency, or as otherwise expressly allowed in this Contract.

7.08 *Patent Fees and Royalties*

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

7.09 *Permits*

- A. Unless otherwise provided in the Contract Documents, Contractor shall obtain and pay for all construction permits, licenses, and certificates of occupancy. Owner shall assist Contractor, when necessary, in obtaining such permits and licenses. Contractor shall pay all governmental charges and inspection fees necessary for the prosecution of the Work which are applicable at the time of the submission of Contractor's Bid (or when Contractor became bound under a negotiated contract). Owner shall pay all charges of utility owners for connections for providing permanent service to the Work.

See SC-7.09

7.10 *Taxes*

- A. Contractor shall pay all sales, consumer, use, and other similar taxes required to be paid by Contractor in accordance with the Laws and Regulations of the place of the Project which are applicable during the performance of the Work.

7.11 *Laws and Regulations*

- A. Contractor shall give all notices required by and shall comply with all Laws and Regulations applicable to the performance of the Work. Neither Owner nor Engineer shall be responsible for monitoring Contractor's compliance with any Laws or Regulations.
- B. If Contractor performs any Work or takes any other action knowing or having reason to know that it is contrary to Laws or Regulations, Contractor shall bear all resulting costs and losses, and shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work or other action. It is not Contractor's responsibility to make certain that the Work described in the Contract Documents is in accordance with Laws and Regulations, but this does not relieve Contractor of its obligations under Paragraph 3.03.
- C. Owner or Contractor may give written notice to the other party of any changes after the submission of Contractor's Bid (or after the date when Contractor became bound under a negotiated contract) in Laws or Regulations having an effect on the cost or time of performance of the Work, including but not limited to changes in Laws or Regulations having an effect on procuring permits and on sales, use, value-added, consumption, and other similar taxes. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times resulting from such changes, then within 30 days of such written notice Contractor may submit a Change Proposal, or Owner may initiate a Claim.

See SC-7.11

7.12 *Record Documents*

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

7.13 *Safety and Protection*

- A. Contractor shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. Such responsibility does not relieve Subcontractors of their responsibility for the safety of persons or property in the performance of their work, nor for compliance with applicable safety Laws and Regulations.

- B. Contractor shall designate a qualified and experienced safety representative whose duties and responsibilities are the prevention of Work-related accidents and the maintenance and supervision of safety precautions and programs.
- C. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to:
 - 1. all persons on the Site or who may be affected by the Work;
 - 2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and
 - 3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, other work in progress, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.
- D. All damage, injury, or loss to any property referred to in Paragraph 7.13.C.2 or 7.13.C.3 caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by Contractor at its expense (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of Owner or Engineer or anyone employed by any of them, or anyone for whose acts any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them).
- E. Contractor shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection.
- F. Contractor shall notify Owner; the owners of adjacent property; the owners of Underground Facilities and other utilities (if the identity of such owners is known to Contractor); and other contractors and utility owners performing work at or adjacent to the Site, in writing, when Contractor knows that prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property or work in progress.
- G. Contractor shall comply with the applicable requirements of Owner's safety programs, if any. Any Owner's safety programs that are applicable to the Work are identified or included in the Supplementary Conditions or Specifications.

See SC-7.13

- H. Contractor shall inform Owner and Engineer of the specific requirements of Contractor's safety program with which Owner's and Engineer's employees and representatives must comply while at the Site.
- I. Contractor's duties and responsibilities for safety and protection will continue until all the Work is completed, Engineer has issued a written notice to Owner and Contractor in accordance with Paragraph 15.06.C that the Work is acceptable, and Contractor has left the Site (except as otherwise expressly provided in connection with Substantial Completion).

- J. Contractor's duties and responsibilities for safety and protection will resume whenever Contractor or any Subcontractor or Supplier returns to the Site to fulfill warranty or correction obligations, or to conduct other tasks arising from the Contract Documents.

7.14 *Hazard Communication Programs*

- A. Contractor shall be responsible for coordinating any exchange of safety data sheets (formerly known as material safety data sheets) or other hazard communication information required to be made available to or exchanged between or among employers at the Site in accordance with Laws or Regulations.

7.15 *Emergencies*

- A. In emergencies affecting the safety or protection of persons or the Work or property at the Site or adjacent thereto, Contractor is obligated to act to prevent damage, injury, or loss. Contractor shall give Engineer prompt written notice if Contractor believes that any significant changes in the Work or variations from the Contract Documents have been caused by an emergency, or are required as a result of Contractor's response to an emergency. If Engineer determines that a change in the Contract Documents is required because of an emergency or Contractor's response, a Work Change Directive or Change Order will be issued.

7.16 *Submittals*

A. *Shop Drawing and Sample Requirements*

1. Before submitting a Shop Drawing or Sample, Contractor shall:
 - a. review and coordinate the Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents;
 - b. determine and verify:
 - 1) all field measurements, quantities, dimensions, specified performance and design criteria, installation requirements, materials, catalog numbers, and similar information with respect to the Submittal;
 - 2) the suitability of all materials and equipment offered with respect to the indicated application, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work; and
 - 3) all information relative to Contractor's responsibilities for means, methods, techniques, sequences, and procedures of construction, and safety precautions and programs incident thereto;
 - c. confirm that the Submittal is complete with respect to all related data included in the Submittal.
2. Each Shop Drawing or Sample must bear a stamp or specific written certification that Contractor has satisfied Contractor's obligations under the Contract Documents with respect to Contractor's review of that Submittal, and that Contractor approves the Submittal.
3. With each Shop Drawing or Sample, Contractor shall give Engineer specific written notice of any variations that the Submittal may have from the requirements of the Contract Documents. This notice must be set forth in a written communication separate from the

Submittal; and, in addition, in the case of a Shop Drawing by a specific notation made on the Shop Drawing itself.

B. *Submittal Procedures for Shop Drawings and Samples:* Contractor shall label and submit Shop Drawings and Samples to Engineer for review and approval in accordance with the accepted Schedule of Submittals.

1. *Shop Drawings*

- a. Contractor shall submit the number of copies required in the Specifications.
- b. Data shown on the Shop Drawings must be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show Engineer the services, materials, and equipment Contractor proposes to provide, and to enable Engineer to review the information for the limited purposes required by Paragraph 7.16.C.

2. *Samples*

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

3. Where a Shop Drawing or Sample is required by the Contract Documents or the Schedule of Submittals, any related Work performed prior to Engineer's review and approval of the pertinent submittal will be at the sole expense and responsibility of Contractor.

C. *Engineer's Review of Shop Drawings and Samples*

1. Engineer will provide timely review of Shop Drawings and Samples in accordance with the accepted Schedule of Submittals. Engineer's review and approval will be only to determine if the items covered by the Submittals will, after installation or incorporation in the Work, comply with the requirements of the Contract Documents, and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.
2. Engineer's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction, or to safety precautions or programs incident thereto.
3. Engineer's review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.
4. Engineer's review and approval of a Shop Drawing or Sample will not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirements of Paragraph 7.16.A.3 and Engineer has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample. Engineer will document any such approved variation from the requirements of the Contract Documents in a Field Order or other appropriate Contract modification.

5. Engineer's review and approval of a Shop Drawing or Sample will not relieve Contractor from responsibility for complying with the requirements of Paragraphs 7.16.A and B.
6. Engineer's review and approval of a Shop Drawing or Sample, or of a variation from the requirements of the Contract Documents, will not, under any circumstances, change the Contract Times or Contract Price, unless such changes are included in a Change Order.
7. Neither Engineer's receipt, review, acceptance, or approval of a Shop Drawing or Sample will result in such item becoming a Contract Document.
8. Contractor shall perform the Work in compliance with the requirements and commitments set forth in approved Shop Drawings and Samples, subject to the provisions of Paragraph 7.16.C.4.

D. *Resubmittal Procedures for Shop Drawings and Samples*

1. Contractor shall make corrections required by Engineer and shall return the required number of corrected copies of Shop Drawings and submit, as required, new Samples for review and approval. Contractor shall direct specific attention in writing to revisions other than the corrections called for by Engineer on previous Submittals.
2. Contractor shall furnish required Shop Drawing and Sample submittals with sufficient information and accuracy to obtain required approval of an item with no more than two resubmittals. Engineer will record Engineer's time for reviewing a third or subsequent resubmittal of a Shop Drawing or Sample, and Contractor shall be responsible for Engineer's charges to Owner for such time. Owner may impose a set-off against payments due Contractor to secure reimbursement for such charges.
3. If Contractor requests a change of a previously approved Shop Drawing or Sample, Contractor shall be responsible for Engineer's charges to Owner for its review time, and Owner may impose a set-off against payments due Contractor to secure reimbursement for such charges, unless the need for such change is beyond the control of Contractor.

E. *Submittals Other than Shop Drawings, Samples, and Owner-Delegated Designs*

1. The following provisions apply to all Submittals other than Shop Drawings, Samples, and Owner-delegated designs:
 - a. Contractor shall submit all such Submittals to the Engineer in accordance with the Schedule of Submittals and pursuant to the applicable terms of the Contract Documents.
 - b. Engineer will provide timely review of all such Submittals in accordance with the Schedule of Submittals and return such Submittals with a notation of either Accepted or Not Accepted. Any such Submittal that is not returned within the time established in the Schedule of Submittals will be deemed accepted.
 - c. Engineer's review will be only to determine if the Submittal is acceptable under the requirements of the Contract Documents as to general form and content of the Submittal.
 - d. If any such Submittal is not accepted, Contractor shall confer with Engineer regarding the reason for the non-acceptance, and resubmit an acceptable document.

2. Procedures for the submittal and acceptance of the Progress Schedule, the Schedule of Submittals, and the Schedule of Values are set forth in Paragraphs 2.03, 2.04, and 2.05.
- F. Owner-delegated Designs: Submittals pursuant to Owner-delegated designs are governed by the provisions of Paragraph 7.19.

7.17 *Contractor's General Warranty and Guarantee*

- A. Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective. Engineer is entitled to rely on Contractor's warranty and guarantee.
- B. Owner's rights under this warranty and guarantee are in addition to, and are not limited by, Owner's rights under the correction period provisions of Paragraph 15.08. The time in which Owner may enforce its warranty and guarantee rights under this Paragraph 7.17 is limited only by applicable Laws and Regulations restricting actions to enforce such rights; provided, however, that after the end of the correction period under Paragraph 15.08:
1. Owner shall give Contractor written notice of any defective Work within 60 days of the discovery that such Work is defective; and
 2. Such notice will be deemed the start of an event giving rise to a Claim under Paragraph 12.01.B, such that any related Claim must be brought within 30 days of the notice.
- C. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:
1. abuse, or improper modification, maintenance, or operation, by persons other than Contractor, Subcontractors, Suppliers, or any other individual or entity for whom Contractor is responsible; or
 2. normal wear and tear under normal usage.
- D. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents is absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents, a release of Contractor's obligation to perform the Work in accordance with the Contract Documents, or a release of Owner's warranty and guarantee rights under this Paragraph 7.17:
1. Observations by Engineer;
 2. Recommendation by Engineer or payment by Owner of any progress or final payment;
 3. The issuance of a certificate of Substantial Completion by Engineer or any payment related thereto by Owner;
 4. Use or occupancy of the Work or any part thereof by Owner;
 5. Any review and approval of a Shop Drawing or Sample submittal;
 6. The issuance of a notice of acceptability by Engineer;
 7. The end of the correction period established in Paragraph 15.08;
 8. Any inspection, test, or approval by others; or
 9. Any correction of defective Work by Owner.

- E. If the Contract requires the Contractor to accept the assignment of a contract entered into by Owner, then the specific warranties, guarantees, and correction obligations contained in the assigned contract will govern with respect to Contractor's performance obligations to Owner for the Work described in the assigned contract.

7.18 *Indemnification*

- A. To the fullest extent permitted by Laws and Regulations, and in addition to any other obligations of Contractor under the Contract or otherwise, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, from losses, damages, costs, and judgments (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) arising from third-party claims or actions relating to or resulting from the performance or furnishing of the Work, provided that any such claim, action, loss, cost, judgment or damage is attributable to bodily injury, sickness, disease, or death, or to damage to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, but only to the extent caused by any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable.
- B. In any and all claims against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, by any employee (or the survivor or personal representative of such employee) of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 7.18.A will not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.

See SC-7.18

7.19 *Delegation of Professional Design Services*

- A. Owner may require Contractor to provide professional design services for a portion of the Work by express delegation in the Contract Documents. Such delegation will specify the performance and design criteria that such services must satisfy, and the Submittals that Contractor must furnish to Engineer with respect to the Owner-delegated design.
- B. Contractor shall cause such Owner-delegated professional design services to be provided pursuant to the professional standard of care by a properly licensed design professional, whose signature and seal must appear on all drawings, calculations, specifications, certifications, and Submittals prepared by such design professional. Such design professional must issue all certifications of design required by Laws and Regulations.
- C. If a Shop Drawing or other Submittal related to the Owner-delegated design is prepared by Contractor, a Subcontractor, or others for submittal to Engineer, then such Shop Drawing or other Submittal must bear the written approval of Contractor's design professional when submitted by Contractor to Engineer.

- D. Owner and Engineer shall be entitled to rely upon the adequacy, accuracy, and completeness of the services, certifications, and approvals performed or provided by the design professionals retained or employed by Contractor under an Owner-delegated design, subject to the professional standard of care and the performance and design criteria stated in the Contract Documents.
- E. Pursuant to this Paragraph 7.19, Engineer's review, approval, and other determinations regarding design drawings, calculations, specifications, certifications, and other Submittals furnished by Contractor pursuant to an Owner-delegated design will be only for the following limited purposes:
 - 1. Checking for conformance with the requirements of this Paragraph 7.19;
 - 2. Confirming that Contractor (through its design professionals) has used the performance and design criteria specified in the Contract Documents; and
 - 3. Establishing that the design furnished by Contractor is consistent with the design concept expressed in the Contract Documents.
- F. Contractor shall not be responsible for the adequacy of performance or design criteria specified by Owner or Engineer.
- G. Contractor is not required to provide professional services in violation of applicable Laws and Regulations.

ARTICLE 8—OTHER WORK AT THE SITE

8.01 *Other Work*

- A. In addition to and apart from the Work under the Contract Documents, the Owner may perform other work at or adjacent to the Site. Such other work may be performed by Owner's employees, or through contracts between the Owner and third parties. Owner may also arrange to have third-party utility owners perform work on their utilities and facilities at or adjacent to the Site.
- B. If Owner performs other work at or adjacent to the Site with Owner's employees, or through contracts for such other work, then Owner shall give Contractor written notice thereof prior to starting any such other work. If Owner has advance information regarding the start of any third-party utility work that Owner has arranged to take place at or adjacent to the Site, Owner shall provide such information to Contractor.
- C. Contractor shall afford proper and safe access to the Site to each contractor that performs such other work, each utility owner performing other work, and Owner, if Owner is performing other work with Owner's employees, and provide a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work.
- D. Contractor shall do all cutting, fitting, and patching of the Work that may be required to properly connect or otherwise make its several parts come together and properly integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating, or otherwise altering such work; provided, however, that Contractor may cut or alter others' work with the written consent of Engineer and the others whose work will be affected.

- E. If the proper execution or results of any part of Contractor's Work depends upon work performed by others, Contractor shall inspect such other work and promptly report to Engineer in writing any delays, defects, or deficiencies in such other work that render it unavailable or unsuitable for the proper execution and results of Contractor's Work. Contractor's failure to so report will constitute an acceptance of such other work as fit and proper for integration with Contractor's Work except for latent defects and deficiencies in such other work.
- F. The provisions of this article are not applicable to work that is performed by third-party utilities or other third-party entities without a contract with Owner, or that is performed without having been arranged by Owner. If such work occurs, then any related delay, disruption, or interference incurred by Contractor is governed by the provisions of Paragraph 4.05.C.3.

8.02 *Coordination*

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

8.03 *Legal Relationships*

- A. If, in the course of performing other work for Owner at or adjacent to the Site, the Owner's employees, any other contractor working for Owner, or any utility owner that Owner has arranged to perform work, causes damage to the Work or to the property of Contractor or its Subcontractors, or delays, disrupts, interferes with, or increases the scope or cost of the performance of the Work, through actions or inaction, then Contractor shall be entitled to an equitable adjustment in the Contract Price or the Contract Times. Contractor must submit any Change Proposal seeking an equitable adjustment in the Contract Price or the Contract Times under this paragraph within 30 days of the damaging, delaying, disrupting, or interfering event. The entitlement to, and extent of, any such equitable adjustment will take into account information (if any) regarding such other work that was provided to Contractor in the Contract Documents prior to the submittal of the Bid or the final negotiation of the terms of the Contract, and any remedies available to Contractor under Laws or Regulations concerning utility action or inaction. When applicable, any such equitable adjustment in Contract Price will be conditioned on Contractor assigning to Owner all Contractor's rights against such other contractor or utility owner with respect to the damage, delay, disruption, or interference that is the subject of the adjustment. Contractor's entitlement to an adjustment of the Contract Times or Contract Price is subject to the provisions of Paragraphs 4.05.D and 4.05.E.

- B. Contractor shall take reasonable and customary measures to avoid damaging, delaying, disrupting, or interfering with the work of Owner, any other contractor, or any utility owner performing other work at or adjacent to the Site.
1. If Contractor fails to take such measures and as a result damages, delays, disrupts, or interferes with the work of any such other contractor or utility owner, then Owner may impose a set-off against payments due Contractor, and assign to such other contractor or utility owner the Owner's contractual rights against Contractor with respect to the breach of the obligations set forth in this Paragraph 8.03.B.
 2. When Owner is performing other work at or adjacent to the Site with Owner's employees, Contractor shall be liable to Owner for damage to such other work, and for the reasonable direct delay, disruption, and interference costs incurred by Owner as a result of Contractor's failure to take reasonable and customary measures with respect to Owner's other work. In response to such damage, delay, disruption, or interference, Owner may impose a set-off against payments due Contractor.
- C. If Contractor damages, delays, disrupts, or interferes with the work of any other contractor, or any utility owner performing other work at or adjacent to the Site, through Contractor's failure to take reasonable and customary measures to avoid such impacts, or if any claim arising out of Contractor's actions, inactions, or negligence in performance of the Work at or adjacent to the Site is made by any such other contractor or utility owner against Contractor, Owner, or Engineer, then Contractor shall (1) promptly attempt to settle the claim as to all parties through negotiations with such other contractor or utility owner, or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law, and (2) indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against any such claims, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such damage, delay, disruption, or interference.

ARTICLE 9—OWNER'S RESPONSIBILITIES

9.01 *Communications to Contractor*

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

9.02 *Replacement of Engineer*

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

9.03 *Furnish Data*

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

9.04 *Pay When Due*

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

- 9.05 *Lands and Easements; Reports, Tests, and Drawings*
- A. Owner's duties with respect to providing lands and easements are set forth in Paragraph 5.01.
 - B. Owner's duties with respect to providing engineering surveys to establish reference points are set forth in Paragraph 4.03.
 - C. Article 5 refers to Owner's identifying and making available to Contractor copies of reports of explorations and tests of conditions at the Site, and drawings of physical conditions relating to existing surface or subsurface structures at the Site.
- 9.06 *Insurance*
- A. Owner's responsibilities, if any, with respect to purchasing and maintaining liability and property insurance are set forth in Article 6.
- 9.07 *Change Orders*
- A. Owner's responsibilities with respect to Change Orders are set forth in Article 11.
- 9.08 *Inspections, Tests, and Approvals*
- A. Owner's responsibility with respect to certain inspections, tests, and approvals is set forth in Paragraph 14.02.B.
- 9.09 *Limitations on Owner's Responsibilities*
- A. The Owner shall not supervise, direct, or have control or authority over, nor be responsible for, Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Owner will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.
- 9.10 *Undisclosed Hazardous Environmental Condition*
- A. Owner's responsibility in respect to an undisclosed Hazardous Environmental Condition is set forth in Paragraph 5.06.
- 9.11 *Evidence of Financial Arrangements*
- A. Upon request of Contractor, Owner shall furnish Contractor reasonable evidence that financial arrangements have been made to satisfy Owner's obligations under the Contract (including obligations under proposed changes in the Work).
- 9.12 *Safety Programs*
- A. While at the Site, Owner's employees and representatives shall comply with the specific applicable requirements of Contractor's safety programs of which Owner has been informed.
 - B. Owner shall furnish copies of any applicable Owner safety programs to Contractor.

See SC-9.12

ARTICLE 10—ENGINEER'S STATUS DURING CONSTRUCTION

10.01 *Owner's Representative*

- A. Engineer will be Owner's representative during the construction period. The duties and responsibilities and the limitations of authority of Engineer as Owner's representative during construction are set forth in the Contract.

10.02 *Visits to Site*

- A. Engineer will make visits to the Site at intervals appropriate to the various stages of construction as Engineer deems necessary in order to observe, as an experienced and qualified design professional, the progress that has been made and the quality of the various aspects of Contractor's executed Work. Based on information obtained during such visits and observations, Engineer, for the benefit of Owner, will determine, in general, if the Work is proceeding in accordance with the Contract Documents. Engineer will not be required to make exhaustive or continuous inspections on the Site to check the quality or quantity of the Work. Engineer's efforts will be directed toward providing for Owner a greater degree of confidence that the completed Work will conform generally to the Contract Documents. On the basis of such visits and observations, Engineer will keep Owner informed of the progress of the Work and will endeavor to guard Owner against defective Work.
- B. Engineer's visits and observations are subject to all the limitations on Engineer's authority and responsibility set forth in Paragraph 10.07. Particularly, but without limitation, during or as a result of Engineer's visits or observations of Contractor's Work, Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work.

10.03 *Resident Project Representative*

- A. If Owner and Engineer have agreed that Engineer will furnish a Resident Project Representative to represent Engineer at the Site and assist Engineer in observing the progress and quality of the Work, then the authority and responsibilities of any such Resident Project Representative will be as provided in the Supplementary Conditions, and limitations on the responsibilities thereof will be as provided in the Supplementary Conditions and in Paragraph 10.07.
- B. If Owner designates an individual or entity who is not Engineer's consultant, agent, or employee to represent Owner at the Site, then the responsibilities and authority of such individual or entity will be as provided in the Supplementary Conditions.

10.04 *Engineer's Authority*

- A. Engineer has the authority to reject Work in accordance with Article 14.
- B. Engineer's authority as to Submittals is set forth in Paragraph 7.16.
- C. Engineer's authority as to design drawings, calculations, specifications, certifications and other Submittals from Contractor in response to Owner's delegation (if any) to Contractor of professional design services, is set forth in Paragraph 7.19.
- D. Engineer's authority as to changes in the Work is set forth in Article 11.

E. Engineer's authority as to Applications for Payment is set forth in Article 15.

10.05 *Determinations for Unit Price Work*

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

See SC-10.05

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

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

10.07 *Limitations on Engineer's Authority and Responsibilities*

A. Neither Engineer's authority or responsibility under this Article 10 or under any other provision of the Contract, nor any decision made by Engineer in good faith either to exercise or not exercise such authority or responsibility or the undertaking, exercise, or performance of any authority or responsibility by Engineer, will create, impose, or give rise to any duty in contract, tort, or otherwise owed by Engineer to Contractor, any Subcontractor, any Supplier, any other individual or entity, or to any surety for or employee or agent of any of them.

B. Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Engineer will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.

C. Engineer will not be responsible for the acts or omissions of Contractor or of any Subcontractor, any Supplier, or of any other individual or entity performing any of the Work.

D. Engineer's review of the final Application for Payment and accompanying documentation, and all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by Contractor under Paragraph 15.06.A, will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals, that the results certified indicate compliance with the Contract Documents.

E. The limitations upon authority and responsibility set forth in this Paragraph 10.07 also apply to the Resident Project Representative, if any.

See SC-10.07

10.08 *Compliance with Safety Program*

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

ARTICLE 11—CHANGES TO THE CONTRACT

11.01 *Amending and Supplementing the Contract*

- A. The Contract may be amended or supplemented by a Change Order, a Work Change Directive, or a Field Order.
- B. If an amendment or supplement to the Contract includes a change in the Contract Price or the Contract Times, such amendment or supplement must be set forth in a Change Order.
- C. All changes to the Contract that involve (1) the performance or acceptability of the Work, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, must be supported by Engineer's recommendation. Owner and Contractor may amend other terms and conditions of the Contract without the recommendation of the Engineer.

See SC-11.07

11.02 *Change Orders*

- A. Owner and Contractor shall execute appropriate Change Orders covering:
 - 1. Changes in Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive;
 - 2. Changes in Contract Price resulting from an Owner set-off, unless Contractor has duly contested such set-off;
 - 3. Changes in the Work which are: (a) ordered by Owner pursuant to Paragraph 11.05, (b) required because of Owner's acceptance of defective Work under Paragraph 14.04 or Owner's correction of defective Work under Paragraph 14.07, or (c) agreed to by the parties, subject to the need for Engineer's recommendation if the change in the Work involves the design (as set forth in the Drawings, Specifications, or otherwise) or other engineering or technical matters; and
 - 4. Changes that embody the substance of any final and binding results under: Paragraph 11.03.B, resolving the impact of a Work Change Directive; Paragraph 11.09, concerning Change Proposals; Article 12, Claims; Paragraph 13.02.D, final adjustments resulting from allowances; Paragraph 13.03.D, final adjustments relating to determination of quantities for Unit Price Work; and similar provisions.
- B. If Owner or Contractor refuses to execute a Change Order that is required to be executed under the terms of Paragraph 11.02.A, it will be deemed to be of full force and effect, as if fully executed.

11.03 *Work Change Directives*

- A. A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the modification ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order, following negotiations by the parties as to the Work Change Directive's effect, if any, on the Contract Price and Contract Times; or, if negotiations are unsuccessful, by a determination under the terms of the Contract Documents governing adjustments, expressly including Paragraph 11.07 regarding change of Contract Price.

See SC-11.03.B

- B. If Owner has issued a Work Change Directive and:
 - 1. ~~Contractor believes that an adjustment in Contract Times or Contract Price is necessary, then Contractor shall submit any Change Proposal seeking such an adjustment no later than 30 days after the completion of the Work set out in the Work Change Directive.~~
 - 2. ~~Owner believes that an adjustment in Contract Times or Contract Price is necessary, then Owner shall submit any Claim seeking such an adjustment no later than 60 days after issuance of the Work Change Directive.~~

11.04 *Field Orders*

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

11.05 *Owner-Authorized Changes in the Work*

- A. Without invalidating the Contract and without notice to any surety, Owner may, at any time or from time to time, order additions, deletions, or revisions in the Work. Changes involving the design (as set forth in the Drawings, Specifications, or otherwise) or other engineering or technical matters will be supported by Engineer's recommendation.
- B. Such changes in the Work may be accomplished by a Change Order, if Owner and Contractor have agreed as to the effect, if any, of the changes on Contract Times or Contract Price; or by a Work Change Directive. Upon receipt of any such document, Contractor shall promptly proceed with the Work involved; or, in the case of a deletion in the Work, promptly cease construction activities with respect to such deleted Work. Added or revised Work must be performed under the applicable conditions of the Contract Documents.
- C. Nothing in this Paragraph 11.05 obligates Contractor to undertake work that Contractor reasonably concludes cannot be performed in a manner consistent with Contractor's safety obligations under the Contract Documents or Laws and Regulations.

11.06 *Unauthorized Changes in the Work*

- A. Contractor shall not be entitled to an increase in the Contract Price or an extension of the Contract Times with respect to any work performed that is not required by the Contract Documents, as amended, modified, or supplemented, except in the case of an emergency as provided in Paragraph 7.15 or in the case of uncovering Work as provided in Paragraph 14.05.C.2.

11.07 *Change of Contract Price*

- A. The Contract Price may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Price must comply with the provisions of Paragraph 11.09. Any Claim for an adjustment of Contract Price must comply with the provisions of Article 12.

- B. An adjustment in the Contract Price will be determined as follows:
1. Where the Work involved is covered by unit prices contained in the Contract Documents, then by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 13.03);
 2. Where the Work involved is not covered by unit prices contained in the Contract Documents, then by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 11.07.C.2); or
 3. Where the Work involved is not covered by unit prices contained in the Contract Documents and the parties do not reach mutual agreement to a lump sum, then on the basis of the Cost of the Work (determined as provided in Paragraph 13.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 11.07.C).
- C. *Contractor's Fee*: When applicable, the Contractor's fee for overhead and profit will be determined as follows:
1. A mutually acceptable fixed fee; or
 2. If a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:
 - a. For costs incurred under Paragraphs 13.01.B.1 and 13.01.B.2, the Contractor's fee will be 15 percent;
 - b. For costs incurred under Paragraph 13.01.B.3, the Contractor's fee will be 5 percent;
 - c. Where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of Paragraphs 11.07.C.2.a and 11.07.C.2.b is that the Contractor's fee will be based on: (1) a fee of 15 percent of the costs incurred under Paragraphs 13.01.B.1 and 13.01.B.2 by the Subcontractor that actually performs the Work, at whatever tier, and (2) with respect to Contractor itself and to any Subcontractors of a tier higher than that of the Subcontractor that actually performs the Work, a fee of 5 percent of the amount (fee plus underlying costs incurred) attributable to the next lower tier Subcontractor; provided, however, that for any such subcontracted Work the maximum total fee to be paid by Owner will be no greater than 27 percent of the costs incurred by the Subcontractor that actually performs the Work;
 - d. No fee will be payable on the basis of costs itemized under Paragraphs 13.01.B.4, 13.01.B.5, and 13.01.C;
 - e. The amount of credit to be allowed by Contractor to Owner for any change which results in a net decrease in Cost of the Work will be the amount of the actual net decrease in Cost of the Work and a deduction of an additional amount equal to 5 percent of such actual net decrease in Cost of the Work; and
 - f. When both additions and credits are involved in any one change or Change Proposal, the adjustment in Contractor's fee will be computed by determining the sum of the costs in each of the cost categories in Paragraph 13.01.B (specifically, payroll costs, Paragraph 13.01.B.1; incorporated materials and equipment costs, Paragraph 13.01.B.2; Subcontract costs, Paragraph 13.01.B.3; special consultants costs, Paragraph 13.01.B.4; and other costs, Paragraph 13.01.B.5) and applying to

each such cost category sum the appropriate fee from Paragraphs 11.07.C.2.a through 11.07.C.2.e, inclusive.

See SC-11.07.D & E

11.08 *Change of Contract Times*

- A. The Contract Times may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Times must comply with the provisions of Paragraph 11.09. Any Claim for an adjustment in the Contract Times must comply with the provisions of Article 12.
- B. Delay, disruption, and interference in the Work, and any related changes in Contract Times, are addressed in and governed by Paragraph 4.05.

See SC-11.08.C

11.09 *Change Proposals*

- A. *Purpose and Content:* Contractor shall submit a Change Proposal to Engineer to request an adjustment in the Contract Times or Contract Price; contest an initial decision by Engineer concerning the requirements of the Contract Documents or relating to the acceptability of the Work under the Contract Documents; challenge a set-off against payment due; or seek other relief under the Contract. The Change Proposal will specify any proposed change in Contract Times or Contract Price, or other proposed relief, and explain the reason for the proposed change, with citations to any governing or applicable provisions of the Contract Documents. Each Change Proposal will address only one issue, or a set of closely related issues.

See SC-11.09.B

B. *Change Proposal Procedures*

1. ~~*Submittal:* Contractor shall submit each Change Proposal to Engineer within 30 days after the start of the event giving rise thereto, or after such initial decision.~~
2. ~~*Supporting Data:* The Contractor shall submit supporting data, including the proposed change in Contract Price or Contract Time (if any), to the Engineer and Owner within 15 days after the submittal of the Change Proposal.~~
 - a. Change Proposals based on or related to delay, interruption, or interference must comply with the provisions of Paragraphs 4.05.D and 4.05.E.
 - b. Change proposals related to a change of Contract Price must include full and detailed accounts of materials incorporated into the Work and labor and equipment used for the subject Work.

The supporting data must be accompanied by a written statement that the supporting data are accurate and complete, and that any requested time or price adjustment is the entire adjustment to which Contractor believes it is entitled as a result of said event.

3. *Engineer's Initial Review:* Engineer will advise Owner regarding the Change Proposal, and consider any comments or response from Owner regarding the Change Proposal. If in its discretion Engineer concludes that additional supporting data is needed before

conducting a full review and making a decision regarding the Change Proposal, then Engineer may request that Contractor submit such additional supporting data by a date specified by Engineer, prior to Engineer beginning its full review of the Change Proposal.

4. *Engineer's Full Review and Action on the Change Proposal:* Upon receipt of Contractor's supporting data (including any additional data requested by Engineer), Engineer will conduct a full review of each Change Proposal and, within 30 days after such receipt of the Contractor's supporting data, either approve the Change Proposal in whole, deny it in whole, or approve it in part and deny it in part. Such actions must be in writing, with a copy provided to Owner and Contractor. If Engineer does not take action on the Change Proposal within 30 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of Engineer's inaction the Change Proposal is deemed denied, thereby commencing the time for appeal of the denial under Article 12.
 5. *Binding Decision:* Engineer's decision is final and binding upon Owner and Contractor, unless Owner or Contractor appeals the decision by filing a Claim under Article 12.
- C. *Resolution of Certain Change Proposals:* If the Change Proposal does not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters, then Engineer will notify the parties in writing that the Engineer is unable to resolve the Change Proposal. For purposes of further resolution of such a Change Proposal, such notice will be deemed a denial, and Contractor may choose to seek resolution under the terms of Article 12.
- D. *Post-Completion:* Contractor shall not submit any Change Proposals after Engineer issues a written recommendation of final payment pursuant to Paragraph 15.06.B.

11.10 Notification to Surety

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

ARTICLE 12—CLAIMS

12.01 Claims

- A. *Claims Process:* The following disputes between Owner and Contractor are subject to the Claims process set forth in this article:
1. Appeals by Owner or Contractor of Engineer's decisions regarding Change Proposals;
 2. Owner demands for adjustments in the Contract Price or Contract Times, or other relief under the Contract Documents;
 3. Disputes that Engineer has been unable to address because they do not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters; and
 4. Subject to the waiver provisions of Paragraph 15.07, any dispute arising after Engineer has issued a written recommendation of final payment pursuant to Paragraph 15.06.B.

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See SC-12.01.B

- B. *Submittal of Claim:* ~~The party submitting a Claim shall deliver it directly to the other party to the Contract promptly (but in no event later than 30 days after the start of the event giving rise thereto; in the case of appeals regarding Change Proposals within 30 days of the decision under appeal.~~ The party submitting the Claim shall also furnish a copy to the Engineer, for its information only. The responsibility to substantiate a Claim rests with the party making the Claim. In the case of a Claim by Contractor seeking an increase in the Contract Times or Contract Price, Contractor shall certify that the Claim is made in good faith, that the supporting data are accurate and complete, and that to the best of Contractor's knowledge and belief the amount of time or money requested accurately reflects the full amount to which Contractor is entitled.
- C. *Review and Resolution:* The party receiving a Claim shall review it thoroughly, giving full consideration to its merits. The two parties shall seek to resolve the Claim through the exchange of information and direct negotiations. The parties may extend the time for resolving the Claim by mutual agreement. All actions taken on a Claim will be stated in writing and submitted to the other party, with a copy to Engineer.
- D. *Mediation*
1. At any time after initiation of a Claim, Owner and Contractor may mutually agree to mediation of the underlying dispute. The agreement to mediate will stay the Claim submittal and response process.
 2. If Owner and Contractor agree to mediation, then after 60 days from such agreement, either Owner or Contractor may unilaterally terminate the mediation process, and the Claim submittal and decision process will resume as of the date of the termination. If the mediation proceeds but is unsuccessful in resolving the dispute, the Claim submittal and decision process will resume as of the date of the conclusion of the mediation, as determined by the mediator.
 3. Owner and Contractor shall each pay one-half of the mediator's fees and costs.
- E. *Partial Approval:* If the party receiving a Claim approves the Claim in part and denies it in part, such action will be final and binding unless within 30 days of such action the other party invokes the procedure set forth in Article 17 for final resolution of disputes.
- F. *Denial of Claim:* If efforts to resolve a Claim are not successful, the party receiving the Claim may deny it by giving written notice of denial to the other party. If the receiving party does not take action on the Claim within 90 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of the inaction, the Claim is deemed denied, thereby commencing the time for appeal of the denial. A denial of the Claim will be final and binding unless within 30 days of the denial the other party invokes the procedure set forth in Article 17 for the final resolution of disputes.
- G. *Final and Binding Results:* If the parties reach a mutual agreement regarding a Claim, whether through approval of the Claim, direct negotiations, mediation, or otherwise; or if a Claim is approved in part and denied in part, or denied in full, and such actions become final and binding; then the results of the agreement or action on the Claim will be incorporated in a Change Order or other written document to the extent they affect the Contract, including the Work, the Contract Times, or the Contract Price.

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

13.01 *Cost of the Work*

- A. *Purposes for Determination of Cost of the Work:* The term Cost of the Work means the sum of all costs necessary for the proper performance of the Work at issue, as further defined below. The provisions of this Paragraph 13.01 are used for two distinct purposes:
1. To determine Cost of the Work when Cost of the Work is a component of the Contract Price, under cost-plus-fee, time-and-materials, or other cost-based terms; or
 2. When needed to determine the value of a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price. When the value of any such adjustment is determined on the basis of Cost of the Work, Contractor is entitled only to those additional or incremental costs required because of the change in the Work or because of the event giving rise to the adjustment.
- B. *Costs Included:* Except as otherwise may be agreed to in writing by Owner, costs included in the Cost of the Work will be in amounts no higher than those commonly incurred in the locality of the Project, will not include any of the costs itemized in Paragraph 13.01.C, and will include only the following items:
1. Payroll costs for employees in the direct employ of Contractor in the performance of the Work under schedules of job classifications agreed upon by Owner and Contractor in advance of the subject Work. Such employees include, without limitation, superintendents, foremen, safety managers, safety representatives, and other personnel employed full time on the Work. Payroll costs for employees not employed full time on the Work will be apportioned on the basis of their time spent on the Work. Payroll costs include, but are not limited to, salaries and wages plus the cost of fringe benefits, which include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, sick leave, and vacation and holiday pay applicable thereto. The expenses of performing Work outside of regular working hours, on Saturday, Sunday, or legal holidays, will be included in the above to the extent authorized by Owner.
 2. Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts accrue to Contractor unless Owner deposits funds with Contractor with which to make payments, in which case the cash discounts will accrue to Owner. All trade discounts, rebates, and refunds and returns from sale of surplus materials and equipment will accrue to Owner, and Contractor shall make provisions so that they may be obtained.
 3. Payments made by Contractor to Subcontractors for Work performed by Subcontractors. If required by Owner, Contractor shall obtain competitive bids from subcontractors acceptable to Owner and Contractor and shall deliver such bids to Owner, which will then determine, with the advice of Engineer, which bids, if any, will be acceptable. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work plus a fee, the Subcontractor's Cost of the Work and fee will be determined in the same manner as Contractor's Cost of the Work and fee as provided in this Paragraph 13.01.

4. Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed or retained for services specifically related to the Work.
5. Other costs consisting of the following:
 - a. The proportion of necessary transportation, travel, and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.
 - b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office, and temporary facilities at the Site, which are consumed in the performance of the Work, and cost, less market value, of such items used but not consumed which remain the property of Contractor.
 - 1) In establishing included costs for materials such as scaffolding, plating, or sheeting, consideration will be given to the actual or the estimated life of the material for use on other projects; or rental rates may be established on the basis of purchase or salvage value of such items, whichever is less. Contractor will not be eligible for compensation for such items in an amount that exceeds the purchase cost of such item.
 - c. *Construction Equipment Rental*
 - 1) Rentals of all construction equipment and machinery, and the parts thereof, in accordance with rental agreements approved by Owner as to price (including any surcharge or special rates applicable to overtime use of the construction equipment or machinery), and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs will be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts must cease when the use thereof is no longer necessary for the Work.
 - 2) Costs for equipment and machinery owned by Contractor or a Contractor-related entity will be paid at a rate shown for such equipment in the equipment rental rate book specified in the Supplementary Conditions. An hourly rate will be computed by dividing the monthly rates by 176. These computed rates will include all operating costs.
 - 3) With respect to Work that is the result of a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price ("changed Work"), included costs will be based on the time the equipment or machinery is in use on the changed Work and the costs of transportation, loading, unloading, assembly, dismantling, and removal when directly attributable to the changed Work. The cost of any such equipment or machinery, or parts thereof, must cease to accrue when the use thereof is no longer necessary for the changed Work.
 - d. Sales, consumer, use, and other similar taxes related to the Work, and for which Contractor is liable, as imposed by Laws and Regulations.
 - e. Deposits lost for causes other than negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.

- f. Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by Contractor in connection with the performance of the Work (except losses and damages within the deductible amounts of builder's risk or other property insurance established in accordance with Paragraph 6.04), provided such losses and damages have resulted from causes other than the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses include settlements made with the written consent and approval of Owner. No such losses, damages, and expenses will be included in the Cost of the Work for the purpose of determining Contractor's fee.
 - g. The cost of utilities, fuel, and sanitary facilities at the Site.
 - h. Minor expenses such as communication service at the Site, express and courier services, and similar petty cash items in connection with the Work.
 - i. The costs of premiums for all bonds and insurance that Contractor is required by the Contract Documents to purchase and maintain.
- C. *Costs Excluded:* The term Cost of the Work does not include any of the following items:
- 1. Payroll costs and other compensation of Contractor's officers, executives, principals, general managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, 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. The cost of purchasing, renting, or furnishing small tools and hand tools.
 - 3. Expenses of Contractor's principal and branch offices other than Contractor's office at the Site.
 - 4. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.
 - 5. Costs due to the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property.
 - 6. Expenses incurred in preparing and advancing Claims.
 - 7. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraph 13.01.B.
- D. *Contractor's Fee*
- 1. When the Work as a whole is performed on the basis of cost-plus-a-fee, then:
 - a. Contractor's fee for the Work set forth in the Contract Documents as of the Effective Date of the Contract will be determined as set forth in the Agreement.

- b. for any Work covered by a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price on the basis of Cost of the Work, Contractor's fee will be determined as follows:
 - 1) When the fee for the Work as a whole is a percentage of the Cost of the Work, the fee will automatically adjust as the Cost of the Work changes.
 - 2) When the fee for the Work as a whole is a fixed fee, the fee for any additions or deletions will be determined in accordance with Paragraph 11.07.C.2.
- 2. When the Work as a whole is performed on the basis of a stipulated sum, or any other basis other than cost-plus-a-fee, then Contractor's fee for any Work covered by a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price on the basis of Cost of the Work will be determined in accordance with Paragraph 11.07.C.2.
- E. *Documentation and Audit*: Whenever the Cost of the Work for any purpose is to be determined pursuant to this Article 13, Contractor and pertinent Subcontractors will establish and maintain records of the costs in accordance with generally accepted accounting practices. Subject to prior written notice, Owner will be afforded reasonable access, during normal business hours, to all Contractor's accounts, records, books, correspondence, instructions, drawings, receipts, vouchers, memoranda, and similar data relating to the Cost of the Work and Contractor's fee. Contractor shall preserve all such documents for a period of three years after the final payment by Owner. Pertinent Subcontractors will afford such access to Owner, and preserve such documents, to the same extent required of Contractor.

13.02 Allowances

- A. It is understood that Contractor has included in the Contract Price all allowances so named in the Contract Documents and shall cause the Work so covered to be performed for such sums and by such persons or entities as may be acceptable to Owner and Engineer.
- B. *Cash Allowances*: Contractor agrees that:
 - 1. the cash allowances include the cost to Contractor (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the Site, and all applicable taxes; and
 - 2. Contractor's costs for unloading and handling on the Site, labor, installation, overhead, profit, and other expenses contemplated for the cash allowances have been included in the Contract Price and not in the allowances, and no demand for additional payment for any of the foregoing will be valid.
- C. *Owner's Contingency Allowance*: Contractor agrees that an Owner's contingency allowance, if any, is for the sole use of Owner to cover unanticipated costs.
- D. Prior to final payment, an appropriate Change Order will be issued as recommended by Engineer to reflect actual amounts due Contractor for Work covered by allowances, and the Contract Price will be correspondingly adjusted.

13.03 Unit Price Work

- A. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement.

- B. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Payments to Contractor for Unit Price Work will be based on actual quantities.
- C. Each unit price will be deemed to include an amount considered by Contractor to be adequate to cover Contractor's overhead and profit for each separately identified item.
- D. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor. Engineer will review with Contractor the Engineer's preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise). Engineer's written decision thereon will be final and binding (except as modified by Engineer to reflect changed factual conditions or more accurate data) upon Owner and Contractor, and the final adjustment of Contract Price will be set forth in a Change Order, subject to the provisions of the following paragraph.
- E. *Adjustments in Unit Price*
 - 1. Contractor or Owner shall be entitled to an adjustment in the unit price with respect to an item of Unit Price Work if:
 - a. the quantity of the item of Unit Price Work performed by Contractor differs materially and significantly from the estimated quantity of such item indicated in the Agreement; and
 - b. Contractor's unit costs to perform the item of Unit Price Work have changed materially and significantly as a result of the quantity change.
 - 2. The adjustment in unit price will account for and be coordinated with any related changes in quantities of other items of Work, and in Contractor's costs to perform such other Work, such that the resulting overall change in Contract Price is equitable to Owner and Contractor.
 - 3. Adjusted unit prices will apply to all units of that item.

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

14.01 Access to Work

- A. Owner, Engineer, their consultants and other representatives and personnel of Owner, independent testing laboratories, and authorities having jurisdiction have access to the Site and the Work at reasonable times for their observation, inspection, and testing. Contractor shall provide them proper and safe conditions for such access and advise them of Contractor's safety procedures and programs so that they may comply with such procedures and programs as applicable.

14.02 Tests, Inspections, and Approvals

- A. Contractor shall give Engineer timely notice of readiness of the Work (or specific parts thereof) for all required inspections and tests, and shall cooperate with inspection and testing personnel to facilitate required inspections and tests.
- B. Owner shall retain and pay for the services of an independent inspector, testing laboratory, or other qualified individual or entity to perform all inspections and tests expressly required

by the Contract Documents to be furnished and paid for by Owner, except that costs incurred in connection with tests or inspections of covered Work will be governed by the provisions of Paragraph 14.05.

- C. If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) specifically to be inspected, tested, or approved by an employee or other representative of such public body, Contractor shall assume full responsibility for arranging and obtaining such inspections, tests, or approvals, pay all costs in connection therewith, and furnish Engineer the required certificates of inspection or approval.
- D. Contractor shall be responsible for arranging, obtaining, and paying for all inspections and tests required:
 - 1. by the Contract Documents, unless the Contract Documents expressly allocate responsibility for a specific inspection or test to Owner;
 - 2. to attain Owner's and Engineer's acceptance of materials or equipment to be incorporated in the Work;
 - 3. by manufacturers of equipment furnished under the Contract Documents;
 - 4. for testing, adjusting, and balancing of mechanical, electrical, and other equipment to be incorporated into the Work; and
 - 5. for acceptance of materials, mix designs, or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work.

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

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

14.03 Defective Work

- A. *Contractor's Obligation:* It is Contractor's obligation to assure that the Work is not defective.
- B. *Engineer's Authority:* Engineer has the authority to determine whether Work is defective, and to reject defective Work.
- C. *Notice of Defects:* Prompt written notice of all defective Work of which Owner or Engineer has actual knowledge will be given to Contractor.
- D. *Correction, or Removal and Replacement:* Promptly after receipt of written notice of defective Work, Contractor shall correct all such defective Work, whether or not fabricated, installed, or completed, or, if Engineer has rejected the defective Work, remove it from the Project and replace it with Work that is not defective.

- E. *Preservation of Warranties*: When correcting defective Work, Contractor shall take no action that would void or otherwise impair Owner's special warranty and guarantee, if any, on said Work.
- F. *Costs and Damages*: In addition to its correction, removal, and replacement obligations with respect to defective Work, Contractor shall pay all claims, costs, losses, and damages arising out of or relating to defective Work, including but not limited to the cost of the inspection, testing, correction, removal, replacement, or reconstruction of such defective Work, fines levied against Owner by governmental authorities because the Work is defective, and the costs of repair or replacement of work of others resulting from defective Work. Prior to final payment, if Owner and Contractor are unable to agree as to the measure of such claims, costs, losses, and damages resulting from defective Work, then Owner may impose a reasonable set-off against payments due under Article 15.

14.04 *Acceptance of Defective Work*

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

14.05 *Uncovering Work*

- A. Engineer has the authority to require additional inspection or testing of the Work, whether or not the Work is fabricated, installed, or completed.
- B. If any Work is covered contrary to the written request of Engineer, then Contractor shall, if requested by Engineer, uncover such Work for Engineer's observation, and then replace the covering, all at Contractor's expense.
- C. If Engineer considers it necessary or advisable that covered Work be observed by Engineer or inspected or tested by others, then Contractor, at Engineer's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as Engineer may require, that portion of the Work in question, and provide all necessary labor, material, and equipment.
 - 1. If it is found that the uncovered Work is defective, Contractor shall be responsible for all claims, costs, losses, and damages arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); and pending Contractor's full discharge of this responsibility the Owner shall be entitled to impose a reasonable set-off against payments due under Article 15.

2. If the uncovered Work is not found to be defective, Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Times, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction. If the parties are unable to agree as to the amount or extent thereof, then Contractor may submit a Change Proposal within 30 days of the determination that the Work is not defective.

14.06 *Owner May Stop the Work*

- A. If the Work is defective, or Contractor fails to supply sufficient skilled workers or suitable materials or equipment, or fails to perform the Work in such a way that the completed Work will conform to the Contract Documents, then Owner may order Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of Owner to stop the Work will not give rise to any duty on the part of Owner to exercise this right for the benefit of Contractor, any Subcontractor, any Supplier, any other individual or entity, or any surety for, or employee or agent of any of them.

14.07 *Owner May Correct Defective Work*

- A. If Contractor fails within a reasonable time after written notice from Engineer to correct defective Work, or to remove and replace defective Work as required by Engineer, then Owner may, after 7 days' written notice to Contractor, correct or remedy any such deficiency.
- B. In exercising the rights and remedies under this Paragraph 14.07, Owner shall proceed expeditiously. In connection with such corrective or remedial action, Owner may exclude Contractor from all or part of the Site, take possession of all or part of the Work and suspend Contractor's services related thereto, and incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere. Contractor shall allow Owner, Owner's representatives, agents and employees, Owner's other contractors, and Engineer and Engineer's consultants access to the Site to enable Owner to exercise the rights and remedies under this paragraph.
- C. All claims, costs, losses, and damages incurred or sustained by Owner in exercising the rights and remedies under this Paragraph 14.07 will be charged against Contractor as set-offs against payments due under Article 15. Such claims, costs, losses and damages will include but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of Contractor's defective Work.
- D. Contractor shall not be allowed an extension of the Contract Times because of any delay in the performance of the Work attributable to the exercise by Owner of Owner's rights and remedies under this Paragraph 14.07.

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

15.01 *Progress Payments*

- A. *Basis for Progress Payments:* The Schedule of Values established as provided in Article 2 will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to Engineer. Progress payments for Unit Price Work will be based on the number of units completed during the pay period, as determined under the provisions of Paragraph 13.03. Progress payments for cost-based Work will be based on Cost of the Work completed by Contractor during the pay period.

B. Applications for Payments

1. At least 20 days before the date established in the Agreement for each progress payment (but not more often than once a month), Contractor shall submit to Engineer for review an Application for Payment filled out and signed by Contractor covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents.
2. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment must also be accompanied by: (a) a bill of sale, invoice, copies of subcontract or purchase order payments, or other documentation establishing full payment by Contractor for the materials and equipment; (b) at Owner's request, documentation warranting that Owner has received the materials and equipment free and clear of all Liens; and (c) evidence that the materials and equipment are covered by appropriate property insurance, a warehouse bond, or other arrangements to protect Owner's interest therein, all of which must be satisfactory to Owner.
3. Beginning with the second Application for Payment, each Application must include an affidavit of Contractor stating that all previous progress payments received by Contractor have been applied to discharge Contractor's legitimate obligations associated with prior Applications for Payment.
4. The amount of retainage with respect to progress payments will be as stipulated in the Agreement.

C. Review of Applications

1. Engineer will, within 10 days after receipt of each Application for Payment, including each resubmittal, either indicate in writing a recommendation of payment and present the Application to Owner, or return the Application to Contractor indicating in writing Engineer's reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.
2. Engineer's recommendation of any payment requested in an Application for Payment will constitute a representation by Engineer to Owner, based on Engineer's observations of the executed Work as an experienced and qualified design professional, and on Engineer's review of the Application for Payment and the accompanying data and schedules, that to the best of Engineer's knowledge, information and belief:
 - a. the Work has progressed to the point indicated;
 - b. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, the results of any subsequent tests called for in the Contract Documents, a final determination of quantities and classifications for Unit Price Work under Paragraph 13.03, and any other qualifications stated in the recommendation); and
 - c. the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work.

3. By recommending any such payment Engineer will not thereby be deemed to have represented that:
 - a. inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in the Contract; or
 - b. there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by Owner or entitle Owner to withhold payment to Contractor.
4. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment, including final payment, will impose responsibility on Engineer:
 - a. to supervise, direct, or control the Work;
 - b. for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto;
 - c. for Contractor's failure to comply with Laws and Regulations applicable to Contractor's performance of the Work;
 - d. to make any examination to ascertain how or for what purposes Contractor has used the money paid by Owner; or
 - e. to determine that title to any of the Work, materials, or equipment has passed to Owner free and clear of any Liens.
5. Engineer may refuse to recommend the whole or any part of any payment if, in Engineer's opinion, it would be incorrect to make the representations to Owner stated in Paragraph 15.01.C.2.
6. Engineer will recommend reductions in payment (set-offs) necessary in Engineer's opinion to protect Owner from loss because:
 - a. the Work is defective, requiring correction or replacement;
 - b. the Contract Price has been reduced by Change Orders;
 - c. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;
 - d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible; or
 - e. Engineer has actual knowledge of the occurrence of any of the events that would constitute a default by Contractor and therefore justify termination for cause under the Contract Documents.

D. *Payment Becomes Due*

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

E. *Reductions in Payment by Owner*

1. In addition to any reductions in payment (set-offs) recommended by Engineer, Owner is entitled to impose a set-off against payment based on any of the following:
 - a. Claims have been made against Owner based on Contractor's conduct in the performance or furnishing of the Work, or Owner has incurred costs, losses, or damages resulting from Contractor's conduct in the performance or furnishing of the Work, including but not limited to claims, costs, losses, or damages from workplace injuries, adjacent property damage, non-compliance with Laws and Regulations, and patent infringement;
 - b. Contractor has failed to take reasonable and customary measures to avoid damage, delay, disruption, and interference with other work at or adjacent to the Site;
 - c. Contractor has failed to provide and maintain required bonds or insurance;
 - d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible;
 - e. Owner has incurred extra charges or engineering costs related to submittal reviews, evaluations of proposed substitutes, tests and inspections, or return visits to manufacturing or assembly facilities;
 - f. The Work is defective, requiring correction or replacement;
 - g. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;
 - h. The Contract Price has been reduced by Change Orders;
 - i. An event has occurred that would constitute a default by Contractor and therefore justify a termination for cause;
 - j. Liquidated or other damages have accrued as a result of Contractor's failure to achieve Milestones, Substantial Completion, or final completion of the Work;
 - k. Liens have been filed in connection with the Work, except where Contractor has delivered a specific bond satisfactory to Owner to secure the satisfaction and discharge of such Liens; or
 - l. Other items entitle Owner to a set-off against the amount recommended.
2. If Owner imposes any set-off against payment, whether based on its own knowledge or on the written recommendations of Engineer, Owner will give Contractor immediate written notice (with a copy to Engineer) stating the reasons for such action and the specific amount of the reduction, and promptly pay Contractor any amount remaining after deduction of the amount so withheld. Owner shall promptly pay Contractor the amount so withheld, or any adjustment thereto agreed to by Owner and Contractor, if Contractor remedies the reasons for such action. The reduction imposed will be binding on Contractor unless it duly submits a Change Proposal contesting the reduction.
3. Upon a subsequent determination that Owner's refusal of payment was not justified, the amount wrongfully withheld will be treated as an amount due as determined by Paragraph 15.01.D.1 and subject to interest as provided in the Agreement.

15.02 *Contractor's Warranty of Title*

- A. Contractor warrants and guarantees that title to all Work, materials, and equipment furnished under the Contract will pass to Owner free and clear of (1) all Liens and other title defects, and (2) all patent, licensing, copyright, or royalty obligations, no later than 7 days after the time of payment by Owner.

15.03 *Substantial Completion*

- A. When Contractor considers the entire Work ready for its intended use Contractor shall notify Owner and Engineer in writing that the entire Work is substantially complete and request that Engineer issue a certificate of Substantial Completion. Contractor shall at the same time submit to Owner and Engineer an initial draft of punch list items to be completed or corrected before final payment.
- B. Promptly after Contractor's notification, Owner, Contractor, and Engineer shall make an inspection of the Work to determine the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify Contractor in writing giving the reasons therefor.
- C. If Engineer considers the Work substantially complete, Engineer will deliver to Owner a preliminary certificate of Substantial Completion which will fix the date of Substantial Completion. Engineer shall attach to the certificate a punch list of items to be completed or corrected before final payment. Owner shall have 7 days after receipt of the preliminary certificate during which to make written objection to Engineer as to any provisions of the certificate or attached punch list. If, after considering the objections to the provisions of the preliminary certificate, Engineer concludes that the Work is not substantially complete, Engineer will, within 14 days after submission of the preliminary certificate to Owner, notify Contractor in writing that the Work is not substantially complete, stating the reasons therefor. If Owner does not object to the provisions of the certificate, or if despite consideration of Owner's objections Engineer concludes that the Work is substantially complete, then Engineer will, within said 14 days, execute and deliver to Owner and Contractor a final certificate of Substantial Completion (with a revised punch list of items to be completed or corrected) reflecting such changes from the preliminary certificate as Engineer believes justified after consideration of any objections from Owner.
- D. At the time of receipt of the preliminary certificate of Substantial Completion, Owner and Contractor will confer regarding Owner's use or occupancy of the Work following Substantial Completion, review the builder's risk insurance policy with respect to the end of the builder's risk coverage, and confirm the transition to coverage of the Work under a permanent property insurance policy held by Owner. Unless Owner and Contractor agree otherwise in writing, Owner shall bear responsibility for security, operation, protection of the Work, property insurance, maintenance, heat, and utilities upon Owner's use or occupancy of the Work.
- E. After Substantial Completion the Contractor shall promptly begin work on the punch list of items to be completed or corrected prior to final payment. In appropriate cases Contractor may submit monthly Applications for Payment for completed punch list items, following the progress payment procedures set forth above.

- F. Owner shall have the right to exclude Contractor from the Site after the date of Substantial Completion subject to allowing Contractor reasonable access to remove its property and complete or correct items on the punch list.

15.04 *Partial Use or Occupancy*

- A. Prior to Substantial Completion of all the Work, Owner may use or occupy any substantially completed part of the Work which has specifically been identified in the Contract Documents, or which Owner, Engineer, and Contractor agree constitutes a separately functioning and usable part of the Work that can be used by Owner for its intended purpose without significant interference with Contractor's performance of the remainder of the Work, subject to the following conditions:
1. At any time, Owner may request in writing that Contractor permit Owner to use or occupy any such part of the Work that Owner believes to be substantially complete. If and when Contractor agrees that such part of the Work is substantially complete, Contractor, Owner, and Engineer will follow the procedures of Paragraph 15.03.A through 15.03.E for that part of the Work.
 2. At any time, Contractor may notify Owner and Engineer in writing that Contractor considers any such part of the Work substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work.
 3. Within a reasonable time after either such request, Owner, Contractor, and Engineer shall make an inspection of that part of the Work to determine its status of completion. If Engineer does not consider that part of the Work to be substantially complete, Engineer will notify Owner and Contractor in writing giving the reasons therefor. If Engineer considers that part of the Work to be substantially complete, the provisions of Paragraph 15.03 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.
 4. No use or occupancy or separate operation of part of the Work may occur prior to compliance with the requirements of Paragraph 6.04 regarding builder's risk or other property insurance.

15.05 *Final Inspection*

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

15.06 *Final Payment*

A. *Application for Payment*

1. After Contractor has, in the opinion of Engineer, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of inspection, annotated record documents (as provided in Paragraph 7.12), and other documents, Contractor may make application for final payment.

2. The final Application for Payment must be accompanied (except as previously delivered) by:
 - a. all documentation called for in the Contract Documents;
 - b. consent of the surety, if any, to final payment;
 - c. satisfactory evidence that all title issues have been resolved such that title to all Work, materials, and equipment has passed to Owner free and clear of any Liens or other title defects, or will so pass upon final payment.
 - d. a list of all duly pending Change Proposals and Claims; and
 - e. complete and legally effective releases or waivers (satisfactory to Owner) of all Lien rights arising out of the Work, and of Liens filed in connection with the Work.
 3. In lieu of the releases or waivers of Liens specified in Paragraph 15.06.A.2 and as approved by Owner, Contractor may furnish receipts or releases in full and an affidavit of Contractor that: (a) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (b) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which Owner might in any way be responsible, or which might in any way result in liens or other burdens on Owner's property, have been paid or otherwise satisfied. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, Contractor may furnish a bond or other collateral satisfactory to Owner to indemnify Owner against any Lien, or Owner at its option may issue joint checks payable to Contractor and specified Subcontractors and Suppliers.
- B. *Engineer's Review of Final Application and Recommendation of Payment:* If, on the basis of Engineer's observation of the Work during construction and final inspection, and Engineer's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, Engineer is satisfied that the Work has been completed and Contractor's other obligations under the Contract have been fulfilled, Engineer will, within 10 days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of final payment and present the final Application for Payment to Owner for payment. Such recommendation will account for any set-offs against payment that are necessary in Engineer's opinion to protect Owner from loss for the reasons stated above with respect to progress payments. Otherwise, Engineer will return the Application for Payment to Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case Contractor shall make the necessary corrections and resubmit the Application for Payment.
- C. *Notice of Acceptability:* In support of its recommendation of payment of the final Application for Payment, Engineer will also give written notice to Owner and Contractor that the Work is acceptable, subject to stated limitations in the notice and to the provisions of Paragraph 15.07.
- D. *Completion of Work:* The Work is complete (subject to surviving obligations) when it is ready for final payment as established by the Engineer's written recommendation of final payment and issuance of notice of the acceptability of the Work.
- E. *Final Payment Becomes Due:* Upon receipt from Engineer of the final Application for Payment and accompanying documentation, Owner shall set off against the amount recommended by Engineer for final payment any further sum to which Owner is entitled, including but not

limited to set-offs for liquidated damages and set-offs allowed under the provisions of this Contract with respect to progress payments. Owner shall pay the resulting balance due to Contractor within 30 days of Owner's receipt of the final Application for Payment from Engineer.

15.07 *Waiver of Claims*

- A. By making final payment, Owner waives its claim or right to liquidated damages or other damages for late completion by Contractor, except as set forth in an outstanding Claim, appeal under the provisions of Article 17, set-off, or express reservation of rights by Owner. Owner reserves all other claims or rights after final payment.
- B. The acceptance of final payment by Contractor will constitute a waiver by Contractor of all claims and rights against Owner other than those pending matters that have been duly submitted as a Claim, or appealed under the provisions of Article 17.

15.08 *Correction Period*

- A. If within one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the Supplementary Conditions or the terms of any applicable special guarantee required by the Contract Documents), Owner gives Contractor written notice that any Work has been found to be defective, or that Contractor's repair of any damages to the Site or adjacent areas has been found to be defective, then after receipt of such notice of defect Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:
 - 1. correct the defective repairs to the Site or such adjacent areas;
 - 2. correct such defective Work;
 - 3. remove the defective Work from the Project and replace it with Work that is not defective, if the defective Work has been rejected by Owner, and
 - 4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others, or to other land or areas resulting from the corrective measures.
- B. Owner shall give any such notice of defect within 60 days of the discovery that such Work or repairs is defective. If such notice is given within such 60 days but after the end of the correction period, the notice will be deemed a notice of defective Work under Paragraph 7.17.B.
- C. If, after receipt of a notice of defect within 60 days and within the correction period, Contractor does not promptly comply with the terms of Owner's written instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. Contractor shall pay all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others). Contractor's failure to pay such costs, losses, and damages within 10 days of invoice from Owner will be deemed the start of an event giving rise to a Claim under Paragraph 12.01.B, such that any related Claim must be brought within 30 days of the failure to pay.