

NOTICE OF MEETING

The Special Meeting of the Incline Village General Improvement District (IVGID) Board of Trustees will be held starting at 4:30 PM on March 28, 2024 in the Boardroom, 893 Southwood Boulevard, Incline Village, Nevada.

Public comment is allowed and the public is welcome to make a public comment via telephone at (877) 853-5247 (the webinar ID will be posted to the IVGID website on the day of the meeting). The meeting will be available for viewing at <https://livestream.com/accounts/3411104>.

- A. PLEDGE OF ALLEGIANCE*
- B. ROLL CALL OF TRUSTEES*
- C. INITIAL PUBLIC COMMENTS - *Unless otherwise determined, the time limit shall be three minutes for each person wishing to make a public comment. Unless otherwise permitted by the Chair, no person shall be allowed to speak more than once on any single agenda item. Not to include comments on General Business items with scheduled public comment. The Board of Trustees may address matters brought up during public comment at the conclusion of the comment period but may not deliberate on any non-agendized item.*
- D. APPROVAL OF AGENDA *(for possible action)*
The Board of Trustees may make a motion for a flexible agenda which is defined as taking items on the agenda out of order; combining agenda items with other agenda items; removing items from the agenda; moving agenda items to an agenda of another meeting, or voting on items in a block.
-OR- The Board of Trustees may make a motion to accept and follow the agenda as submitted/posted.
- E. GENERAL BUSINESS (for possible action)
1. **SUBJECT:** Receive, Review, Discuss and File Receipt the Incline Village General Improvement District's Audited Financial Statements, Auditor's Verbal Report, and the Report on Internal Control for the Fiscal Year Ended June 30, 2023 as Presented. (Requesting Staff Member: Assistant Director of Finance Adam Cripps) – *pages 4 - 5*

Recommendation for Action: That the Board of Trustees Receive and File the Incline Village General Improvement District's Audited Financial Statements, Auditor's Verbal Report, and the Report on Internal Control for the Fiscal Year Ended June 30, 2023 as Presented.
 2. **SUBJECT:**
 1. Receive a Verbal Report on the Board-Appointed Liaisons to Construction and to Beaches for the Beach House Construction and Access Projects; and, - *pages 6 – 8*
 2. Provide Direction on the Recommended Scope of Work for the Incline Beach House Access Project Related to Automated/Gated Entry and Circulation Options. (Requesting Staff Member: Interim Director of Public Works Kate Nelson). – *pages 9 – 11*

Incline Village General Improvement District

Incline Village General Improvement District is a fiscally responsible community partner which provides superior utility services and community oriented recreation programs and facilities with passion for the quality of life and our environment while investing in the Tahoe basin.

893 Southwood Boulevard, Incline Village, Nevada 89451 • (775) 832-1100 • EMAIL: info@ivgid.org

www.yourtahoeplace.com

NOTICE OF MEETING

Agenda for the Board Meeting of March 28, 2024 - Page 2

Recommendation for Action: It is recommended that the Board:

1. Receive a Verbal Report on the Board-Appointed Liaisons to Construction and to Beaches for the Beach House Construction and Access Projects; and,
 2. Provide Direction on the Recommended Scope of Work for the Incline Beach House Access Project Related to Automated/Gated Entry and Circulation Options.
3. **SUBJECT:** Review, Discuss and Approve:
1. The CMAR Construction Agreement, Contractor: Granite Construction, in the Amount of \$6,636,173.51; and, - **pages 12 - 70**
 2. Review, Discuss, and Approve the Construction Administration Services Agreement, Consultant: Jacobs Engineering, for an Amount Not to Exceed \$200,157.00 for the WRRF Storage Tank Project - 2023/24 Capital Improvement Project; Fund: Sewer; Division: Utilities; Project #2599SS2010. (Requesting Staff Member: Interim Director of Public Works Kate Nelson). - **pages 71 - 79**

Recommendation for Action: It is recommended that the Board of Trustees:

1. Approve the CMAR Construction Agreement with Granite Construction for the Effluent Storage Tank Project with a Guaranteed Maximum Price in the amount of \$6,636,173.51 (Inclusive of \$407,270.00 Owner Controlled Risk Reserve); 2023/24 Capital Improvement Project; Fund: Utilities; Division: Sewer; Project #2599SS2010; and,
2. Approve the Construction Administration Services Agreement with Jacobs Engineering for the Effluent Storage Tank Project for an Amount Not to Exceed \$200,157.00; 2023/24 Capital Improvement Project; Fund: Utilities; Division: Sewer; Project #2599SS2010; and,
3. Authorize the Chair and Secretary to Execute the CMAR Contract with Granite Construction and the Construction Administration Services Agreement with Jacobs Engineering.

F. BOARD OF TRUSTEES UPDATE

G. FINAL PUBLIC COMMENTS - Limited to a maximum of three minutes in duration.

H. ADJOURNMENT (for possible action)

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NOTICE OF MEETING

Agenda for the Board Meeting of March 28, 2024 - Page 3

CERTIFICATION OF POSTING OF THIS AGENDA

I hereby certify that on or before 9:00 AM on Monday, March 25, 2024, a copy of this agenda (IVGID Board of Trustees Session of March 28, 2024) was delivered to the post office addressed to the people who have requested to receive copies of IVGID's agendas; copies were e-mailed to those people who have requested; and a copy was posted, physically or electronically, at the following locations in accordance with Assembly Bill 213:

1. IVGID Anne Vorderbruggen Building (893 Southwood Boulevard, Incline Village, Nevada; Administrative Offices)
2. IVGID's website (www.yourtahoeplace.com/ivgid/board-of-trustees/meetings-and-agendas)
3. State of Nevada public noticing website (<https://notice.nv.gov/>)
4. IVGID's Recreation Center (980 Incline Way, Incline Village, Nevada)

Persons may request copies of all agenda Materials by contacting the District Clerk or by visiting the Administrative Offices at the address listed above.

/s/ Heidi H. White

Heidi H. White

District Clerk (e-mail: hhw@ivgid.org/phone # 775-832-1268)

IVGID Board of Trustees: Chair Sara Schmitz, Vice Chair Matthew Dent, Treasurer Raymond Tulloch, Secretary Michaela Tonking, and David Noble

Notes: Items on the agenda may be taken out of order; combined with other items; removed from the agenda; moved to the agenda of another meeting; moved to or from the Consent Calendar section; or may be voted on in a block. Items with a specific time designation will not be heard prior to the stated time, but may be heard later. Those items followed by an asterisk (*) are items on the agenda upon which the Board of Trustees will take no action. Members of the public who are disabled and require special accommodations or assistance at the meeting are requested to call IVGID at 832-1100 at least 24 hours prior to the meeting. **IVGID'S agenda packets are available at IVGID's website, www.yourtahoeplace.com; go to "Board Meetings and Agendas".**

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MEMORANDUM

TO: Board of Trustees

THROUGH: Bobby Magee, District General Manager

FROM: Adam Cripps, Assistant Director of Finance

SUBJECT: Receive, Review, Discuss and File Receipt of the Incline Village General Improvement District's Audited Financial Statements, Auditor's Verbal Report, and Report on Internal Control for the Fiscal Year Ended June 30, 2023 as Presented. (Requesting Staff Member: Assistant Director of Finance Adam Cripps)

**RELATED
DISTRICT
POLICIES,
PRACTICES,
RESOLUTIONS
OR
ORDINANCES**

LONG RANGE PRINCIPLE #3 - FINANCE

The District will ensure fiscal responsibility and sustainability of service capacities through prudent fiscal management and maintaining effective financial policies for internal controls, operating budgets, fund balances, capital improvement and debt management.

DATE: March 28, 2024

I. RECOMMENDATION

It is Recommended that the Board of Trustees Receive, Review, Discuss and File Receipt of the Incline Village General Improvement District's Audited Financial Statements, Auditor's Verbal Report, and Report on Internal Control for the Fiscal Year Ended June 30, 2023 as Presented.

II. BACKGROUND

Currently, the District is under its third extension from the State of Nevada Department of Taxation to submit an annual audited report and failure to comply with the contingencies of the extension, could lead to adverse actions taken by the State. This item serves to transmit to the Board of Trustees a report by the District's Independent Auditor, Davis Farr, LLP, on the District's audited Financial Statements and internal control for the Fiscal Year ended June 30, 2023.

III. FINANCIAL IMPACT AND BUDGET

The recommended actions will not have any impact to the current fiscal year budget.

IV. ALTERNATIVES

Choosing not to receive and file the Audited Financial Statements would result in the District becoming out of compliance with NRS 354.624, regulations regarding submission of audited financial statements.

V. ATTACHMENTS

Attachments are expected post Audit Committee meeting scheduled for Monday March 25, 2024. Documents will be provided as supplemental documents to this item prior to the meeting.

MEMORANDUM

TO: Board of Trustees

THROUGH: Bobby Magee, District General Manager

FROM: Kate Nelson, Interim Director of Public Works
Bree Waters, District Project Manager

- SUBJECT:**
1. Receive a Verbal Report on the Board-Appointed Liaisons to Construction and to Beaches for the Beach House Construction and Access Projects; and
 2. Provide Direction on the Recommended Scope of Work for the Incline Beach House Access Project Related to Automated/Gated Entry and Circulation Options

RELATED FY 2023 STRATEGIC PLAN

BUDGET INITIATIVE(S):

LONG RANGE PRINCIPLE #1 - SERVICE

The District will provide superior quality service through responsible stewardship of District resources and assets with an emphasis on the parcel owner and customer experience.

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;
13.2.0 Capital Planning Expenditures

DATE: March 28, 2024

I. RECOMMENDATION

It is recommended that the Board of Trustees:

1. Receive a Verbal Report on the Board-Appointed Liaisons to Construction and to Beaches for the Beach House Construction Access Projects; and,
2. Provide Direction on the Recommended Scope of Work for the Incline Beach House Access Project Related to Automated/Gated Entry and Circulation Options.

II. BACKGROUND

The Board identified the Incline Beach House Project (Project) in the Community Services Master Plan, as a Priority project and a Top Tier Recommendation at the January 12, 2022 (Item G.4) Board meeting. Staff brought the historical timeline of the Project to the Board on July 27, 2022 (Item H.1) and then again on February 8, 2023 (Item F.8). At the February 8, 2023, Board meeting, the Board determined there was a need for further community input. Staff returned to the Board on July 26, 2023 (Item H.1), to clarify these results and requested direction. The Board gave staff direction to release an RFQ for the Project for a Design-Build team for the 30% schematic design. The Board approved the Design-Build Contract with CORE Construction for the Incline Beach House and the Incline Beach Access Projects at the February 28, 2024 (Item G.2).

The overall project is currently budgeted as two separate projects; the Incline Beach House Project and the Beach Access Project. These two projects are planned to be combined during the 100% Design Phase contingent upon final estimates and budgeting for FY 2024/25. The Incline Beach Access Project, will be presented to the Board in its entirety at a future date. However, at the February 28, 2024 Board meeting it was stated that, at a minimum, the design would include the following:

1. Providing a way for the entrance to Incline Beach to be gated with a Radio Frequency Identification (RFID) for both pedestrians and vehicles.
2. The lanes should be configured such that there is a turnaround for being rejected.

At the Board meeting on June 28, 2023 (Item G.2), year-round access management at the beaches was discussed. However, the Board did not make a final decision on the access management of the Incline Beach entrance. Staff is recommending the entrance to Incline Beach to be gated with RFID access gates for both pedestrians and vehicles at this time.

III. BID RESULTS

Not applicable.

IV. FINANCIAL IMPACT AND BUDGET

The FY 2023/24 approved budget included \$4 Million for the Total Project Budget for the Incline Beach House Project. This budget includes programming, planning, permitting, design, and construction as well as staff time. The FY 2023/24 approved budget for the Beach Access Project is \$100,000, of which \$18,000 will be used for the 30% Schematic Design of the project.

The Total Project Budget for the Incline Beach House Access Project is currently being developed as part of the 30% Schematic Design. High level Concept

Pricing is due from the Design-Build team on April 15, 2024 to be used for budgetary purposes. The Concept Pricing will be presented to the Board at the Board Meeting on April 24, 2024.

Staff is recommending the entrance to Incline Beach to be gated with RFID access gates for both pedestrians and vehicles at this time. The design team is tasked with providing Concept Pricing for this project and requires direction from Staff in order to complete this task.

V. ALTERNATIVES

Do not install the automatic electronic gates with RFID capability and instead staff the entrance year-round. If the alternative solution is directed by the Board, Staff will need to return to the Board with updated Concept Pricing for a manned booth.

VI. BUSINESS IMPACT/BENEFIT

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

VII. ATTACHMENTS

None

MEMORANDUM

TO: Board of Trustees

THROUGH: Bobby Magee, District General Manager

FROM: Kate Nelson, Interim Director of Public Works, Hudson Klein, Principal Engineer

SUBJECT: Review, Discuss and Approve:
1. The CMAR Construction Agreement, Contractor: Granite Construction, in the Amount of \$6,636,173.51; and,
2. Review, Discuss, and Approve the Construction Administration Services Agreement, Consultant: Jacobs Engineering, for an Amount Not to Exceed \$200,157.00 for the WRRF Storage Tank Project - 2023/24 Capital Improvement Project; Fund: Sewer; Division: Utilities; Project #2599SS2010. (Requesting Staff Member: Interim Director of Public Works Kate Nelson).

RELATED STRATEGIC PLAN BUDGET 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; 13.2.0 Capital Planning Capital Expenditures;

DATE: March 28, 2024

I. RECOMMENDATION

It is recommended that the Board of Trustees:

1. Approve the CMAR Construction Agreement with Granite Construction for the Effluent Storage Tank Project with a Guaranteed Maximum Price in the amount of \$6,636,173.51 (Inclusive of \$407,270.00 Owner Controlled Risk Reserve); 2023/24 Capital Improvement Project; Fund: Utilities; Division: Sewer; Project #2599SS2010; and,

2. Approve the Construction Administration Services Agreement with Jacobs Engineering for the Effluent Storage Tank Project for an Amount Not to Exceed \$200,157.00; 2023/24 Capital Improvement Project; Fund: Utilities; Division: Sewer; Project #2599SS2010; and,

3. Authorize the Chair and Secretary to Execute the CMAR Contract with Granite Construction and the Construction Administration Services Agreement with Jacobs Engineering.

II. BACKGROUND

At the Board of Trustees meeting on January 28, 2021 (Item K.1), Granite Construction was selected as the Construction Manager at Risk (CMAR) for both the effluent export pipeline replacement project and the emergency storage pond lining project. On February 28, 2024 Staff presented a recommendation (Item G.3) for the CMAR Agreement for Granite Construction to complete construction of the two million gallon prestressed concrete storage tank at the Wastewater Resource Recovery Facility (WRRF). At this meeting, Staff presented the progression of project cost increases observed from a 30% schematic design to final guaranteed maximum price (GMP). The majority of cost increase was primarily the result of an inaccurate estimate for the tank design and construction caused by a misinterpretation by the tank manufacturer of the seismic and snow loading structural requirements; this was an overall increase of approximately \$800,000. A budget augmentation was Board approved on February 28, 2024 (Item G.3) to appropriate the additional funds required for the construction phase.

The proposed CMAR Agreement (ATTACHMENT A) follows the general form previously approved and executed for the Effluent Export Pipeline projects GMP1 and GMP2. However, for the Effluent Storage Tank Project the unused risk register funds will be 100% returned to the District; the CMAR will receive no share of unused risk and the CMAR fee has been reduced to 10%.

Jacobs Engineering has served as the design engineer since the beginning of the effluent storage project. As described at the February 28, 2024 Board meeting (Item G.3) the project scope changed from an open-water storage pond to the current concrete storage tank as a result of regulatory restrictions and operational requirements of the WRRF. The current agreement with Jacobs includes final design and bid support services and is active until March 31, 2024.

The proposed Amendment 10 (ATTACHMENT B) to the Jacobs contract continues service through the construction phase. The scope is to provide various engineering administrative and construction observation services including submittal reviews, request for information responses (design clarifications), final as-built plan preparation, and construction observations, as required. The contract has allowances for a level of support described in the amendment scope attachment and the District will be invoiced for services provided as construction progresses not to exceed the contract value of \$200,175; any difference between the contract agreement total value and actual

billed hours will be returned to the District.

III. BID RESULTS

Granite completed subcontractor bid solicitation as part of the required CMAR process in January 2024. The bid results were opened in front of Staff on January 31, 2024; the recommended selections were presented the same day and Staff agreed with the CMAR recommendations for subcontractor selection. The selected subcontractor bid results are incorporated in the total project costs table presented in Section IV - FINANCIAL IMPACT AND BUDGET.

The Construction Administration Services agreement was not solicited publicly for bid. There is no requirement for professional services to be solicited for competitive bid per NRS 332.115.1(b). As the Engineer of Record (EOR), Jacobs is the most suitable consultant to provide Construction Administration Services.

IV. FINANCIAL IMPACT AND BUDGET

Under the current CMAR delivery method, the total construction phase budget is estimated at \$7.2M; This includes the GMP cost, contract contingency, Staff time for construction and closeout periods, special inspection and materials testing (Construction Administration Services), as well as design and Staff time to date. A summary of forecasted costs is as follows:

Description	Cost Estimate
Direct Construction Costs	\$ 5,663,000
CMAR Fee	\$ 566,300
Risk Reserve	\$ 410,000
IVGID Operations Staff	\$ 38,000
IVGID Proj. Mgmt.	\$ 90,000
Engineering Construction Administration Services	\$ 200,000
Contract Contingency	\$ 190,000
Temporary SCADA	\$ 26,500
Subtotal	\$ 7,183,800
Spent to date	\$ 880,000

TOTAL	\$ 8,063,800
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The US Army Corps of Engineers (USACE) Section 595 Program Project Partnering Agreement was signed in 2023 including reimbursement of up to 75% of the project costs calculated as \$7.6M at the time of signing. This provides up to \$5.7M of reimbursement. Since the start of the project in July 2021, approximately \$880,000 has been spent in consultant fees, CMAR preconstruction, permitting, USACE funding administration, and staff management and operations time. Roughly \$745,000 of this is eligible under Section 595 Funds with \$559,000 currently submitted and in the process of reimbursement.

IVGID currently has approximately \$6.4M in the project budget inclusive of FY24 spend to date and the carry-forward approved in October 2023; this does not include the \$559,000 USACE reimbursement referenced above. The Board of Trustees authorized a budget augmentation of \$800,000 to account for the difference between the \$6.4M available and the \$7.2M forecast in order to award the construction contract and secure appropriate budget for remaining project costs.

V. ALTERNATIVES

No alternatives are offered at this time.

VI. COMMENTS

VII. BUSINESS IMPACT/BENEFIT

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

VIII. ATTACHMENTS

1. ATTACHMENT A - CMAR Agreement Effluent Storage Tank
2599SS2010_20240320
2. E.3.-1 (1)
3. ATTACHMENT B - Jacobs Amendment 10 to Effluent Storage Tank - CA Services

IX. DECISION POINTS NEEDED FROM THE BOARD OF TRUSTEES

ConsensusDocs 500**STANDARD AGREEMENT AND GENERAL CONDITIONS BETWEEN OWNER AND
CONSTRUCTION MANAGER (Where the CM is At-Risk)****TABLE OF ARTICLES**

1. AGREEMENT
2. GENERAL PROVISIONS
3. CONSTRUCTION MANAGER'S RESPONSIBILITIES
4. OWNER'S RESPONSIBILITIES
5. SUBCONTRACTS
6. TIME
7. COMPENSATION AND GUARANTEED MAXIMUM PRICE
8. COST OF THE WORK
9. CHANGES
10. PAYMENT
11. INDEMNITY, INSURANCE, AND BONDS
12. SUSPENSION, NOTICE TO CURE, AND TERMINATION
13. DISPUTE MITIGATION AND RESOLUTION
14. MISCELLANEOUS
15. CONTRACT DOCUMENTS

ARTICLE 1 AGREEMENT

IVGID Project Number 2599SS2010; Washoe County Prevailing Wage Number WA-2024-256

This Agreement is made this 28th day in March in the year 2024, by and between the

OWNER, Incline Village General Improvement District, located at 893 Southwood Boulevard in Incline Village, Nevada, and the CONSTRUCTION MANAGER, Granite Construction Company, located at 585 West Beach Street in Watsonville, California,

Tax identification number (TIN) 940519552
Contractor License No., if applicable 8079

for construction and services in connection with the following PROJECT:

IVGID Effluent Storage Tank

with the Project locations as follows:

OWNER's Wastewater Resource Recovery Facility, inclusive of tank site, 1250 Sweetwater Rd, Incline Village, Washoe County Nevada, AND

Diamond Peak lower parking lot, inclusive of casting yard, at 1210 Ski Way, Incline Village, Washoe County, Nevada.

Design Professional is Jacobs Engineering.

Owner's Representative is Hudson Klein, P.E.



Owner's On-Site Representative will be confirmed prior to the start of construction; formal written notification of the inspection team will be provided to the Construction Manager.

Construction Manager's Representative is Ryan Floyd.

ARTICLE 2 GENERAL PROVISIONS

2.1 PARTIES' RELATIONSHIP Each Party agrees to act on the basis of mutual trust, good faith, and fair dealing, and perform in an economical and timely manner. The Parties shall each endeavor to promote harmony and cooperation among all Project participants.

2.1.1 Construction Manager represents that it is an independent contractor and that it is familiar with the type of Work it is undertaking.

2.1.2 Neither Construction Manager nor any of its agents or employees shall act on behalf of or in the name of Owner except as provided in this Agreement unless authorized in writing by Owner's Representative.

2.2 ETHICS Each Party shall perform with integrity. Each shall: (a) avoid conflicts of interest, and (b) promptly disclose to the other Party any conflicts that may arise. Each Party warrants that it has not and shall not pay or receive any contingent fees or gratuities to or from the other Party, including its agents, officers, employees, Subcontractors, Suppliers, or Others to secure preferential treatment.

2.3 DESIGN PROFESSIONAL Owner, through its Design Professional, shall provide all architectural and engineering design services necessary for the completion of the Work excluding, however, (a) design services delegated to Construction Manager in accordance with §3.19, and (b) services within the construction means, methods, techniques, sequences, and procedures employed by Construction Manager, and its Subcontractors, in connection with their construction operations.

2.4 Owner shall obtain from Design Professional either a license for Construction Manager and Subcontractors to use the design documents prepared by Design Professional or ownership of the copyrights for such design documents, and shall indemnify and hold harmless Construction Manager against any suits or claims of infringement of any copyrights or licenses arising out of the use of the design documents for the Project.

2.5 DEFINITIONS

2.5.1 "Agreement" means this ConsensusDocs 500 Standard Agreement and General Conditions Between Owner and Construction Manager, as modified, and exhibits and attachments made part of this agreement upon its execution.

2.5.1.1 The following attached exhibits are a part of this Agreement:

Exhibit A: Guaranteed Maximum Price GMP proposal.

Exhibit B: State Revolving Fund Requirements

- Federal Cross-Cutters
- Certification Regarding Lobbying
- DBE Guidance to Borrowers & Contractor's Preference
- Wage Rate Requirement's including Required Site Postings & Wage Comparison Worksheet
- Federal Debarment



- Implementation of Build America, Buy America Act (BABAA) requirements under Title IX of the Infrastructure Investment and Jobs Act (“IIJA”), Pub. L. 177-58
- Public Awareness/Project Sign

2.5.2 “Business Day” means all Days, except weekends and official federal or state holidays where the Project is located.

2.5.3 A “Change Order” is a written order signed by the Parties after execution of this Agreement, indicating changes in the scope of the Work, the GMP and Date of Substantial Completion or Date of Final Completion, including substitutions proposed by Construction Manager and accepted by Owner.

2.5.4 The “Contract Documents” consist of (a) this Agreement; (b) the Exhibits to the Agreement listed in §2.5.1; (c) documents listed in §15.1 as existing contract documents; (d) drawings, specifications, addenda; (e) information furnished by Owner pursuant to §3.17.4, and (f) Change Orders, Interim Directives, and amendments issued in accordance with this Agreement.

2.5.5 “Contract Time” is the period between the Date of Commencement and the total time authorized to achieve Final Completion.

2.5.6 “Cost of the Work” means the costs and discounts specified in ARTICLE 8.

2.5.7 The “Construction Manager” is the person or entity identified in ARTICLE 1 and includes Construction Manager’s Representative.

2.5.8 “Date of Commencement” is as set forth in §6.1.

2.5.9 “Day” means a calendar day.

2.5.10 “Defective Work” is any portion of the Work that does not conform with the requirements of the Contract Documents.

2.5.11 “Design Professional” means the licensed architect or engineer, and its consultants, retained by Owner to perform design services for the Project.

2.5.12 “Final Completion” occurs on the date when Construction Manager’s obligations under this Agreement are complete and accepted by Owner and final payment becomes due and payable. This date shall be confirmed by a Certificate of Final Completion signed by the Parties.

2.5.13 “Hazardous Material” is any substance or material identified now or in the future as hazardous under the Law, or any other substance or material that may be considered hazardous or otherwise subject to statutory or regulatory requirement governing handling, disposal, or cleanup.

2.5.14 “Interim Directive” is a written order containing change to the Work directed by Owner pursuant to §9.2 and that is signed by Owner after execution of this Agreement and before Substantial Completion.

2.5.15 “Law” means federal, state, or local laws, ordinances, codes, rules, and regulations applicable to the Work with which Construction Manager must comply that are enacted as of the Agreement date.



2.5.16 "Others" means Owner's other: (a) contractors/constructors, (b) suppliers, (c) subcontractors, or suppliers of (a) and (b); and others employed directly or indirectly by (a), (b), or (c) or any by any of them or for whose acts any of them may be liable.

2.5.17 "Overhead" means (a) payroll costs, burden, and other compensation of Construction Manager's employees in Construction Manager's principal and branch offices; and (b) general and administrative expenses of Construction Manager's principal and branch offices including charges against Construction Manager for delinquent payments, and costs related to the correction of defective work

2.5.18 "Owner" is the Incline Village General Improvement District ("IVGID")

2.5.19 The "Owner's Program" is an initial description of Owner's objectives, including budgetary and time criteria, space requirements and relationships, flexibility and expandability requirements, special equipment and systems, site requirements, and any requirements for phased occupancy.

2.5.20 The "Parties" are collectively Owner and Construction Manager.

2.5.21 The "Project," as identified in ARTICLE 1, is the work of improvements for which Construction Manager is to perform Work under this Agreement. It may also include construction by Owner or Others, and all tie-in with the Storage Tank and its appurtenances.

2.5.22 The "Schedule of the Work" is the document prepared by Construction Manager that specifies the dates on which Construction Manager plans to begin and complete various parts of the Work, including dates on which information and approvals are required from Owner.

2.5.23 "Subcontractor" is a person or entity retained by Construction Manager as an independent contractor to provide the labor, materials, equipment, or services necessary to complete a specific portion of the Work. The term Subcontractor does not include Design Professional or Others.

2.5.24 "Substantial Completion" of the Work, or of a designated portion, occurs on the date when the Work is sufficiently complete in accordance with the Contract Documents so that Owner may occupy or utilize the Work, or a designated portion, for the use for which it is intended, without unapproved disruption. The issuance of a certificate of occupancy is not a prerequisite for Substantial Completion if the certificate of occupancy cannot be obtained due to factors beyond Construction Manager's control. This date shall be confirmed by a certificate of Substantial Completion signed by the Parties.

2.5.25 A "Supplier" is a person or entity retained by Construction Manager to provide material or equipment for the Work.

2.5.26 "Terrorism" means a violent act, or an act that is dangerous to human life, property, or infrastructure, that is committed by an individual or individuals and that appears to be part of an effort to coerce a civilian population or to influence the policy or affect the conduct of any government by coercion. Terrorism includes, but is not limited to, any act certified by the United States government as an act of terrorism pursuant to the Terrorism Risk Insurance Act, as amended.

2.5.27 "Work" means the construction and administrative and management services necessary or incidental to fulfill Construction Manager's obligations for the Project, in accordance with the Contract Documents, and as necessary to complete a fully functional and operational Project. The Work may refer to the whole Project or only a part of the Project.

2.5.28 "Worksite" means the areas of the Project location as identified in ARTICLE 1 where the Work is to be performed.



ARTICLE 3 CONSTRUCTION MANAGER'S RESPONSIBILITIES

3.1 GENERAL RESPONSIBILITIES

3.1.1 Construction Manager shall provide all labor, materials, equipment, and services necessary to complete the Work in accordance with the requirements of the Contract Documents, to perform the Work in a good and workmanlike manner to the satisfaction of IVGID, to prosecute the work with diligence from day to day to Final Completion, and to otherwise fulfill all of Contractor's obligations under the Contract Documents.

3.1.2 Construction Manager represents that it is an independent contractor and that it is familiar with the type of work required by this Agreement.

3.1.3 Unless the Contract Documents instruct otherwise, Construction Manager shall be responsible for the supervision and coordination of the Work, including the construction means, methods, techniques, sequences, and procedures utilized. When following construction means, methods, techniques, sequences, or procedures instructed by the Contract Documents, Construction Manager is not liable to Owner for damages resulting from compliance with such instructions, unless (a) Construction Manager recognized and (b) failed to timely report to Owner any error, inconsistency, omission, or unsafe practice that it discovered in such requirements.

3.1.4 Construction Manager shall perform Work only within locations allowed by the Contract Documents, Law, and applicable permits.

3.1.5 Construction Manager is responsible for ensuring that all Work under this Contract is completed in a satisfactory manner.

3.1.6 In connection with the performance of Work under this Contract, the Construction Manager agrees not to discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, sexual orientation, gender identity or expression, or age, including, without limitation, with regard to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including, without limitation, apprenticeship. The Construction Manager further agrees to insert this provision in all subcontracts hereunder, except subcontracts for standard commercial supplies or raw materials.

3.2 CONSTRUCTION PERSONNEL AND SUPERVISION

3.2.1 Construction Manager shall provide competent supervision for the performance of the Work. Before commencing the Work, Construction Manager shall notify Owner in writing of the name and qualifications of its proposed superintendent(s) and project manager, so Owner may review the individual's qualifications. If, for reasonable cause, Owner refuses to approve the individual, or withdraws its approval after once giving it, Construction Manager shall name a different superintendent for Owner's review. Regardless of Owners review of Construction Manager's supervising personnel's qualifications, Construction Manager bears all responsibility for ensuring that they possess the requisite fitness, skill and qualifications to perform their portions of the work.

3.2.2 Construction Manager shall be responsible to Owner for acts or omissions of Parties or entities performing portions of the Work for or on behalf of Construction Manager or any of its Subcontractors.

3.2.3 Construction Manager shall permit only fit, skilled, and, if required, licensed persons to perform the Work. Construction Manager shall enforce safety procedures, strict discipline and good order



among persons performing the Work. If Owner determines that a particular person does not follow safety procedures, or is unfit or unskilled for the assigned work, Construction Manager shall immediately replace the person on receipt of Owner's written notice to do so.

3.2.4 CONSTRUCTION MANAGER'S REPRESENTATIVE Construction Manager's authorized representative is Ryan Floyd. Construction Manager's Representative shall possess full authority to receive instructions from Owner and to act on those instructions. If Construction Manager changes its representative or their authority, Construction Manager shall immediately notify Owner in writing.

3.3 SOLICITATION OF SUBCONTRACTORS AND SUPPLIERS Construction Manager shall furnish to Owner a list of possible subcontractors from whom proposals may be requested for each principal portion of the Work. Owner shall promptly reply in writing to Construction Manager if Owner know of any objection to a subcontractor. Owner may designate specific persons or entities from whom Construction Manager shall solicit bids.

3.4 EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION Construction Manager shall consult with Owner regarding equal employment opportunity and affirmative action programs.

3.5 PERMITS Construction Manager shall assist Owner in obtaining building permits and special permits for permanent improvements, except for permits required to be obtained directly by Construction Manager.

3.5.1 CMAR shall facilitate, pay for, and abide by Washoe County building permit as applied for and submitted by Owner to Washoe County Department of Building and Safety.

3.5.2 The preparation and maintenance of the Project SWPPP, as required by any regulatory agency, shall be the responsibility of the Construction Manager.

3.6 GUARANTEED MAXIMUM PRICE (GMP)

3.6.1 Construction Manager shall prepare and submit to Owner in writing a GMP proposal. The GMP proposal shall include the sum of the estimated cost of the Work, Construction Manager's Fee, the clarifications and assumptions upon which it is based, and the Owner's Construction Contingency (Risk Register). The Owner's Construction Contingency which will be solely Owner-controlled and access to those Contingency funds will require advanced written authorization in the form of a contract change order from Owner. Construction Manager does not guarantee any specific line item provided as part of the GMP, but agrees that it will be responsible for paying all costs of completing the Work which exceed the GMP, as adjusted in accordance with Article 9 of this Agreement. In the event there are scope changes, which will be defined by changes to the contract plans or specifications, adjustments will be made in accordance with Article 9 of this Agreement. All unused allowances and contingency, not subject to an executed change order, belong to and remain with the Owner.

3.6.2 **BASIS OF GUARANTEED MAXIMUM PRICE** Construction Manager shall include with the GMP proposal a written statement of its basis, which shall include:

3.6.2.1 a list of the drawings and specifications, including all addenda, which were used in preparation of the GMP Proposal;

3.6.2.2 a list of allowances and a statement of their basis;

3.6.2.3 a list of the assumptions and clarifications made by Construction Manager in the preparation of the GMP Proposal to supplement the information contained in the drawings and specifications;



3.6.2.4 the Date of Substantial Completion or the Date of Final Completion upon which the proposed GMP is based, and the Schedule of Work upon which the Date of Substantial Completion or the Date of Final Completion is based;

3.6.2.5 a schedule of applicable alternate prices;

3.6.2.6 a schedule of applicable unit prices;

3.6.2.7 a statement of any work to be self-performed by Construction Manager.

3.6.3 Construction Manager shall meet with Owner to review the GMP proposal. If Owner discovers any inconsistencies, inaccuracies, or omissions in the information presented, they shall promptly notify Construction Manager, who shall make appropriate adjustments to the GMP proposal. Owner shall then give prompt written approval of the GMP.

3.6.4 Allowances shall include the costs of materials, supplies, and equipment delivered to the Worksite less applicable trade discounts and including requisite taxes, unloading and handling at the Worksite, and labor and installation, unless specifically stated otherwise. Construction Manager's overhead and profit for the allowances, as detailed below, shall be included in the GMP, but not in the allowances. The GMP shall be adjusted by Change Order to reflect the actual costs when they are greater than or less than the allowances.

3.6.5 PRE-GMP WORK Before Owner's acceptance of the GMP Proposal, Construction Manager shall not incur any cost to be reimbursed as part of the Cost of the Work, except as provided in this Agreement, the Parties' Preconstruction Agreement executed on February 1, 2021, or as Owner may specifically authorize in writing.

3.7 WORKMANSHIP

3.7.1 The Work shall be executed in accordance with the Contract Documents, and all applicable laws, as well as in a good and workmanlike manner. All materials used in the Work shall be furnished in sufficient quantities to facilitate the proper and expeditious execution of the Work and shall be new except as otherwise provided in the Contract Documents.

3.8 COOPERATION WITH WORK OF OWNER AND OTHERS

3.8.1 If Owner elects to perform work at the Worksite directly or by Others, the Parties shall coordinate the activities of all forces at the Worksite and agree upon fair and reasonable schedules and operational procedures for Worksite activities. Owner shall require each separate contractor to cooperate with Construction Manager and assist with the coordination of activities and the review of construction schedules and operations. The GMP or the Date of Substantial Completion or the Date of Final Completion may be equitably adjusted in accordance with this Agreement, for changes resulting from the coordination of construction activities, and the Schedule of the Work shall be revised accordingly.

3.8.2 With regard to the work of Owner and Others, Construction Manager shall (a) proceed with the Work in a manner that does not hinder, delay, or interfere with the work of Owner or Others or cause the work of Owner or Others to become defective; (b) afford Owner or Others reasonable access for introduction and storage of their materials and equipment and performance of their activities; and (c) coordinate Construction Manager's Work with theirs.



3.8.3 Before proceeding with any portion of the Work affected by the construction or operations of Owner or Others, Construction Manager shall give Owner prompt, written notification of any defects Construction Manager discovers in their work which will prevent the proper execution of the Work. Construction Manager's obligations in this subsection do not create a responsibility for the work of Owner or Others, but are for the purpose of facilitating the Work. If Construction Manager does not notify Owner of defects interfering with the performance of the Work, Construction Manager acknowledges that the work of Owner or Others is not defective and is acceptable for the proper execution of the Work. Following receipt of written notice from Construction Manager of defects, Owner shall promptly issue an Interim Directive informing Construction Manager what action, if any, Construction Manager shall take with regard to the defects.

3.9 CONTRACT DOCUMENT REVIEW AND ADMINISTRATION

3.9.1 Before commencing the Work, Construction Manager shall examine and compare the drawings and specifications with information furnished by Owner that are considered Contract Documents, relevant field measurements made by Construction Manager, and any visible conditions at the Worksite affecting the Work. Construction Manager acknowledges that it is familiar with the worksite and assumes all risks associated with or relating to the Project site and subsurface conditions regardless of the condition, cause, event or effect, and Contractor shall remain responsible and obligated to complete the Project and Work provided in the Contract Documents without extension or increase in the Contract Time or Contract Sum. In the event Owner has provided any geotechnical or soils reports or similar information, Construction Manager may rely upon such information and reports at its sole risk. Owner makes no implied or expressed representations or warranties regarding such reports or information, and has no liability or responsibility. Construction manager shall not be responsible for manmade subsurface conditions that could not be foreseen or anticipated with inspection, such as historical or cultural artifacts, burial grounds, and similar, or as otherwise agreed to in contract documents, such as, but not limited, specifications and risk register concerning hard rock excavation.

3.9.2 Should Construction Manager discover any errors, omissions, or inconsistencies in the Contract Documents, Construction Manager shall promptly report them to Owner.

3.9.3 Construction Manager shall have no liability for errors, omissions, or inconsistencies discovered under this section, unless Construction Manager knowingly fails to report a recognized problem to Owner.

3.9.4 Nothing in §3.9 shall relieve Construction Manager of responsibility for its own errors, inconsistencies, or omissions.

3.9.5 Construction Manager shall preserve all records related to the project for a period of three years after the final payment or longer where required by Law.

3.9.5.1 Construction Manager agrees to use reasonable skill and judgment in the preparation of cost estimates and Schedule of the Work.

3.10 MATERIALS FURNISHED BY OWNER OR OTHERS

3.10.1 If the Work includes installation of materials or equipment furnished by Owner or Others, it shall be the responsibility of Construction Manager to examine the items so provided and thereupon handle, store, install, and protect the items, unless otherwise provided in the Contract Documents, with such skill and care as to provide a satisfactory and proper installation. Loss or damage due to acts or omissions of Construction Manager shall be the responsibility of Construction Manager and may be deducted from any amounts due or to become due to Construction Manager. Any defects



discovered in such materials or equipment shall be reported at once to Owner. Following receipt of written notice from Construction Manager of defects, Owner shall promptly inform Construction Manager what action, if any, Construction Manager shall take with regard to the defects.

3.11 TESTS AND INSPECTIONS

3.11.1 Construction Manager shall schedule all required tests, approvals, and inspections of the Work or portions thereof at appropriate times so as not to delay the progress of the Work or other work related to the Project; prior to the start of construction, Construction Manager shall provide a written schedule of the anticipated testing frequencies to the Owner for review. Construction Manager shall give proper notice to all required Parties of such tests, approvals, and inspections. If feasible, Owner and Others may timely observe the tests at the normal place of testing. Except as provided in §3.11.2 and 3.11.6, Owner shall bear all expenses associated with tests, inspections, and approvals required by the Contract Documents;

3.11.2 Construction Manager shall pay for all expenses associated with compaction tests, scheduling of the tests, and expenses associated with these tests; and

3.11.3 Construction Manager shall pay for all expenses associated with concrete tests, scheduling of the tests, and expenses associated with these tests, including preparation, storage, transport, laboratory testing and related reports.

3.11.4 All tests shall be conducted by an independent testing laboratory or entity retained by Construction Manager. Unless otherwise required by the Contract Documents, required certificates of testing, approval, or inspection shall be secured by Construction Manager and promptly delivered to Owner.

3.11.5 If Owner or appropriate authorities determine that tests, inspections, or approvals in addition to those required by the Contract Documents will be necessary, Construction Manager shall arrange for the procedures and give timely notice to Owner and Others who may observe the procedures. Costs of the additional tests, inspections, or approvals are at Owner's expense except as provided in the subsection below.

3.11.6 If the procedures described in the subsections of 3.11 above indicate that portions of the Work fail to comply with the Contract Documents due to the negligence of Construction Manager, Construction Manager shall be responsible for the costs of investigation, uncovering the work, correction and/or retesting.

3.12 WARRANTY

3.12.1 Construction Manager warrants that all materials and equipment furnished under this Agreement will be new unless otherwise specified, of good quality, in conformance with the Contract Documents, and free from defective workmanship and materials. At Owner's request, Construction Manager shall furnish satisfactory evidence of the quality and type of materials and equipment furnished. Construction Manager further warrants that the Work shall be free from material defects not intrinsic in the design or materials required in the Contract Documents. Construction Manager's warranty does not include remedies for defects or damages caused by normal wear and tear during normal usage, use for a purpose for which the Project was not intended, improper or insufficient maintenance, or abuse. Construction Manager's warranty shall commence on the Date of Substantial Completion of the Work for a period of one (1) year.



3.12.2 With respect to any portion of Work first performed after Substantial Completion, Construction Manager's warranty obligation shall be extended by the period of time between Substantial Completion and the actual performance of the later Work.

3.12.3 Construction Manager shall obtain from its Subcontractors and Suppliers any special or extended warranties required by the Contract Documents. Construction Manager's liability for such warranties shall be limited to the one-year correction period referred to in the section immediately below. After that period Construction Manager shall provide reasonable assistance to Owner in enforcing the obligations of Subcontractors or Suppliers for such extended warranties.

3.13 CORRECTION OF WORK WITHIN ONE YEAR

3.13.1 If before Final Completion or within one year after the date of Substantial Completion of the Work any Defective Work is found, Owner shall promptly notify Construction Manager in writing. Unless Owner provides written acceptance of the condition, Construction Manager shall promptly correct the Defective Work at its own cost and time and bear the expense of additional services required for correction and inspection of any Defective Work for which it is responsible. If within the one-year correction period Owner discovers and does not notify Construction Manager or give Construction Manager an opportunity to test or correct Defective Work as reasonably requested by Construction Manager, Owner waives Construction Manager's obligation to correct that Defective Work as well as Owner's right to claim a breach of the warranty with respect to that Defective Work.

3.13.2 With respect to any portion of Work first performed after Substantial Completion, the one-year correction period shall commence when that portion of the Work is substantially complete. Correction periods shall not be extended by corrective work performed by Construction Manager.

3.13.3 If Construction Manager fails to correct Defective Work within a reasonable time after receipt of written notice from Owner before final payment, Owner may correct it in accordance with Owner's right to carry out the Work. In such case, an appropriate Change Order shall be issued deducting the cost of correcting the Defective Work from payments then or thereafter due Construction Manager. If payments then or thereafter due Construction Manager are not sufficient to cover such amounts, Construction Manager shall pay the difference to Owner.

3.13.4 Construction Manager's obligations and liability, if any, with respect to any Defective Work discovered after the one-year correction period shall be determined by the Law. If, after the one-year correction period but before the applicable limitation period has expired, Owner discovers any Work which Owner considers Defective Work, Owner shall, unless the Defective Work requires emergency correction, promptly notify Construction Manager and allow Construction Manager an opportunity to correct the Work if Construction Manager elects to do so. If Construction Manager elects to correct the Work it shall provide written notice of such intent within fourteen (14) Days of its receipt of notice from Owner and shall complete the correction of Work within a mutually agreed timeframe. If Construction Manager does not elect to correct the Work, Owner may have the Work corrected by itself or Others, and, if Owner intends to seek recovery of those costs from Construction Manager, Owner shall promptly provide Construction Manager with an accounting of the actual correction costs.

3.13.5 If Construction Manager's correction or removal of Defective Work causes damage to or destroys other completed or partially completed work or existing building, Construction Manager shall be responsible for the cost of correcting the destroyed or damaged property.

3.13.6 The one-year period for correction of Defective Work does not constitute a limitation period with respect to the enforcement of Construction Manager's other obligations under the Contract Documents.



3.13.7 Before final payment, at Owner's option and with Construction Manager's agreement, Owner may elect to accept Defective Work rather than require its removal and correction. In such cases the GMP shall be equitably adjusted for any reasonable diminution in the value of the Project caused by such Defective Work.

3.14 CORRECTION OF COVERED WORK

3.14.1 Upon issuance of an Interim Directive, Work that has been covered without a requirement that it be inspected before being covered may be uncovered for Owner's inspection. Owner shall pay for the costs of uncovering and replacement if the Work proves to be in conformance with the Contract Documents, or if the defective condition was caused by Owner or Others. If the uncovered Work proves to be defective, Construction Manager shall pay the costs of uncovering and replacement.

3.14.2 If any Work is covered contrary to requirements in the Contract Documents, Owner may issue an Interim Directive to uncover the Work for Owner's observation and re-cover the Work all at Construction Manager's expense. In this circumstance the Work shall be replaced at Construction Manager's expense and with no adjustment to the Dates of Substantial or Final Completion.

3.15 SAFETY OF PERSONS AND PROPERTY

3.15.1 SAFETY PROGRAMS Construction Manager holds overall responsibility for safety programs. However, such obligation does not relieve Subcontractors of their safety responsibilities and to comply with the Law. Construction Manager shall prevent against injury, loss, or damage to persons or property by taking reasonable steps to protect: (a) its employees and other persons at the Worksite; (b) materials and equipment stored at onsite or offsite locations for use in performing the Work; and (c) property located at the Worksite and adjacent to work areas, whether or not the property is part of the Worksite.

3.15.2 CONSTRUCTION MANAGER'S SAFETY REPRESENTATIVE Construction Manager shall designate an individual at the Worksite in its employ as its safety representative. Unless otherwise identified by Construction Manager in writing to Owner, Construction Manager's project superintendent shall serve as its safety representative. Construction Manager shall report promptly in writing all recordable accidents and injuries occurring at the Worksite. When Construction Manager is required to file an accident report with a public authority, Construction Manager shall furnish a copy of the report to Owner.

3.15.3 Construction Manager shall provide Owner with copies of all notices required of Construction Manager by the Law. Construction Manager's safety program shall comply with the requirements of governmental and quasi-governmental authorities having jurisdiction.

Damage or loss not insured under property insurance that may arise from the Work, to the extent caused by negligent or intentionally wrongful acts or omissions of Construction Manager, or anyone for whose acts Construction Manager may be liable, shall be promptly remedied by Construction Manager.

3.15.4 If Owner deems any part of the Work or Worksite unsafe, Owner, without assuming responsibility for Construction Manager's safety program, may require by Interim Directive Construction Manager to stop performance of the Work, take corrective measures satisfactory to Owner, or both. If Construction Manager does not adopt corrective measures, Owner may perform them and deduct their cost from the GMP. Construction Manager agrees to make no claim for damages, or an increase in the GMP or for a change in the Dates of Substantial or Final Completion, based on Construction Manager's compliance with Owner's reasonable request.



3.16 EMERGENCIES In an emergency affecting the safety of persons or property, Construction Manager shall act in a reasonable manner to prevent threatened damage, injury, or loss. If appropriate, an equitable adjustment in GMP or Date of Substantial Completion or Date of Final Completion shall be determined as provided for in ARTICLE 9.

3.17 HAZARDOUS MATERIALS

3.17.1 Construction Manager shall not be obligated to commence or continue Work until any Hazardous Material discovered at the Worksite has been removed, rendered or determined to be harmless by Owner as certified by an independent testing laboratory, and approved by the appropriate governmental agency.

3.17.2 If after commencing the Work, Hazardous Material is discovered at the Worksite, Construction Manager shall be entitled to immediately stop Work in the affected area. Construction Manager shall promptly report the condition to Owner, Design Professional, and, if required, the governmental agency with jurisdiction.

3.17.3 Construction Manager shall not resume nor be required to continue any Work affected by any Hazardous Material until the Hazardous Material has been removed or rendered harmless and only after approval, if necessary, of the governmental agency with jurisdiction.

3.17.4 Owner shall be responsible for retaining an independent testing laboratory to determine the nature of the material encountered and whether the material requires corrective measures or remedial action. Such measures shall be the sole responsibility of Owner, and shall be performed in a manner minimizing any adverse effect upon the Work.

3.17.5 If Construction Manager incurs additional costs or is delayed due to the presence or remediation of Hazardous Material outside the Construction Manager's control, Construction Manager shall be entitled to an equitable adjustment in the GMP or the Dates of Substantial or Final Completion in accordance with this Agreement.

3.17.6 MATERIALS BROUGHT TO THE WORKSITE

3.17.6.1 Safety Data Sheets (SDS) as required by law and pertaining to materials or substances used or consumed in the performance of the Work, whether obtained by Construction Manager, Subcontractors, Owner or Others, shall be maintained at the Worksite by Construction Manager and made available to Owner, Subcontractors, and Others.

3.17.6.2 Construction Manager shall be responsible for the proper delivery, handling, application, storage, removal, and disposal of all materials and substances brought to the Worksite by Construction Manager in accordance with the Contract Documents and used or consumed in the performance of the Work. Upon the issuance of the Certificate of Substantial Completion, Owner shall be responsible for materials and substances brought to the Worksite by Construction Manager if such materials or substances are required by the Contract Documents.

3.17.6.3 To the extent permitted under the subsection titled, "LIMITED MUTUAL WAIVER OF CONSEQUENTIAL DAMAGES" and to the extent caused by the negligent or intentionally wrongful acts or omissions of Construction Manager, its agents, officers, directors, and employees, Construction Manager shall defend, indemnify, and hold harmless Owner, its agents, officers, directors, and employees, from and against claims, damages, losses, costs, and expenses, including but not limited to reasonable attorneys' fees, costs and expenses incurred in connection with any dispute resolution procedure, arising out of or relating to



delivery, handling, application, storage, removal, and disposal of all materials and substances brought to the Worksite by Construction Manager

3.18 SUBMITTALS

3.18.1 Construction Manager shall submit to Owner and Design Professional all shop drawings, samples, product data, and similar submittals required by the Contract Documents for review and approval. Submittals shall be submitted in a mutually agreeable electronic form or agreed upon method. Construction Manager shall be responsible for the accuracy and conformity of its submittals to the Contract Documents. At no additional cost, Construction Manager shall prepare and deliver its submittals in such time and sequence so as not to delay the performance of the Work or the work of Owner and Others. Construction Manager's submittals shall identify in writing for each submittal all changes, deviations, or substitutions from the requirements of the Contract Documents. The approval of any Construction Manager submittal shall not be deemed to authorize changes, deviations, or substitutions from the requirements of the Contract Documents unless a Change Order or Interim Directive specifically authorizes such deviation, substitution, or change. To the extent a change, deviation, or substitution causes an impact to the Contract Price or Contract Time, such approval shall be memorialized in a Change Order no later than seven (7) Days following approval by Owner. Neither Design Professional nor Owner shall make any change, deviation, or substitution through the submittal process without specifically identifying and authorizing such deviation to Construction Manager. If the Contract Documents do not contain submittal requirements pertaining to the Work, Construction Manager agrees upon request to submit in a timely fashion to Design Professional and Owner for review any shop drawings, samples, product data, manufacturers' literature, or similar submittals as may reasonably be required by Owner.

3.18.2 Owner shall be responsible for review and approval of submittals with reasonable promptness to avoid causing delay.

3.18.3 Construction Manager shall perform all Work strictly in accordance with approved submittals. Approval of shop drawings is not an authorization to perform changed work, unless the procedures of ARTICLE 9 are followed.

3.18.4 Record copies of the following, incorporating field changes and selections made during construction, shall be maintained at the Worksite and available to Owner upon request: drawings, specifications, addenda and other modifications, and required submittals including product data, samples, and shop drawings.

3.18.5 Construction Manager shall prepare and submit to Owner

- Redline drawings and survey data files for as-built drawing preparations (including surveyed locations of all new Project appurtenances);
- Updated electronic data or in the agreed-upon method;
- Other documentation required by the Contract Documents that specifies how various elements of the Work were actually constructed or installed.

3.19 DESIGN DELEGATION If the Contract Documents require Construction Manager to specify that Construction Manager is responsible for the design of a particular system or component to be incorporated into the Project, then Owner shall specify all required performance and design criteria. Construction Manager shall not be responsible for the adequacy of such performance and design criteria. As required by the Law, Construction Manager shall procure design services and certifications necessary to satisfactorily complete the Work from a licensed design professional. The signature and seal of Construction Manager's design professional shall appear on all drawings, calculations, specifications,



certifications, shop drawings, and other submittals related to the Work designed or certified by Construction Manager's design professional.

3.20 WORKSITE CONDITIONS

3.20.1 WORKSITE VISIT Construction Manager acknowledges that it has visited and is familiar with the Worksite, and had the opportunity to visually inspect the general and local conditions, which could affect the Work.

3.20.2 CONCEALED OR UNKNOWN SITE CONDITIONS Construction Manager acknowledges that it is familiar with the site from inspection and its Pre-Construction Services work on this Project. Construction Manager assumes all risks associated with or relating to the Project site and subsurface conditions except for (a) manmade subsurface conditions that could not be foreseen or anticipated with inspection, such as historical or cultural artifacts, burial grounds, and similar (b) a subsurface or other physical condition materially different from those indicated in the Contract Documents, (c) an unusual and unknown physical condition materially different from conditions ordinarily encountered and generally recognized as inherent in Work provided for in the Contract Documents, and (d) as otherwise agreed to in contract documents, such as, but not limited to, specifications and risk register concerning hard rock excavation. Construction Manager shall remain responsible and obligated to complete the Project and Work provided in the Contract Documents. In the event Owner has provided any geotechnical or soils reports or similar information, Contractor may rely upon such information and reports. Owner makes no implied or expressed representations or warranties regarding such reports or information and has no liability or responsibility. Construction Manager shall continue working while the unknown site condition is evaluated. Construction Manager shall be entitled to rely on the design documents and specifications as being accurate and complete and shall not be responsible for error or deficiencies in such documents. Construction Manager's required review of any contract documents is strictly for the purpose of facilitating construction by the Construction Manager and is made in Construction Manager's capacity as a Construction Manager and not as a design professional, but any nonconformity or deficiency discovered by or made known to Construction Manager shall be reported promptly to Owner.

Any change in the GMP, estimated Cost of the Work, Date of Substantial Completion or Date of Final Completion, and, as a result of the condition, including any dispute about its existence or nature, shall be determined as provided in ARTICLE 9.

3.21 PERMITS AND TAXES

3.21.1 Construction Manager shall give public authorities all notices required by law and, except for permits and fees that are the responsibility of Owner pursuant to §4.3, shall obtain the Washoe County Building and Grading Permit, Washoe County Air Quality permit, NDEP Air Quality Permit, NDEP Storm Water Permit, NDEP De-Watering Permit; CMAR shall facilitate, pay for, and abide by Washoe County building permit as applied for and submitted by Owner to Washoe County Department of Building and Safety, and other permits as mutually agreed and pay for all necessary permits, licenses, and renewals pertaining to the Work. Construction Manager shall provide to Owner copies of all notices, permits, licenses, and renewals required under this Agreement.

3.21.2 Construction Manager shall pay applicable taxes for the Work provided by Construction Manager.

3.21.3 If, in accordance with Owner's direction, Construction Manager claims an exemption for taxes, Owner shall indemnify and hold Construction Manager harmless from any liability, penalty, interest, fine, tax assessment, attorneys' fees, or other expense or cost incurred by Construction Manager as a result of any such claim.



3.22 CUTTING, FITTING, AND PATCHING

3.22.1 Construction Manager shall perform cutting, fitting, and patching necessary to coordinate the various parts of the Work and to prepare its Work for the work of Owner or Others.

3.22.2 Cutting, patching, or altering the work of Owner or Others shall be done with the prior written approval of Owner. Such approval shall not be unreasonably withheld.

3.23 CLEAN UP

3.23.1 Construction Manager shall regularly remove debris and waste materials at the Worksite resulting from the Work. Before discontinuing Work in an area, Construction Manager shall clean the area and remove all rubbish and its construction equipment, tools, machinery, waste, and surplus materials. Construction Manager shall minimize and confine dust and debris resulting from construction activities. At the completion of the Work, Construction Manager shall remove from the Worksite all construction equipment, tools, surplus materials, waste materials, and debris. Construction Manager shall not be responsible for bulk item debris or bulk item waste generated by others outside of Construction Manager's authority and control.

3.23.2 If Construction Manager fails to commence compliance with cleanup duties within two (2) Business Days after written notification from Owner of non-compliance, Owner may implement appropriate cleanup measures without further notice and the cost shall be deducted from any amounts due or to become due to Construction Manager in the next payment period.

3.24 ACCESS TO WORK Construction Manager shall facilitate the access of Owner, its Design Professional, and Others to Work in progress.

3.25 COMPLIANCE WITH LAWS Construction Manager shall comply with all Laws at its own cost. Construction Manager shall be liable to Owner for all loss, cost, or expense attributable to any acts or omissions by Construction Manager, its employees, subcontractors, suppliers, and agents for failure to comply with Laws, including fines, penalties, or corrective measures.

3.25.1 CHANGES IN THE LAW The GMP, estimated Cost of the Work, Date of Substantial Completion or Date of Final Completion may be equitably adjusted in accordance with ARTICLE 9 for additional costs or time needed resulting from Laws enacted after the date of this Agreement, including taxes.

3.26 CONFIDENTIALITY Construction Manager shall treat as confidential and not disclose to third persons, nor use for its own benefit ("Treat as Confidential"), any of Owner's confidential information, know-how, discoveries, production methods, and the like disclosed to Construction Manager or which Construction Manager may acquire in performing the Work. To the extent necessary to perform the Work, Construction Manager's confidentiality obligations do not apply to disclosures to Subcontractors, and Suppliers. Owner shall Treat as Confidential information all of Construction Manager's estimating systems and historical and parameter cost data disclosed to Owner in performing the Work. Each Party shall specify and mark confidential items as "Confidential." Confidentiality obligations do not supersede compulsion by Law, a governmental agency or authority, an order of a court of competent jurisdiction, or a validly issued subpoena. In such event, a Party shall promptly notify the other Party to permit that Party's legal objection.



ARTICLE 4 OWNER'S RESPONSIBILITIES

4.1 INFORMATION AND SERVICES Owner's responsibilities under this Article shall be fulfilled with reasonable detail and in a timely manner.

4.2 WORKSITE INFORMATION To the extent Owner has obtained, or is required to obtain the following Worksite information, then Owner shall provide Construction Manager the following:

4.2.1 information describing the physical characteristics of the Worksite, including surveys, Worksite evaluations, legal descriptions, data, or drawings depicting existing conditions, subsurface conditions, and environmental studies, reports, and investigations;

4.2.2 tests, inspections, and other reports dealing with environmental matters, Hazardous Material, and other existing conditions, including structural, mechanical, and chemical tests, required by the Contract Documents or Law;

the limits of Pollution Liability Insurance covering the Worksite

4.2.3 any other information or services requested in writing by Construction Manager which are required for Construction Manager's performance of the Work and under Owner's control.

4.3 BUILDING PERMIT, FEES, AND APPROVALS Except for those permits and fees related to the Work which are the responsibility of Construction Manager pursuant to the section titled PERMITS AND TAXES, Owner shall secure and pay for all other permits, approvals, easements, assessments, and fees required for the development, construction, use, or occupancy of permanent structures or for permanent changes in existing facilities, including the building permit.

4.4 MECHANICS AND CONSTRUCTION LIEN INFORMATION Within fourteen (14) Days after receiving Construction Manager's written request, Owner shall provide Construction Manager with the information necessary to give notice of or enforce mechanics lien rights and, where applicable, stop notices. This information shall include Owner's real property interests in the Worksite and the record legal title.

4.5 CONTRACT DOCUMENTS Unless otherwise specified, Owner shall provide a reasonable number of hard copies of the Contract Documents to Construction Manager without cost.

4.6 OWNER'S REPRESENTATIVE Owner's Representative is Hudson Klein, PE. Owner's Representative shall be fully acquainted with the Project, and shall have authority to bind Owner in all matters requiring Owner's approval, authorization, or written notice. If Owner changes its Representative or the Representative's authority, Owner shall immediately notify Construction Manager in writing.

4.7 OWNER'S CUTTING AND PATCHING Cutting, patching, or altering the Work by Owner or Others shall be done with the prior written approval of Construction Manager, which approval shall not be unreasonably withheld.

4.8 OWNER'S RIGHT TO CLEAN UP In case of a dispute between Construction Manager and Others with regard to respective responsibilities for cleanup at the Worksite, Owner may implement appropriate cleanup measures after two (2) Business Days' notice and allocate the cost among those responsible during the following pay period.

4.9 COST OF CORRECTING DAMAGED OR DESTROYED WORK With regard to damage or loss attributable to the acts or omissions of Owner or Others and not to Construction Manager, Owner may either (a) promptly remedy the damage or loss and assume affected warranty responsibilities, (b) accept the damage or loss, or (c) issue an Interim Directive or Change Order to remedy the damage or loss. If Construction Manager incurs costs or is delayed due to such loss or damage, Construction Manager may



seek an equitable adjustment in the GMP, estimated Cost of the Work, Construction Manager's Fee, Date of Substantial Completion or Date of Final Completion, and, if appropriate, the Compensation for Preconstruction Services under this Agreement.

ARTICLE 5 SUBCONTRACTS

5.1 SUBCONTRACTORS Subcontracts shall be issued on a lump sum basis unless Owner has given prior written approval of a different method of payment to the Subcontractor.

5.2 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK

5.2.1 Promptly after the execution of this Agreement, Construction Manager shall provide Owner, with a written list of the proposed subcontractors and significant Suppliers. If Owner has a reasonable objection to any proposed subcontractor or material supplier, Owner shall notify Construction Manager in writing.

5.2.2 If Owner has reasonably and promptly objected, Construction Manager shall not contract with the proposed Subcontractor or Supplier, and Construction Manager shall propose another acceptable Subcontractor or Supplier to Owner. An appropriate Change Order shall reflect any increase or decrease in the GMP or Dates of Substantial or Final Completion because of the substitution.

5.3 BINDING OF SUBCONTRACTORS AND SUPPLIERS Construction Manager agrees to bind every Subcontractor and Supplier (and require every Subcontractor to so bind its subcontractors and significant suppliers) to the terms and conditions of the Contract Documents and all provisions as applicable to Subcontractor's or Supplier's portion of the Work.

5.4 CONTINGENT ASSIGNMENT OF SUBCONTRACTS

5.4.1 If this Agreement is terminated, at Owner's sole discretion, each subcontract and supply agreement may be assigned by Construction Manager to Owner, subject to the prior rights of any surety, provided that: (a) this Agreement is terminated by Owner pursuant to sections titled "TERMINATION BY OWNER FOR CONVENIENCE" and "CONSTRUCTION MANAGER'S RIGHT TO TERMINATE"; (b) if Owner accepts such assignment after termination by notifying the Construction Manager and Subcontractor or Construction Manager and Supplier in writing; and (c) Owner assumes all rights and obligations of Construction Manager pursuant to each subcontract or supply agreement.

5.4.2 If Owner accepts such an assignment, and the Work has been suspended for more than thirty (30) consecutive Days, following termination, the Subcontractor's or Supplier's compensation shall be equitably adjusted as a result of the suspension.

ARTICLE 6 TIME

6.1 DATE OF COMMENCEMENT The Date of Commencement is the Agreement date in ARTICLE 1 unless otherwise set forth below:

6.1.1 NOTICE TO PROCEED Work shall not proceed until the Notice to Proceed is issued by the Owner. Notice to proceed will be issued by formal, written Notice to Proceed on or about March 29, 2024.

6.1.2 SUBSTANTIAL/FINAL COMPLETION Unless the Parties agree otherwise, the Date of Substantial Completion shall be October 18, 2024 and the date of Final Completion shall be



December 31, 2024. The Date of Substantial Completion and/or the Date of Final Completion shall be subject to adjustments as provided for in the Contract Documents and/or local regulations.

6.1.3 Time is of the essence with regard to the obligations of the Contract Documents.

6.1.4 Unless instructed by Owner in writing, Construction Manager shall not knowingly commence the Work before the effective date of Construction Manager's required insurance.

6.2 SCHEDULE OF THE WORK

6.2.1 Before submitting its first application for payment, Construction Manager shall submit to Owner a Schedule of the Work showing the dates on which Construction Manager plans to begin and complete various parts of the Work, including dates on which information and approvals are required from Owner. Except as otherwise directed by Owner, Construction Manager shall comply with the approved Schedule of the Work. Unless otherwise agreed, the Schedule of the Work shall be formatted in a detailed precedence-style critical path method that (a) provides a graphic representation of all activities and events, including float values that will affect the critical path of the Work, and (b) identifies dates that are critical to ensure timely and orderly completion of the Work. Construction Manager shall update the Schedule of the Work on a monthly basis or as mutually agreed by the Parties.

6.2.2 Owner may determine the sequence in which the Work shall be performed, provided it does not unreasonably interfere with the approved project schedule. Owner may require Construction Manager to make reasonable changes in the sequence at any time during the performance of the Work in order to facilitate the performance of work by Owner or Others. If Construction Manager consequently incurs costs or is delayed, the GMP or the Dates of Substantial or Final Completion, or both, Construction Manager may seek equitable adjustment under ARTICLE 9.

6.3 DELAYS AND EXTENSIONS OF TIME

6.3.1 If Construction Manager is delayed at any time in the commencement or progress of the Work by any cause beyond the control of Construction Manager, Construction Manager may be entitled to an equitable extension of the Date of Substantial Completion or Date of Final Completion. Examples of causes beyond the control of Construction Manager include, but are not limited to, the following: (a) changes in the Work or the sequencing of the Work ordered by Owner, or arising from decisions of Owner that impact the time of performance of the Work; (b) encountering Hazardous Materials, or concealed or unknown conditions; (c) delay authorized by Owner pending dispute resolution or suspension by Owner under §12.1; (d) fire; (e) Terrorism; (f) epidemics; (g) adverse governmental actions. Construction Manager shall submit any requests for equitable extensions of Contract Time in accordance with the provisions of ARTICLE 9.

6.3.2 In addition, if Construction Manager incurs additional costs as a result of a delay that is caused by items (a) through (g) immediately above, Construction Manager may be entitled to an equitable adjustment in the GMP

6.3.3 NOTICE OF DELAYS If delays to the Work are encountered for any reason, Construction Manager shall provide prompt written notice to Owner of the cause of such delays after Construction Manager first recognizes the delay. The Parties each agree to take reasonable steps to mitigate the effect of such delays.

6.4 NOTICE OF DELAY CLAIMS If Construction Manager requests an equitable extension of the Contract Time or an equitable adjustment in the Contract Price as a result of a delay described in section titled "DELAYS AND EXTENSIONS OF TIME," Construction Manager shall give Owner written notice of



the claim in accordance with the section titled, "CHANGES NOTICE." If Construction Manager causes delay in the completion of the Work, Owner shall be entitled to recover its additional costs subject to the section titled, "LIMITED MUTUAL WAIVER OF CONSEQUENTIAL DAMAGES." Owner shall process any such claim against Construction Manager in accordance with ARTICLE 9.

6.5 LIQUIDATED DAMAGES

6.5.1 SUBSTANTIAL COMPLETION Liquidated damages based on the Substantial Completion dates identified in Section 6.1.2 shall apply, when applicable.

6.5.1.1 Owner will suffer damages which are difficult to determine and accurately specify if the Substantial Completion dates, as may be amended by subsequent Change Order, are not attained. Construction Manager shall pay Owner one thousand two hundred and fifty dollars (\$1,250.00) as liquidated damages and not as a penalty for each Calendar Day that Substantial Completion extends beyond the Substantial Completion date. These liquidated damages are in lieu of all liability for any claims, penalties, and other damages that may be incurred by Owner resulting from not attaining the Partial Substantial Completion date(s).

6.5.2 FINAL COMPLETION Liquidated damages based on the Final Completion dates identified in Section 6.1.2 shall apply.

6.5.2.1 Owner will suffer damages which are difficult to determine and accurately specify if the Final Completion date, as may be amended by subsequent Change Order, is not attained. Construction Manager shall pay Owner five hundred dollars (\$500.00) as liquidated damages and not as a penalty for each Day that Final Completion extends beyond the Final Completion date. These liquidated damages are in lieu of all liability for any extra costs, losses, expenses, claims, penalties, and any other damages of any nature incurred by Owner resulting from not attaining Final Completion date.

6.5.3 Other applicable liquidated damages shall be included as Agreement exhibit.

6.6 WAIVER OF CONSEQUENTIAL DAMAGES Except for damages mutually agreed upon by the Parties as liquidated damages described above and excluding losses covered by insurance required by the Contract Documents, neither Party shall be liable to the other for consequential, incidental, indirect, or punitive damages including loss of use, lost profits, loss of business opportunity, and loss of business goodwill. This section shall not limit Construction Manager's liability and obligation to pay any penalties or fines imposed by governmental agencies and stemming from Construction Manager's negligent act(s).

6.6.1 The Parties shall each require similar waivers in contracts with Subcontractors and Others retained for the Project.

ARTICLE 7 COMPENSATION AND GUARANTEED MAXIMUM PRICE

7.1 Owner shall compensate Construction Manager for Work performed on the following basis:

7.1.1 the Cost of the Work as allowed in ARTICLE 8;

7.1.2 Construction Manager's Fee of 10% of the Direct Cost Items as defined in ARTICLE 8.2;

7.1.3 The Construction Manager's Fee on the used Risk Reserves, if any, shall be 10%.

7.2 The compensation to be paid shall be limited to the GMP established in Exhibit A, as the GMP may be adjusted under ARTICLE 9.

7.2.1 Payment for Work performed shall be as set forth in ARTICLE 10.



7.3 CONSTRUCTION MANAGER'S FEE Construction Manager's Fee of 10% shall only apply to Direct Cost Items as defined in ARTICLE 8.2 and shall not be applied to the following:

7.3.1 Salaries for incidental employees that are performing work pertaining to the Project at the CMAR's principal and branch offices, except any employees that are included in the Construction Manager's General Conditions.

7.3.2 General and administrative expenses for the Construction Manager's principal and branch offices pertaining to performance of the Work. Specifically excluded are general and administrative expenses for the Construction Manager's field office.

7.3.3 The Construction Manager's profit.

ARTICLE 8 COST OF THE WORK

8.1 Owner agrees to pay Construction Manager for the Cost of the Work as defined in this article. This payment shall be in addition to Construction Manager's Fee stated in §7.3.2.

8.2 DIRECT COST ITEMS

8.2.1 Labor wages directly employed by Construction Manager in performing of the Work.

8.2.2 Salaries of Construction Manager's employees when stationed at the field office, in whatever capacity employed and employees from the principal or branch office as mutually agreed by the Parties in writing

8.2.3 Salaries for the Construction Manager's foreman, project managers, project engineers, project coordinators, project estimators, superintendents, and project schedulers.

8.2.4 Cost of all materials, supplies, and equipment incorporated in the Work, including costs of inspection and testing if not provided by Owner, transportation, storage, and handling.

8.2.5 Payments made by Construction Manager to Subcontractors for work performed under this Agreement.

8.2.6 Cost, including transportation and maintenance of all materials, supplies, equipment, temporary facilities, and hand tools not owned by the workers that are used or consumed in the performance of the Work.

8.2.7 Cost of the premiums for all insurance and surety bonds which Construction Manager is required to procure or deems necessary, and approved by Owner including any additional premium incurred as a result of any increase in the GMP.

8.2.8 Sales, use, gross receipts, or other taxes, tariffs, or duties related to the Work for which Construction Manager is liable.

8.2.9 Permits, fees, licenses, tests, royalties.

8.2.10 Losses, expenses, or damages to the extent not compensated by insurance or otherwise, and the cost of corrective work during the Construction Phase and for a one-year period following the Date of Substantial Completion, provided that such losses, expenses, damages, or corrective work did not arise from Construction Manager's negligence.



8.2.11 Costs associated with establishing, equipping, operating, maintaining, and demobilizing the field office.

8.2.12 Water, power, and fuel costs necessary for the Work.

8.2.13 Cost of removal of all nonhazardous substances, debris, and waste materials.

8.2.14 Costs related to the Construction Manager's safety, environmental, and quality programs.

8.2.15 Costs directly incurred in the performance of the Work or in connection with the Project, and not included in Construction Manager's Fee as set forth in ARTICLE 7, which are reasonably inferable from the Contract Documents.

ARTICLE 9 CHANGES

Changes in the Work that are within the general scope of this Agreement shall be accomplished, without invalidating this Agreement, by Change Order and Interim Directive.

9.1 CHANGE ORDER

9.1.1 Construction Manager may request or Owner may order changes in the Work or the timing or sequencing of the Work that impacts the GMP or the estimated Cost of the Work, Date of Substantial Completion or Date of Final Completion. All such changes in the Work shall be formalized in a Change Order. Any such requests for changes in the Work shall be processed in accordance with this article.

9.1.2 For changes in the Work, the Parties shall negotiate an equitable adjustment to the GMP or the Date of Substantial Completion or Date of Final Completion in good faith and conclude negotiations as expeditiously as possible. Acceptance of the Change Order and any equitable adjustment in the GMP or Date of Substantial Completion or Date of Final Completion shall not be unreasonably withheld.

9.1.3 NO OBLIGATION TO PERFORM Construction Manager shall not be obligated to perform changes in the Work that impact the GMP or the estimated Cost of the Work, Date of Substantial Completion or Date of Final Completion without a Change Order or Interim Directive.

9.2 INTERIM DIRECTIVES

9.2.1 Owner may issue an Interim Directive directing a change in the Work before reaching agreement with Construction Manager on the adjustment, in the GMP, Date of Substantial Completion or Date of Final Completion, or directing Construction Manager to perform Work that Owner believes is not a change. If the Parties disagree that the Interim Directed work is within the scope of the Work, Construction Manager shall perform the disputed Work and furnish Owner with an estimate of the costs to perform the disputed work in accordance with Owner's interpretations.

9.2.2 The Parties shall negotiate expeditiously and in good faith for appropriate adjustments, as applicable, to the GMP or the Date of Substantial Completion or Date of Final Completion arising out of an Interim Directive. As the directed Work is performed, Construction Manager shall submit its costs for such Work with its application for payment beginning with the next application for payment within thirty (30) Days of the issuance of the Interim Directive. If there is a dispute as to the cost to Owner, Owner shall pay Construction Manager seventy five percent (75%) of its actual (incurred or committed) cost to perform the Work. In such event, the Parties reserve their rights as to the disputed



amount, subject to the requirements of ARTICLE 13. Owner's payment does not prejudice its right to be reimbursed should it be determined that the disputed work was within the scope of the Work. Construction Manager's receipt of payment for the disputed work does not prejudice its right to receive full payment for the disputed work should it be determined that the disputed work is not within the scope of the Work. Undisputed amounts may be included in applications for payment and shall be paid by Owner in accordance with this Agreement.

9.2.3 When the Parties agree upon the adjustments in the GMP or the Date of Substantial Completion or Date of Final Completion, for a change in the Work directed by an Interim Directive, such agreement shall be the subject of an appropriate Change Order. The Change Order shall include all outstanding Interim Directives on which the Parties have reached agreement on GMP or the Date of Substantial Completion or Date of Final Completion issued since the last Change Order.

9.3 DETERMINATION OF COST

9.3.1 An increase or decrease in the GMP or the Date of Substantial Completion or Date of Final Completion resulting from a change in the Work shall be determined by one or more of the following methods:

9.3.1.1 unit prices set forth in this Agreement or as subsequently agreed;

9.3.1.2 a mutually accepted, itemized lump sum;

9.3.2 If unit prices are set forth in the Contract Documents or are subsequently agreed to by the Parties, but the character or quantity of such unit items as originally contemplated is so different in a proposed Change Order that the original unit prices will cause substantial inequity to either Party, such unit prices shall be equitably adjusted.

9.3.3 If the Parties disagree as to whether work required by Owner is within the scope of the Work, Construction Manager shall furnish Owner with an estimate of the costs to perform the disputed work in accordance with Owner's interpretations.

9.4 CHANGES NOTICE Except as provided in §6.3.2 and §6.4 for any claim for an increase in the GMP or the Date of Substantial Completion or Date of Final Completion, Construction Manager shall give Owner verbal notice as soon as possible and provide a written notice of the claim no later than seven (7) Days after the occurrence giving rise to the claim or within (14) fourteen Days after Construction Manager first recognizes the condition giving rise to the claim, whichever is later. If Construction Manager fails to provide the written claim within the stated timeframes, it will not be eligible for a change order. Owner's failure to so respond shall be deemed an acceptance of Construction Manager's claim. Except in an emergency, notice shall be given before proceeding with the Work. Thereafter, Construction Manager shall submit written documentation of its claim, including appropriate supporting documentation, within fourteen (14) Days after giving notice, unless the Parties mutually agree upon a longer period of time. No later than seven (7) Days after receipt, Owner shall respond in writing denying or approving the claim. Owner's failure to so respond shall be deemed an acceptance of the claim. Any change in the GMP or the Date of Substantial Completion or Date of Final Completion resulting from such claim shall be authorized by Change Order.

9.5 INCIDENTAL CHANGES Owner may direct Construction Manager to perform incidental changes in the Work, upon concurrence with Construction Manager that such changes do not involve adjustments in the Contract Price or the Contract Time. Incidental changes shall be consistent with the scope and intent of the Contract Documents. Owner shall initiate an incidental change in the Work by issuing a written order to Construction Manager. Such written notice shall be carried out promptly and is binding on the Parties.



ARTICLE 10 PAYMENT

10.1 SCHEDULE OF VALUES Within twenty-one (21) Days from the date of execution of this Agreement, Construction Manager shall prepare and submit to Owner a schedule of values apportioned to the various divisions or phases of the Work. Each line item contained in the schedule of values shall be assigned a value such that the total of all items shall equal the GMP.

10.2 PROGRESS PAYMENTS

10.2.1 APPLICATIONS Construction Manager shall submit to Owner, ap@ivgid.org, with a copy to hwk@ivgid.org, a monthly application for payment no later than the fifth (5th) Day of the calendar month for the preceding calendar month. Construction Manager's applications for payment shall be itemized and supported by Construction Manager's schedule of values, based on a percentage of completion, and shall include any other substantiating data as required by this Agreement. Applications for payment shall include payment requests on account of properly authorized Change Orders or Interim Directives. Owner shall pay the amount otherwise due on any approved payment application no later than thirty days from submission of an approved application for payment. Owner may deduct from any progress payment amounts that may be retained pursuant to §10.2.4.

10.2.2 STORED MATERIALS AND EQUIPMENT Unless otherwise provided in the contract documents, applications for payment may include materials and equipment not yet incorporated into the Work but delivered to and suitably stored onsite or offsite including applicable insurance, storage, and costs incurred transporting the materials to an offsite storage facility. Approval of payment applications for stored materials and equipment stored offsite shall be conditioned on a submission by Construction Manager of bills of sale and proof of required insurance, or such other documentation satisfactory to Owner to establish the proper valuation of the stored materials and equipment, Owner's title to such materials and equipment, and to otherwise protect Owner's interests therein, including transportation to the Worksite.

10.2.3 LIEN WAIVERS AND LIENS

10.2.3.1 PARTIAL LIEN WAIVERS AND AFFIDAVITS If required by Owner, as a prerequisite for payment, Construction Manager shall provide a partial lien and claim waiver in the amount of the application for payment and affidavits from its Subcontractors and Suppliers for the completed Work. In no event shall Construction Manager be required to sign an unconditional waiver of lien or claim, before receiving payment or in an amount in excess of what it has been paid.

10.2.3.2 RESPONSIBILITY FOR LIENS If Owner has made payments in the time required by this article, Construction Manager shall, within thirty (30) Days after filing, remove any liens filed against the premises or public improvement fund by any party or parties performing labor or services or supplying materials in connection with the Work. If Construction Manager fails to take such action on a lien, Owner may cause the lien to be removed at Construction Manager's expense, including bond costs and reasonable attorneys' fees. This subsection shall not apply if there is a dispute pursuant to ARTICLE 13 relating to the subject matter of the lien.

10.2.4 RETAINAGE From each progress payment made before Substantial Completion, Owner may retain five percent (5%), of the amount otherwise due after deduction of any amounts as provided in §10.3, provided such percentage doesn't exceed the Law. If Owner chooses to use this retainage provision:

10.2.4.1 By December 31st of each calendar year immediately following the Owner's acceptance of a specific portion of Work and issuance of Partial Substantial Completion for that



Work, Owner shall release the 5% retention being withheld for that Work and the warranty period shall commence for that Work;

10.2.4.2 Owner may, in its sole discretion, reduce the amount to be retained at any time;

10.2.4.3 Owner may release retainage on that portion of the Work a Subcontractor has completed in whole or in part, and which Owner has accepted.

10.3 ADJUSTMENT OF CONSTRUCTION MANAGER'S PAYMENT APPLICATION Owner may adjust or reject a payment application or nullify a previously approved payment application, in whole or in part, as may reasonably be necessary to protect Owner from loss or damage based upon the following, to the extent that Construction Manager is responsible under this Agreement:

10.3.1 Construction Manager's repeated failure to perform the Work as required by the Contract Documents;

10.3.2 except as accepted by the insurer providing builder's risk or other property insurance covering the Project, loss or damage arising out of or relating to this Agreement and caused by Construction Manager to Owner or others to whom Owner may be liable;

10.3.3 Construction Manager's failure to properly pay Subcontractors and Suppliers following receipt of such payment from Owner for that portion of the Work or for supplies, provided that Owner is making payments to Construction Manager in accordance with this Agreement;

10.3.4 rejected or Defective Work not corrected in a timely fashion;

10.3.5 reasonable evidence of delay in performance of the Work such that the Work will not be completed by the Dates of Substantial or Final Completion;

10.3.6 reasonable evidence demonstrating that the unpaid balance of the GMP is insufficient to fund the cost to complete the Work; and uninsured third-party claims involving Construction Manager or reasonable evidence demonstrating that third-party claims are likely to be filed unless and until Construction Manager furnishes Owner with adequate security in the form of a surety bond, letter of credit, or other collateral or commitment sufficient to discharge such claims if established. No later than twenty-one (21) Days after receipt of an application for payment, Owner shall give written notice to Construction Manager, at the time of disapproving or nullifying all or part of an application for payment, stating its specific reasons for such disapproval or nullification, and the remedial actions to be taken by Construction Manager in order to receive payment. When the above reasons for disapproving or nullifying an application for payment are removed, payment will be promptly made for the amount previously withheld. Notwithstanding the foregoing, disputed payment amounts shall not be cause to withhold timely payment of undisputed amounts.

10.4 ACCEPTANCE OF WORK Neither Owner's payment of progress payments nor its partial or full use or occupancy of the Project constitutes acceptance of Work not complying with the Contract Documents.

10.5 SUBSTANTIAL COMPLETION

10.5.1 Construction Manager shall notify Owner when it considers Substantial Completion of the Work or a designated portion to have been achieved. Owner, with the assistance of its On-Site Representative, shall promptly conduct an inspection to determine whether the Work or designated portion can be occupied or used for its intended use by Owner without excessive interference in completing any remaining unfinished Work. If Owner determines that the Work or designated portion has not reached Substantial Completion, Owner, with the assistance of its On-Site Representative,



shall promptly compile a list of items to be completed or corrected so Owner may occupy or use the Work or designated portion for its intended use. Construction Manager shall promptly complete all items on the list.

10.5.2 When Substantial Completion of the Work or a designated portion is achieved, the Owner shall prepare a Certificate of Substantial Completion establishing the date of Substantial Completion and the respective responsibilities of each Party for interim items such as security, maintenance, utilities, insurance, and damage to the Work, and fixing the time for completion of all items on the list accompanying the Certificate. The Certificate of Substantial Completion shall be submitted by Owner to Construction Manager for written acceptance of responsibilities assigned in the Certificate of Substantial Completion.

10.5.3 Unless otherwise provided in the Certificate of Substantial Completion, warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or a designated portion.

10.5.4 Upon Construction Manager's written acceptance of the Certificate of Substantial Completion, Owner shall pay to Construction Manager the remaining retainage held by Owner for the Work described in the Certificate of Substantial Completion less a sum equal to one hundred percent (100%) of the estimated cost of completing or correcting remaining items on that part of the Work, as agreed to by the Parties as necessary to achieve Final Completion. Uncompleted items shall be completed by Construction Manager in a mutually agreed upon timeframe. Owner shall pay Construction Manager monthly the amount retained for unfinished items as each item is completed.

10.6 PARTIAL OCCUPANCY OR USE

10.6.1 Owner may occupy or use completed or partially completed portions of the Work when (a) the portion of the Work is designated in a Certificate of Substantial Completion, (b) appropriate insurer(s) consent to the occupancy or use, and (c) public authorities authorize the occupancy or use. Construction Manager shall not unreasonably withhold consent to partial occupancy or use. Owner shall not unreasonably refuse to accept partial occupancy.

10.7 FINAL COMPLETION AND FINAL PAYMENT

10.7.1 Upon notification from Construction Manager that the Work is complete and ready for final inspection and acceptance, Owner, with the assistance of its On-Site Representative shall promptly conduct an inspection to determine if the Work has been completed and is acceptable under the Contract Documents.

10.7.2 When the Work is complete, Construction Manager shall prepare for Owner's written acceptance a final application for payment stating that to the best of Construction Manager's knowledge, and based on Owner's inspections, the Work has reached Final Completion in accordance with the Contract Documents.

10.7.3 Final payment of the balance of the GMP shall be made to Construction Manager within twenty (20) Days after Construction Manager has submitted an application for final payment, including submissions required under §10.7.4, and a Certificate of Final Completion has been executed by the Parties.

10.7.4 Final payment shall be due on Construction Manager's submission of the following to Owner:



10.7.4.1 an affidavit declaring any indebtedness connected with the Work, to have been paid, satisfied, or to be paid with the proceeds of final payment, so as not to encumber Owner's property;

10.7.4.2 as-built drawings, manuals, copies of warranties, and all other close-out documents required by the Contract Documents;

10.7.4.3 release of any liens, conditioned on final payment being received;

10.7.4.4 consent of any surety; and

10.7.4.5 any outstanding known and unreported accidents or injuries experienced by Construction Manager or its Subcontractors at the Worksite.

10.7.5 If, after Substantial Completion of the Work, the Final Completion of a portion of the Work is materially delayed through no fault of Construction Manager, Owner shall pay the balance due for any portion of the Work fully completed and accepted. If the remaining contract balance for Work not fully completed and accepted is less than the retained amount before payment, Construction Manager shall submit to Owner the written consent of any surety to payment of the balance due for portions of the Work that are fully completed and accepted. Such payment shall not constitute a waiver of claims, but otherwise shall be governed by this §10.7.

10.7.6 ACCEPTANCE OF FINAL PAYMENT Unless Construction Manager provides written identification of unsettled claims with an application for final payment, its acceptance of final payment constitutes a waiver of such claims.

10.8 LATE PAYMENT Payments due but unpaid, after 45 days, shall bear interest at the rate six (6) percent APR.

ARTICLE 11 INDEMNITY, INSURANCE, AND BONDS

11.1 INDEMNITY

11.1.1 To the fullest extent permitted by law, Construction Manager shall indemnify, defend, and hold harmless Owner, Owner's officers, directors, members, consultants, agents, and employees, and Others (the "Indemnitees") from all claims, suits, damages, actions, losses and liabilities of every kind, nature and description, including but not limited to reasonable attorney's fees, directly or indirectly arising out of, connected with or resulting from this Agreement or the performance or nonperformance of the Work or the construction of the Project. Construction Manager shall indemnify, defend, and hold harmless the Indemnitees from all claims, suits, damages, actions, losses and liabilities of every kind, nature and description, including but not limited to reasonable attorney's fees. This indemnification shall not apply in the instance where the loss is caused by the sole negligence or intentional tort of any person indemnified herein. Notwithstanding anything else herein to the contrary, Construction Manager's obligation to indemnify and hold harmless an indemnified party shall be limited to third-party claims and strictly in proportion to Construction Manager's fault

11.1.2 LIMITATION ON LIABILITY Construction Manager expressly waives the right to recover consequential damages as stated in 6.7. provided that the foregoing waiver by Owner shall not apply to (i) claims for which Construction Manager is required to indemnify Owner pursuant to this agreement or (ii) claims covered by insurance. In any and all claims against the Owner or its officers, agents, or employees by any employee of the CMAR, any Subcontractor, supplier, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation hereunder shall not be limited in any way by any limitation on the



amount or type of damages, compensation, or benefits payable by or for the CMAR or any Subcontractor or supplier under workers compensation acts, disability benefit acts, or other employee benefit acts.

11.2 INSURANCE

11.2.1 Before starting the Work and as a condition precedent to payment, Construction Manager shall procure and maintain in force Workers' Compensation Insurance, Employers' Liability Insurance, Business Automobile Liability Insurance, and Commercial General Liability Insurance ("CGL"). The CGL policy shall include coverage for liability arising from premises, operations, independent contractors, products-completed operations, personal injury, contractual liability, and broad form property damage. Construction Manager shall maintain completed operations liability insurance for one year after Substantial Completion, or as required by the Contract Documents, whichever is longer. Construction Manager's Business Automobile Liability and CGL policies shall be written with at least the following limits of liability:

11.2.1.1 Business Automobile Liability Insurance \$5,000,000 combined single limit per occurrence.

11.2.1.2 Commercial General Liability Insurance

- (a) \$5,000,000 per occurrence.
- (b) \$10,000,000 general aggregate.
- (c) \$2,000,000 products/completed operations aggregate.
- (d) \$2,000,000 personal and advertising injury limit.

11.2.2 Additional Insured. Owner shall be named as an additional insured on Construction Manager's CGL specified, for on-going operations and completed operations, excess/umbrella liability, commercial automobile liability, and any required pollution liability, but only with respect to liability for bodily injury, property damage, or personal and advertising injury to the extent caused by the negligent acts or omissions of Construction Manager, or those acting on Construction Manager's behalf, in the performance of Construction Manager's work for Owner at the Worksite. The insurance of the Construction Manager and its Subcontractors (both primary and excess) shall be primary to any insurance available to the Additional Insureds. Any insurance available to the Additional Insureds shall be excess and non-contributory.

11.2.3 Business Automobile Liability, and CGL coverages required under §11.2.1 may be provided by a single policy for the full limits required or by a combination of underlying policies with the balance provided by excess or umbrella liability policies.

11.2.4 Workman's Compensation: It is understood and agreed that there shall be no Industrial Insurance coverage provided for the Contractor or any Subcontractor by Owner and in view of NRS 616.280 and 617.210 requiring that Contractor comply with the provisions of Chapters 616 and 617 of NRS, Contractor shall, before commencing work under the provisions of this Agreement, furnish to Owner a Certificate of Insurance from an admitted insurance company in the State of Nevada that complies with all the requirements of Nevada law.

11.2.5 Construction Manager shall maintain in effect all insurance coverage required under §11.2.1 with insurance companies lawfully authorized to do business in the jurisdiction in which the Project is located. If Construction Manager fails to obtain or maintain any insurance coverage required under this Agreement, Owner may purchase such coverage and charge the expense to Construction Manager, or terminate this Agreement.



11.2.6 To the extent commercially available to Construction Manager from its current insurance company, insurance policies required under §11.2.1 shall contain a provision that the insurance company or its designee must give Owner written notice transmitted in paper or electronic format: (a) thirty (30) Days before coverage is nonrenewed by the insurance company and (b) within ten (10) Business Days after cancelation of coverage by the insurance company. Before commencing the Work and upon renewal or replacement of the insurance policies, Construction Manager shall furnish Owner with certificates of insurance until one year after Substantial Completion or longer if required by the Contract Documents. In addition, if any insurance policy required under §11.2.1 is not to be immediately replaced without lapse in coverage when it expires, exhausts its limits, or is to be cancelled, Construction Manager shall give Owner prompt written notice upon actual or constructive knowledge of such condition.

11.3 BUILDER'S RISK INSURANCE

11.3.1 Before starting the Work, Construction Manager shall obtain and maintain a Builder's Risk Policy upon the entire Project for the full cost of replacement at the time of loss, including existing structures. This insurance shall also (a) name Construction Manager, Subcontractors, and Design Professional as named insureds; (b) be written in such form to cover all risks of physical loss except those specifically excluded by the policy; and (c) insure at least against and not exclude:

11.3.1.1 the perils of fire, lightning, explosion, windstorm, hail, smoke, aircraft (except aircraft, including helicopter, operated by or on behalf of Construction Manager) and vehicles, riot and civil commotion, theft, vandalism, malicious mischief, debris removal, flood, earthquake, earth movement, water damage, wind damage, testing if applicable, collapse, however caused;

11.3.1.2 damage resulting from defective design, workmanship, or material;

11.3.1.3 coverage extension for damage to existing buildings, plant, or other structures at the Worksite, when the Project is contained within or attached to such existing buildings, plant or structures. Coverage shall be to the extent loss or damage arises out of Construction Manager's activities or operations at the Project;

11.3.1.4 equipment breakdown, including mechanical breakdown, electrical injury to electrical devices, explosion of steam equipment, and damage to steam equipment caused by a condition within the equipment;

11.3.1.5 testing coverage for running newly installed machinery and equipment at or beyond the specified limits of their capacity to determine whether they are fit for their intended use; and

11.3.1.6 physical loss resulting from Terrorism.

11.3.2 The Party that is the primary cause of a Builder's Risk Policy claim shall be responsible for any deductible amounts or coinsurance payments. If no Party is the primary cause of a claim, then the Party obtaining and maintaining the Builder's Risk Policy pursuant to §11.3.1 shall be responsible for the deductible amounts or coinsurance payments. This policy shall provide for a waiver of subrogation. This insurance shall remain in effect until final payment has been made or until no person or entity other than Owner has an insurable interest in the property to be covered by this insurance, whichever is sooner. Partial occupancy or use of the Work shall not commence until Owner has secured the consent of the insurance company or companies providing the coverage required in this subsection. Before commencing the Work, Owner shall be provided a copy of the property policy or policies obtained in compliance with this §11.3.



11.3.3 The Parties each waive all rights against each other and their respective employees, agents, contractors, subcontractors, suppliers, and design professionals for damages caused by risks covered by the property insurance provided under §11.3.1, except such rights as they may have to the proceeds of the insurance. To the extent of the limits of Construction Manager's Commercial General Liability Insurance specified in §11.2.1, Construction Manager shall indemnify and hold harmless Owner against any and all liability, claims, demands, damages, losses, and expenses, including attorneys' fees, in connection with or arising out of any damage or alleged damage to any of Owner's existing adjacent property that may arise from the performance of the Work, to the extent caused by the negligent or intentionally wrongful acts or omissions of Construction Manager, Subcontractor, Supplier, or anyone employed directly or indirectly by any of them or by anyone for whose acts any of them may be liable.

11.3.4 RISK OF LOSS Except to the extent a loss is covered by applicable insurance, risk of loss from damage to the Work shall be upon the Party obtaining and maintaining the Builder's Risk Policy pursuant to §11.3.1 until the Date of Final Completion.

11.3.5 POLLUTION LIABILITY INSURANCE Construction Manager is required to maintain pollution liability insurance. Unless indicated affirmatively, the obligation to procure such insurance is not triggered.

11.3.5.1 If applicable: in the following amounts: \$5,000,000 per occurrence, and shall apply for five [5] year(s) after Final Completion. The policy shall cover Construction Manager's liability during construction, removal, storage, encapsulation, transport and disposal of hazardous waste and contaminated soil, and asbestos abatement. The policy shall include coverage for on-site and off-site bodily injury and loss of damage to, or loss of use of property, directly or indirectly arising out of the discharge, dispersal, release, or escape of effluents, smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids or gas, waste materials, or other irritants, contaminants or pollutants into or upon the land, the atmosphere or any water body, whether it be gradual or sudden and accidental. The policy shall not have exclusions for mold or asbestos.

11.4 ROYALTIES, PATENTS, AND COPYRIGHTS Construction Manager shall pay all royalties and license fees which may be due on the inclusion of any patented or copyrighted materials, methods, or systems selected by Construction Manager and incorporated in the Work. Construction Manager shall defend, indemnify, and hold Owner harmless from all suits or claims for infringement of any patent rights or copyrights arising out of such selection. Owner agrees to defend, indemnify, and hold Construction Manager harmless from any suits or claims of infringement of any patent rights or copyrights arising out of any patented or copyrighted materials, methods, or systems specified by Owner or Design Professional.

11.5 BONDS Performance and Payment Bonds are required of Construction Manager. Such bonds shall be issued by a surety admitted in the state in which the Project is located and must be acceptable to Owner. Owner's acceptance shall not be withheld without a reasonable cause. The penal sum of the bonds shall each be one hundred percent (100%) of the GMP. Construction Manager shall endeavor to keep its surety advised of changes potentially impacting the GMP and Contract Time, though Construction Manager shall require that its surety waives any requirement to be notified of any alteration or extension of time.

11.5.1 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 §3.13, whichever is later.

11.5.2 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.



11.5.3 All bonds must be in the form specified by Owner prior to execution of the Contract, 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.

11.5.4 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 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.

11.5.5 If Contractor has failed to obtain a required bond, Owner may exclude the Contractor from the Site and exercise Owner’s termination rights under this Contract.

11.5.6 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.

ARTICLE 12 SUSPENSION, NOTICE TO CURE, AND TERMINATION

12.1 SUSPENSION BY OWNER FOR CONVENIENCE

12.1.1 OWNER SUSPENSION Should Owner order Construction Manager in writing to suspend, delay, or interrupt the performance of the Work for the convenience of Owner and not due to any act or omission of Construction Manager or any person or entity for whose acts or omissions Construction Manager may be liable, then Construction Manager shall immediately suspend, delay, or interrupt that portion of the Work for the time period ordered by Owner. If the Owner suspends, delays, or interrupts the performance of the Work for a period that exceeds 10 days, then Owner shall compensate the Construction Manager for the reasonable cost of the suspension, delay, or interruption of the Work.

12.1.2 Any action taken by Owner that is permitted by any other provision of the Contract Documents and that results in a suspension of part or all of the Work does not constitute a suspension of Work under this section.

12.2 NOTICE TO CURE A DEFAULT If Construction Manager persistently fails to supply enough properly qualified workers, proper materials, or equipment to maintain the approved Schedule of the Work or fails to make prompt payment to its workers, Subcontractors, or Suppliers, disregards a Law or orders of any public authority having jurisdiction, or is otherwise guilty of a material breach of a provision of this Agreement, Construction Manager may be deemed in default.

12.2.1 After receiving Owner’s written notice, if Construction Manager fails within seven (7) Days after receipt of written notice to commence and continue satisfactory correction of such default with diligence and promptness, then Owner shall give Construction Manager a second notice to correct the default within three (3) Business Days after receipt. The second notice to Construction Manager, and if applicable, the surety, may include, that Owner intends to terminate this Agreement for default absent appropriate corrective action.

12.2.2 If Construction Manager fails to promptly commence and continue satisfactory correction of the default following receipt of such second notice, Owner without prejudice to any other rights or remedies may: (a) take possession of the Worksite; (b) complete the Work utilizing reasonable



means; (c) withhold payment due to Construction Manager; and (d) as Owner deems necessary, supply workers and materials, equipment, and other facilities for the satisfactory correction of the default, and charge Construction Manager, the costs and expenses, including reasonable Overhead, profit, and attorneys' fees.

12.2.3 In the event of an emergency affecting the safety of persons or property, Owner may immediately commence and continue satisfactory correction of such default without first giving written notice to Construction Manager, but shall give Construction Manager prompt written notice.

12.3 OWNER'S RIGHT TO TERMINATE FOR DEFAULT

12.3.1 Upon expiration of the second notice to cure pursuant to §12.2, and absent appropriate corrective action, Owner may terminate this Agreement by written notice. Termination for default is in addition to any other remedies available to Owner under §12.2. If Owner's costs arising out of Construction Manager's failure to cure, including the costs of completing the Work and reasonable attorneys' fees, exceed the unpaid GMP, Construction Manager shall be liable to Owner for such excess costs. If Owner's costs are less than the unpaid GMP, Owner shall pay the difference to Construction Manager. If Owner exercises its rights under this section, upon the request of Construction Manager, Owner shall furnish to Construction Manager a detailed accounting of the costs incurred by Owner.

12.3.2 If Owner or Others perform work under this section, Owner shall have the right to take and use any materials and supplies for which Owner has paid and located at the Worksite for the purpose of completing any remaining Work.

12.3.3 If Construction Manager files a petition under the Bankruptcy Code, this Agreement shall terminate if: (a) Construction Manager or Construction Manager's trustee rejects the Agreement; (b) a default occurred and Construction Manager is unable to give adequate assurance of required performance; or (c) Construction Manager is otherwise unable to comply with the requirements for assuming this Agreement under the applicable provisions of the Bankruptcy Code.

12.3.4 Owner shall make reasonable efforts to mitigate damages arising from Construction Manager's default, and shall promptly invoice Construction Manager for all amounts due pursuant to §12.2 and §12.3.

12.4 TERMINATION BY OWNER FOR CONVENIENCE

12.4.1 Upon Construction Manager's receipt of written notice from Owner, Owner may, without cause, terminate this Agreement. Construction Manager shall immediately stop the Work, follow Owner's instructions regarding shutdown and termination procedures, and strive to minimize any further costs.

12.4.2 If Owner terminates this Agreement for convenience, Construction Manager shall be paid (a) for the Work performed to date including Overhead and profit; (b) for all demobilization costs and costs incurred resulting from termination, but not including Overhead or profit on Work not performed;

12.4.3 If Owner terminates this Agreement, Construction Manager shall:

12.4.3.1 execute and deliver to Owner all papers and take all action required to assign, transfer, and vest in Owner the rights of Construction Manager to all materials, supplies, and equipment for which payment has been or will be made in accordance with the Contract Documents and all subcontracts, orders, and commitments which have been made in accordance with the Contract Documents;



12.4.3.2 exert reasonable effort to reduce to a minimum Owner's liability for subcontracts, orders, and commitments that have not been fulfilled at the time of the termination;

12.4.3.3 cancel any subcontracts, orders, and commitments as Owner directs.

12.5 CONSTRUCTION MANAGER'S RIGHT TO TERMINATE

12.5.1 Seven (7) Days after Owner's receipt of written notice from Construction Manager, Construction Manager may terminate this Agreement if the Work has been stopped for a thirty (30) Day period through no fault of Construction Manager for any of the following reasons:

12.5.1.1 under court order or order of other governmental authorities having jurisdiction;

12.5.1.2 as a result of the declaration of a national emergency or other governmental act during which, through no act or fault of Construction Manager, materials are not available; or

12.5.1.3 suspension by Owner for convenience pursuant to §12.1.

12.5.2 In addition, upon seven (7) Days' written notice to Owner and an opportunity to cure within three (3) Days, Construction Manager may terminate this Agreement if Owner:

12.5.2.1 assigns this Agreement over Construction Manager's reasonable objection, or

12.5.2.2 fails to pay Construction Manager in accordance with this Agreement and Construction Manager has stopped Work in compliance with §10.5

12.5.3 Upon termination by Construction Manager in accordance with this section, Construction Manager shall be entitled to recover from Owner payment for all Work executed and demobilization costs.

12.6 OBLIGATIONS ARISING BEFORE TERMINATION Even after termination, the provisions of this Agreement still apply to any Work performed, payments made, events occurring, costs charged or incurred, or obligations arising before the termination date.

ARTICLE 13 DISPUTE MITIGATION AND RESOLUTION

13.1 WORK CONTINUANCE AND PAYMENT Unless otherwise agreed in writing, Construction Manager shall continue the Work and maintain the Schedule of the Work during any dispute mitigation or resolution proceedings. If Construction Manager continues to perform, Owner shall continue to make payments in accordance with this Agreement.

13.2 DIRECT DISCUSSIONS If the Parties cannot reach resolution on a matter relating to or arising out of this Agreement, the Parties shall endeavor to reach resolution through good faith direct discussions between the Parties' representatives, who shall possess the necessary authority to resolve such matter and who shall record the date of first discussions. If the Parties' representatives are not able to resolve such matter within five (5) Business Days from the date of first discussion, the Parties' representatives shall immediately inform senior executives of the Parties in writing that a resolution could not be reached. Upon receipt of such notice, the senior executives of the Parties shall meet within five (5) Business Days to endeavor to reach resolution.

13.3 MEDIATION If direct discussions pursuant to §13.2 do not result in resolution of the matter, the Parties shall endeavor to resolve the matter by mediation through the current Construction Industry Mediation Rules of the American Arbitration Association, or the Parties may mutually agree to select



another set of mediation rules. The administration of the mediation shall be as mutually agreed by the Parties. The mediation shall be convened within thirty (30) Days of the matter first being discussed and shall conclude within forty-five (45) Business Days of the matter first being discussed. Either Party may terminate the mediation at any time after the first session by written notice to the non-terminating Party and mediator. The costs of the mediation shall be shared equally by the Parties.

13.4 **BINDING DISPUTE RESOLUTION** If the matter is unresolved after submission of the matter to a mitigation procedure or to mediation, the Parties may commence litigation in Washoe County, Nevada.

13.5 **COSTS** The costs of any binding dispute resolution procedures and reasonable attorneys' fees shall be borne by the non-prevailing Party, as determined by the adjudicator of the dispute.

13.6 **VENUE** To the extent permitted by Law, the venue of any binding dispute resolution procedure shall be the location of the Project.

13.7 **MULTIPARTY PROCEEDING** All parties necessary to resolve a matter agree to be parties to the same dispute resolution proceeding, if possible. Appropriate provisions shall be included in all other contracts relating to the Work to provide for the joinder or consolidation of such dispute resolution procedures.

13.8 **LIEN RIGHTS** Nothing in this article shall limit any rights or remedies not expressly waived by Construction Manager which Construction Manager may have under lien laws.

ARTICLE 14 MISCELLANEOUS

14.1 **EXTENT OF AGREEMENT** Except as expressly provided, this Agreement is for the exclusive benefit of the Parties, and not the benefit of any third party. This Agreement represents the entire and integrated agreement between the Parties, and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement and each and every provision is for the exclusive benefit of the Parties and not for the benefit of any third party.

14.2 **ASSIGNMENT** Except as to the assignment of proceeds, neither Party shall assign their interest in this Agreement without the written consent of the other Party. The terms and conditions of this Agreement shall be binding upon both Parties, their partners, successors, assigns, and legal representatives. Neither Party shall assign the Agreement as a whole without written consent of the other except that Owner may assign the Agreement to a wholly owned subsidiary of Owner when Owner has fully indemnified Construction Manager or to an institutional lender providing construction financing for the Project as long as the assignment is no less favorable to Construction Manager than this Agreement. If such assignment occurs, Construction Manager shall execute any consent reasonably required. In such event, the wholly owned subsidiary or lender shall assume Owner's rights and obligations under the Contract Documents. If either Party attempts to make such an assignment, that Party shall nevertheless remain legally responsible for all obligations under this Agreement, unless otherwise agreed by the other Party.

14.3 **GOVERNING LAW** The law in effect at the location of the Project shall govern this Agreement.

14.4 **SEVERABILITY** The partial or complete invalidity of any one or more provisions of this Agreement shall not affect the validity or continuing force and effect of any other provision.

14.5 **NOTICE** Unless changed in writing, a Party's address indicated in Article 1 shall be used when delivering notice to a physical address. Except for Agreement termination and as otherwise specified in the Contract Documents, notice is effective upon transmission by any effective means, including U.S. postal service and overnight delivery service.



14.6 NO WAIVER OF PERFORMANCE Either Party's failure to insist upon any of its rights, in any one or more instances, on the performance of any of the terms, covenants, or conditions of this Agreement, or to exercise any of its rights, shall not be construed as a waiver or relinquishment of such term, covenant, condition, or right with respect to further performance or any other term, covenant, condition, or right.

14.7 TITLES The titles given to the articles are for ease of reference only and shall not be relied upon or cited for any other purpose.

14.8 JOINT DRAFTING The Parties expressly agree that this Agreement was jointly drafted, and that both had opportunity to negotiate its terms and to obtain the assistance of counsel in reviewing its terms before execution. Therefore, this Agreement shall be construed neither against nor in favor of either Party, but shall be construed in a neutral manner.

ARTICLE 15 CONTRACT DOCUMENTS

15.1 EXISTING CONTRACT DOCUMENTS The Contract Documents in existence at the time of execution of this Agreement are as follows:

- (a) Drawings: Incline Village General Improvement District Pond 1 Pre-stressed Concrete Effluent Storage Tank, IVGID Project No. 2599SS2010 Public Works Project No. WA-2021-016 Final Design Issued for Construction prepared by Jacobs Engineering dated July 2023, the total construction drawing package consisting of 45 sheets,
- (b) Specifications: Technical Specifications (Division 01 - 49) IVGID Project Number 2599SS2010 PWP No. WA-2021-016 Issued for Construction prepared by Jacobs Engineering dated July 2023 consisting of 466 pages,
- (c) Addenda: None at time of execution
- (d) Owner Provided information: All reports and project documentation provided to Granite Construction as part of the Pre-Construction Services portion of the Effluent Storage Tank project,
- (e) Other: Geotechnical Design Report - Document Number: PPS0926220950RDD titled "Incline Village General Improvement District Pond 1 Prestressed Concrete Effluent Storage Tank Project" as prepared by Jacobs Engineering dated April 13, 2023,
- (f) Owner Provided information: Mill Creek Dam No. 1 Decommissioning – Design Report, IVGID Pond 1 Prestressed Concrete Effluent Storage Tank, dated April 10, 2023.
- (g) GMP Documents (Schedule of Values, List of Construction Manager Assumptions, Owners Construction Risk Register, and CPM Schedule)
- (h) Construction Manager Procured Materials Shop Drawings, for example but not limited to the prestressed concrete storage tank manufacturer shop drawings/lay sheets.

15.2 INTERPRETATION OF CONTRACT DOCUMENTS

15.2.1 The drawings and specifications are complementary. If Work is shown only on one but not on the other, Construction Manager shall perform the Work as though fully described on both.

15.2.2 In case of conflicts between the drawings and specifications, the order of precedence shall be 1. Drawings 2. Shop Drawings 3. Specifications. In any case of omissions or errors in figures, drawings, or specifications, Construction Manager shall immediately submit the matter to Owner for clarification. Subject to an equitable adjustment in the GMP, Dates of Substantial or Final Completion pursuant to ARTICLE 9 or a dispute mitigation and resolution, Owner's clarifications are final and binding.

15.2.3 Where figures are given, they shall be preferred to scaled dimensions.



15.2.4 Unless otherwise specifically defined in this Agreement, any terms that have well-known technical or trade meanings shall be interpreted in accordance with their well-known meanings.

15.2.5 ORDER OF PRECEDENCE In case of any inconsistency, conflict, or ambiguity among the Contract Documents, the documents shall govern in the following order: (a) Change Orders and written amendments to this Agreement; (b) the Agreement; (c) subject to §15.2.2 the drawings, specifications, and addenda issued before the execution of this Agreement; (d) approved submittals; (e) information furnished by Owner pursuant to §3.17.4 or designated as a Contract Document in §15.1; (f) other Contract Documents listed in this Agreement.

OWNER:
INCLINE VILLAGE G. I. D.
Agreed to:

Sara Schmitz, Chair

Date

Michaela Tonking, Secretary

Date

Reviewed as to Form:

Sergio Rudin
District Legal Counsel

Date

CONTRACTOR:
GRANITE CONSTRUCTION COMPANY
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.



ENCLOSURES - Statement of Basis of Guaranteed Maximum Price Effluent Storage Tank GMP Per CMAR Agreement Section 3.6.2

Per the Draft Standard Agreement and General Conditions Between Owner and Construction Manager (dated for signature March 14th, 2024), section 3.6.2 *Basis of Guaranteed Maximum Price*, Granite respectfully submits this statement as its basis for our submitted Guaranteed Maximum Price per the following subsections:

3.6.2.1 a list of the drawings and specifications, including all addenda, which were used in preparation of the GMP Proposal;

- (a) Drawings: Incline Village General Improvement District Pond 1 Prestressed Concrete Effluent Storage Tank (IVGID Project No. 2599SS2010) (PWP WA-2021-016) Final Design – Issued for Construction, prepared by Jacobs (dated July 2023), consisting of 45 sheets.
- (b) Specifications: Incline Village General Improvement District Pond 1 Prestressed Concrete Effluent Storage Tank Technical Specifications (Division 01 - 49) IVGID Project No. 2599SS2010 (PWP WA-2021-016) – Issued for Construction, prepared by Jacobs (dated July 2023), consisting of 466 pages.

3.6.2.2 a list of allowances and a statement of their basis;

- (a) Risk Register GMP Consolidation (dated February 13, 2024)
- (b) Risk Register Breakdown of Estimated Costs (dated February 13, 2024)

General - This work shall consist of repairing, rebuilding, replacing, protecting, constructing or reconstruction of any surface or subsurface improvements which are not specified in the Construction Documents provided such work is separately authorized by IVGID and is identified herein as an item of work required as a result of the occurrence of a Project risk event at the sole discretion of IVGID.

Risk Events - Without limiting the generality of the foregoing, the following items of work have been identified to be potentially required due to the occurrence of risk events for this Project. These items were developed through a collaborative risk assessment process involving IVGID and the CMAR prior to the CMAR's GMP submittal:

IVGID Effluent Storage Tank GMP - Risk Register			GMP Consolidation		Comments
No.	Description Of Risk	Mitigation Strategy	Cost (\$)	Estimated Risk Amount	
1	(a) Subsurface Issues – to include changes to excavation limits/depths due to bedrock or large boulders within excavation limits, fill materials, subsurface water management, and disposal of materials. (b) Utility Issues – to include utility relocations, utility adjustments, and unforeseen damage to existing utilities.	Rock Splitting / Adjust grades as necessary	\$ 115,960.00	\$ 69,470.00	Items 5, 6, and 7 in the attached Risk Register Breakdown
2	(a) Environmental issues – to include increases to environmental efforts due to unforeseen weather conditions and additional permit requirements. Additional TRPA requirements not explicitly identified in contract documents. (b) Additional Work – to include final design modifications to the extent work is required that was not specified in the Contract Documents at the time of GMP bid. (c) Scope Gap/Delays - to include electrical vs. SCADA work scopes and procurement of long lead items. (d) Escalations - to include fuel and material escalations (or reductions) outside of what is presently included in GMP.	Advanced scheduling for permits, emergency action plans, early material procurement, create yard agreements for concurrent projects.	\$ 1,663,000.00	\$ 337,800.00	Items 2, 4, 9, 13, 20, 21, 23, 27, 29, 36, and 37 in the attached Risk Register Breakdown
Totals				\$ 407,270.00	

IVGID Effluent Storage Tank GMP Risk Register Breakdown of Estimated Costs					Quantitative Analysis				Comments
No.	Description Of Risk	Mitigation Strategy	Type of Risk	Probability	Cost Impacts (\$)		Schedule Impacts (Working Days)		
					Cost (\$)	Estimated Risk Amount	Time Impact	Estimated Time Impact	
2	Permitting Delays (Environmental)	Consult Agencies Early & Often	Cost & Schedule	8%	\$ 400,000.00	\$ 32,000.00	132.0	10.56	Potentially 1 year
4	Nesting Birds / Raptors	Perform Bird Survey Preconstruction	Cost & Schedule	25%	\$ 400,000.00	\$ 100,000.00	132.0	33	Potentially 1 year
5	Unknown Utility Conflicts for installation of effluent lines or power/communications	Notify Utility ASAP/Adjust Grades	Cost & Schedule	50%	\$ 10,000.00	\$ 5,000.00	10	5	
6	Bedrock or Large Boulders Within Excavation Limits and/or Trench Excavation	Rock Splitting/Blasting/Relocation	Cost & Schedule	75%	\$ 75,960.00	\$ 56,970.00	12	9	12 Days @ \$6,330 / Day = \$75,960
7	Unsuitable Material within Dam Excavation limits or other location on site.	Dispose Outside Of Basin?	Cost & Schedule	25%	\$ 30,000.00	\$ 7,500.00	2	0.5	1,000 CY of unsuitable @ \$30/CY
9	Huge Winter - Water in Basin/Groundwater / Run-off / De	Proper Permits & Dewatering Equip, coordinate with local agencies	Cost & Schedule	25%	\$ 50,000.00	\$ 12,500.00	10	2.5	1 months rent (de-watering system) x \$50,000 per month Total Direct Cost = \$50k
13	Increased Material Prices from bid to construction	Identify/Order Early/Sep GMP	Cost & Schedule	13%	\$ 100,000.00	\$ 12,500.00	0	0	Escalations have been removed from 100% OPCC, material prices current \$2.0 MM subs @ 5% = \$100,000
20	Delay to tank construction - remobe tank installer - cost to move panels from Precast yard to site and winterize	Proactively manage Construction schedule and ensure tank construction starts by mid-June	Cost	50%	\$ 125,000.00	\$ 62,500.00	0	0	Remobe to site (tank installer) Remobe crane for onsite installation (post winterization)
21	Yard Space availability at Diamond Peak (multiple projects)	Incorporate upper lot at Diamond Peak for use in the Tank Construction or Pipeline Construciton Project	Cost & Schedule	20%	\$ 200,000.00	\$ 40,000.00	80	16	10% on \$2MM Tank construction budget loss of 16 weeks (Tank duration)
23	Tree cutting & stump removal (in excess of those accounte	Accurate Design and consideration / tree removal by NTFPD	Cost & Schedule	25%	\$ 10,000.00	\$ 2,500.00	3	0.75	Cost to remove 10 trees @ \$1,000
27	Scope Gap - Civil Electrical vs SCADA	Get SCADA scope clarified and shared with Civil Electrical contractors	Schedule	40%	\$ 100,000.00	\$ 40,000.00	10	4	Provisional budgeting for potential scope gap on electrical vs. SCADA contractor.
29	Coating specs - do not begin until 30 days after shotcrete placement	Send RFI to clarify intent of this specification	Cost & Schedule	10%	\$ 50,000.00	\$ 5,000.00	0	0	Tank Installer remobe = \$50,000
36	TRPA specific requirements (i.e. Landscape and Aesthetics, color of Rip Rap, fallen tree placement)			50%	\$ 20,000.00	\$ 10,000.00	5	2.5	Potential costs for staining of native boulders, "natural" tree placement on slopes
37	Costs of Granite having to leave site and remobe in 2024 to complete work. This allows tank installer to compete tank work.	Scheduling of concurrent activities	Cost & Schedule	10%	\$ 208,000.00	\$ 20,800.00	30	3	20% of mobilatation costs to remobe and accelerate schedule
Totals					\$ 407,270.00		96.31		

3.6.2.3 a list of the assumptions and clarifications made by Construction Manager in the preparation of the GMP Proposal to supplement the information contained in the drawings and specifications;

(a) IVGID Effluent Storage Tank GMP Assumptions (dated March 18, 2024)

IVGID Effluent Storage Tank GMP Assumptions:

This GMP has been established based on the following:

- Anticipated Award Date: March 28, 2024
- Drawings: Incline Village General Improvement District Pond 1 Prestressed Concrete Effluent Storage Tank (IVGID Project No. 2599SS2010) (PWP WA-2021-016)
Final Design – Issued for Construction provided by Jacobs (dated July 2023) consisting of 45 sheets.
- Specifications: Incline Village General Improvement District Pond 1 Prestressed Concrete Effluent Storage Tank (IVGID Project No. 2599SS2010) (PWP WA-2021-016)
Technical Specifications – Issued for Construction provided by Jacobs (dated July 2023)
- Geotechnical Design Report (Doc No. PPS0926220950RDD) provided by Jacobs (dated April 13, 2023)
- The CPM schedule is based on a working season of May 1st through October 15th for a total of 24 weeks or 5-1/2 months per construction season. The below identified Holidays have been incorporated into the CPM Schedule:
 - Memorial Day
 - Independence Day
 - Labor Day
 - Nevada Day
- Durations and productions have been established working eight (8) hours per day, five days per week. Earthwork (i.e. Excavation, Cut/Fill Embankment) activities are ten (10) hours per day, six (6) days per week to accelerate the critical path ahead of pre-stressed concrete tank erection.

GENERAL ASSUMPTIONS

- 1) IVGID to provide off-site staging area at Diamond Peak Ski Resort, as outlined in the Final Environmental Assessment (dated November 3, 2023), for pre-casting of tank wall and roof panels.
- 2) IVGID to remove snow if needed at storage area.
- 3) Owner's Quality Assurance (QA), as deemed necessary by IVGID, will be provided by others. (i.e. inspections, material sampling and testing, trench backfill compaction, AC testing, etc)

- 4) No excavation of hard rock has been included in this GMP and is addressed as a risk item in the Risk Register.
- 5) Excavation depths of the effluent lines are generally greater than 5' feet; therefore, trench shielding has been included in the effluent pipe items.
- 6) The current plant effluent storage capacity for a duration of approximately 24 hours shall be sufficient to perform necessary tie-ins during construction.
- 7) The truck haul route is estimated via US Hwy 50 to SR 28. Mt. Rose Highway (SR 431) is not a haul route for this project.
- 8) The DBE goal for the project is 5%, and is based on the GMP Total Price, exclusive of the Risk Register.

BID ITEM ASSUMPTIONS / CLARIFICATIONS / INCLUSIONS:

Item 1: Mobilization/Demobilization & General Conditions:

- I. Mobilizing and de-mobilizing one time each in 2024 construction season for CMAR and subcontractors to complete continuous construction operations.
- II. Allowances included with this GMP
 - a) Building Permit (Washoe County): \$21,500
- III. Contractor Quality Control to include:
 - a) Earthwork
 - i. Gradations (3 each) and compaction testing of native material placed in embankments
 - b) Site Work
 - i. Compaction testing for:
 1. Aggregate base under access road
 2. Aggregate base under tank floor
 3. Asphalt Paving
 - c) Site Utilities
 - i. Compaction testing for:
 1. Trench bedding and backfill
- IV. Mechanical Engineering of pipe brackets affixed to prestressed concrete tank

Item 3: Temporary Erosion Control (SWPPP), includes:

- I. Development and implementation of SWPPP.
- II. Installation and maintenance of BMP's.
- III. Placement of hydro-mulch and tackifier on exposed slopes to provide temporary erosion protection during construction.

Item 5: Remove Felled Trees, includes:

- I. Relocating and/or grinding the existing trees that were previously felled by the Fire Protection District (approximately 32 each)
- II. Felling of remaining trees (5 each) with greater than 14" DBH around perimeter of existing pond.
- III. Removal of stumps within two feet from finished subgrade of access road

Item 6: Earthwork

- I. This GMP has been established assuming earthwork quantities for the pond excavation and removal of the existing mill creek pond no. 1 dam (9,000 CY of cut-to-fill earthwork) for the project will balance onsite with export limited to 200 CY. Per the Geotechnical Design Report (April 13, 2023), little to no expansion or shrinkage is anticipated.
- II. Includes screening of material to 4" minus for placement in embankments

Item 7: Slope Treatment A

- I. Installed per plan with various boulder groupings.

Item 8: Slope Treatment B

- I. Installed per plan

Item 9: Slope Treatment C

- I. Installed per plans with various boulder groupings and felled trees to create "natural" look.

Item 10: Subgrade Material (6" Under Tank)

- I. Includes furnish, placement, and compaction of 6" Type II aggregate base, compacted to 95% relative compaction.

Item 11: Site Drainage Gravel (6" Drain Rock)

- I. Geotextile not included underlying site drainage gravel. Technical specification 31 23 23.15, 2.07, A. states to "Use in infiltration trench around Drainage Aggregate as shown". There is no fabric shown in detail 3215-260, DWG 900-SD-0002, plan sheet 37 of 45.

Item 12: Site Access Road Surfacing (6" Aggregate Base)

- I. Include furnish, placement, and compaction of 6" Type 2, Class B aggregate base.
- II. Includes scarifying the compacted aggregate base on the access road post-construction to reduce effective TRPA "coverage" area.

Item 13: Site Access Road Surfacing (3" Asphalt Concrete)

- I. Includes furnish, placement, and compaction of 3" Type 3 (1/2" PG64-28NV) asphalt cement.

Item 14: Type I Shoulder Dike

- I. No exclusions

Item 15: Infiltration Trench – Road

- I. No exclusions

Item 16: Infiltration Trench – Tank

- I. No exclusions

Item 17: 18" RCP Culvert w/ 18" Flared End

- I. No exclusions.

Item 18: Drop Inlet (Type 2A)

- I. Includes furnish, installation of precast drop inlet with grate.

Item 19: Rip Rap (Drainage Swale)

- I. Furnish and placement of geotextile and Rip Rap.
- II. Rip rap sourced from Lockwood pit.

Item 20: Rip Rap Energy Dissipater (Type A)

- I. No exclusions

Item 21: Rip Rap Energy Dissipater (Type B)

- I. No exclusions

Item 22: PCC Valley Gutter

- I. No exclusions.

Item 23: PCC Perimeter Foundation Earthwork

- I. Includes earthwork in support of Tank installer (to provide furnish and installation of reinforcement steel and rebar for tank floor slab).

Item 24: Pre-Stressed Concrete Tank

- I. Cast-in-Place items include:
 - a) reinforced concrete membrane floor, complete including sump and 6 mil poly vapor barrier.
- II. Tank Appurtenances:
 - a) One (1) 8-inch inlet line including interior riser pipe on the interior portion of the tank.
 - b) One (1) 12-inch overflow line including interior riser pipe and weir on the interior portion of the tank
 - c) One (1) 6-inch dome sleeve
 - d) One (1) 48" x 48" Aluminum roof hatch
 - e) Two (2) 36-inch Ø wall manways
 - f) One (1) 304 SS interior ladder with saf-t-climb fall prevention device
 - g) One (1) Galvanized exterior ladder with saf-t-climb fall prevention device
 - h) Thirty (30) lineal feet of aluminum roof handrail
 - i) One (1) Vortex-Breaker located on the tank outlet line

- III. Off-site Pre-casting of wall panels and roof panels at Owner provided staging area (Diamond Peak Ski Resort, Incline Village, NV).
- IV. Concrete and Shotcrete Testing includes:
 - a) All concrete and shotcrete testing under DN Tanks' scope of work shall be performed by an independent testing laboratory
 - b) Structural Observation by DN Tanks' design engineer per 01 45 33 Supplement 2, *Structural Observation Table*.
- V. Exterior Decorative Coating:
 - a) Exterior dome surface to receive one coat of cementitious based damp-proofing product and one coat of a non-cementitious, high build, 100 percent acrylic resin protective coating.
 - b) Exterior wall surfaces to receive two coats of a non-cementitious, high build, 100 percent acrylic resin polymer protective coating.
- VI. Installation of ancillary items:
 - a) Concrete equipment pads
 - b) 12" Overflow Pipe
 - c) Concrete "knee" wall at perimeter of tank foundation adjacent to 8-inch effluent line trench.

Item 25: Coatings / Aesthetics

- I. Item removed. Tank coatings are included in item 24.

Item 26: 16" Effluent Piping (Gravity)

- I. Granite will perform all required excavation, procurement, and installation for the pipeline including the following:
 - a) Pipeline Materials (ductile iron pipe, restrained joint, class 250)
 - b) Pipe Bedding (6-inch)
 - c) Pipe Zone Material (12-inch over pipe)
- II. Excavation based on an average depth of 6.0' to I.E. for ductile iron pipe (per current plan profile sheets). Trench shielding is included.
- III. Pipe bedding and Pipe Zone Material are figured with imported granular backfill (to meet the specification of 3/8-inch maximum particle size). The trench backfill zone (volume beneath base rock and 1 foot above pipe) has been figured with 2" (-) screened "native" excavated material with no 200 specs. Spoils from the screening operation are figured to be placed onsite within one of the embankment fills. Offhaul/export is excluded.
- IV. Encasement of the pipeline is included (per detail 0330-016) to approximately 5 feet beyond the perimeter of the tank foundation.
- V. Granite to supply necessary equipment, materials, and temporary connections/fittings to conduct hydrostatic pressure testing. IVGID to witness/observe hydrostatic testing performed by Granite.

Item 27: 8" Effluent Piping (Pump)

- I. Granite will perform all required excavation, procurement, and installation for the pipeline including the following:
 - a) Pipeline Materials (ductile iron pipe, restrained joint, class 350)
 - b) Pipe Bedding (6-inch)
 - c) Pipe Zone Material (12-inch over pipe)
- II. Excavation based on an average depth of 6.0' to I.E. for ductile iron pipe (per current plan profile sheets). Trench shielding is included.
- III. Pipe bedding and Pipe Zone Material are figured with imported granular backfill (to meet the specification of 3/8-inch maximum particle size). The trench backfill zone (volume beneath base rock and 1 foot above pipe) has been figured with 2" (-) screened "native" excavated material with no 200 specs. Spoils from the screening operation are figured to be placed onsite within one of the embankment fills. Offhaul/export is excluded.
- IV. Encasement of the pipeline is excluded.
- V. Granite to supply necessary equipment, materials, and temporary connections/fittings to conduct hydrostatic pressure testing. IVGID to witness/observe hydrostatic testing performed by Granite.

Item 28: 6" Effluent Piping (Gravity)

- I. Granite will perform all required excavation, procurement, and installation for the pipeline including the following:
 - a) Pipeline Materials (ductile iron pipe, restrained joint, class 350)
 - b) Pipe Bedding (6-inch)
 - c) Pipe Zone Material (12-inch over pipe)
- VI. Excavation based on an average depth of 6.0' to I.E. for ductile iron pipe (per current plan profile sheets). Trench shielding is included.
- VII. Pipe bedding and Pipe Zone Material are figured with imported granular backfill (to meet the specification of 3/8-inch maximum particle size). The trench backfill zone (volume beneath base rock and 1 foot above pipe) has been figured with 2" (-) screened "native" excavated material with no 200 specs. Spoils from the screening operation are figured to be placed onsite within one of the embankment fills. No offhaul or export is included.
- VIII. Encasement of the pipeline is excluded.
- IX. Granite to supply necessary equipment, materials, and temporary connections/fittings to conduct hydrostatic pressure testing. IVGID to witness/observe hydrostatic testing performed by Granite.

Item 29: Temporary By-Pass (existing 24" FRP to existing 16" Steel)

- I. Furnish and install temporary by-pass of existing vault connections by connecting existing 24-inch FRP to existing 16-inch steel with temporary pipeline (approximately 25 LF).

Item 30: Tee into Existing Pipeline / Replace Valving

- I. Demolition of existing vault and appurtenances (per Sheet 24):
 - a) Demolish existing concrete stairs (6' x 4' x 2')
 - b) Demolish top of vault
 - c) Demolish existing 16" - (2) gate valves, (1) tee, (1) reducer and (1) flanged coupling adapter
 - d) Demolish existing 8" - gate valve and piping
 - e) Demolish 4" ARV, gate valve, vent piping
- II. Demolition of existing yard piping (per Sheet 26)
 - a) Cap existing 10" CIP
 - b) Cap existing 24" CMP
 - c) Cap existing 14" CMP
 - d) Demo existing 10" CIP (40 LF) and Structure
 - e) Demolish existing 18" CMP (110 LF) and Inlet
- III. Includes assembly/installation time for all fittings on Sheet 25 (minus the Drywell Vault and Pump, installed in Effluent Pump Drywell item).
- IV. Furnish and install
 - a) (2) Guard Posts
 - b) New Concrete Stairs
- V. Removal and replacement of 1,350 SF of 3" asphalt paving adjacent to existing tank that will be necessary for new pipeline installations.

Item 31: Effluent Pump Drywell

- I. Furnish and installation of precast vault complete with access hatch and aluminum ladder.
- II. Furnish and installation of drywell pump and fittings.
- III. Long-lead items include the Effluent Transfer Pump (21 weeks)

Item 32: SCADA system

- I. Item Removed. To be performed by others.

Item 33: Civil Electrical System

- I. Furnish and installation of conduits, pull boxes, conductors, and cables as shown in the plans or specifications.
- II. Long-lead items include:
 - a. pump controller (30 weeks)
 - b. MCC Bucket (28 weeks)

Exclusions:

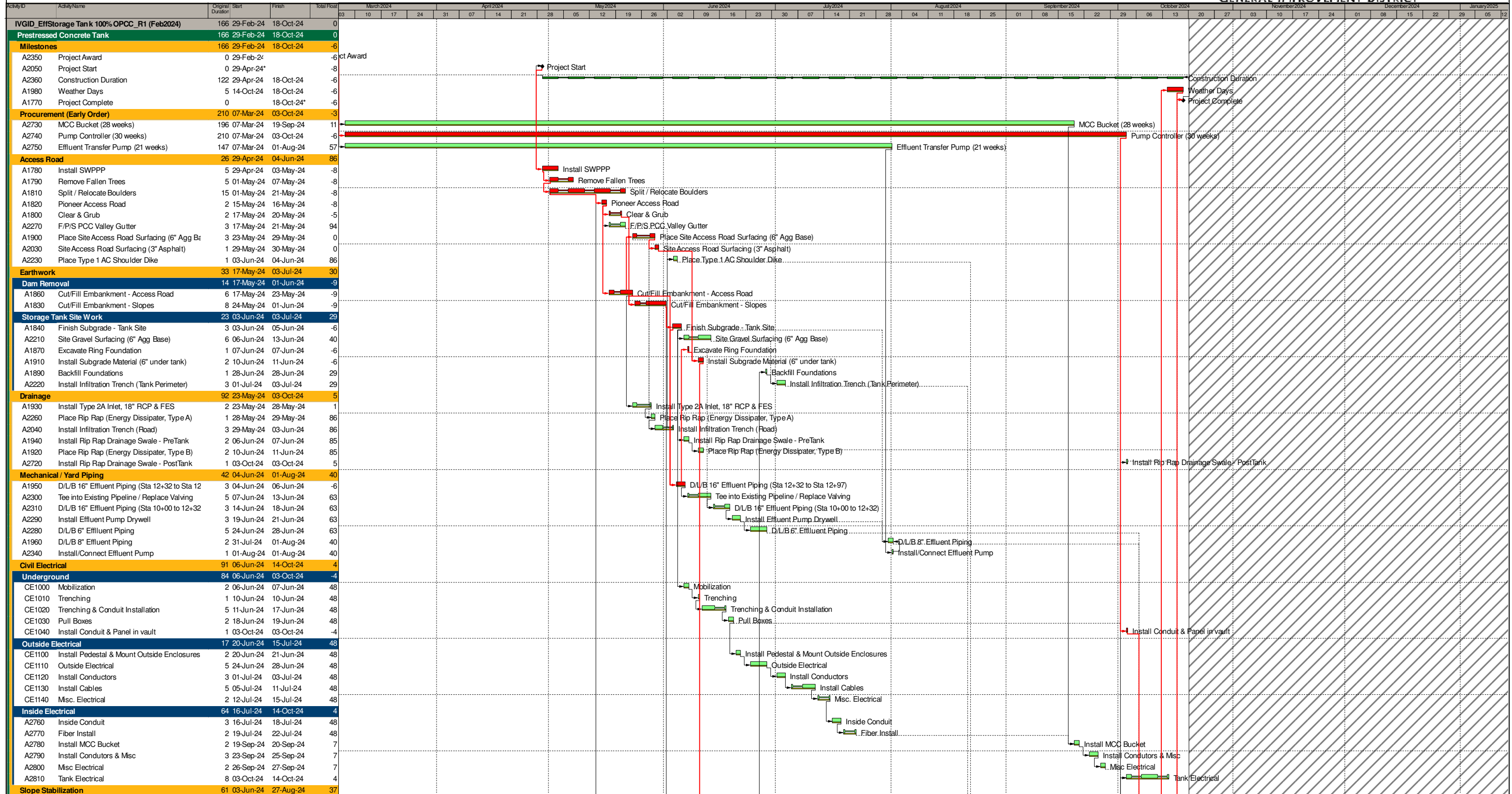
- 1) Traffic Control.
- 2) Special Inspections per Section 01 45 33 Special Inspection, Observation, and Testing
- 3) Owner's Quality Assurance (QA).
- 4) Construction Water purchase (assume provided by IVGID)
- 5) Agency Certified Payroll software (if required)

3.6.2.4 the Date of Substantial Completion or the Date of Final Completion upon which the proposed GMP is based, and the Schedule of Work upon which the Date of Substantial Completion or the Date of Final Completion is based;

- (a) Anticipated Substantial Completion Date: October 18, 2024
- (b) Anticipated Final Completion Date: November 1, 2024
- (c) IVGID CMAR – Effluent Storage Tank GMP (anticipated start 05.01.24) Preliminary Construction Schedule (dated February 2024)



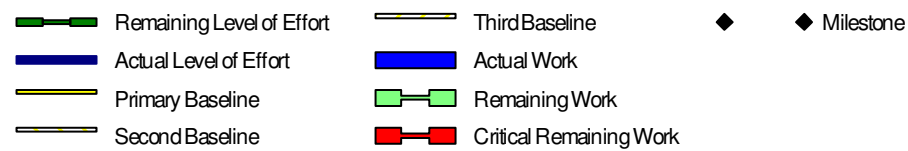
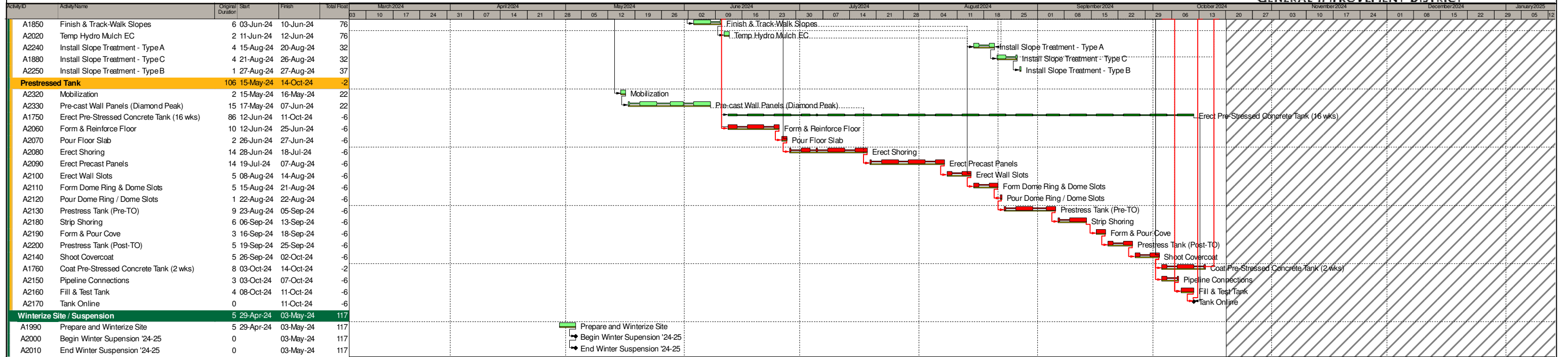
IVGID CMAR - Effluent Storage Tank
 GMP (anticipated start 05.01.24)
 Preliminary Construction Schedule (February 2024)



- Remaining Level of Effort
- Actual Level of Effort
- Primary Baseline
- Second Baseline
- Third Baseline
- Actual Work
- Remaining Work
- Critical Remaining Work
- ◆ Milestone



IVGID CMAR - Effluent Storage Tank
 GMP (anticipated start 05.01.24)
 Preliminary Construction Schedule (February 2024)



3.6.2.5 a schedule of applicable alternate prices;

- (a) No alternative pricing provided with GMP at time of submission.
- (b) Changes in the work shall be accomplished as outlined in Article 9 of the Construction Agreement.

3.6.2.6 a schedule of applicable unit prices;

(a) Bid Schedule of Values – IVGID Effluent Storage Tank GMP (dated February 13, 2024)

IVGID Prestressed Concrete Effluent Storage Tank GMP

Tuesday, February 13, 2024

Item	Description	UoM	Qty	Unit Price	GMP Total
GENERAL REQUIREMENTS					
1	Mobilization/Demobilization and General Conditions	LS	1	\$ 1,040,290.00	\$ 1,040,290.00
2	Insurance and Bonds	LS	1	\$ 41,443.00	\$ 41,443.00
(A) Subtotal					\$ 1,081,733.00

Pond Earthwork					
3	Temp Erosion Control (SWPPP)	LS	1	\$ 115,250.00	\$ 115,250.00
4	Clear & Grub	AC	2.5	\$ 20,987.50	\$ 52,468.75
5	Remove Felled Trees	LS	1	\$ 33,500.00	\$ 33,500.00
6	Earthwork (Excavation, Embankment, Pioneering, Boulder Mitigation)	LS	1	\$ 379,216.00	\$ 379,216.00
6a	Excavation (Export)			incl in Item 6	
6b	Embankment (Cut To Fill)			incl in Item 6	
7	Slope Treatment Type A	SY	2,465	\$ 30.45	\$ 75,059.25
8	Slope Treatment Type B	SY	1,985	\$ 11.65	\$ 23,125.25
9	Slope Treatment Type C	SY	1,745	\$ 32.00	\$ 55,840.00
10	Subgrade Material (6" Under Tank)	CY	170	\$ 278.50	\$ 47,345.00
11	Site Drainage Gravel (6" Drain Rock)	CY	260	\$ 164.00	\$ 42,640.00
12	Site Access Road Surfacing (6" Aggregate Base)	CY	270	\$ 138.00	\$ 37,260.00
13	Site Access Road Surfacing (3" Asphalt Concrete)	SF	8,730	\$ 5.00	\$ 43,650.00
14	Type 1 Shoulder Dike	LF	170	\$ 65.55	\$ 11,143.50
15	Infiltration Trench - Road (varies: 15" minimum)	LF	285	\$ 84.35	\$ 24,039.75
16	Infiltration Trench - Tank (depth: 10-inches)	LF	338	\$ 42.20	\$ 14,263.60
17	18" RCP Culvert w/ Flared End Section	EACH	1	\$ 12,753.00	\$ 12,753.00
18	Drop Inlet Type 2A	EACH	1	\$ 12,970.00	\$ 12,970.00
19	Riprap (Drainage Swale)	SF	4,658	\$ 15.30	\$ 71,267.40
20	Riprap (Energy Dissipater) - Type A	EACH	1	\$ 3,956.00	\$ 3,956.00
21	Riprap (Energy Dissipater) - Type B	EACH	1	\$ 9,725.55	\$ 9,725.55
22	PCC Valley Gutter	SF	525	\$ 29.50	\$ 15,487.50
(B) Subtotal - Pond Earthwork					\$ 1,080,960.55

Effluent Storage					
23	Concrete Perimeter Foundation (Earthwork Only)	LS	1	\$ 13,212.00	\$ 13,212.00
24	Prestressed Concrete Tank (99' Dia, 37' Height) 2MG	EACH	1	\$ 2,654,875.00	\$ 2,654,875.00
25	Exterior Coatings / Aesthetics			incl in Item 24	
26	16" Effluent Piping (Gravity)	LF	296	\$ 825.00	\$ 244,200.00
27	8" Effluent Piping (Pump)	LF	300	\$ 264.25	\$ 79,275.00
28	6" Effluent Piping (Gravity)	LF	16	\$ 779.00	\$ 12,464.00
29	Temporary By-Pass (existing 24" FRP to 16" Steel)	EACH	1	\$ -	\$ -
30	Tee Into Existing Pipeline/ Replace Valving	LS	1	\$ 92,800.00	\$ 92,800.00
31	Effluent Pump Drywell	LS	1	\$ 78,620.00	\$ 78,620.00
32	SCADA System			By Others	
33	Civil Electrical Works	LS	1	\$ 324,500.00	\$ 324,500.00
(C) Subtotal - Effluent Storage					\$ 3,499,946.00

(D)	Contractor Fee (10%)	%	10		\$ 566,263.96
GMP Total (A + B + C + D)					\$ 6,228,903.51

3.6.2.7 a statement of any work to be self-performed by Construction Manager.

(a) See below table for self-performed activities by Granite Construction:

Scope Description	Self-Performed Element	Subcontracted Element
Survey		X
Environmental Compliance – SWPPP	X	
Clear & Grub	X	X
Tree Removal		X
Earthwork	X	
Aggregate Base	X	
HMA Paving	X	
HMA Dike		X
Prestressed Concrete Tank		X
Minor Concrete	X	
Concrete Pumping		X
Civil Electrical		X
Temporary and Permanent Erosion Control	X	X
Project Fencing, Temp		X
Haul HMA	X	X
Haul Aggregate Base	X	X
Miscellaneous Hauling	X	X
Sweeping		X
Concrete Washout		X
Painting		X
QC Testing		X

MEMORANDUM

TO: Board of Trustees

THROUGH: Bobby Magee, District General Manager

FROM: Kate Nelson, Interim Director of Public Works
Hudson Klein, Principal Engineer

SUBJECT: Review, Discuss and Approve:
1. The CMAR Construction Agreement, Contractor: Granite Construction, in the Amount of \$6,636,173.51; and,
2. the Construction Administration Services Agreement, Consultant: Jacobs Engineering, for an Amount Not to Exceed \$200,157.00 for the WRRF Storage Tank Project - 2023/24 Capital Improvement Project; Fund: Sewer; Division: Utilities; Project #2599SS2010. (Requesting Staff Member: Interim Director of Public Works Kate Nelson).

RELATED FY 2023 STRATEGIC PLAN BUDGET 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; 13.2.0 Capital Planning Capital Expenditures;

DATE: March 28, 2024

I. RECOMMENDATION

It is recommended that the Board of Trustees:

1. Approve the CMAR Construction Agreement with Granite Construction for the Effluent Storage Tank Project with a Guaranteed Maximum Price in the amount of \$6,636,173.51 (Inclusive of \$407,270.00 Owner Controlled Risk Reserve); 2023/24 Capital Improvement Project; Fund: Utilities; Division: Sewer; Project #2599SS2010; and,

2. Approve the Construction Administration Services Agreement with Jacobs Engineering for the Effluent Storage Tank Project for an Amount Not to Exceed \$200,157.00; 2023/24 Capital Improvement Project; Fund: Utilities; Division: Sewer; Project #2599SS2010; and,

3. Authorize the Chair and Secretary to Execute the CMAR Contract with Granite Construction and the Construction Administration Services Agreement with Jacobs Engineering.

II. BACKGROUND

At the Board of Trustees meeting on January 28, 2021 (Item K.1), Granite Construction was selected as the Construction Manager at Risk (CMAR) for both the effluent export pipeline replacement project and the emergency storage pond lining project. On February 28, 2024 Staff presented a recommendation (Item G.3) for the CMAR Agreement for Granite Construction to complete construction of the two million gallon prestressed concrete storage tank at the Wastewater Resource Recovery Facility (WRRF). At this meeting, Staff presented the progression of project cost increases observed from a 30% schematic design to final guaranteed maximum price (GMP). The majority of cost increase was primarily the result of an inaccurate estimate for the tank design and construction caused by a misinterpretation by the tank manufacturer of the seismic and snow loading structural requirements; this was an overall increase of approximately \$800,000. A budget augmentation was Board approved on February 28, 2024 (Item G.3) to appropriate the additional funds required for the construction phase.

The recommended CMAR Agreement (ATTACHMENT A) follows the general form previously approved and executed for the Effluent Export Pipeline projects GMP1 and GMP2. However, for the Effluent Storage Tank Project the unused risk register funds will be 100% returned to the District; the CMAR will receive no share of unused risk and the CMAR fee has been reduced to 10%.

Jacobs Engineering has served as the design engineer since the beginning of the effluent storage project. As described at the February 28, 2024 Board meeting (Item G.3) the project scope changed from an open-water storage pond to the current concrete storage tank as a result of regulatory restrictions and operational requirements of the WRRF. The current agreement with Jacobs includes final design and bid support services and is active until March 31, 2024.

The recommended Amendment 10 (ATTACHMENT B) to the Jacobs contract continues service through the construction phase. The scope is to provide various engineering administrative and construction observation services including submittal reviews, request for information responses (design clarifications), final as-built plan preparation, and construction observations, as required. The contract has allowances for a level of support described in the amendment scope attachment and the District will be invoiced for services provided as construction progresses not to exceed the contract value of \$200,175; any difference between the contract agreement total value and actual billed hours will be returned to the District.

III. BID RESULTS

Granite completed subcontractor bid solicitation as part of the required CMAR process in January 2024. The bid results were opened in front of Staff on January 31, 2024; the recommended selections were presented the same day and Staff agreed with the CMAR recommendations for subcontractor selection.

The selected subcontractor bid results are incorporated in the total project costs table presented in Section IV - FINANCIAL IMPACT AND BUDGET.

The Construction Administration Services agreement was not solicited publicly for bid. There is no requirement for professional services to be solicited for competitive bid per NRS 332.115.1(b). As the Engineer of Record (EOR), Jacobs is the most suitable consultant to provide Construction Administration Services.

IV. FINANCIAL IMPACT AND BUDGET

Under the current CMAR delivery method, the total construction phase budget is estimated at \$7.2M; This includes the GMP cost, contract contingency, Staff time for construction and closeout periods, special inspection and materials testing (Construction Administration Services), as well as design and Staff time to date. A summary of forecasted costs is as follows:

Description	Cost Estimate
Direct Construction Costs	\$ 5,663,000
CMAR Fee	\$ 566,300
Risk Reserve	\$ 410,000
IVGID Operations Staff	\$ 38,000
IVGID Proj. Mgmt.	\$ 90,000
Engineering Construction Administration Services	\$ 200,000
Contract Contingency	\$ 190,000
Temporary SCADA	\$ 26,500
Subtotal	\$ 7,183,800
Spent to date	\$ 880,000
TOTAL	\$8,063,800

The US Army Corps of Engineers (USACE) Section 595 Program Project Partnering Agreement was signed in 2023 including reimbursement of up to 75% of the project costs calculated as \$7.6M at the time of signing. This provides up to \$5.7M of reimbursement. Since the start of the project in July 2021, approximately \$880,000 has been spent in consultant fees, CMAR preconstruction, permitting, USACE funding administration, and staff management and operations time. Roughly \$745,000 of this is eligible under Section 595 Funds with \$559,000 currently submitted and in the process of reimbursement.

IVGID currently has approximately \$6.4M in the project budget inclusive of FY24 spend to date and the carry-forward approved in October 2023; this does not include the \$559,000 USACE reimbursement referenced above. The Board of Trustees authorized a budget augmentation of \$800,000 to account for the difference between the \$6.4M available and the \$7.2M forecast in order to award the construction contract and secure appropriate budget for remaining project costs.

V. ALTERNATIVES

No alternatives are offered at this time.

VI. BUSINESS IMPACT/BENEFIT

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

VII. ATTACHMENTS

1. ATTACHMENT A - CMAR Agreement Effluent Storage Tank
2599SS2010_20240320
2. ATTACHMENT B - Jacobs Amendment 10 to Effluent Storage Tank - CA
Services

**AMENDMENT NO. 10
TO SHORT FORM AGREEMENT DATED JUNE 9, 2021
BETWEEN
INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT
AND
JACOBS ENGINEERING GROUP, INC.**

This Amendment No. 10 to the Short Form Agreement dated June 9, 2021 (“Amendment”) is made and entered into as of March 28, 2024 by and between the Incline Village General Improvement District (“District”) and Jacobs Engineering Group, Inc. (“Consultant”). District and Consultant are sometimes individually referred to as “Party” and collectively as “Parties.”

Recitals

- A. **Original Agreement.** The Parties have entered into an agreement for Effluent Pond Lining Final Design dated June 9, 2021 and as amended by previous instruments dated July 14, 2021, September 3, 2021, February 2, 2022, March 10, 2022, June 30, 2022 (Amendments 5 and 6 both dated June 30, 2022; one for change in scope and one for extension of time), June 14, 2023, December 13, 2023, and February 13, 2024 (“Original Agreement”), which is incorporated herein by reference as if fully set forth herein, for the purpose of District retaining Consultant to provide the Services set forth therein.
- B. **Amendment Purpose.** District and Consultant wish to extend Consultant’s current contracted design and engineering services to also provide construction administration services for the duration of Phase 3, Construction, of the Wastewater Resource Recovery Facility (WRRF) Effluent Storage Tank project.
- C. **Amendment Authority.** This Amendment is authorized pursuant to Section 5 of the Original Agreement.

Amendment

Now therefore, the Parties hereby modify the Original Agreement as follows:

1. **Definitions.** All capitalized terms used in this Amendment not defined in this Amendment shall have the same meaning as set forth in the Original Agreement if defined in the Original Agreement.
2. **Construction Administration (CA) Services:** Consultant’s professional engineering services will include review of the Construction Manager at Risk’s (CMAR) Requests for Information, submittal reviews, construction site visits for grading, geotechnical and structural observation and completion of record drawings. The CA services are more fully described in Exhibit A, Consultant’s Scope of Work, which is attached hereto and incorporated herein by this reference.
3. **Term.** Construction of the Effluent Storage Tank by IVGID’s CMAR, Granite Construction, is anticipated to start March 28, 2024, with final completion scheduled for November 30, 2024. This Agreement will run concurrent with that work and should updates be required due to changes in the project agreement with Granite Construction, additional Amendments will be

requested pursuant to Section 5 of the Original Agreement.

- 4. Compensation. This work will be billed on a Time and Materials basis, with a not to exceed amount of **Two Hundred Thousand One Hundred Fifty-Seven Dollars (\$200,157.00)**. The basis for this compensation is more fully described in Exhibit B, Compensation Schedule, attached hereto and incorporated herein by this reference.
- 5. Continuing Effect of Agreement. All provisions of the Original Agreement otherwise remain in full force and effect and are reaffirmed. From and after the date of this Amendment, whenever the term "Agreement" appears in the Original Agreement, it shall mean the Original Agreement as amended by this Amendment.
- 6. Adequate Consideration. The Parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Amendment.
- 7. Severability. If any portion of this Amendment is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

OWNER:
INCLINE VILLAGE G. I. D.
Agreed to:

 Trustee Sara Schmitz, Chairperson

 Date

 Trustee Michaela Tonking, Secretary

 Date

Reviewed as to Form:

 Sergio Rudin
 District Legal Counsel

 Date

CONTRACTOR:
JACOBS ENGINEERING GROUP, INC.
Agreed to:

By:

Signature of Authorized Agent

John Schoonover, Manager of Projects

Print or Type Name and Title

March 18, 2024

 Date

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

EXHIBIT A

CONSULTANT'S SCOPE OF WORK

Phase 3 – Pond 1 Prestressed Concrete Effluent Storage Tank Services During Construction

This scope is in support of Services During Construction for Pond 1 Prestressed Concrete Effluent Storage Tank project, issued for construction in July 2023. The construction will be completed under a CMAR Agreement between IVGID and Granite Construction and IVGID will provide Construction Management services with limited support from Jacobs. As Construction Manager, IVGID will be responsible for contracting with an independent testing firm for materials testing and Special Inspection per the project specifications and building code. Jacobs will complete RFIs, submittal reviews, construction site visits for grading, geotechnical, and structural observation and completion of record drawings.

Task 1: Services During Construction

Task 1.1 Shop Drawing, Samples and Submittal Reviews

Jacobs will review Contractor's proposed construction submittal schedule, which should identify all shop drawings, samples, and submittals required by the Contract Documents, along with anticipated dates for submission. Coordination services for construction shop drawings, samples, and submittals, include preparation of a track system, shall be performed by the Contractor and/or IVGID. Jacobs will establish a separate internal system and set of procedures for managing, tracking status, and storing submittals transmitted by Contractor or IVGID.

Jacobs will review a limited number of submittals transmitted by the Contractor as part of the Contract Document requirements. Jacob's review will be for conformance with the design concept and compliance with the requirements of the Contract Documents. Such review shall not relieve the Contractor from its responsibility for performance in accordance with the Contract Documents, nor is such review a guarantee that the Contractor performed work covered by the shop drawings, samples, or submittals is free of errors, inconsistencies, or omissions.

The fee established for this sub-task assume the processing of approximately 100 technical submittals (including re-submittals) by Jacobs, each requiring an average of about 5 hours of review and processing time. IVGID will review the remaining project submittals.

Task 1.2 Requests for Information

Jacobs will review Contractor's request for information (RFIs) or clarification of technical requirements of the Contract Documents. Jacobs will log and track RFIs received from the Contractor.

The fee established assumes the processing of approximately 15 RFIs, each requiring an average of about 4 hours of review and processing time.

Task 1.3 Change Requests

Jacobs will review and evaluate Contractor-requested changes to the contract documents. Jacobs will make recommendations to IVGID regarding the acceptability of the Contractor's request and, upon approval of IVGID, Jacobs will assist with preparing information to negotiate the requested change as well as prepare the final change order documents for issuance by IVGID.

The fee established assumed evaluating and processing six (6) requests with 10 hours per request.

Task 1.4 Construction Site Observation

During the course of construction, Jacobs' Design Engineers will make up to (10) onsite visits. Each onsite visit will include one day of construction observation during regular working hours. Observation of the Contractor's work is intended to review the general conformance of the work with the design intent and the requirements of the Contract Documents.

These periodic onsite observations will supplement on-site inspection performed by IVGID's Construction Manager. Periodic on-site observation will include the specified visual inspection for the reinforcement system and site preparation, however material sampling and testing will be performed by a testing agency contracted with IVGID.

Construction Manager will coordinate with IVGID and Project Lead Engineer to determine appropriate timing and schedule for onsite field visits based on Contractor's approved construction schedule.

Task 1.5 Record Drawings

At completion of construction, Jacobs will utilize completed change requests and field notes from Contractor and IVGID to prepare an as-built or Record Drawing set for the project. Record Drawings will be circulated for review and then provided in final pdf format at project closeout.

Task 2: Project Management

Project and Design Management will include internal kickoff meeting, recurring internal and external design meetings, and partnering meetings, progress reporting and invoicing to the Client, overall team coordination and management and change management.

EXHIBIT B
COMPENSATION SCHEDULE

Task	Budget
Task 1: Services During Construction	\$181,117
Task 2: Project Management	\$15,190
Expenses	\$3,850
Phase 3 Design Total	\$200,157

Cost Reimbursable Per Diem (Time and Expense)

For services defined in this Task Order, at the Per Diem Rates referenced below, plus Direct Expenses, plus a service charge of 10 percent of Direct Expenses and 10 percent of subcontracts and outside services, plus applicable sales, use, value added, business transfer, gross receipts, or other similar taxes.

Per Diem Rates

Per Diem Rates are those hourly rates charged for work performed on the Project by Engineer's employees of the indicated classifications. These rates are subject to revision for other projects and annual calendar year adjustments; include all allowances for salary, overheads, and fees; but do not include allowances for Direct Expenses, subcontracts, and outside services.

Direct Expenses

Direct Expenses are those necessary costs and charges incurred for the Project including, but not limited to: (1) Engineer's current standard rate charges for reproduction services; and (2) Engineer's standard project charges for special health and safety requirements of OSHA.

Travel Expenses

Travel costs shall consist of the negotiated number of trips at the current established Federal travel rates and will include travel costs, per diem to and from the project site, and applicable per diem while working on the project. [2024 Federal Rates](#)