SOLDIER CANYON WATER TREATMENT AUTHORITY Monthly Meeting Agenda 4424 Laporte Avenue Fort Collins, CO 80521

Thursday August 10, 2023

Mission – The Authority delivers the highest quality treated water to its customers with financial responsibility, and following policies established by the Board in a professional, efficient, and ethical manner.

- 1. Call to Order 10:00 AM
- Meeting Minutes for July 13, 2023 Action Item Approve Minutes "Motion to approve the minutes from the meeting on July 13th, 2023".
- 3. Financial Update Brenda Griffith, Action Item Approve Financial Report "Motion to approve the SCWTA June 2023 Financial Report".
- 4. Manager's Update Mark Kempton.
- Approval of Work Order #2 under the existing Professional Services Agreement (PSA) with HDR for "Soldier Canyon Water Treatment Authority 20-year Master Plan" project. – Mark Kempton. Action Item - Approve Work Order - "Motion to approve Work Order #2 with HDR for the Soldier Canyon 20-year Master Plan project".
- 6. Approval of construction contract with Hensel Phelps for Filters 5-8 and the Backup Generator Mark Kempton. Action Item Approve Contract "Motion to approve the Construction Contract with Hensel Phelps for the Filters 5-8 and Backup Generator projects".
- 7. Other Business
 - a. Follow up on Authority Creation Agreement amendment for PVP Sed Basin and Screen Mark Kempton.
 - b. Draft 2024 Authority Budget at September Board meeting Mark Kempton.
 - c. Reminder about September's Board meeting 1 week earlier.
 - d. Tri-Districts Dinner Eric Reckentine.
 - e. October 12 Board meeting Eric Reckentine.

Soldier Canyon Water Treatment Authority Board Meeting July 13, 2023

Present at the meeting:

Board Chairman, Eric Reckentine, NWCWD Manager Board Vice Chairman, Chris Pletcher, FCLWD Manager Board Treasurer, Mike Scheid, ELCO Manager Board Director, Jim Borland, FCLWD Director Board Director, Rod Rice, ELCO Director Board Director, Scott Cockroft, NWCWD Director Mark Kempton, SCWTA Manager Brenda Griffith, SCWTA Office Administrator Richard Raines, SCWTA Water Resources Manager

The meeting was called to order at 10:00 a.m. by Board Chairman Eric Reckentine. Business Conducted

Minutes from June 8, 2023, Soldier Canyon Water Authority Board Meetings Minutes from the June 8, 2023, meeting were presented. Mike Scheid made a motion to approve the minutes. Scott Cockroft seconded the motion. The motion was unanimously approved.

2. Financial Update

Brenda Griffith presented and reviewed with the Authority Board monthly billing records, a review of the May 2023 O&M expenses and the financial dashboard. Rod Rice made a motion to approve the financial reports. Scott Cockroft seconded the motion. The motion was unanimously approved.

3. Managers Update

Mark Kempton updated the Board on plant flows and water quality, operations, and maintenance, PVP and River flows, and projects going on in the plant and at the PVP.

4. Approval of Work Order under existing Professional Services Agreement with Stantec for "Soldier Canyon Filter Plant Re-Rating" project

Chris Pletcher made a motion to approve the Work Order with Stantec for the Soldier Canyon Filter Plant Re-Rating project. Rod Rice seconded the motion. The motion was unanimously approved.

5. Other Business

- Follow up on Authority Creation Agreement amendment for PVP Sed Basin and Screen After discussion it was decided to look further into what each district paid for the screen and the sed basin.
- b. 2023 SDA Conference September 12 14 Conflicts with the September 14th board meeting.
 After discussion it was decided to change the September board meeting to September 7th.
- c. Schedule annual Tri-Districts Meeting /Dinner There was a discussion regarding when to schedule the annual meeting. Mark will check availability and let everyone know.

6. Adjournment

Mike Scheid made a motion to adjourn the meeting. Jim Borland seconded the motion. The motion was unanimously approved, and the meeting was adjourned at 10:25 a.m.

Respectfully submitted,

Mark Kempton – Board Secretary, Soldier Canyon Water Treatment Authority

Approved by Authority Board

Eric Reckentine - Board Chairman, Soldier Canyon Water Treatment Authority

8:40 AM 07/31/23

Accrual Basis

Soldier Canyon Water Treatment Authority

Custom Transaction Detail Report

Date	Num	Name	July 2023 Memo	Amount
Jul 23				
07/01/2023	B Auto Pa	a Silver Peaks Accounting	July A/P - Monthly Fee	-1,000.00
07/11/2023	3 6126	Airgas	June A/P - Breathing Air	-245.47
07/11/2023	B Auto Pa	a American Heritage Life Ins. Co.	June A/P - Voluntary Ins.	-189.69
07/11/2023	3 6127	Anfeald LLC	June A/P - Fit Tests	-199.00
07/11/2023	3 6128	Brenntag Pacific, Inc.	June A/P - Chlorite	-32,572.48
07/11/2023	3 6129	Burkert Fluid Control Systems	June A/P - Valve	-1,116.86
07/11/2023	3 6130	Capital Business Systems	Lab & Shop Printers	-30.05
07/11/2023	3 6131	CEBT	June A/P - July Ins.	-22,816.92
07/11/2023		Chemtrade Chemicals US LLC	June A/P - Alum	-20,439.54
07/11/2023	3 6133	Colo Dept of Labor	June A/P - Violation	-405.00
07/11/2023		Colorado Analytical	June A/P - Samples	-127.50
07/11/2023		Continental Supply	June A/P - shop supplies	-66.36
07/11/2023		Cummins Rocky Mountain Inc	June A/P - Plant generator service	-866.00
07/11/2023		D & K Pumping	June A/P - Septic tank pumping	-910.00
07/11/2023		Ditesco	R & R - Filters 5-8, Backup Generator, Filters 1-4	-8,806.70
07/11/2023		DPC Industries, Inc.	June A/P - chlorine	-8,898.60
07/11/2023		FEDEX	Shipping	-58.58
07/11/2023		Frank Parts Company	June A/P - Maint. Sup.	-153.26
07/11/2023		General Air	June A/P - Welding Supplies	-100.47
07/11/2023		Grainger	Maint. Sup.	-587.12
07/11/2023		Gray Matter Systems LLC	June A/P - Support Renewal	-5,476.25
07/11/2023		Greystone Technology	IT Support, backups, email	-3,053.70
07/11/2023		HACH Company	Lab Sup.	-2,036.40
07/11/2023		Harcros Chemicals Inc	June A/P - Soda Ash	-10,020.83
07/11/2023		HDR Engineering, Inc.	June A/P - 20 Year Master Plan	-21,378.28
		n Home Depot	June A/P - maint. supplies	-626.86
07/11/2023		Jax Inc. Mercantile Company	June A/P - Maint. Sup.	-298.90
07/11/2023		Kelly Supply Company	June A/P - Maint. Sup.	-325.56
07/11/2023		Logical Systems, LLC	R & R - PLC Upgrade #2	-6,795.72
07/11/2023	5 6152	McMaster-Carr	June A/P - Maint. Sup.	-288.18

8:40 AM 07/31/23 Accrual Basis

Soldier Canyon Water Treatment Authority Custom Transaction Detail Report

Date	Num	Name	Memo	Amount
07/11/2023	6153	Municipal Treatment Equipment, Inc.	Maint. Sup.	-1,306.81
07/11/2023	6154	ONEPOINTSYNC	June A/P - Phones	-220.55
07/11/2023	Pd onlir	n Phillips 66 CO/SYNCB	June - Fuel	-387.34
07/11/2023	6155	Sam's Club	June A/P - Misc Admin/Ops Sup.	-298.00
07/11/2023	6156	SGS North America, Inc.	Samples	-712.11
07/11/2023	6157	Shell	June A/P - Fuel	-301.13
07/11/2023	6158	The Sherwin Williams CO	June A/P - Paint/Supplies	-2,067.82
07/11/2023	6159	ULINE	June A/P - Maint. Sup	-967.22
07/11/2023	6160	US Bank	June A/P - Copier Lease	-538.25
07/11/2023	6161	USALCO	Coagulants	-42,981.19
07/11/2023	6162	Verizon Wireless	June A/P - Cell phones	-456.50
07/11/2023		VWR International, Inc.	Lab Sup.	-490.60
07/11/2023	6164	Wal-Mart	Misc. Ops. Sup.	-30.32
		ay Waste Management of No. Colo	June A/P - Trash/Recycling	-642.71
07/11/2023		Whiteside's Boots & Clothing	June A/P - Uniforms	-279.99
	•	N Xcel Energy	June A/P - Electric & Gas	-4,310.21
07/11/2023		Xerox Business Solutions	June A/P - Contract overage charge	-80.99
07/11/2023		Colorado State Treasurer	June A/P - 2nd Qtr. 2023	-1,280.06
07/12/2023		Airgas	Breathing Air	-455.76
07/12/2023		CenturyLink2	June A/P - Phones	-66.03
07/12/2023		Ditesco	June A/P - Overland Ponds	-536.50
07/12/2023		Lyons Gaddis Attorneys & Counselors	June A/P - General	-308.00
		v Spinpro Inc.	July A/P - Dewater bags	-24,638.36
	-	a BASIC Benefits	HRA Accts. Monthly fee	-50.00
	•	First National Bank	JUne A/P - Education, Off. Sup., Maint., uniforms	-7,072.02
	•	First National Bank Omaha	June A/P - Office Sup.	-239.88
		First National Bank	June A/P - Education, Misc, Maint.	-3,839.95
07/20/2023		Larimer Clerk/Recorder	License Plate renewals for 2007 GMC trucks	-0.44
07/20/2023		Logical Systems, LLC	R & R-Filters 5-8, PVP Control Imp., PLC Upgrades	-2,666.50
	•	Xcel Energy	June A/P - Electric & Gas	-611.08
07/20/2023	pd onlir	N Xcel Energy	June A/P - Electric	-4,845.94

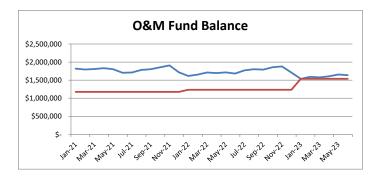
8:40 AM 07/31/23 Accrual Basis

Soldier Canyon Water Treatment Authority Custom Transaction Detail Report

Date	Num	Name	Memo	Amount
07/27/2023	8 6181	US Standard Products	June A/P - Safety Sup, Shop Sup.	-4,265.89
Jul 23				-256,838.43
		Plant expenses that aren't normal	monthly expenses	
		Chemicals		
		Renewal & Replacement		
		Water Resources		

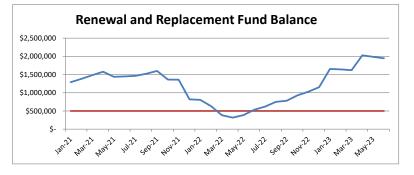
						Mont	ths								
=	Jan-23	Feb-23	Mar-23	Apr-23	May-23	Jun-23	Jul-23	Aug-23	Sep-23	Oct-23	Nov-23	Dec-23	YTD Total	Budget	% To Budget
Revenue Total	968,282	463,025	464,463	971,141	503,442	501,943	-	-	-	-	-	-	3,872,296	8,154,204	47.49%
Fixed O&M Revenue Total	400,936	400,936	400,936	400,936	400,936	400,936							2,405,616	4,811,235	50.00%
Variable O&M Revenue Total	61,794	55,287	58,635	64,235	97,279	95,852							433,082	1,338,719	32.35%
Renewal and Replacement Revenue Total	500,999	-	-	500,999	-	-							1,001,998	2,004,000	50.00%
Misc./Interest Income	4,553.00	6,802.00	4,892.27	4,971	5,227	5,155							31,600	250	126.4011
Expenses Total	676,279	418,830	501,775	533,725	494,157	561,876	-	-	-	-	-	-	3,186,642	7,850,549	40.59%
Fixed O&M Expenses	556,678	379,324	384,955	366,799	285,290	397,403							2,370,449	4,811,235	49.27%
Variable O&M Expenses	119,601	25,161	95,753	74,094	167,558	124,860							607,027	1,035,314	58.63%
Energy Expenses	17,248	17,447	14,084	10,321	9,669	9,767							78,536	105,969	74.11%
Chemical Expenses	102,353	7,714	81,669	63,773	157,888	114,913							528,310	1,232,750	42.86%
Renewal and Replacement Expenses	-	14,345	21,067	92,832	41,309	39,613							209,166	2,004,000	10.44%

Reserves



Emergency Reserve Fund Balance end of June Minimum Emergency Reserve Target +/- Target

1,637,186
1,537,489
99,697



1,946,279
500,000
1,446,279

Soldier Canyon Water Treatment Authority

Soldier Canyon Water Treatment Authority Board Meeting – Plant Manager's Update

Thursday, August 10, 2023

- Fort Collins is now on the PVP Coordinating daily operations and an SOP with City staff.
- Starting work on the 2024 Budget and a Renewal & Replacement Fund Cash Flow Tool.
- Updating Employee Handbook to reflect new State of Colorado Sick Leave polices, shift differential policy, and minor updates. Will bring to Board for approval.
- Fort Collin Connexion bringing fiber internet to the Plant in the next month or so. Experiencing dropped internet issues with Rise Broad Band.
- Wrapped up scoping and contracting for Filters and Generator work.
- Stantec kick off meeting in August for Plant re-rating.
- Monsoon season causing turbidity spikes on the river.
- Plant flows continue to be less than previous years due to cooler, wetter weather. July 2023 flows 18% below July 2022 flows.

Tri-Districts Monthly Flows (MGD)

HT 1st Reading	08/01/23	17457670
HT 1st Reading	07/01/23	16908586

Total 24-hour District Flows (MGD)

	ELC TOT	FCL TOT	NWC TOT	Dist Total Flow	SCFP Daily Peak Flow	HT Flow	PV Flow	Total Influent Flow
7/1/2023	4.672	13.684	11.779	30.135	37.630	17.396	12.787	30.183
7/2/2023	5.072	13.123	12.514	30.135	39.910	18.658	12.798	31.456
7/3/2023	6.813	15.347	13.769	35.929	41.580	24.152	12.796	36.946
		13.588			39.690	18.264	12.794	
7/4/2023	4.204		11.560	29.352				31.072
7/5/2023	4.188	11.605 11.824	9.027 8.493	24.820	29.780 30.090	11.514	12.634	24.148
7/6/2023	3.602	_		23.919		11.638	12.797	24.435
7/7/2023	3.898	12.038	9.242	25.178	30.140	12.330	12.794	25.124
7/8/2023	3.674	11.535	8.789	23.998	27.690	9.670	14.296	23.966
7/9/2023	3.337	12.279	9.188	24.804	33.620	10.602	14.996	25.598
7/10/2023	4.893	11.171	9.936	26.000	32.570	11.130	15.518	26.648
7/11/2023	5.310	11.129	11.317	27.756	34.630	12.632	16.004	28.636
7/12/2023	6.638	13.484	12.342	32.464	39.810	16.388	16.000	32.388
7/13/2023	5.798	14.670	12.120	32.588	40.160	18.042	16.007	34.049
7/14/2023	6.435	15.655	12.746	34.836	42.310	19.214	16.000	35.214
7/15/2023	5.991	15.779	12.108	33.878	39.590	17.756	16.002	33.758
7/16/2023	6.118	14.858	12.271	33.247	42.370	18.356	16.002	34.358
7/17/2023	6.879	16.863	12.908	36.650	44.740	21.100	15.726	36.826
7/18/2023	6.234	17.142	13.167	36.543	44.820	22.340	15.512	37.852
7/19/2023	7.041	16.185	13.163	36.389	45.010	21.826	15.512	37.338
7/20/2023	5.445	17.175	11.483	34.103	44.930	18.462	15.505	33.967
7/21/2023	4.998	13.038	9.819	27.855	37.240	21.592	6.881	28.473
7/22/2023	5.367	11.817	10.648	27.832	32.880	12.434	15.132	27.566
7/23/2023	5.775	11.730	11.205	28.710	34.990	15.050	15.492	30.542
7/24/2023	7.216	13.702	12.570	33.488	44.320	18.816	14.708	33.524
7/25/2023	6.515	13.767	12.410	32.692	37.750	19.118	13.998	33.116
7/26/2023	7.168	16.388	13.434	36.990	46.550	23.486	14.000	37.486
7/27/2023	4.915	16.340	12.645	33.900	42.250	22.504	13.996	36.500
7/28/2023	7.359	15.064	11.392	33.815	44.790	19.180	13.330	32.510
7/29/2023	6.142	14.298	11.982	32.422	39.800	20.176	13.012	33.188
7/30/2023	6.280	14.409	12.023	32.712	41.320	20.844	13.008	33.852
7/31/2023	6.041	13.604	12.122	31.767	39.650	23.944	8.771	32.715
Minimum	3.337	11.129	8.493	23.919	27.690	9.670	6.881	23.966
Maximum	7.359	17.175	13.769	36.990	46.550	24.152	16.007	37.852
Average	5.613	13.977	11.554	31.145	38.794	17.697	14.026	31.724
Metered Usage	174.018	433.291	358.172	965.481		548.614	434.820	983.434
% Used	18.02	44.88	37.10	100.00				
MG Difference	3.236	8.057	6.660	17.953		Influent-Effluent	Difference (MG)	17.953
Total Usage	177.254	441.348	364.832	983.434		Influent-Effluent	· · · ·	1.83
term congo								

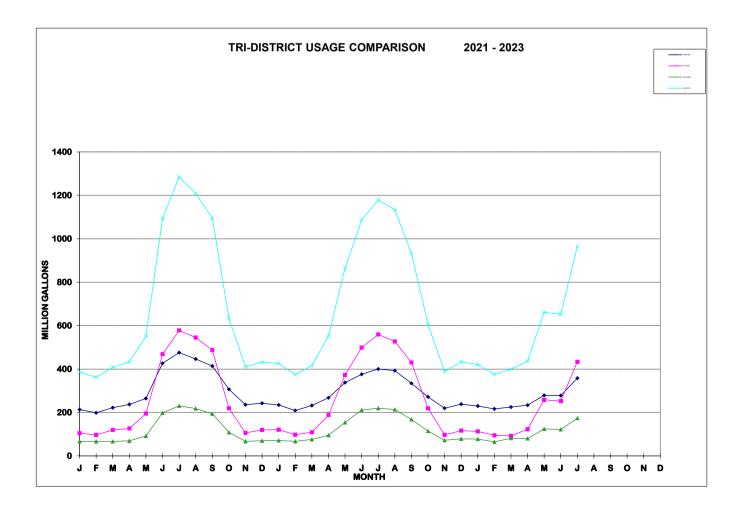
Soldier Canyon Water Treatment Authority - Treatment Capacity Share

District	Capacity Allocation (MGD)	Treatment Capacity Share (%)
ELCO	13.719	22.865 %
FCLWD	23.043	38.405 %
NWCWD	23.238	38.730 %
TOTAL	60.000	100.000 %

SOLDIER CANYON FILTER PLANT 3 YEAR COMPARITIVE USAGE TRI-DISTRICTS

2021 - 2023

											[3yruse2003.xls	5]
	NWCWD			FCLWD			ELCOWD			MO. TOTAL		
	2021	2022	2023	2021	2022	2023	2021	2022	2023	2021	2022	2023
MONTH												
JAN.	213.232	234.429	229.737	104.782	120.573	113.018	67.179	71.023	77.609	385.193	426.025	420.364
FEB.	198.610	209.077	216.632	96.767	97.666	95.005	66.857	67.231	64.464	362.234	373.974	376.101
MAR.	221.902	232.206	225.289	119.593	108.830	92.041	66.593	75.633	81.548	408.088	416.669	398.878
APR.	237.188	267.526	233.848	126.389	188.202	122.963	69.689	95.364	80.160	433.266	551.092	436.971
MAY	264.431	337.491	278.952	195.029	372.881	258.403	91.809	153.949	124.410	551.269	864.321	661.765
JUN.	426.419	375.998	277.756	468.780	498.690	252.339	198.058	211.301	121.959	1093.257	1085.989	652.054
JUL.	475.675	400.401	358.172	577.994	559.459	433.291	230.767	219.816	174.018	1284.436	1179.676	965.481
AUG.	446.326	392.969		545.214	527.105		218.222	213.667		1209.762	1133.741	0.000
SEP.	414.085	334.021		487.309	430.478		193.749	167.893		1095.143	932.392	0.000
OCT.	306.612	271.670		219.058	219.380		108.798	114.438		634.468	605.488	0.000
NOV.	236.168	219.703		106.260	96.875		67.336	72.121		409.764	388.699	0.000
DEC.	242.592	238.439		119.446	116.273		69.906	78.550		431.944	433.262	0.000
Ì												
YR.TOT.	3683.240	3513.930	1820.386	3166.621	3336.412	1367.060	1448.963	1540.986	724.168	8298.824	8391.328	3911.614



Attachment A – Scope of Work

Date:	Monday, July 17, 2023
Project:	20-Year Master Plan - Phase 2 - Work Order #2
To:	Mark Kempton, SCWTA General Manager
From:	Amy Johnson, PE Chris Parton, PE Mark Beebe, PE

The objective of this scope of work is to continue progress on the 20-Year Master Plan project with Phase 2, which includes:

- Task 5 Existing Facilities Inventory
- Task 8 Future Raw Water Conveyance, Water Quality, and Regulations Evaluations
- Task 9 Future Treated Water Storage Volume

It is anticipated that tasks to perform the scope of work will start August 11th, 2023. Tasks 8 and 9 will be started with the existing information, but completion of these tasks is contingent on future Phase 3 information (District Demands) being incorporated. Task 5 is anticipated to be complete by November 17th, 2023.

Task 5. Existing Facilities Inventory

<u>Objectives:</u> Conduct facilities inventory of existing water treatment plant system with Authority staff. Develop a prioritized renewal and replacement plan for existing plant facilities. Develop a tank rehabilitation and replacement recommendation memorandum.

Task 5.1 Update 2019 Condition Assessment and Renewal & Replacement Plan

- Review 2019 Condition Assessment and R&R Spreadsheet and existing SCADA Master Plan.
- Conduct one staff interview to discuss status of 2019 Condition Assessment projects.
- Develop and utilize assessment forms in Word/Excel format for use during condition assessment.
- Conduct high-level, full-day condition assessment of existing plant facility, accompanied by plant staff and including HDR discipline leads for: structural, electrical, civil, mechanical, and instrumentation and controls (I&C).
- Investigate existing SCADA system communications resulting from condition assessment.
- Coordinate elevation survey with FCLWD surveyor for spot elevations at critical plant locations (CCT weir and tank overflows) and NWCWD Tank #1.
- Develop prioritized amendment to renewal and replacement plan for long-term capital needs required to maintain a reliable treatment plant.
 - Include Class IV opinion of probable construction cost for each capital project
 - o Update existing R&R spreadsheet for a combined list

Task 5.2 Tank Rehabilitation and Replacement Recommendations

- Desktop review of most recent, previous tank inspection documents, including 2023 CDPHE comprehensive reports for Finished Water Storage Tanks 2 and 4.
- Conduct site visit in conjunction with Task 5.1.
- Develop an alternatives evaluation with structural recommendations for rehabilitation, repair, or replacement of existing tanks.
 - Consider additional storage volume recommendations for plant operational flexibility and possible CDPHE regulations for future storage (from Task 9).
 - Consider land use space on the site.
 - Consider concrete and steel tank options.
- Prepare a Tank Recommendation Memorandum documenting options considered and the advantages and disadvantages of each to assist Authority management and staff to make decisions moving forward.

Key Assumptions

- If received during execution of this task, CDPHE comprehensive inspections and reports scheduled for completion in late 2023 (by others) for Backwash Supply Storage Tanks 1 and 2 may be incorporated. If results of the inspections require significant modifications to the recommendations, additional fee may be requested.
- Tasks 5 and 9 will be conducted simultaneously as they are interdependent.

Deliverables:

- Prioritized Renewal and Replacement Plan.
- Word/Excel condition assessment documents for staff to utilize in the future.
- Tank Recommendation Memorandum.

Task 8. Future Raw Water Conveyance, Water Quality, and Regulations Evaluations

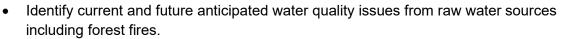
<u>Objectives:</u> Evaluate future raw water conveyance needs based on future 20-year demand and conduct a high-level desktop evaluation of existing raw water conveyance pipelines at the plant. Assess future raw water quality and anticipated regulatory developments to consider in future treatment technologies and capacity expansion.

Task 8.1 Future Raw Water Conveyance Evaluation

- Conduct high-level desktop hydraulic evaluation (spreadsheet analysis) for existing raw water delivery pipeline capacities at the plant (from Horsetooth Soldier Canyon Outlet pipe and Pleasant Valley Pipeline) using existing capacities and future 20-year demand requirements (provided by each District).
- Meet with North Poudre Irrigation Company to understand Munroe Canal operations, capacities, and challenges into the future.

Task 8.2 Future Raw Water Quality and Regulatory Evaluation

• Develop Level of Services Goals for plant production with staff and based on benchmarking examples from other facilities during one workshop.



- Assess future regulatory developments for the Authority to watch:
 - PFAS, DBP compounds, filtration and microbial safety
- Review risks to the raw water supply sources and establish long-term potential impacts to treatment facilities including algae, taste and odor and cyanotoxins
- Provide analysis that balances treatment and Level of Service goals with operations needs and capital and O&M costs.

Task 8.3 Summary Technical Memorandum

• Develop technical memorandum documenting evaluation and recommendations.

Key Assumptions:

- Through Phase 1 of this project, Horestooth (C-BT) and Poudre River were discussed as the only desired source waters to treat at the Soldier Canyon Water Treatment Plant.
- Each District will provide future demand needs prior to this task being completed.

Deliverables:

- Future raw water conveyance evaluation and recommendations technical memorandum.
- Future raw water quality and regulations evaluation and recommendations technical memorandum.

Task 9. Future Treated Water Storage Volume

<u>Objectives:</u> Determine future treated water storage volume needs at the plant to provide adequate operational flexibility to maintain Level of Service to the Districts.

Task 9.1 Future Treated Water Storage Volume Recommendation

- Review historical operating data including diurnal patterns during average day and peak week conditions for tank inflows and outflows. Coordinate with staff during one meeting.
- Identify days with significant drops in treated water storage volume and analyze causes.
- Review hydraulics of the storage system (from the plant storage tanks to the first tank in each of the Districts) and identify dead storage volume causes and concerns.
- Based on current operations methodology and future anticipated demands (provided by each District), develop a phased recommendation for additional storage volume needs at the plant to meet Level of Service goals.
 - Consider industry standards, CDPHE regulations, and benchmark data of other similar sized water treatment plants.
 - Determine additional storage volume needs at 5-, 10-, 15-, and 20-year increments based on demands provided by the Tri-Districts.
 - o Identify potential operational improvements.
 - Identify operational preferences for redundancy and flexibility to drain a tank for maintenance without impacting plant operations.
 - Identify potential communications improvements with each District around the filling of their individual tanks and suggest ways to align operational expectations.
- Develop technical memorandum summarizing work conducted and recommendations.

Key Assumptions:

- Tasks 5 and 9 will be conducted simultaneously as they are interdependent.
- Each District will provide future demand needs prior to this task being completed.

Deliverables:

• Future Treated Water Storage Volume Summary and Recommendations technical memorandum.

Not in Scope

- Development of data gap information.
- Water rights research and/or analysis.
- Water quality sampling or analysis.
- Full hydraulic evaluation or modeling of the Horsetooth Outlet or the Pleasant Valley Pipeline owned and/or maintained by Northern Water.
- Physical condition assessment of the raw waterlines.
- Additional meetings beyond those noted above.
- Field investigations or physical infrastructure assessments beyond those noted above.
- Field survey (coordination with FCLWD surveyor is included).

					HDF	R Engineeri	ing											
Soldier Canyon Water Treatment Authority - 20-Year Master Plan - 2023 PHASE 2 - Work Order #2 July 17, 2023	Senior Project Manager Amy Johnson	Principal in Charge / QAQC Jenn Stillman	Master Planning Lead Chris Parton	Treatment Plant Lead Mark Beebe	Electrical Assessment Travis Moore	Structural Assessment Ron Manske	Mechanical Assessment Justin Green	l&C Assessment Bill Cassity	Water Tank Storage Advisor Jamie Eichenberger	Senior Engineer	Project Engineer	Staff Engineer	Project Coordinator and Clerical	Hours	HDR Labor	Total Expenses	HDR Fee	Total Fee
	\$ 240 \$	\$ 284	\$ 267	\$ 298	\$ 322	\$ 264	\$ 220	\$ 300 \$	\$ 272	\$ 225	\$ 160	\$ 135	\$ 105					
Task 5: Existing Facilities Inventory																		
5.1 Update 2019 Condition Assessment and Renewal & Replacement Plan														0 9	s -	\$ -	\$ -	\$ -
* Conduct one staff interview	2		2									2		6 5	1,284	\$ 63	\$ 1,347	\$ 1,347
* Develop assessment forms			2									6		8 9	\$ 1,344	\$ 3		\$ 1,347
* Conduct high-level, full-day condition assessment	2		10		10	10	10	12			4	6		64 \$	16,260			\$ 16,493
* Coordinate survey collection	2			3								2		7 \$	\$ 1,644	\$ 3		\$ 1,647
* Develop combined list of R&R projects	2		4	2	2	2	2	2				8		24 \$	5,436	\$ 11		\$ 5,447
* Develop Amendment to R&R Plan	4	3	6		4	4	4	4			12	24	2	67 \$	\$ 13,208	\$ 26	\$ 13,234	\$ 13,234
5.2 Tank Rehabilitation and Replacement Recommendations														0 \$	· -	\$ -	\$-	\$-
* Review tank inspection documents						4				6				10 \$	\$ 2,406	\$5		\$ 2,411
* Develop alternatives evaluation	2		2			12			6	10				32 \$	\$ 8,064			\$ 8,080
* Prepare Tank Recommendation Technical Memorandum	2	3				8				6			2	21 \$	5,004	\$ 10	\$ 5,014	\$ 5,014
Sub-total	16	6	26	5	16	40	16	18	6	22	16	48	4	239	54,650	\$ 369	\$ 55,019	\$ 55,019
Task 8: Future Raw Water Conveyance, Water Quality, and Regulations Evaluations																		
8.1 Future Raw Water Conveyance Evaluation														0 \$	s -	\$ -	\$ -	\$ -
* Conduct high-level desktop hydraulic evaluation of existing raw water pipelines	2		8	4						8	24			46 \$	9,448	\$ 19		\$ 9,467
* Meet with North Poudre on Munroe Canal operations	4													4 \$	\$ 960	\$ 92	\$ 1,052	\$ 1,052
8.2 Future Raw Water Quality and Regulatory Evaluation														0 \$	s -	\$ -	\$ -	\$ -
* Develop Level of Service Goals with staff during one workshop	4	2	2	2										10 \$	2,658	\$ 95	\$ 2,753	\$ 2,753
* Identify anticipated water quality issues	2	6		8						6	20			42 \$	\$ 9,118		\$ 9,136	\$ 9,136
* Assess future regulatory developments to watch		6		4							10	10		30 \$				\$ 5,858
* Review risks and establish potential impacts to treatment facilities		8		10						6	10	10		44 \$				\$ 9,571
* Provide analysis of level of service goals with operations needs and costs	6		6	6							8			26 \$			\$ 6,122	\$ 6,122
8.3 Develop technical memorandum documenting evaluation and recommendations	4	4	4	6							8	8	4	38 \$	5 7,732		\$ 7,747	\$ 7,747
Sub-total	22	26	20	40	0	0	0	0	0	20	80	28	4	240	51,424	\$ 283	\$ 51,707	\$ 51,707
Task 9: Future Treated Water Storage Volume																		
9.1 Future Treated Water Storage Volume Recommendation														0 \$		\$ -	\$-	\$ -
* Review historical operating data	1			4							8			13 \$	\$ 2,712			\$ 2,807
* Identify days with significant drop in volume and analyze causes				4							6			10 \$	2,152		\$ 2,156	\$ 2,156
* Review hydraulics and identify dead storage volume concerns	4			6					4	6	16			36 \$				
* Develop recommendation for additional storage volume needs	4			8					4	6	16			38 \$	8,342			\$ 8,359
* Develop technical memorandum summarizing work and recommendations	2	2		4	-	6			2		8	_	4	28	6,068	\$ 12		\$ 6,080
Sub-total		2	0	26	-	6	0	0	10	12	54	0	4	125 \$	5 27,020	\$ 144	\$ 27,164	\$ 27,164
Hours	49	34		71	16	46	16	18	16	54	150	76	12	604				
Fee	\$11,760	\$9,656	\$12,282	\$21,158	\$5,152	\$12,144	\$3,520	\$5,400	\$4,352	\$12,150	\$24,000	\$10,260	\$1,260		\$ 133,094	\$796	\$ 133,890	
TOTAL FEE			· · · · · · · · · · · · · · · · · · ·															\$ 133,890

SOLDIER CANYON WATER TREATMENT AUTHORITY

WORK ORDER #2 (EXHIBIT A)

Work Order No. <u>2023-002</u>

Effective Date: August 8, 2023

End Date: December 31, 2023

<u>HDR Engineering, Inc.</u> (Consultant) agrees to provide to Soldier Canyon Water Treatment Authority (Client), the professional services described for the Project identified below. The professional services shall be performed in accordance with, and shall be subject to, the terms and conditions of the Master Agreement for Professional Services executed by and between Consultant and Client on the <u>13th of April 2023</u>.

WORK ORDER PROJECT NAME: <u>Soldier Canyon Water Treatment Authority 20-Year Master Plan – Work Order</u> <u>#2 – Tasks 5, 8 and 9.</u>

WORK ORDER PROJECT DESCRIPTION: <u>Perform master planning engineering services as outlined in the</u> <u>attached Scope of Work and Budget, and in the Soldier Canyon Water Treatment Authority 20-Year Master</u> <u>Plan Request for Proposal response from HDR dated February 28, 2023.</u>

SCWTA WORK ORDER BILLING NUMBER: 382056-GEN

CONSULTANT CONTACT : Amy Johnson, P.E. - (970)- 416-4438, amy.johnson@hdrinc.com.

CLIENT CONTACT: Mark Kempton, P.E., CWP - (970) 482-3143, mkempton@soldiercanyon.com

SCOPE OF WORK: See attached SOW (the "Work").

FEE ARRANGEMENT: Time and Materials Not to Exceed \$133,890.

SPECIAL TERMS AND CONDITIONS: Instructions for Payment: Please reference Work Order Billing Number on Invoice when submitting for payment. Please submit requests for payment to <u>Invoices@soldiercanyon.com</u>.

APPROPRIATION : Client represents that it has available and has appropriated sufficient funds to pay the anticipated costs associated with this Work Order.

Soldier Canyon Water Treatment Authority (Client)

By:_____

Eric Reckentine Board Chairman HDR Engineering, Inc. (Consultant)

Name: R. Bradley Martin Title: SVP

Date: <u>2023-0</u>7

Address: 1670 Broadway Suite 3400 Denver, CO 80202

Phone: 303-764-1520

Address: 4424 LaPorte Avenue

Fort Collins, Colorado 80521 Phone: (970) 482-3143

Date:

AGREEMENT BETWEEN OWNER AND CONTRACTOR FOR CONSTRUCTION CONTRACT (Guaranteed Maximum Price)

 THIS AGREEMENT is by and between
 Solider Canyon Water Treatment Authority
 ("Owner") and

 Hensel Phelps Construction Co.
 ("Contractor").

Owner and Contractor hereby agree as follows:

ARTICLE 1 – WORK

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

ARTICLE 2 – THE PROJECT

2.01 The Project, of which the Work under the Contract Documents is a part, is generally described as follows: <u>Soldier Canyon Filter Plant – Filters 5-8 Improvements and Backup Generator</u>.

ARTICLE 3 – ENGINEER

- 3.01 The part of the Project that pertains to the Work has been designed by <u>Ditesco, LLC</u>.
- 3.02 The Owner has retained Ditesco, LLC to act as Owner's Representative, assume all duties and responsibilities, and have the rights and authority assigned to Owner in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents. The Owner's representative will also act as the Resident Engineer on the Project. All contract management items assigned to the Engineer in the Contract Documents will be the responsibility of the Owner's Representative.

ARTICLE 4 – CONTRACT TIMES

- 4.01 *Time of the Essence*
 - A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.
- 4.02 *Contract Times: Days*
 - A. The Work will be substantially completed within <u>279</u> days after the date when the Contract Times commence to run as provided in Paragraph 4.01 of the General Conditions, and completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions within <u>309</u> days after the date when the Contract Times commence to run.
- 4.03 *Liquidated Damages*
 - A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial and other losses if the Work is not completed and Milestones not achieved within the times specified in Paragraph 4.02 above, plus any extensions thereof allowed in accordance with the Contract. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of

requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty):

- Substantial Completion: Contractor shall pay Owner \$ 500 for each day that expires after the time (as duly adjusted pursuant to the Contract) specified in Paragraph 4.02.A above for Substantial Completion until the Work is substantially complete.
- Completion of Remaining Work: After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Contractor shall pay Owner <u>\$ 1,000</u> for each day that expires after such until the Work is completed and ready for final payment.
- 3. Liquidated damages for failing to timely attain Substantial Completion and final completion are not additive and will not be imposed concurrently.

ARTICLE 5 – CONTRACT PRICE

- 5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents the amounts that follow, subject to adjustment under the Contract:
 - A. For all Work other than Unit Price Work, the Guaranteed Maximum Price shall consist of the Cost of the Work plus a Contractor's fee for overhead and profit, both of which shall be determined as provided in Articles 6 and 7 below, subject to additions and deletions as provided in the Contract Documents and subject to the limitations set forth in Article 8 below. For all Work, Owner shall pay Contractor at the prices stated in Contractor's Bid, attached hereto as Exhibit A.

ARTICLE 6 – COST OF THE WORK

6.01 Cost of the Work shall be determined as provided in Paragraph 13.01 of the General Conditions.

ARTICLE 7 – CONTRACTOR'S FEE

- 7.01 Contractor's fee shall be determined as follows:
 - A. A fixed fee of 12% (Twelve) percent, applied to the Cost of the Work, which shall be subject to increases or decreases for changes in the Work as provided in Paragraph 9.01.A below.

ARTICLE 8 – GUARANTEED MAXIMUM PRICE

8.01 Contractor guarantees that the maximum amount payable by Owner for the sum of the Cost of the Work plus Contractor's fee under Article 7 (Guaranteed Maximum Price) will not exceed \$1,866,074.00 (One Million Eight Hundred Sixty Six Thousand, Seventy Four Dollars), subject to increases or decreases for changes in the Work. The Guaranteed Maximum Price will not apply to Unit Price Work.

ARTICLE 9 – CHANGES IN THE CONTRACT PRICE

9.01 The amount of any increases or decreases in Contractor's fee, in any Guaranteed Maximum Price, or in any Guaranteed Maximum Fee which results from a Change Order shall be set forth in the applicable Change Order subject to the following:

A. If Contractor's fee is a fixed fee, any increase or decrease in the Contractor's fee resulting from net additions or decreases in the Cost of the Work shall be determined in accordance with Paragraph 11.04.C of the General Conditions, subject to any Guaranteed Maximum Price.

ARTICLE 10 – PAYMENT PROCEDURES

10.01 Submittal and Processing of Payments

A. Contractor shall submit Applications for Payment in accordance with Article 15 of the General Conditions. Applications for Payment will indicate the amount of Contractor's fee then payable. Applications for Payment will be processed by Engineer as provided in the General Conditions.

10.02 Progress Payments; Retainage

- A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment as recommended by Engineer on or about the <u>1st</u> day of each month during construction as provided in Paragraphs 10.02.A.1 and 10.02.A.2 below, provided that such Applications for Payment have been submitted in a timely manner and otherwise meet the requirements of the Contract. All such payments will be measured by the Schedule of Values established as provided in the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no Schedule of Values, as provided elsewhere in the Contract.
 - 1. *For Cost of the Work*: Progress payments on account of the Cost of the Work will be made:
 - a. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below provided that, in the opinion of Engineer and Owner, satisfactory progress is being made on the Project, but, in each case, less the aggregate of payments previously made and less such amounts as Owner may withhold, including but not limited to liquidated damages, in accordance with the Contract:
 - 1) <u>Ninety-five percent (95%)</u> Cost of Work completed (with the balance being retainage).
 - 2) <u>Ninety-five percent (95%)</u> of cost of materials and equipment not incorporated in the Work (with the balance being retainage).
 - b. Such retainage of the Contract Price shall be held by Owner until the Project is completed and finally accepted by Owner in accordance with the provisions hereof. Owner shall pay the full amount of such retainage to Contractor within sixty (60) days of final completion and acceptance, except to the extent of any claims filed pursuant to Section 38-26-107, C.R.S. Any release of retainage to Contractor or a subcontractor prior to final payment shall, among other matters, require written approval from the surety furnishing bonds pursuant to Article 6 of the General Conditions.
 - 2. *For Contractor's fee*: Progress payments on account of the Contractor's fee will be made as follows:
 - a. If Contractor's fee is a fixed fee, payments prior to Substantial Completion will be in an amount equal to ninety-five percent (95%) of such fee earned to the date of the approved Application for Payment (less in each case payments previously made

on account of such fee) based on the progress of the Work measured by the Schedule of Values established as provided in the General Conditions (and in the case of Unit Price Work on the number of units completed). In the event there is no Schedule of Values the progress of the Work will be measured as provided elsewhere in the Contract.

10.03 Final Payment

- A. Upon final completion and acceptance of the Work in accordance with Paragraph 15.06 of the General Conditions, Owner shall pay the remainder of the Contract Price as recommended by Engineer as provided in said Paragraph.
- 10.04 Contractor and Subcontractor liens.
 - A. Contractor acknowledges that the Project is a "public works project." Contractor, subcontractor, and material supplier lien rights are limited by Colorado Revised Statutes Title 38, Article 26, Section 101 et. seq. Liens cannot be asserted against public property, material, or supplies. Claimants must follow the procedures set forth in C.R.S. 38-26-107 and assert claims against funds available for payment only.

ARTICLE 11 – INTEREST

A. All amounts not paid when due shall bear interest at the rate of <u>Current US Prime Rate</u> per annum.

ARTICLE 12 – CONTRACTOR'S REPRESENTATIONS

- 12.01 In order to induce Owner to enter into this Contract, Contractor makes the following representations:
 - A. Contractor has examined and carefully studied the Contract Documents, and data and reference items identified in the Contract Documents.
 - B. Contractor has visited the Site, conducted a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
 - C. Contractor is familiar with and is satisfied as to all Laws and Regulations that may affect cost, progress, and performance of the Work.
 - D. Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or adjacent to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site, if any, that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings, and (2) reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, especially with respect and drawings.
 - E. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Site-related reports and drawings identified in the Contract Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor,; and (3) Contractor's safety precautions and programs.

- F. Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.
- G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
- H. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
- I. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
- J. Contractor's entry into this Contract constitutes an incontrovertible representation by Contractor that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.

ARTICLE 13 – ACCOUNTING RECORDS

13.01 Contractor shall keep such full and detailed accounts of materials incorporated and labor and equipment utilized for the Work consistent with the requirements of Paragraph 13.01.E of the General Conditions and as may be necessary for proper financial management under this Agreement. Subject to prior written notice, Owner shall be afforded reasonable access during normal business hours to all Contractor's records, books, correspondence, instructions, drawings, receipts, vouchers, memoranda, and similar data relating to the Cost of the Work and Contractor's fee. Contractor shall preserve all such documents for a period of three years after the final payment by Owner.

ARTICLE 14 – CONTRACT DOCUMENTS

- 14.01 Contents
 - A. The Contract Documents consist of the following:
 - 1. This Agreement (pages <u>1</u>, to <u>9</u>, inclusive).
 - 2. Notice of Award (page <u>10</u>).
 - 3. Notice to Proceed (page <u>11</u>).
 - 4. Performance bond (pages <u>12</u> to <u>14</u>, inclusive).
 - 5. Payment bond (pages <u>15</u> to <u>17</u>, inclusive).
 - 6. Certificate of Substantial Completion (page <u>18</u>).
 - 7. General Conditions (pages <u>19</u> to <u>84</u>, inclusive).
 - 8. Supplementary Conditions (pages <u>85</u> to <u>96</u>, inclusive).
 - 9. Specifications (not attached but incorporated by reference) consisting of <u>197</u> pages bearing the following general title: <u>Project Manual for Soldier Canyon Filter Plant</u> <u>Filters 5-8 Improvements</u>.
 - 10. Drawings (not attached but incorporated by reference) consisting of <u>16</u>sheets with each sheet bearing the following general title: <u>Soldier Canyon Filter Plant Filters 5-8</u> Improvements .

- 11. Drawings (not attached but incorporated by reference) consisting of <u>16</u>sheets with each sheet bearing the following general title: <u>Soldier Canyon Filter Plant Backup</u> <u>Generator</u>
- 12. Addenda (not attached but incorporated by reference) consisting of <u>NA</u> pages bearing the title Addendum No. (numbers <u>NA</u> to <u>NA</u>, inclusive) for <u>NA</u>.
- 13. Exhibits to this Agreement (enumerated as follows):
 - a. Contractor's Bid (not attached in hard copy of Contract, but included in electronic copy), (pages <u>01</u> to <u>57</u>, inclusive).
 - b. GMP Estimate Detail by Bid Item, (pages <u>01</u> to <u>09</u>, inclusive).
- 14. The following which may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:
 - a. Work Change Directives.
 - b. Change Orders.
 - c. Field Orders.
- B. The documents listed in Paragraph 14.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 14.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in the General Conditions.

ARTICLE 15 – MISCELLANEOUS

- 15.01 Terms
 - A. Terms used in this Agreement will have the meanings stated in the General Conditions and the Supplementary Conditions.
- 15.02 Assignment of Contract
 - A. Unless expressly agreed to elsewhere in the Contract, no assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, money that may become due and money that is due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.
- 15.03 Successors and Assigns
 - A. Owner and Contractor each binds itself, its successors, assigns, and legal representatives to the other party hereto, its successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

15.04 Severability

A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall

be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

15.05 Contractor's Certifications

- A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 15.05:
 - 1. "corrupt practice" means the offering, giving, receiving or soliciting of anything of value to influence the action of a public official in the bidding process or in the Contract execution;
 - "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
 - 3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
 - 4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

15.06 Other Provisions

- A. Owner stipulates that if the General Conditions that are made a part of this Contract are based on EJCDC[®] C-700, Standard General Conditions for the Construction Contract, published by the Engineers Joint Contract Documents Committee[®], and if Owner is the party that has furnished said General Conditions, then Owner has plainly shown all modifications to the standard wording of such published document to the Contractor, through a process such as highlighting or "track changes" (redline/strikeout), or in the Supplementary Conditions.
- B. **Appropriations**. Owner represents that it has appropriated money equal to or in excess of the Contract Price for the Work.
- C. **Counterparts, Electronic Signatures and Electronic Records**. This Agreement may be executed in two counterparts, each of which shall be an original, but all of which, together, shall constitute one and the same instrument. The Parties consent to the use of electronic signatures and agree that the transaction may be conducted electronically pursuant to the Uniform Electronic Transactions Act, § 24-71.3-101, et seq., C.R.S. The Agreement and any other documents requiring a signature may be signed electronically by either Party. The Parties agree not to deny the legal effect or enforceability of the Agreement, solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the Contract in the form of an electronic record, a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature on the grounds that it is an electronic record or an electronic signature or that it is not in its original form or is not an original.

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

This Agreement will be effective on

(which is the Effective Date of the Contract).

NOTE(S) TO USER:

- 1. See Article 21 of the Instructions to Bidders and correlate procedures for format and signing of the documents.
- 2. The Effective Date of the Contract stated above and the dates of any construction performance bond (EJCDC[®] C-610 or other) and construction payment Bond (EJCDC C-615[®] or other) should be the same, if possible. In no case should the date of any bonds be earlier than the Effective Date of the Contract.

OWNER:	CONTRACTOR:
Soldier Canyon Water Treatment Authority	
Ву:	Ву:
Title:	Title:
	(If Contractor is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.)
Attest:	Attest:
Title:	Title:
Address for giving notices:	Address for giving notices:
Soldier Canyon Treatment Authority	
4424 Laporte Avenue	
Fort Collins, CO 80521	
	License No.: (where applicable)
(If Owner is a corporation, attach evidence of authority to sign. If Owner is a public body, attach evidence of authority to sign and resolution or other documents	NOTE TO USER: Use in those states or other jurisdictions where applicable or required.

authorizing execution of this Agreement.)

STATE OF COLORADO)
) ss.
COUNTY OF)
	cknowledged before me this day of , Soldier Canyon Water Treatment Authority.
My commission expires:	
	Notary Public
STATE OF COLORADO)
) ss.
COUNTY OF)
	cknowledged before me this day of, 20, by of, Contractor.
Witness my hand and official sea	al.
My commission expires:	

Notary Public



NOTICE OF AWARD

Date of Issuance:

Owner: Soldier Canyon Water Treatment Authority	Owner's Contract No.: N/A
Engineer: Ditesco	Engineer's Project No.: N/A
Project: Filters 5-8 Improvements and Backup Generator	Engineer's Project No.: N/A
Bidder: Hensel Phelps Construction Co.	Contract Name: Soldier Canyon Filter Plant - Filters 5-8 Improvements and Backup Generator

Bidder Address: 77 NW Frontage Rd, Fort Collins, CO 80524

TO BIDDER:

You are notified that Owner has accepted your Bid dated [<u>August 1, 2023</u>] for the above Contract, and that you are the Successful Bidder and are awarded a Contract for the Soldier Canyon Filter Plant Filters 5-8 Improvements and Backup Generator Projects.

The Contract Price of the awarded Contract is: \$_1,866,074.00 (One Million Eight Hundred Sixty Six Thousand, Seventy Four Dollars)

[3] unexecuted counterparts of the Agreement accompany this Notice of Award, and one copy of the Contract Documents accompanies this Notice of Award, or has been transmitted or made available to Bidder electronically.

a set of the Drawings will be delivered separately from the other Contract Documents.

You must comply with the following conditions precedent within 15 days of the date of this Notice of Award:

- 1. Deliver to Owner [__3__] counterparts of the Agreement, fully executed by Bidder.
- 2. Deliver with the executed Agreement(s) the Contract security [e.g., performance and payment bonds] and insurance documentation as specified in the Instructions to Bidders, General Conditions, Articles 2 and 6; and Supplementary Conditions.
- 3. Other conditions precedent (if any): none

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

Within fifteen days after you comply with the above conditions, Owner will return to you one fully executed counterpart of the Agreement, together with any additional copies of the Contract Documents as indicated in Paragraph 2.2 of the General Conditions.

Owner: Soldier Canyon Water Treatment Authority

Authorized Signature

By:

Title:

Copy: Engineer



SECTION 00550

NOTICE TO PROCEED

Owner: Soldier Canyon Water Treatment Authority	Owner's Contract No.: N/A
Engineer: Ditesco	Engineer's Project No.: N/A
Project: Filters 5-8 Improvements and Backup Generator	Engineer's Project No.: N/A
Bidder: Hensel Phelps Construction Co.	Contract Name: Soldier Canyon Filter Plant - Filters 5-8 Improvements and Backup Generator
Owner: Soldier Canyon Water Treatment Authority	Owner's Contract No.: N/A

TO CONTRACTOR:

Owner hereby notifies Contractor that the Contract Times under the above Contract will commence to run on ______, 20___]. [see Paragraph 4.01 of the General Conditions]

On that date, Contractor shall start performing its obligations under the Contract Documents. No Work shall be done at the Site prior to such date. In accordance with the Agreement, the number of calendar days to achieve Substantial Completion is <u>279</u>, and the number of days to achieve readiness for final payment is <u>309</u>.

Before starting any Work at the Site, Contractor must comply with the following: *None*

Owner: Soldier Canyon Water Treatment Authority

Authorized Signature

By:

Title: Date Issued:

Copy: Engineer



SECTION 00610

PERFORMANCE BOND

SURETY (name and address of principal place of business):

CONTRACTOR (name and address): Hensel Phelps Construction Co. 77 NW Frontage Rd, Fort Collins, CO 80524

OWNER (name and address): Soldier Canyon Water Treatment Authority 4424 Laporte Avenue Fort Collins, CO 80521

CONSTRUCTION CONTRACT

Effective Date of the Agreement: Amount: \$1,866,074.00 (One Million Eight Hundred Sixty Six Thousand, Seventy Four Dollars) Description (*name and location*): Soldier Canyon Filter Plant - Filters 5-8 Improvements and Backup Generator; Fort Collins, CO

BOND

Bond Number:		
Date (not earlier than the Effective Date	of the Agreemen	t of the Construction Contract):
Amount:		
Modifications to this Bond Form:	None	See Paragraph 16

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Performance Bond to be duly executed by an authorized officer, agent, or representative.

CONTRACTOR AS PRINCIPAL	SURETY	
	(seal)	(seal)
Contractor's Name and Corporate Seal	Surety's Name and Corporate Seal	
Ву:	Ву:	
Signature	Signature (attach power of attorney)	
Print Name	Print Name	
Title	Title	
Attest:	Attest:	
Signature	Signature	
	oldier Canyon Water Treatment Authority rs 5-8 Improvements and Backup Generator PERFORMANCE BOND	

Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner, or other party shall be considered plural where applicable.

1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.

2. If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except when applicable to participate in a conference as provided in Paragraph 3.

3. If there is no Owner Default under the Construction Contract, the Surety's obligation under this Bond shall arise after:

3.1 The Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice shall indicate whether the Owner is requesting a conference among the Owner, Contractor, and Surety to discuss the Contractor's performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Paragraph 3.1 shall be held within ten (10) business days of the Surety's receipt of the Owner's notice. If the Owner, the Contractor, and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default:

3.2 The Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and

3.3 The Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.

4. Failure on the part of the Owner to comply with the notice requirement in Paragraph 3.1 shall not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.

5. When the Owner has satisfied the conditions of Paragraph 3, the Surety shall promptly and at the Surety's expense take one of the following actions:

5.1 Arrange for the Contractor, with the consent of the Owner, to perform and complete the Construction Contract;

5.2 Undertake to perform and complete the Construction Contract itself, through its agents or independent contractors;

5.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and a contractor selected with the Owners concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Paragraph 7 in excess of the Balance of the Contract Price incurred by the Owner as a result of the Contractor Default; or

5.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor, and with reasonable promptness under the circumstances:

5.4.1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, make payment to the Owner; or

5.4.2 Deny liability in whole or in part and notify the Owner, citing the reasons for denial.

6. If the Surety does not proceed as provided in Paragraph 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Paragraph 5.4, and the Owner refuses the payment or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner and the Owner shall be entitled to enforce any remedy available to the Owner further notice the Owner shall be entitled to enforce any remedy available to the Owner.

7. If the Surety elects to act under Paragraph 5.1, 5.2, or 5.3, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication for:

7.1 the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;

7.2 additional legal, design professional, and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Paragraph 5; and

7.3 liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.

Soldier Canyon Water Treatment Authority Filters 5-8 Improvements and Backup Generator PERFORMANCE BOND 00610 - 2 8. If the Surety elects to act under Paragraph 5.1, 5.3, or 5.4, the Surety's liability is limited to the amount of this Bond.

9. The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, successors, and assigns.

10. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders, and other obligations.

11. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after a declaration of Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this paragraph are void or prohibited by law, the minimum periods of limitations available to sureties as a defense in the jurisdiction of the suit shall be applicable.

12. Notice to the Surety, the Owner, or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears.

13. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

14. Definitions

14.1 Balance of the Contract Price: The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made including allowance for the Contractor for any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

14.2 Construction Contract: The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and changes made to the agreement and the Contract Documents.

14.3 Contractor Default: Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with a material term of the Construction Contract.

14.4 Owner Default: Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

14.5 Contract Documents: All the documents that comprise the agreement between the Owner and Contractor.

15. If this Bond is issued for an agreement between a contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

16. Modifications to this Bond are as follows:

SECTION 00615

PAYMENT BOND

CONTRACTOR (name and address):

EJCDC

OCUMENTS COMMITTEE

SURETY (name and address of principal place of business):

Hensel Phelps Construction Co. 77 NW Frontage Rd, Fort Collins, CO 80524

OWNER (name and address): Soldier Canyon Water Treatment Authority 4424 Laporte Avenue Fort Collins, CO 80521

CONSTRUCTION CONTRACT

Effective Date of the Agreement: Amount: \$1,866,074.00 (One Million Eight Hundred Sixty Six Thousand, Seventy Four Dollars) Description (*name and location*): Soldier Canyon Filter Plant - Filters 5-8 Improvements and Backup Generator; Fort Collins, CO

BOND

Bond Number:
Date (not earlier than the Effective Date of the Agreement of the Construction Contract):
Amount:
Modifications to this Bond Form: 📃 None 🗌 See Paragraph 18

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Payment Bond to be duly executed by an authorized officer, agent, or representative.

CONTRACTOR AS PRINCIPAL	SURETY (seal)	(seal)
Contractor's Name and Corporate Seal	Surety's Name and Corporate Seal	
Ву:	Ву:	
Signature	Signature (attach power of attorne	ey)
Print Name	Print Name	
Title	Title	
Attest:	Attest:	
Signature	Signature	
Title	Title	
	Soldier Canyon Water Treatment Authority ters 5-8 Improvements and Backup Generator PAYMENT BOND	

Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner, or other party shall be considered plural where applicable.

- 1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner to pay for labor, materials, and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference, subject to the following terms.
- 2. If the Contractor promptly makes payment of all sums due to Claimants, and defends, indemnifies, and holds harmless the Owner from claims, demands, liens, or suits by any person or entity seeking payment for labor, materials, or equipment furnished for use in the performance of the Construction Contract, then the Surety and the Contractor shall have no obligation under this Bond.
- 3. If there is no Owner Default under the Construction Contract, the Surety's obligation to the Owner under this Bond shall arise after the Owner has promptly notified the Contractor and the Surety (at the address described in Paragraph 13) of claims, demands, liens, or suits against the Owner or the Owner's property by any person or entity seeking payment for labor, materials, or equipment furnished for use in the performance of the Construction Contract, and tendered defense of such claims, demands, liens, or suits to the Contractor and the Surety.
- 4. When the Owner has satisfied the conditions in Paragraph 3, the Surety shall promptly and at the Surety's expense defend, indemnify, and hold harmless the Owner against a duly tendered claim, demand, lien, or suit.
- 5. The Surety's obligations to a Claimant under this Bond shall arise after the following:
 - 5.1 Claimants who do not have a direct contract with the Contractor,
 - 5.1.1 have furnished a written notice of nonpayment to the Contractor, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were, or equipment was, furnished or supplied or for whom the labor was done or performed, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the Claim; and
 - 5.1.2 have sent a Claim to the Surety (at the address described in Paragraph 13).
 - 5.2 Claimants who are employed by or have a direct contract with the Contractor have sent a Claim to the Surety (at the address described in Paragraph 13).

- 6. If a notice of non-payment required by Paragraph 5.1.1 is given by the Owner to the Contractor, that is sufficient to satisfy a Claimant's obligation to furnish a written notice of non-payment under Paragraph 5.1.1.
- 7. When a Claimant has satisfied the conditions of Paragraph 5.1 or 5.2, whichever is applicable, the Surety shall promptly and at the Surety's expense take the following actions:
 - 7.1 Send an answer to the Claimant, with a copy to the Owner, within sixty (60) days after receipt of the Claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed; and
 - 7.2 Pay or arrange for payment of any undisputed amounts.
 - 7.3 The Surety's failure to discharge its obligations under Paragraph 7.1 or 7.2 shall not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a Claim, except as to undisputed amounts for which the Surety and Claimant have reached agreement. If, however, the Surety fails to discharge its obligations under Paragraph 7.1 or 7.2, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs thereafter to recover any sums found to be due and owing to the Claimant.
- 8. The Surety's total obligation shall not exceed the amount of this Bond, plus the amount of reasonable attorney's fees provided under Paragraph 7.3, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.
- 9. Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any construction performance bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.
- 10. The Surety shall not be liable to the Owner, Claimants, or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for the payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligation to make payments to or give notice on behalf of Claimants, or otherwise have any obligations to Claimants under this Bond.

- 11. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders, and other obligations.
- 12. No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the state in which the project that is the subject of the Construction Contract is located or after the expiration of one year from the date (1) on which the Claimant sent a Claim to the Surety pursuant to Paragraph 5.1.2 or 5.2, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.
- 13. Notice and Claims to the Surety, the Owner, or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears. Actual receipt of notice or Claims, however accomplished, shall be sufficient compliance as of the date received.
- 14. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.
- 15. Upon requests by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor and Owner shall promptly furnish a copy of this Bond or shall permit a copy to be made.

16. Definitions

- 16.1 **Claim:** A written statement by the Claimant including at a minimum:
 - 1. The name of the Claimant;
 - The name of the person for whom the labor was done, or materials or equipment furnished;
 - A copy of the agreement or purchase order pursuant to which labor, materials, or equipment was furnished for use in the performance of the Construction Contract;
 - 4. A brief description of the labor, materials, or equipment furnished;
 - 5. The date on which the Claimant last performed labor or last furnished materials or equipment for use in the performance of the Construction Contract;

- The total amount earned by the Claimant for labor, materials, or equipment furnished as of the date of the Claim;
- 7. The total amount of previous payments received by the Claimant; and
- 8. The total amount due and unpaid to the Claimant for labor, materials, or equipment furnished as of the date of the Claim.
- 16.2 Claimant: An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials, or equipment for use in the performance of the Construction Contract. The term Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic's lien or similar statute against the real property upon which the Project is located. The intent of this Bond shall be to include without limitation in the terms of "labor, materials, or equipment" that part of the water, gas, power, light, heat, oil, gasoline, telephone service, or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors. and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials, or equipment were furnished.
- 16.3 **Construction Contract:** The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and all changes made to the agreement and the Contract Documents.
- 16.4 **Owner Default**: Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.
- 16.5 **Contract Documents:** All the documents that comprise the agreement between the Owner and Contractor.
- 17. If this Bond is issued for an agreement between a contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

18. Modifications to this Bond are as follows:



SECTION 00625

CERTIFICATE OF SUBSTANTIAL COMPLETION

Contractor: Hensel Phelps Construction Co. Contractor's Project No.: N/A	
Contractor: Hensel Phelps Construction Co. Contractor's Project No.: N/A	Filters 5-8
Owner's Contract No.: N/A	

This *Final* Certificate of Substantial Completion applies to:

All Work

The following specified portions of the Work:

Date of Substantial Completion

The Work to which this Certificate applies has been inspected by authorized representatives of Owner, Contractor, and Engineer, and found to be substantially complete. The Date of Substantial Completion of the Work or portion thereof designated above is hereby established, subject to the provisions of the Contract pertaining to Substantial Completion. The date of Substantial Completion in the final Certificate of Substantial Completion marks the commencement of the contractual correction period and applicable warranties required by the Contract.

A punch list of items to be completed or corrected is attached to this Certificate. This list may not be all-inclusive, and the failure to include any items on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract.

The responsibilities between Owner and Contractor for security, operation, safety, maintenance, heat, utilities, insurance, and warranties upon Owner's use or occupancy of the Work shall be as provided in the Contract, except as amended as follows: [Note: Amendments of contractual responsibilities recorded in this Certificate should be the product of mutual agreement of Owner and Contractor; see Paragraph 15.03.D of the General Conditions.]

None As follows
None

As follows:

The following documents are attached to and made a part of this Certificate: *Identified Warranty Items* This Certificate does not constitute an acceptance of Work not in accordance with the Contract Documents, nor is it a release of Contractor's obligation to complete the Work in accordance with the Contract.

[EXECUTED BY ENGINEER:		RECEIVED:		RECEIVED:
By:		By:		By:	
	(Authorized signature)		Owner (Authorized Signature)	-	Contractor (Authorized Signature)
Title:		Title:		Title:	
Date:		Date:		Date:	

Soldier Canyon Water Treatment Authority Filters 5-8 Improvements and Backup Generator CERTIFICATE OF SUBSTANTIAL COMPLETION 00625 - 1

SECTION 00800

SUPPLEMENTARY CONDITIONS

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

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

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

- SC-1.1 Add to the list of definitions in Paragraph 1.1.A by inserting the following as numbered items in their proper alphabetical positions:
 - A. *Final completion* Owner's acceptance of the Work upon confirmation from Engineer, Owner's Representative and Contractor that the Work is totally complete in accordance with Contract Documents.
- SC-1.2 Add the following language at the end of Paragraph 1.2.C:
 - A. ...unless otherwise defined.
- SC-2.2 Delete Paragraph 2.2.A in its entirety and insert the following new paragraph in its place:
 - A. Owner shall furnish to Contractor two (2) copies of conformed Contract Documents incorporating and integrating all Addenda and any amendments negotiated prior to the Effective Date of the Contract (including one fully executed counterpart of the Agreement), and one copy in electronic portable document format (PDF). Additional printed copies of the conformed Contract Documents will be furnished upon request at the cost of reproduction.
- SC-2.4 Amend the first sentence of Paragraph 2.4.A to read as follows:
 - A. Unless otherwise specified in the General Requirements, before any Work...
- SC-2.5 Amend the first sentence of Paragraph 2.5.A to read as follows:
 - A. Unless otherwise specified in the General Requirement, at least 10 days before...
- SC-3.3 Add the following new paragraph after Paragraph 3.3.B.1:
 - 2. In the event of conflicts or discrepancies among the Contract Documents, interpretations will be based on the following priorities:
 - a. Agreement,
 - b. Addenda, with those of later date having preference over those of earlier date,
 - c. Supplementary Conditions,
 - d. Standard General Conditions of the Construction Contract,

- e. Drawings and Specifications. In the case of an inconsistency between Drawings and Specifications or within either Document not clarified by addendum, the better quality or greater quantity of Work shall be provided in accordance with Engineer's interpretation.
- SC-4.1 Delete Paragraph 4.1.A in its entirety and insert the following in its place:
 - A. The Contract Times will commence to run on the day indicated in the Notice to Proceed. A Notice to Proceed may be given at any time within 30 days after the Effective Date of the Contract.
- SC-4.5 Replace Paragraph 4.5.C, first sentence, to read as follows:
 - C. If Contractor's performance or progress is delayed, disrupted, or interfered with by unanticipated causes not the fault of and beyond the control of Owner, Contractor, and those for which they are responsible, then Contractor shall be entitled to an equitable adjustment in Contract Times and Contract Price.
- SC-5.2.A Add the following new paragraph immediately after Paragraph 5.2.A.2:
 - 3. The responsibility for protection and safekeeping of equipment and materials on or near the site is entirely that of the Contractor, and no claim shall be made against the Owner by reason of any act of an employee or trespasser. It shall be further understood that should any occasion arise necessitating access to the sites occupied by these stored materials and equipment, the Contractor shall immediately move same. No materials or equipment may be placed upon the Owner's property until the Owner has agreed to the location contemplated by the Contractor to be used for storage.
- SC-5.2.D Add the following new paragraphs immediately after Paragraph 5.2.D:
 - E. Use of Owner Property: The Contractor may be permitted to use available land belonging to the Owner on or near the site of the work for construction purposes and for the storage of material and equipment. The location and extent of the areas so used shall be as designated by the Owner.
 - F. The Contractor shall not use or operate any water valves, hydrants, switches, or any other Owner facilities or utilities of any kind without the written consent of the Owner. All fire hydrants and water control valves shall be kept free from obstruction and available for use at all times.
- SC-5.3 Delete Paragraphs 5.3.A and 5.3.B in their entirety and insert the following:
 - A. The Following reports of explorations or tests of subsurface conditions at or adjacent to the Site are available to bidders:
 - B. The following record drawings are available to the bidders:
 - 1. The Owner has provided the Contractor with full access to all known record drawings of the water treatment plant. These drawings include the original construction of the facility through the various improvement projects completed to date.
- SC-5.4 Amend Paragraph 5.4.A, last paragraph, first line, to read as follows:

- A. ...then Contractor shall, no later than three (3) days after becoming aware thereof...
- SC-5.5 Amend Paragraph 5.5.B, third line, to read as follows:
 - A. ...Contractor shall, no later than three (3) days after becoming aware thereof...
- SC-5.6 Delete Paragraphs 5.6.A and 5.6.B in their entirety and insert the following:
 - A. No reports or drawings related to Hazardous Environment Conditions at the Site are known to Owner.
 - B. Not Used.
- SC-6.3 Add the following new paragraph immediately after Paragraph 6.3.J:
 - K. The limits of liability for the insurance required by Paragraph 6.3 of the General Conditions shall provide coverage for not less than the following amounts or greater where required by Laws and Regulations:
 - 1. Workers' Compensation, and related coverages under Paragraphs 6.3.A.1 and A.2 of the General Conditions:

State:	Statutory
Federal, if applicable (e.g., Longshoreman's):	Statutory
Employer's Liability:	
Bodily injury, each accident	\$ 500,000
Bodily injury by disease, each employee	\$ 500,000
Bodily injury/disease aggregate	\$ 1,000,000
Foreign voluntary worker compensation	Statutory

2. Contractor's Commercial General Liability under Paragraphs 6.3.B and 6.3.C of the General Conditions:

General Aggregate	\$ 2,000,000
Products - Completed Operations Aggregate	\$ _2,000,000
Personal and Advertising Injury	\$ 1,000,000
Each Occurrence (Bodily Injury and Property Damage)	\$ 2,000,000

3. Automobile Liability under Paragraph 6.3.D. of the General Conditions:

Bodily Injury:	
Each person	\$ 1,000,000
Each accident	\$ 1,000,000

Soldier Canyon Water Treatment Authority SUPPLEMENTARY CONDITIONS 00800 - 3

	Property Damage:	
	Each accident	\$ 1,000,000
	Combined Single Limit of	\$ 1,000,000
4.	Excess or Umbrella Liability:	
	Per Occurrence	\$ 5,000,000
	General Aggregate	\$ 5,000,000
5.	Contractor's Pollution Liability:	
	Each Occurrence	\$ N/A
	General Aggregate	\$ N/A

- If box is checked, Contractor is not required to provide Contractor's Pollution Liability insurance under this Contract
- 6. Additional Insureds: In addition to Owner and Engineer, include the Owner's representative as additional insureds.
- SC-6.5 Provide Property Insurance as required in Section 6.5 of the General Conditions. Property insurance furnished under this Contract shall have deductibles no greater than \$1,000 for all sub-limits except for earthquake, which shall have a maximum deductible of \$5,000. When coverage for flood, landslide, or mudslide are included, the maximum deductible applicable to such coverage shall be \$50,000.
- SC-7.9 Add a new paragraph immediately after Paragraph 7.9.A:
 - B. Owner is exempt from payment of sales and compensating use taxes of the State of Colorado and of municipalities and counties thereof on all materials to be incorporated into the Work.
 - 1. Contractor shall apply to the Department of Revenue, Sales Tax for a tax exemption certificate for the purchase of supplies and materials to be incorporated into the Work.
 - 2. Owner's exemption does not apply to construction tools, machinery, equipment, or other property purchased by or leased by Contractor, or to supplies or materials not incorporated into the Work.
 - 3. Owner will not reimburse Contractor for any sales or use taxes paid to the State or any county or municipality from which Owner or the Project are exempt.
- SC-7.20 Pre-Existing Conditions; Errors and Omissions.

A. The Contractor acknowledges that it has been provided unrestricted access to the existing improvements and conditions on the Project site and that it has thoroughly investigated those conditions. Contractor's investigation was instrumental in preparing its Guaranteed Maximum Price Proposal for the Work. Contractor shall not make or be entitled to any claim for any adjustment to the Contract Time or the Contract Sum for Pre-Construction Phase Services or for Construction Phase Services arising from Project conditions that Contractor discovered or, in the exercise of reasonable care, should have discovered in Contractor's investigation.

The Contractor acknowledges that as part of its Pre-Construction Phase Services it shall participate in the development and review of the Construction Documents. Contractor's participation in the design development process is instrumental in preparing its Guaranteed Maximum Price Proposal for the Work. Before submitting its Guaranteed Maximum Price Proposal, the Contractor shall review the drawings, specifications and other Construction Documents and notify the Owner of any errors, omissions or discrepancies in the documents of which it is aware. Contractor shall not make or be entitled to any claim for any adjustment to the Contract Time or the Contract Sum, Change Orders or Contingency Expenditure for errors or omissions in the Construction Documents that Contractor discovered or, in the exercise of reasonable care, should have discovered in Contractor's Pre-Construction Phase design review process that Contractor did not bring to the attention of the Owner and the Engineer in a timely manner.

- SC-9.13 Add the following new paragraph immediately after Paragraph 9.12 of the General Conditions:
 - A. On this Project, by agreement with the Owner, Engineer will not furnish a Resident Project Representative to represent Engineer at the Site to assist in observing the progress and quality of the Work.
- SC-10.3 Delete Paragraph 10.3 A in its entirety and replace with the following:
 - A. The duties and obligations of the Resident Project Representative under the General Conditions shall be fulfilled by the Owner's Representative, not a representative of the Engineer. All contract administration authority provided to Engineer in the General Conditions is changed to the Owner's representative.
- SC-11.4 Add the following paragraph 11.4.B.4:
 - 4. Contractor shall submit on a daily basis, or at an interval determined by Owner's Representative, the actual costs for all labor, materials, equipment and incidentals utilized in the performance of the change for Owner's Representative review. The format of the submittal shall be as determined by Owner's Representative.

Add the following new paragraph immediately after Paragraph 11.4.C:

D. This paragraph 11.4 is subject to the change order requirements set forth in SC-11.7.

Revise paragraphs 11.4.E and F:

E. the amount of credit to be allowed by Contractor to Owner for any change which results in a net decrease in cost will be the amount of the actual net decrease, but will not require a deduction from the Contractor's base fixed fee; and

- F. when both additions and credits are involved in any one change, the adjustment in Contractor's fee shall be computed based on a net change only in accordance with Paragraphs 11.4.C.2.a through 11.4.2.e, inclusive.
- SC-11.7 Add the following new paragraphs immediately after Paragraph 11.7.A.4:
 - 5. A fully executed Change Order represents full and final settlement for all costs (including all impact costs) and time relating to the work included in the change order. The following language shall be typed on the face of each Change Order:

THIS CHANGE ORDER CONSTITUTES FULL AND FINAL SETTLEMENT FOR ALL COSTS AND TIME ASSOCIATED WITH THE WORK DESCRIBED HEREIN. COSTS ARE DEFINED TO INCLUDE ALL DIRECT AND INDIRECT LABOR COSTS RELATED TO, AND/OR OCCASIONED BY THE WORK DESCRIBED HEREIN; ALL MATERIAL AND EQUIPMENT COSTS RELATED HERETO; ANY AND ALL IMPACT COSTS RELATED TO AND/OR OCCASIONED BY THE PERFORMANCE OF THIS WORK; AS WELL AS ALL APPLICABLE TAXES, INSURANCE, BONDS, AND PROFIT. ALL OTHER TERMS AND CONDITIONS OF THIS CONTRACT REMAIN IN FULL FORCE AND EFFECT.

- 6. The Contract Documents are subject to Section 24-91-103.C.R.S., and in accordance therewith:
 - a. Owner shall not issue any Change Order or other directive (other than a clarification) requiring additional compensable Work to be performed that will cause the aggregate amount payable under the Agreement to exceed the amount appropriated for the original Contract Price and any subsequent appropriations, unless:
 - 1. Contractor is given written assurance by Owner that lawful appropriations to cover the costs of the additional Work have been made and are available prior to performance of the additional Work; or
 - 2. The additional Work is covered by the following remedygranting provision: Contractor may request, in writing, a letter from Owner explaining the expected sources of funding for the additional Work. In the event Owner does not provide such written assurance reasonably satisfactory to Contractor within five (5) days of Contractor's request, Contractor may stop Work until such time as Owner provides satisfactory assurances. Contractor's acceptance of a Change Order in accordance with any assurances provided under this Paragraph shall not limit or restrict Contractor from making a Claim under the Contract Documents for an adjustment in the Contract Price or Contract Times or otherwise for expenses or damages directly attributable to Contractor's stoppage of the Work as permitted hereunder.

- b. For any Change Order or other directive (other than a clarifications) that requires additional compensable Work to be performed, Owner shall reimburse Contractor for Contractor's costs on the periodic basis set forth in the Contract Documents for all additional directed Work performed until the Change Order is finalized. In no instance shall the periodic reimbursement be required before Contractor has submitted an estimate of cost to Owner for the additional compensable Work to be performed.
- SC-12.1.B Amend the first sentence of Paragraph 12.1.B to read as follows:
 - B. The party submitting a claim shall deliver it directly to the other party to the Contract promptly (but in no event later than seven (7) days after the start of the event giving rise thereto; in the case of appeals regarding Change Proposals within seven (7) days of the decision under appeal.

Add the following new paragraph immediately after Paragraph 12.1.B:

C. Owner shall give notice to the Surety of any Claim that Owner might assert against Contractor on the performance bond or the payment bond, unless waived in writing by the Surety. Owner's act of giving such notice or failure to give such notice shall not affect Owner's right to seek or pursue any remedy provided for in such bonds or under any other provisions of the Contract Documents. This provision does not modify Contractor's obligations to provide notification to the Surety under the General Conditions.

SC-12.1.G Add the following paragraphs immediately after Paragraph 12.1.G:

- H. *Referral of Claims to Design Professional*: No claim or defense of Owner shall be barred for failure to refer an item of dispute to Engineer. Owner and Contractor agree that any requirement in the Contract Documents to refer a claim to Engineer or any other party as a condition precedent to exercising any lawful remedies shall not be a bar to bringing an action in a court of competent jurisdiction if Owner or Contractor has a reasonable belief that complying with such referral requirement might jeopardize its ability to exercise such remedies due to the running of the applicable statute of limitations or the application of an equitable defense such as waiver, estoppel or laches. Promptly following the filing of an action under such circumstances, Owner and Contractor shall then proceed to comply with such claim referral process to the extent not stayed by a court of competent jurisdiction.
- I. Two-Year Statute of Limitations: Any claim or action at law or in equity upon or arising out of the Contract Documents or the Work performed thereunder (except for a state action based in tort, which shall be subject to the Colorado Governmental Immunity Act, § 24-10-101 et seq., C.R.S.) which is asserted by Contractor against Owner shall be commenced within two (2) years from the date when such claim or action accrued pursuant to Section 13-80-102(1)(h), C.R.S., or such claim or action shall thereafter be barred.

SC-13.1.B Add the following after the fourth sentence in 13.1.B.1:

B. Under no circumstances shall personnel other than superintendents, foremen, or craft laborers spend more than 40 hours per week on the Work.

Delete Paragraph 13.1.B.4 in its entirety.

- SC-13.1.C Add the following new paragraph immediately following Paragraph 13.1.C.5:
 - 6. The cost of special consultants (including engineers, architects, testing laboratories, surveyors, attorneys and accountants) shall not be included in any cost of the Work or otherwise be the obligation of Owner, unless specified in the bidding documents or approved in advance by Owner in its sole discretion.
- SC-13.1.E Add the following to Paragraph 13.1.E.

Based on the selection criteria included in the request for proposals or bid documents, Contractor shall recommend to the Owner the bid/proposal that provides the best value for the Project. Upon Owner's concurrence in the recommendation, Contractor may negotiate the terms of the subcontract with the apparent best value bidder/proposer.

SC-13.1.G Guaranteed Maximum Price (GMP) Proposal - Qualifications.

The GMP Proposal must include a written description of how it was derived that specifically identifies the clarifications and assumptions made by the Contractor in the GMP and the monetary amounts attributable to them. The GMP Proposal shall include, without limitation, a detailed breakdown of Contractor's estimated General Conditions Costs and estimated Costs of the Work organized by trade; allowance amounts; the Construction Phase Fee; including recognition of contract times for Substantial and Final Completion and Intermediate Milestones as may be applicable.

SC-13.1.H Guaranteed Maximum Price (GMP) Proposal - Representation.

In submitting the GMP Proposal, the Contractor represents that it will provide every item, system or element of Work that is identified, shown or specified in the GMP Proposal or the supporting documents, along with all necessary or ancillary materials and equipment for their complete operating installation, unless specifically excepted by the Owner. Upon Owner's acceptance of the GMP Proposal, the Contractor shall not be entitled to any increase in the Guaranteed Maximum Price due to the continued refinement of the Construction Documents or the absence or addition of any detail or specification that may be required in order to complete the construction of the Project as described in and reasonably inferable from the GMP Proposal or the supporting documents used to establish the GMP.

SC-13.1.I Refund.

If the allowable, final, verified, audited amount of the Cost of the Work, General Conditions, and Owner's Project Allowances are less than the amount established in the originally approved Guaranteed Maximum Price Proposal, and no verified statement of claim are filed in accordance with Section 38-26-107, C.R.S., the entire difference shall be credited to the Owner as savings and the final contract amount shall be adjusted accordingly, not including Contractor's associated Construction Phase Fee. When the Contractor has awarded all subcontracts following the subcontractor

procurement/buyout phase, the Owner may recognize any savings achieved to that point by transferring any savings amount to the Owner's Construction Contingency.

- SC-13.3 Delete Paragraph 13.3.E in its entirety and insert the following in its place:
 - E. The unit price of an item of Unit Price Work shall be subject to reevaluation and adjustment under the following conditions:
 - if the extended price of a particular item of Unit Price Work amounts to 5 percent or more of the Contract Price (based on estimated quantities at the time of Contract formation) and the variation in the quantity of that particular item of Unit Price Work actually furnished or performed by Contractor differs by more than 25 percent from the estimated quantity of such item indicated in the Agreement; and
 - 2. if there is no corresponding adjustment with respect to any other item of Work; and
 - 3. if Contractor believes that Contractor has incurred additional expense as a result thereof, Contractor may submit a Change Proposal, or if Owner believes that the quantity variation entitles Owner to an adjustment in the unit price, Owner may make a Claim, seeking an adjustment in the Contract Price.
- SC-14.6.A Add the following language to the beginning of Paragraph 14.6.A:
 - A. If Owner observes a substantial violation of Paragraph 7.12, or ...
- SC-15.1.A Amend the first sentence of Paragraph 15.1.A to read as follows:
 - A. The Schedule of Values established as provided in Article 2 will serve as the basis for progress payments, unless modified in the schedule provisions contained in the General Requirements, and will be incorporated ...
- SC-15.1.B Pay Application Supporting Documentation. Add the following to paragraph 15.1.B.1:
 - B. For all Costs, Contractor's Application for Payment shall include copies of all receipts, invoices with check vouchers or other evidence of payment, payrolls, and any and all other evidence which Owner or its designated representatives shall deem necessary to support the amount requested. For stored materials, the Contractor shall provide receipts, ownership transfer forms, insurance and photographic or physical documentation of such material for review by the Owner's Representative. This information is subject to audit and payment for these costs is dependent on Owner's receipt of accurate and complete records of all transactions. Owner may reduce the amount requested for payment in any Application for Payment if the Owner, upon recommendation from the Owner's Representative, in its good faith judgment, determines that the unpaid balance of the originally approved Guaranteed Maximum Price is not sufficient to fund the necessary costs for the remainder of the Project.
- SC-15.6.A Modify the first sentence of Paragraph 15.6.A.1
 - A. After Contractor has, in the opinion of Engineer and Owner's Representative, satisfactorily...
- SC-15.6.D Add the following language after the last sentence of Paragraph 15.6.D:
 - D. Owner shall, no later than fourteen (14) days before final payment is made, publish a notice of final payment at least twice in a legal newspaper of general circulation

in any county where the work was contracted for or performed pursuant to Section 38-26-107, C.R.S. The requirements set forth in Section 38-26-107, C.R.S. are incorporated into this Paragraph 15.6 and shall control in the event of any conflict with the Contract Documents.

- SC 15.8 Delete Paragraph 15.8.A in its entirety and insert the following in its place:
 - A. If within <u>two years</u> after the date of Substantial Completion (or such longer period of time as may be prescribed by the terms of any applicable special guarantee required by the Contract Documents, or by any specific provision of the Contract Documents), any Work is found to be defective, or if the repair of any damages to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas used by Contractor as permitted by Laws and Regulations, is found to be defective, then Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:
 - 1. correct the defective repairs to the Site or such other adjacent areas;
 - 2. correct such defective Work;
 - 3. if the defective Work has been rejected by Owner, remove it from the Project and replace it with Work that is not defective, and
 - 4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others, or to other land or areas resulting therefrom.
- SC-17.1 Add the new paragraph immediately after Paragraph 17.1.B:
 - C. Any mediation or arbitration provision in the contract Documents shall be optional and subject to the mutual consent of Owner and Contractor, each in their sole discretion. Compliance with any mediation or arbitration procedure shall not be a pre-requisite to bringing an action in a court of competent jurisdiction.
- SC-18.9 Independent Contractor
 - A. The Owner hereby retains the Contractor for the Project to perform the services on the terms and conditions specified in the Contract Documents, and the Contractor agrees so to serve. The parties agree that the Contractor shall be an independent contractor and shall not be an employee of the Owner. The Contractor, as an independent contractor, is not entitled to workers' compensation benefits and unemployment insurance benefits, and the Contractor is obligated to pay federal and state income tax on any monies earned pursuant to the contract relationship.
- SC-18.10 Cooperation with the Owner
 - A. The performance of construction work that affects the operation of the Owners utility systems shall be scheduled to be performed only at times acceptable to the Owner.

In the event that it is necessary to either interrupt or to impose abnormal operating conditions on any Owner utility system, such procedure must be acceptable to the Owner and a complete understanding and agreement must be reached by all parties concerned well in advance of the time scheduled for such operation, and such understanding shall be definite as to date, time of day, and length of time required. All work shall be scheduled to suit the Owners convenience taking into consideration the facilities and requirements at all times during construction.

The Contractor shall be responsible for paying all regular and premium time labor costs arising from the necessity to perform work that affects the Owners system facilities at times other than regular working hours.

SC-18.11 Governmental Immunity Act

No term or condition of this Contract shall be construed or interpreted as a waiver, express or implied, of any of the notices, requirements, immunities, rights, benefits, protections, limitations of liability, and other provisions of the Colorado Governmental Immunity Act, C.R.S. § 24-10-101 et seq. and under any other applicable law.

END OF SECTION

STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

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ARTICLE 1 – DEFINITIONS AND TERMINOLOGY

1.01 Defined Terms

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

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

- 11. Constituent of Concern—Asbestos, petroleum, radioactive materials, polychlorinated biphenyls (PCBs), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. ("CERCLA"); (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§5101 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. ("RCRA"); (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; or (g) any other federal, state, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.
- 12. *Contract*—The entire and integrated written contract between the Owner and Contractor concerning the Work.
- 13. *Contract Documents*—Those items so designated in the Agreement, and which together comprise the Contract.
- 14. *Contract Price*—The money that Owner has agreed to pay Contractor for completion of the Work in accordance with the Contract Documents.—
- 15. *Contract Times*—The number of days or the dates by which Contractor shall: (a) achieve Milestones, if any; (b) achieve Substantial Completion; and (c) complete the Work.
- 16. *Contractor*—The individual or entity with which Owner has contracted for performance of the Work.
- 17. *Cost of the Work*—See Paragraph 13.01 for definition.
- 18. *Drawings*—The part of the Contract that graphically shows the scope, extent, and character of the Work to be performed by Contractor.
- 19. *Effective Date of the Contract*—The date, indicated in the Agreement, on which the Contract becomes effective.
- 20. Engineer—The individual or entity named as such in the Agreement.
- 21. *Field Order*—A written order issued by Engineer which requires minor changes in the Work but does not change the Contract Price or the Contract Times.
- 22. Hazardous Environmental Condition—The presence at the Site of Constituents of Concern in such quantities or circumstances that may present a danger to persons or property exposed thereto. The presence at the Site of materials that are necessary for the execution of the Work, or that are to be incorporated in the Work, and that are controlled and contained pursuant to industry practices, Laws and Regulations, and the requirements of the Contract, does not establish a Hazardous Environmental Condition.
- 23. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
- 24. *Liens*—Charges, security interests, or encumbrances upon Contract-related funds, real property, or personal property.

- 25. *Milestone*—A principal event in the performance of the Work that the Contract requires Contractor to achieve by an intermediate completion date or by a time prior to Substantial Completion of all the Work.
- 26. *Notice of Award*—The written notice by Owner to a Bidder of Owner's acceptance of the Bid.
- 27. *Notice to Proceed*—A written notice by Owner to Contractor fixing the date on which the Contract Times will commence to run and on which Contractor shall start to perform the Work.
- 28. *Owner*—The individual or entity with which Contractor has contracted regarding the Work, and which has agreed to pay Contractor for the performance of the Work, pursuant to the terms of the Contract.
- 29. *Progress Schedule*—A schedule, prepared and maintained by Contractor, describing the sequence and duration of the activities comprising the Contractor's plan to accomplish the Work within the Contract Times.
- 30. *Project*—The total undertaking to be accomplished for Owner by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the Work to be performed under the Contract Documents is a part.
- 31. *Project Manual*—The written documents prepared for, or made available for, procuring and constructing the Work, including but not limited to the Bidding Documents or other construction procurement documents, geotechnical and existing conditions information, the Agreement, bond forms, General Conditions, Supplementary Conditions, and Specifications. The contents of the Project Manual may be bound in one or more volumes.
- 32. *Resident Project Representative*—The authorized representative of Engineer assigned to assist Engineer at the Site. As used herein, the term Resident Project Representative or "RPR" includes any assistants or field staff of Resident Project Representative.
- 33. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work will be judged.
- 34. *Schedule of Submittals*—A schedule, prepared and maintained by Contractor, of required submittals and the time requirements for Engineer's review of the submittals and the performance of related construction activities.
- 35. *Schedule of Values*—A schedule, prepared and maintained by Contractor, allocating portions of the Contract Price to various portions of the Work and used as the basis for reviewing Contractor's Applications for Payment.
- 36. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Contract Documents.
- 37. *Site*—Lands or areas indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements, and such other lands furnished by Owner which are designated for the use of Contractor.

- 38. *Specifications*—The part of the Contract that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.
- 39. *Subcontractor*—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work.
- 40. Substantial Completion—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion thereof.
- 41. *Successful Bidder*—The Bidder whose Bid the Owner accepts, and to which the Owner makes an award of contract, subject to stated conditions.
- 42. *Supplementary Conditions*—The part of the Contract that amends or supplements these General Conditions.
- 43. *Supplier*—A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or a Subcontractor.
- 44. *Technical Data*—Those items expressly identified as Technical Data in the Supplementary Conditions, with respect to either (a) subsurface conditions at the Site, or physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities) or (b) Hazardous Environmental Conditions at the Site. If no such express identifications of Technical Data have been made with respect to conditions at the Site, then the data contained in boring logs, recorded measurements of subsurface water levels, laboratory test results, and other factual, objective information regarding conditions at the Site that are set forth in any geotechnical or environmental report prepared for the Project and made available to Contractor are hereby defined as Technical Data with respect to conditions at the Site under Paragraphs 5.03, 5.04, and 5.06.
- 45. Underground Facilities—All underground pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or attachments, and any encasements containing such facilities, including but not limited to those that convey electricity, gases, steam, liquid petroleum products, telephone or other communications, fiber optic transmissions, cable television, water, wastewater, storm water, other liquids or chemicals, or traffic or other control systems.
- 46. *Unit Price Work*—Work to be paid for on the basis of unit prices.
- 47. *Work*—The entire construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction; furnishing, installing, and incorporating all materials and equipment into such construction; and may include related services such as testing, start-up, and commissioning, all as required by the Contract Documents.
- 48. Work Change Directive—A written directive to Contractor issued on or after the Effective Date of the Contract, signed by Owner—and recommended by Engineer, ordering an addition, deletion, or revision in the Work.

1.02 Terminology

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

"furnish," "install," "perform," or "provide," then Contractor shall furnish and install said services, materials, or equipment complete and ready for intended use.

F. Unless stated otherwise in the Contract Documents, words or phrases that have a wellknown technical or construction industry or trade meaning are used in the Contract Documents in accordance with such recognized meaning.

ARTICLE 2 – PRELIMINARY MATTERS

- 2.01 Delivery of Bonds and Evidence of Insurance
 - A. *Bonds*: When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner such bonds as Contractor may be required to furnish.
 - B. Evidence of Contractor's Insurance: When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner, with copies to each named insured and additional insured (as identified in the Supplementary Conditions or elsewhere in the Contract), the certificates and other evidence of insurance required to be provided by Contractor in accordance with Article 6.
 - C. *Evidence of Owner's Insurance*: After receipt of the executed counterparts of the Agreement and all required bonds and insurance documentation, Owner shall promptly deliver to Contractor, with copies to each named insured and additional insured (as identified in the Supplementary Conditions or otherwise), the certificates and other evidence of insurance required to be provided by Owner under Article 6.
- 2.02 Copies of Documents
 - A. Owner shall furnish to Contractor four printed copies of the Contract (including one fully executed counterpart of the Agreement), and one copy in electronic portable document format (PDF). Additional printed copies will be furnished upon request at the cost of reproduction.
 - B. Owner shall maintain and safeguard at least one original printed record version of the Contract, including Drawings and Specifications signed and sealed by Engineer and other design professionals. Owner shall make such original printed record version of the Contract available to Contractor for review. Owner may delegate the responsibilities under this provision to Engineer.

2.03 Before Starting Construction

- A. *Preliminary Schedules*: Within 10 days after the Effective Date of the Contract (or as otherwise specifically required by the Contract Documents), Contractor shall submit to Engineer for timely review:
 - 1. a preliminary Progress Schedule indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract;
 - 2. a preliminary Schedule of Submittals; and
 - 3. a preliminary Schedule of Values for all of the Work which includes quantities and prices of items which when added together equal the Contract Price and subdivides the Work into component parts in sufficient detail to serve as the basis for progress payments during performance of the Work. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work.

2.04 Preconstruction Conference; Designation of Authorized Representatives

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

2.05 Initial Acceptance of Schedules

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

2.06 *Electronic Transmittals*

- A. Except as otherwise stated elsewhere in the Contract, the Owner, Engineer, and Contractor may transmit, and shall accept, Project-related correspondence, text, data, documents, drawings, information, and graphics, including but not limited to Shop Drawings and other submittals, in electronic media or digital format, either directly, or through access to a secure Project website.
- B. If the Contract does not establish protocols for electronic or digital transmittals, then Owner, Engineer, and Contractor shall jointly develop such protocols.
- C. When transmitting items in electronic media or digital format, the transmitting party makes no representations as to long term compatibility, usability, or readability of the items resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the items, or from those established in applicable transmittal protocols.

ARTICLE 3 – DOCUMENTS: INTENT, REQUIREMENTS, REUSE

3.01 Intent

- A. The Contract Documents are complementary; what is required by one is as binding as if required by all.
- B. It is the intent of the Contract Documents to describe a functionally complete project (or part thereof) to be constructed in accordance with the Contract Documents.
- C. Unless otherwise stated in the Contract Documents, if there is a discrepancy between the electronic or digital versions of the Contract Documents (including any printed copies derived from such electronic or digital versions) and the printed record version, the printed record version shall govern.
- D. The Contract supersedes prior negotiations, representations, and agreements, whether written or oral.
- E. Engineer will issue clarifications and interpretations of the Contract Documents as provided herein.

3.02 Reference Standards

- A. Standards Specifications, Codes, Laws and Regulations
 - 1. Reference in the Contract Documents to standard specifications, manuals, reference standards, or codes of any technical society, organization, or association, or to Laws or Regulations, whether such reference be specific or by implication, shall mean the standard specification, manual, reference standard, code, or Laws or Regulations in effect at the time of opening of Bids (or on the Effective Date of the Contract if there were no Bids), except as may be otherwise specifically stated in the Contract Documents.
 - 2. No provision of any such standard specification, manual, reference standard, or code, or any instruction of a Supplier, shall be effective to change the duties or responsibilities of Owner, Contractor, or Engineer, or any of their subcontractors, consultants, agents, or employees, from those set forth in the part of the Contract Documents prepared by or for Engineer. No such provision or instruction shall be effective to assign to Owner, Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, any duty or authority to supervise or direct the performance of the Work or any duty or authority to undertake responsibility inconsistent with the provisions of the part of the Contract Documents prepared by or for Engineer.

3.03 *Reporting and Resolving Discrepancies*

- A. *Reporting Discrepancies*:
 - 1. Contractor's Verification of Figures and Field Measurements: Before undertaking each part of the Work, Contractor shall carefully study the Contract Documents, and check and verify pertinent figures and dimensions therein, particularly with respect to applicable field measurements. Contractor shall promptly report in writing to Engineer any conflict, error, ambiguity, or discrepancy that Contractor discovers, or has actual knowledge of, and shall not proceed with any Work affected thereby until the conflict, error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract Documents issued pursuant to Paragraph 11.01.

- 2. Contractor's Review of Contract Documents: If, before or during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents, or between the Contract Documents and (a) any applicable Law or Regulation, (b) actual field conditions, (c) any standard specification, manual, reference standard, or code, or (d) any instruction of any Supplier, then Contractor shall promptly report it to Engineer in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Paragraph 7.15) until the conflict, error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract Documents issued pursuant to Paragraph 11.01.
- 3. Contractor shall not be liable to Owner or Engineer for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless Contractor had actual knowledge thereof.
- B. Resolving Discrepancies:
 - 1. Except as may be otherwise specifically stated in the Contract Documents, the provisions of the part of the Contract Documents prepared by or for Engineer shall take precedence in resolving any conflict, error, ambiguity, or discrepancy between such provisions of the Contract Documents and:
 - a. the provisions of any standard specification, manual, reference standard, or code, or the instruction of any Supplier (whether or not specifically incorporated by reference as a Contract Document); or
 - b. the provisions of any Laws or Regulations applicable to the performance of the Work (unless such an interpretation of the provisions of the Contract Documents would result in violation of such Law or Regulation).
- 3.04 *Requirements of the Contract Documents*
 - A. During the performance of the Work and until final payment, Contractor and Owner shall submit to the Engineer all matters in question concerning the requirements of the Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Contract Documents, as soon as possible after such matters arise. Engineer will be the initial interpreter of the requirements of the Contract Documents, and judge of the acceptability of the Work thereunder.
 - B. Engineer will, with reasonable promptness, render a written clarification, interpretation, or decision on the issue submitted, or initiate an amendment or supplement to the Contract Documents. Engineer's written clarification, interpretation, or decision will be final and binding on Contractor, unless it appeals by submitting a Change Proposal, and on Owner, unless it appeals by filing a Claim.
 - C. If a submitted matter in question concerns terms and conditions of the Contract Documents that do not involve (1) the performance or acceptability of the Work under the Contract Documents, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, then Engineer will promptly give written notice to Owner and Contractor that Engineer is unable to provide a decision or interpretation. If Owner and Contractor are unable to agree on resolution of such a matter in question, either party may pursue resolution as provided in Article 12.

3.05 *Reuse of Documents*

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

ARTICLE 4 – COMMENCEMENT AND PROGRESS OF THE WORK

- 4.01 Commencement of Contract Times; Notice to Proceed
 - A. The Contract Times will commence to run on the thirtieth day after the Effective Date of the Contract or, if a Notice to Proceed is given, on the day indicated in the Notice to Proceed. A Notice to Proceed may be given at any time within 30 days after the Effective Date of the Contract. In no event will the Contract Times commence to run later than the sixtieth day after the day of Bid opening or the thirtieth day after the Effective Date of the Contract, whichever date is earlier.
- 4.02 Starting the Work
 - A. Contractor shall start to perform the Work on the date when the Contract Times commence to run. No Work shall be done at the Site prior to such date.
- 4.03 *Reference Points*
 - A. Owner shall provide engineering surveys to establish reference points for construction which in Engineer's judgment are necessary to enable Contractor to proceed with the Work. Contractor shall be responsible for laying out the Work, shall protect and preserve the established reference points and property monuments, and shall make no changes or relocations without the prior written approval of Owner. Contractor shall report to Engineer whenever any reference point or property monument is lost or destroyed or requires relocation because of necessary changes in grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points or property monuments by professionally qualified personnel.

4.04 Progress Schedule

- A. Contractor shall adhere to the Progress Schedule established in accordance with Paragraph 2.05 as it may be adjusted from time to time as provided below.
 - 1. Contractor shall submit tonotify Engineer for acceptance (to the extent indicated in Paragraph 2.05) of proposed adjustments in the Progress Schedule that will not result in changing the Contract Times.

- 2. Proposed adjustments in the Progress Schedule that will change the Contract Times shall be submitted in accordance with the requirements of Article 11.
- B. Contractor shall carry on the Work and adhere to the Progress Schedule during all disputes or disagreements with Owner. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, or during any appeal process, except as permitted by Paragraph 16.04, or as Owner and Contractor may otherwise agree in writing.

4.05 Delays in Contractor's Progress

- A. If Owner, Engineer, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress of the Work, then Contractor shall be entitled to an equitable adjustment in the Contract Times and Contract Price. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.
- B. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delay, disruption, or interference caused by or within the control of Contractor. Delay, disruption, and interference attributable to and within the control of a Subcontractor or Supplier shall be deemed to be within the control of Contractor.
- C. If Contractor's performance or progress is delayed, disrupted, or interfered with by unanticipated causes not the fault of and beyond the control of Owner, Contractor, and those for which they areContractor is responsible, then Contractor shall be entitled to an equitable adjustment in Contract Times. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times. Such an adjustment shall be Contractor's sole and exclusive remedy for the delays, disruption, and interference described in this paragraph. Causes of delay, disruption, or interference that may give rise to an adjustment in Contract Times under this paragraph include but are not limited to the following:
 - 1. severe and unavoidable natural catastrophes such as fires, floods, epidemics, and earthquakes;
 - 2. abnormal weather conditions;
 - 3. acts or failures to act of utility owners (other than those performing other work at or adjacent to the Site by arrangement with the Owner, as contemplated in Article 8); and
 - 4. acts of war or terrorism.
- D. Delays, disruption, and interference to the performance or progress of the Work resulting from the existence of a differing subsurface or physical condition, an Underground Facility that was not shown or indicated by the Contract Documents, or not shown or indicated with reasonable accuracy, and those resulting from Hazardous Environmental Conditions, are governed by Article 5.
- E. Paragraph 8.03 governs delays, disruption, and interference to the performance or progress of the Work resulting from the performance of certain other work at or adjacent to the Site.
- F. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for any delay, disruption, or interference if such delay is concurrent with a delay, disruption, or interference caused by or within the control of Contractor.Intentionally omitted.
- <u>G.</u> Contractor must submit any Change Proposal seeking an adjustment in Contract Price or Contract Times under this paragraph within 30 days of the commencement of the delaying, disrupting, or interfering event.

G.H. COVID-19 and Infectious Diseases. The Contract Sum and Contract Time are based on Contractor's compliance with all currently enacted governmental health and safety orders, laws, requirements, and guidance associated with COVID-19. The Contract Sum and Contract Time do not contemplate, and specifically exclude, all other cost or schedule impacts caused by COVID-19 or other infectious disease outbreaks, including, but not limited to, future changes to governmental health and safety orders, laws, requirements, and guidance; labor or material shortages; or other disruptions to the Work. The Contract Time will be equitably adjusted for schedule impacts and disruptions caused by COVID-19 or other infectious disease outbreaks. In addition, the Contract Sum will be equitably adjusted for cost impacts caused by future changes to governmental health and safety orders, laws, requirements, and guidance.

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

- 5.01 Availability of Lands
 - A. Owner shall furnish the Site. Owner shall notify Contractor of any encumbrances or restrictions not of general application but specifically related to use of the Site with which Contractor must comply in performing the Work.
 - B. Upon reasonable written request, Owner shall furnish Contractor with a current statement of record legal title and legal description of the lands upon which permanent improvements are to be made and Owner's interest therein as necessary for giving notice of or filing a mechanic's or construction lien against such lands in accordance with applicable Laws and Regulations.
 - C. Contractor shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.
- 5.02 Use of Site and Other Areas
 - A. Limitation on Use of Site and Other Areas:
 - 1. Contractor shall confine construction equipment, temporary construction facilities, the storage of materials and equipment, and the operations of workers to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and such other adjacent areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility for (a) damage to the Site; (b) damage to any such other adjacent areas used for Contractor's operations; (c) damage to any other adjacent land or areas; and (d) for injuries and losses sustained by the owners or occupants of any such land or areas; provided that such damage or injuries result from the performance of the Work or from other actions or conduct of the Contractor or those for which Contractor is responsible.
 - If a damage or injury claim is made by the owner or occupant of any such land or area because of the performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible, Contractor shall (a) take immediate corrective or remedial action as required by Paragraph 7.12, or otherwise; (b) promptly attempt to settle the claim as to all parties through negotiations with such owner or occupant, or otherwise resolve the claim by arbitration or other dispute resolution proceeding, or at law; and (c) to the fullest extent permitted by Laws and Regulations, indemnify and hold harmless Owner and Engineer, and the <u>its</u> officers,

directors, members, partners, <u>and</u> employees, <u>agents</u>, <u>consultants</u> and <u>subcontractors</u> of each and any of them from and against any such claim, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable, brought by any such owner or occupant against Owner, <u>Engineer</u>, or any other party indemnified hereunder to the extent caused directly or indirectly, in whole or in part by, or based upon, Contractor's performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible.

- B. *Removal of Debris During Performance of the Work*: During the progress of the Work the Contractor shall keep the Site and other adjacent areas free from accumulations of waste materials, rubbish, and other debris. Removal and disposal of such waste materials, rubbish, and other debris hall conform to applicable Laws and Regulations.
- C. *Cleaning*: Prior to Substantial Completion of the Work Contractor shall clean the Site and the Work and make it ready for utilization by Owner. At the completion of the Work Contractor shall remove from the Site and adjacent areas all tools, appliances, construction equipment and machinery, and surplus materials and shall restore to original condition all property not designated for alteration by the Contract Documents.
- D. Loading of Structures: Contractor shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall Contractor subject any part of the Work or adjacent structures or land to stresses or pressures that will endanger them.
- 5.03 Subsurface and Physical Conditions
 - A. *Reports and Drawings*: The Supplementary Conditions identify:
 - 1. those reports known to Owner of explorations and tests of subsurface conditions at or adjacent to the Site;
 - 2. those drawings known to Owner of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities); and
 - 3. Technical Data contained in such reports and drawings.
 - B. Reliance by Contractor on Technical Data Authorized: Contractor may rely upon the accuracy of the Technical Data expressly identified in the Supplementary Conditions with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely upon the accuracy of the Technical Data (as defined in Article 1) contained in any geotechnical or environmental report prepared for the Project and made available to Contractor. Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their its officers, directors, members, partners, or employees, agents, consultants, or subcontractors, with respect to:
 - 1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto; or
 - 2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or
 - 3. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions, or information.

5.04 Differing Subsurface or Physical Conditions

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

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

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

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

5.05 Underground Facilities

- A. *Contractor's Responsibilities*: The information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or adjacent to the Site is based on information and data furnished to Owner or Engineer by the owners of such Underground Facilities, including Owner, or by others. Unless it is otherwise expressly provided in the Supplementary Conditions:
 - 1. Owner and Engineer does not warrant or guarantee the accuracy or completeness of any such information or data provided by others; and
 - 2. the cost of all of the following will be included in the Contract Price, and Contractor shall have full responsibility for:
 - a. reviewing and checking all information and data regarding existing Underground Facilities at the Site;
 - b. locating all Underground Facilities shown or indicated in the Contract Documents as being at the Site;
 - c. coordination of the Work with the owners (including Owner) of such Underground Facilities, during construction; and
 - d. the safety and protection of all existing Underground Facilities at the Site, and repairing any damage thereto resulting from the Work.
- B. Notice by Contractor: If Contractor believes that an Underground Facility that is uncovered or revealed at the Site was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy, then Contractor shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), identify the owner of such Underground Facility and give written notice to that owner and to Owner and Engineer.

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

5.06 Hazardous Environmental Conditions at Site

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

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

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

ARTICLE 6 – BONDS AND INSURANCE

6.01 *Performance, Payment, and Other Bonds*

A. Contractor shall furnish a performance bond and a payment bond, each in an amount at least equal to the Contract Price, as security for the faithful performance and payment of all of Contractor's obligations under the Contract. These bonds shall remain in effect until one year after the date when final payment becomes due or until completion of the correction period specified in Paragraph 15.08, whichever is later, except as provided otherwise by Laws or Regulations, the Supplementary Conditions, or other specific provisions of the Contract.

Contractor shall also furnish such other bonds as are required by the Supplementary Conditions or other specific provisions of the Contract.

- B. All bonds shall be in the form prescribed by the Contract except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (as amended and supplemented) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. A bond signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual's authority to bind the surety. The evidence of authority shall show that it is effective on the date the agent or attorney-in-fact signed the accompanying bond.
- C. Contractor shall obtain the required bonds from surety companies that are duly licensed or authorized in the jurisdiction in which the Project is located to issue bonds in the required amounts.
- D. If the surety on a bond furnished by Contractor is declared bankrupt or becomes insolvent, or its right to do business is terminated in any state or jurisdiction where any part of the Project is located, or the surety ceases to meet the requirements above, then Contractor shall promptly notify Owner and Engineer and shall, within 20 days after the event giving rise to such notification, provide another bond and surety, both of which shall comply with the bond and surety requirements above.
- E. If Contractor has failed to obtain a required bond, Owner may exclude the Contractor from the Site and exercise Owner's termination rights under Article 16.
- F. Upon request, Owner shall provide a copy of the payment bond to any Subcontractor, Supplier, or other person or entity claiming to have furnished labor or materials used in the performance of the Work.
- 6.02 Insurance—General Provisions
 - A. Owner and Contractor shall obtain and maintain insurance as required in this Article and in the Supplementary Conditions.
 - B. All insurance required by the Contract to be purchased and maintained by Owner or Contractor shall be obtained from insurance companies that are duly licensed or authorized, in the state or jurisdiction in which the Project is located, to issue insurance policies for the required limits and coverages. Unless a different standard is indicated in the Supplementary Conditions, all companies that provide insurance policies required under this Contract shall have an A.M. Best rating of A-VII or better.
 - C. Contractor shall deliver to Owner, with copies to each named insured and additional insured (as identified in this Article, in the Supplementary Conditions, or elsewhere in the Contract), certificates of insurance establishing that Contractor has obtained and is maintaining the policies, coverages, and endorsements required by the Contract. Upon request by Owner or any other insured, Contractor shall also furnish other evidence of such required insurance, including but not limited to copies of policies and endorsements, and documentation of applicable self-insured retentions and deductibles. Contractor may block out (redact) any confidential premium or pricing information contained in any policy or endorsement furnished under this provision.
 - D. Owner shall deliver to Contractor, with copies to each named insured and additional insured (as identified in this Article, the Supplementary Conditions, or elsewhere in the Contract), certificates of insurance establishing that Owner has obtained and is maintaining the policies, coverages, and endorsements required of Owner by the Contract (if any). Upon request by

Contractor or any other insured, Owner shall also provide other evidence of such required insurance (if any), including but not limited to copies of policies and endorsements, and documentation of applicable self-insured retentions and deductibles. Owner may block out (redact) any confidential premium or pricing information contained in any policy or endorsement furnished under this provision.

- E. Failure of Owner or Contractor to demand such certificates or other evidence of the other party's full compliance with these insurance requirements, or failure of Owner or Contractor to identify a deficiency in compliance from the evidence provided, shall not be construed as a waiver of the other party's obligation to obtain and maintain such insurance.
- F. If either party does not purchase or maintain all of the insurance required of such party by the Contract, such party shall notify the other party in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage.
- G. If Contractor has failed to obtain and maintain required insurance, Owner may exclude the Contractor from the Site, impose an appropriate set-off against payment, and exercise Owner's termination rights under Article 16.
- H. Without prejudice to any other right or remedy, if a party has failed to obtain required insurance, the other party may elect to obtain equivalent insurance to protect such other party's interests at the expense of the party who was required to provide such coverage, and the Contract Price shall be adjusted accordingly.
- I. Owner does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect Contractor or Contractor's interests.
- J. The insurance and insurance limits required herein shall not be deemed as a limitation on Contractor's liability under the indemnities granted to Owner and other individuals and entities in the Contract.

6.03 *Contractor's Insurance*

- A. *Workers' Compensation*: Contractor shall purchase and maintain workers' compensation and employer's liability insurance for:
 - 1. claims under workers' compensation, disability benefits, and other similar employee benefit acts.
 - 2. United States Longshoreman and Harbor Workers' Compensation Act and Jones Act coverage (if applicable).
 - 3. claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees (by stop-gap endorsement in monopolist worker's compensation states).
 - 4. Foreign voluntary worker compensation (if applicable).
- B. *Commercial General Liability—Claims Covered*: Contractor shall purchase and maintain commercial general liability insurance, covering all operations by or on behalf of Contractor, on an occurrence basis, against:
 - 1. claims for damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees.
 - 2. claims for damages insured by reasonably available personal injury liability coverage.

- 3. claims for damages, other than to the Work itself, because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom.
- C. *Commercial General Liability—Form and Content*: Contractor's commercial liability policy shall be written on a 1996 (or later) ISO commercial general liability form (occurrence form) and include the following coverages and endorsements:
 - 1. Products and completed operations coverage:
 - a. Such insurance shall be maintained for three years after final payment.
 - b. Contractor shall furnish Owner-and each other additional insured (as identified in the Supplementary Conditions or elsewhere in the Contract) evidence of continuation of such insurance at final payment and three years thereafter.
 - 2. Blanket contractual liability coverage, to the extent permitted by law, including but not limited to coverage of Contractor's contractual indemnity obligations in Paragraph 7.18.
 - 3. Broad form property damage coverage.
 - 4. Severability of interest.
 - 5. Underground, explosion, and collapse coverage.
 - 6. Personal injury coverage.
 - Additional insured endorsements that include both ongoing operations and products and completed operations coverage through ISO Endorsements CG 20 10-10-01 and CG 20 37-10-01 (together); or CG 20 10-07-04 and CG 20 37-07-04 (together); or their equivalent.
 - 8. For design professional additional insureds, ISO Endorsement CG 20 32-07-04, "Additional Insured—Engineers, Architects or Surveyors Not Engaged by the Named Insured" or its equivalent.
- D. Automobile liability: Contractor shall purchase and maintain automobile liability insurance against claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance, or use of any motor vehicle. The automobile liability policy shall be written on an occurrence basis.
- E. Umbrella or excess liability: Contractor shall purchase and maintain umbrella or excess liability insurance written over the underlying employer's liability, commercial general liability, and automobile liability insurance described in the paragraphs above. Subject to industry-standard exclusions, the coverage afforded shall follow form as to each and every one of the underlying policies.
- F. *Contractor's pollution liability insurance*: Contractor shall purchase and maintain a policy covering third-party injury and property damage claims, including clean-up costs, as a result of pollution conditions arising from Contractor's operations and completed operations. This insurance shall be maintained for no less than three years after final completion.
- G. Additional insureds: The Contractor's commercial general liability, automobile liability, umbrella or excess, and pollution liability policies shall include and list as additional insureds Owner-and Engineer, and any individuals or entities identified in the Supplementary Conditions; include coverage for the respective officers, directors, members, partners, and employees, agents, consultants, and subcontractors of each and any of all such additional insureds; and the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby (including as applicable those arising from both

ongoing and completed operations) on a non-contributory basis. Contractor shall obtain all necessary endorsements to support these requirements.

- H. *Contractor's professional liability insurance*: If Contractor will provide or furnish professional services under this Contract, through a delegation of professional design services or otherwise, then Contractor shall be responsible for purchasing and maintaining applicable professional liability insurance. This insurance shall provide protection against claims arising out of performance of professional design or related services, and caused by a negligent error, omission, or act for which the insured party is legally liable. It shall be maintained throughout the duration of the Contract and for a minimum of two years after Substantial Completion. If such professional design services are performed by a Subcontractor, and not by Contractor itself, then the requirements of this paragraph may be satisfied through the purchasing and maintenance of such insurance by such Subcontractor.
- I. *General provisions*: The policies of insurance required by this Paragraph 6.03 shall:
 - 1. include at least the specific coverages provided in this Article.
 - 2. be written for not less than the limits of liability provided in this Article and in the Supplementary Conditions, or required by Laws or Regulations, whichever is greater.
 - 3. contain a provision or endorsement that the coverage afforded will not be canceled, materially changed, or renewal refused until at least 10 days prior written notice has been given to Contractor. Within three days of receipt of any such written notice, Contractor shall provide a copy of the notice to Owner, Engineer, and each other insured under the policy.
 - 4. remain in effect at least until final payment (and longer if expressly required in this Article) and at all times thereafter when Contractor may be correcting, removing, or replacing defective Work as a warranty or correction obligation, or otherwise, or returning to the Site to conduct other tasks arising from the Contract Documents.
 - 5. be appropriate for the Work being performed and provide protection from claims that may arise out of or result from Contractor's performance of the Work and Contractor's other obligations under the Contract Documents, whether it is to be performed by Contractor, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable.
- J. The coverage requirements for specific policies of insurance must be met by such policies, and not by reference to excess or umbrella insurance provided in other policies.

6.04 *Owner's Liability Insurance*

- A. In addition to the insurance required to be provided by Contractor under Paragraph 6.03, Owner, at Owner's option, may purchase and maintain at Owner's expense Owner's own liability insurance as will protect Owner against claims which may arise from operations under the Contract Documents.
- B. Owner's liability policies, if any, operate separately and independently from policies required to be provided by Contractor, and Contractor cannot rely upon Owner's liability policies for any of Contractor's obligations to the Owner, Engineer, or third parties.

6.05 *Property Insurance*

A. *Builder's Risk:*-Unless otherwise provided in the Supplementary Conditions, Contractor shall purchase and maintain builder's risk insurance upon the Work on a completed value basis,

in the amount of the full insurable replacement cost thereof (subject to such deductible amounts as may be provided in the Supplementary Conditions or required by Laws and Regulations). This insurance shall:

- 1. include the Owner and Contractor as named insureds, and all Subcontractors, and any individuals or entities required by the Supplementary Conditions to be insured under such builder's risk policy, as insureds or named insureds. For purposes of the remainder of this Paragraph 6.05, Paragraphs 6.06 and 6.07, and any corresponding Supplementary Conditions, the parties required to be insured shall collectively be referred to as "insureds."
- 2. be written on a builder's risk "all risk" policy form that shall at least include insurance for physical loss or damage to the Work, temporary buildings, falsework, and materials and equipment in transit, and shall insure against at least the following perils or causes of loss: fire; lightning; windstorm; riot; civil commotion; terrorism; vehicle impact; aircraft; smoke; theft; vandalism and malicious mischief; mechanical breakdown, boiler explosion, and artificially generated electric current; earthquake; volcanic activity, and other earth movement; flood; collapse; explosion; debris removal; demolition occasioned by enforcement of Laws and Regulations; water damage (other than that caused by flood); and such other perils or causes of loss as may be specifically required by the Supplementary Conditions. If insurance against mechanical breakdown, boiler explosion, and artificially generated electric current; earthquake; volcanic activity, and other earth movement; or flood, are not commercially available under builder's risk policies, by endorsement or otherwise, such insurance may be provided through other insurance policies acceptable to Owner and Contractor.
- 3. cover, as insured property, at least the following: (a) the Work and all materials, supplies, machinery, apparatus, equipment, fixtures, and other property of a similar nature that are to be <u>permanently</u> incorporated into <u>or used in the preparation</u>, fabrication, construction, erection, or completion of the Work, including Owner-furnished or assigned property; (b) spare parts inventory required within the scope of the Contract; and (c) temporary works which are not intended to form part of the permanent constructed Work but which are intended to provide working access to the Site, or to the Work under construction, or which are intended to provide temporary support for the Work under construction, including scaffolding, form work, fences, shoring, falsework, and temporary structures.
- 4. cover expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers and architects).
- 5. extend to cover damage or loss to insured property while in temporary storage at the Site or in a storage location outside the Site (but not including property stored at the premises of a manufacturer or Supplier).
- 6. extend to cover damage or loss to insured property while in transit.
- 7. allow for partial occupation or use of the Work by Owner, such that those portions of the Work that are not yet occupied or used by Owner shall remain covered by the builder's risk insurance.
- 8. allow for the waiver of the insurer's subrogation rights, as set forth below.
- 9. provide primary coverage for all losses and damages caused by the perils or causes of loss covered.
- 10. not include a co-insurance clause.

- 11. include an exception for ensuing losses from physical damage or loss with respect to any defective workmanship, design, or materials exclusions.
- 12. include performance/hot testing and start-up.
- 13. be maintained in effect, subject to the provisions herein regarding Substantial Completion and partial occupancy or use of the Work by Owner, until the Work is complete.
- B. Notice of Cancellation or Change: All the policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained in accordance with this Paragraph 6.05 will contain a provision or endorsement that the coverage afforded will not be canceled or materially changed or renewal refused until at least 10 days prior written notice has been given to the purchasing policyholder. Within three days of receipt of any such written notice, the purchasing policyholder shall provide a copy of the notice to each other insured.
- C. *Deductibles*: The purchaser of any required builder's risk or property insurance<u>Contractor</u> shall pay for costs not covered because of the application of a policy deductible if the loss is caused by Contractor or anyone for whom Contractor is responsible.
- D. Partial Occupancy or Use by Owner: If Owner will occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work as provided in Paragraph 15.04, then Owner (directly, if it is the purchaser of the builder's risk policy, or through Contractor) will provide notice of such occupancy or use to the builder's risk insurer. The builder's risk insurance shall not be canceled or permitted to lapse on account of any such partial use or occupancy; rather, those portions of the Work that are occupied or used by Owner may come off the builder's risk policy, while those portions of the Work not yet occupied or used by Owner shall remain covered by the builder's risk insurance.
- E. *Additional Insurance*: If Contractor elects to obtain other special insurance to be included in or supplement the builder's risk or property insurance policies provided under this Paragraph 6.05, it may do so at Contractor's expense.
- F. *Insurance of Other Property*: If the express insurance provisions of the Contract do not require or address the insurance of a property item or interest, such as tools, construction equipment, or other personal property owned by Contractor, a Subcontractor, or an employee of Contractor or a Subcontractor, then the entity or individual owning such property item will be responsible for deciding whether to insure it, and if so in what amount.

6.06 Waiver of Rights

A. All policies purchased in accordance with Paragraph 6.05, expressly including the builder's risk policy, shall contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any insureds thereunder, or against Engineer or its consultants, or their officers, directors, members, partners, employees, agents, consultants, or subcontractors. Owner and Contractor waive all rights against each other and the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work; and, in addition, waive all such rights against Engineer, its consultants, all Subcontractors, all individuals or entities identified in the Supplementary Conditions as insureds, and the officers, directors, members, partners, partners, employees, agents, consultants, and subcontractors of each and any of them, under such policies for losses and damages so caused. None of the above waivers shall

extend to the rights that any party making such waiver may have to the proceeds of insurance held by Owner or Contractor as trustee or fiduciary, or otherwise payable under any policy so issued.

- B. Owner waives all rights against Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, for:
 - 1. loss due to business interruption, loss of use, or other consequential loss extending beyond direct physical loss or damage to Owner's property or the Work caused by, arising out of, or resulting from fire or other perils whether or not insured by Owner; and
 - 2. loss or damage to the completed Project or part thereof caused by, arising out of, or resulting from fire or other insured peril or cause of loss covered by any property insurance maintained on the completed Project or part thereof by Owner during partial occupancy or use pursuant to Paragraph 15.04, after Substantial Completion pursuant to Paragraph 15.03, or after final payment pursuant to Paragraph 15.06.
- C. Any insurance policy maintained by Owner covering any loss, damage or consequential loss referred to in Paragraph 6.06.B shall contain provisions to the effect that in the event of payment of any such loss, damage, or consequential loss, the insurers will have no rights of recovery against Contractor, Subcontractors, or Engineer, or the officers, directors, members, partners, employees, agents, consultants, or subcontractors of each and any of them.
- D. Contractor shall be responsible for assuring that the agreement under which a Subcontractor performs a portion of the Work contains provisions whereby the Subcontractor waives all rights against Owner, Contractor, all individuals or entities identified in the Supplementary Conditions as insureds, the Engineer and its consultants, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, relating to, or resulting from any of the perils or causes of loss covered by builder's risk insurance and any other property insurance applicable to the Work.

6.07 Receipt and Application of Property Insurance Proceeds

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

ARTICLE 7 – CONTRACTOR'S RESPONSIBILITIES

7.01 Supervision and Superintendence

- A. Contractor shall supervise, inspect, and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction.
- B. At all times during the progress of the Work, Contractor shall assign a competent resident superintendent who shall not be replaced without written notice to Owner and Engineer except under extraordinary circumstances.
- 7.02 Labor; Working Hours
 - A. Contractor shall provide competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. Contractor shall at all times maintain good discipline and order at the Site.
 - B. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site shall be performed during regular working hours, Monday through Friday. Contractor will not perform Work on a Saturday, Sunday, or any legal holiday. Contractor may perform Work outside regular working hours or on Saturdays, Sundays, or legal holidays only with Owner's written consent, which will not be unreasonably withheld.

7.03 Services, Materials, and Equipment

- A. Unless otherwise specified in the Contract Documents, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start up, and completion of the Work, whether or not such items are specifically called for in the Contract Documents.
- B. All materials and equipment incorporated into the Work shall be of good quality and new, except as otherwise provided in the Contract Documents. All special warranties and guarantees required by the Specifications shall expressly run to the benefit of Owner. If required by Engineer, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment.
- C. All materials and equipment shall be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise may be provided in the Contract Documents.

7.04 "Or Equals"

A. Whenever an item of material or equipment is specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier, the Contract Price has been based upon Contractor furnishing such item as specified. The specification or description of such an item is intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or is followed by words reading that no like, equivalent, or "or equal" item is permitted, Contractor may request that Engineer authorize the use of other items of material or equipment, or items from other proposed suppliers under the circumstances described below.

- 1. If Engineer in its sole discretion determines that an item of material or equipment proposed by Contractor is functionally equal to that named and sufficiently similar so that no change in related Work will be required, Engineer shall deem it an "or equal" item. For the purposes of this paragraph, a proposed item of material or equipment will be considered functionally equal to an item so named if:
 - a. in the exercise of reasonable judgment Engineer determines that:
 - 1) it is at least equal in materials of construction, quality, durability, appearance, strength, and design characteristics;
 - it will reliably perform at least equally well the function and achieve the results imposed by the design concept of the completed Project as a functioning whole;
 - 3) it has a proven record of performance and availability of responsive service; and
 - 4) it is not objectionable to Owner.
 - b. Contractor certifies that, if approved and incorporated into the Work:
 - there will be no increase in cost to the Owner or increase in Contract Times; and
 - 2) it will conform substantially to the detailed requirements of the item named in the Contract Documents.
- B. *Contractor's Expense*: Contractor shall provide all data in support of any proposed "or equal" item at Contractor's expense.
- C. Engineer's Evaluation and Determination: Engineer will be allowed a reasonable time to evaluate each "or-equal" request. Engineer may require Contractor to furnish additional data about the proposed "or-equal" item. Engineer will be the sole judge of acceptability. No "or-equal" item will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an "or-equal", which will be evidenced by an approved Shop Drawing or other written communication. Engineer will advise Contractor in writing of any negative determination.
- D. *Effect of Engineer's Determination*: Neither approval nor denial of an "or-equal" request shall result in any change in Contract Price. The Engineer's denial of an "or-equal" request shall be final and binding, and may not be reversed through an appeal under any provision of the Contract Documents.
- E. *Treatment as a Substitution Request*: If Engineer determines that an item of material or equipment proposed by Contractor does not qualify as an "or-equal" item, Contractor may request that Engineer considered the proposed item as a substitute pursuant to Paragraph 7.05.

7.05 Substitutes

A. Unless the specification or description of an item of material or equipment required to be furnished under the Contract Documents contains or is followed by words reading that no substitution is permitted, Contractor may request that Engineer authorize the use of other items of material or equipment under the circumstances described below. To the extent possible such requests shall be made before commencement of related construction at the Site.

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

- D. Reimbursement of Engineer's Cost: Engineer will record Engineer's costs in evaluating a substitute proposed or submitted by Contractor. Whether or not Engineer approves a substitute so proposed or submitted by Contractor, Contractor shall reimburse Owner for the reasonable charges of Engineer for evaluating each such proposed substitute. Contractor shall also reimburse Owner for the reasonable charges of Engineer for the reasonable charges of Engineer for making changes in the Contract Documents (or in the provisions of any other direct contract with Owner) resulting from the acceptance of each proposed substitute.
- E. *Contractor's Expense*: Contractor shall provide all data in support of any proposed substitute at Contractor's expense.
- F. *Effect of Engineer's Determination*: If Engineer approves the substitution request, Contractor shall execute the proposed Change Order and proceed with the substitution. The Engineer's denial of a substitution request shall be final and binding, and may not be reversed through an appeal under any provision of the Contract Documents. Contractor may challenge the scope of reimbursement costs imposed under Paragraph 7.05.D, by timely submittal of a Change Proposal.
- 7.06 Concerning Subcontractors, Suppliers, and Others
 - A. Contractor may retain Subcontractors and Suppliers for the performance of parts of the Work. Such Subcontractors and Suppliers must be acceptable to Owner.
 - B. Contractor shall retain specific Subcontractors, Suppliers, or other individuals or entities for the performance of designated parts of the Work if required by the Contract to do so.
 - C. Subsequent to the submittal of Contractor's Bid or final negotiation of the terms of the Contract, Owner may not require Contractor to retain any Subcontractor, Supplier, or other individual or entity to furnish or perform any of the Work against which Contractor has reasonable objection.
 - D. Prior to entry into any binding subcontract or purchase order, Contractor shall submit to Owner the identity of the proposed Subcontractor or Supplier (unless Owner has already deemed such proposed Subcontractor or Supplier acceptable, during the bidding process or otherwise). Such proposed Subcontractor or Supplier shall be deemed acceptable to Owner unless Owner raises a substantive, reasonable objection within five days.
 - E. Owner may require the replacement of any Subcontractor, Supplier, or other individual or entity retained by Contractor to perform any part of the Work. Owner also may require Contractor to retain specific replacements; provided, however, that Owner may not require a replacement to which Contractor has a reasonable objection. If Contractor has submitted the identity of certain Subcontractors, Suppliers, or other individuals or entities for acceptance by Owner, and Owner has accepted it (either in writing or by failing to make written objection thereto), then Owner may subsequently revoke the acceptance of any such Subcontractor, Supplier, or other individual or entity so identified solely on the basis of substantive, reasonable objection after due investigation. Contractor shall submit an acceptable replacement for the rejected Subcontractor, Supplier, or other individual or entity.
 - F. If Owner requires the replacement of any Subcontractor, Supplier, or other individual or entity retained by Contractor to perform any part of the Work, then Contractor shall be entitled to an adjustment in Contract Price or Contract Times, or both, with respect to the replacement; and Contractor shall initiate a Change Proposal for such adjustment within 30 days of Owner's requirement of replacement.

- G. No acceptance by Owner of any such Subcontractor, Supplier, or other individual or entity, whether initially or as a replacement, shall constitute a waiver of the right of Owner to the completion of the Work in accordance with the Contract Documents.
- H. On a monthly basis Contractor shall submit to Engineer a complete list of all Subcontractors and Suppliers having a direct contract with Contractor, and of all other Subcontractors and Suppliers known to Contractor at the time of submittal.
- I. Contractor shall be fully responsible to Owner and Engineer for all acts and omissions of the Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work just as Contractor is responsible for Contractor's own acts and omissions.
- J. Contractor shall be solely responsible for scheduling and coordinating the work of Subcontractors, Suppliers, and all other individuals or entities performing or furnishing any of the Work.
- K. Contractor shall restrict all Subcontractors, Suppliers, and such other individuals or entities performing or furnishing any of the Work from communicating with Engineer or Owner, except through Contractor or in case of an emergency, or as otherwise expressly allowed herein.
- L. The divisions and sections of the Specifications and the identifications of any Drawings shall not control Contractor in dividing the Work among Subcontractors or Suppliers or delineating the Work to be performed by any specific trade.
- M. All Work performed for Contractor by a Subcontractor or Supplier shall be pursuant to an appropriate contractual agreement that specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract Documents for the benefit of Owner-and Engineer.
- N. Owner may furnish to any Subcontractor or Supplier, to the extent practicable, information about amounts paid to Contractor on account of Work performed for Contractor by the particular Subcontractor or Supplier.
- O. Nothing in the Contract Documents:
 - 1. shall create for the benefit of any such Subcontractor, Supplier, or other individual or entity any contractual relationship between Owner or Engineer and any such Subcontractor, Supplier, or other individual or entity; nor
 - 2. shall create any obligation on the part of Owner or Engineer to pay or to see to the payment of any money due any such Subcontractor, Supplier, or other individual or entity except as may otherwise be required by Laws and Regulations.

7.07 Patent Fees and Royalties

- A. Contractor shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product, or device which is the subject of patent rights or copyrights held by others. If a particular invention, design, process, product, or device is specified in the Contract Documents for use in the performance of the Work and if, to the actual knowledge of Owner or Engineer, its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed by Owner in the Contract Documents.
- B. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, and its officers, directors, members, partners, employees, agents,

consultants, and subcontractors from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device specified in the Contract Documents, but not identified as being subject to payment of any license fee or royalty to others required by patent rights or copyrights.

C. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the its officers, directors, members, partners, and employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device not specified in the Contract Documents.

7.08 *Permits*

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

7.09 Taxes

A. Contractor shall pay all sales, consumer, use, and other similar taxes required to be paid by Contractor in accordance with the Laws and Regulations of the place of the Project which are applicable duringas of the performanceEffective Date of the WorkContract. However, Owner will not pay, and the Cost of the Work shall not include sales and use taxes and any fees and exactions that could be avoided for a public works project by Contractor's use of Owner's tax exempt certification or identification number which will be provided on request.

7.10 Laws and Regulations

- A. Contractor shall give all notices required by and shall comply with all Laws and Regulations applicable to the performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, neither Owner nor Engineer shall be responsible for monitoring Contractor's compliance with any Laws or Regulations.
- B. If Contractor performs any Work or takes any other action knowing or having reason to know that it is contrary to Laws or Regulations, Contractor shall bear all resulting costs and losses, and shall indemnify and hold harmless Owner and Engineer, and the its officers, directors, members, partners, and employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work or other action. It shall not be Contractor's responsibility to make certain that the Work

described in the Contract Documents is in accordance with Laws and Regulations, but this shall not relieve Contractor of Contractor's obligations under Paragraph 3.03.

- C. Owner or Contractor may give notice to the other party of any changes after the submission of Contractor's Bid (or after the date when Contractor became bound under a negotiated contract) in Laws or Regulations having an effect on the cost or time of performance of the Work, including but not limited to changes in Laws or Regulations having an effect on procuring permits and on sales, use, value-added, consumption, and other similar taxes. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times resulting from such changes, then within 30 days of such notice Contractor may submit a Change Proposal, or Owner may initiate a Claim.
- 7.11 *Record Documents*
 - A. Contractor shall maintain in a safe place at the Site one printed record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, written interpretations and clarifications, and approved Shop Drawings. Contractor shall keep such record documents in good order and annotate them to show changes made during construction. These record documents, together with all approved Samples, will be available to Engineer for reference. Upon completion of the Work, Contractor shall deliver these record documents to Engineer.
- 7.12 Safety and Protection
 - A. Contractor shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. Such responsibility does not relieve Subcontractors of their responsibility for the safety of persons or property in the performance of their work, nor for compliance with applicable safety Laws and Regulations. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to:
 - 1. all persons on the Site or who may be affected by the Work;
 - 2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and
 - 3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, other work in progress, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.
 - B. Contractor shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection. Contractor shall notify Owner; the owners of adjacent property, Underground Facilities, and other utilities; and other contractors and utility owners performing work at or adjacent to the Site, when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property or work in progress.
 - C. Contractor shall comply with the applicable requirements of Owner's safety programs, if any. The Supplementary Conditions identify any Owner's safety programs that are applicable to the Work.

- D. Contractor shall inform Owner and Engineer of the specific requirements of Contractor's safety program with which Owner's and Engineer's employees and representatives must comply while at the Site.
- E. All damage, injury, or loss to any property referred to in Paragraph 7.12.A.2 or 7.12.A.3 caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by Contractor at its expense (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of Owner or Engineer or anyone employed by any of them, or anyone for whose acts any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them).
- F. Contractor's duties and responsibilities for safety and protection shall continue until such time as all the Work is completed and Engineer has issued a notice to Owner and Contractor in accordance with Paragraph 15.06.B that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion).
- G. Contractor's duties and responsibilities for safety and protection shall resume whenever Contractor or any Subcontractor or Supplier returns to the Site to fulfill warranty or correction obligations, or to conduct other tasks arising from the Contract Documents.

7.13 Safety Representative

- A. Contractor shall designate a qualified and experienced safety representative at the Site whose duties and responsibilities shall be the prevention of accidents and the maintaining and supervising of safety precautions and programs.
- 7.14 Hazard Communication Programs
 - A. Contractor shall be responsible for coordinating any exchange of material safety data sheets or other hazard communication information required to be made available to or exchanged between or among employers at the Site in accordance with Laws or Regulations.
- 7.15 Emergencies
 - A. In emergencies affecting the safety or protection of persons or the Work or property at the Site or adjacent thereto, Contractor is obligated to act to prevent threatened damage, injury, or loss. Contractor shall give Engineer prompt written notice if Contractor believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby or are required as a result thereof. If Engineer determines that a change in the Contract Documents is required because of the action taken by Contractor in response to such an emergency, a Work Change Directive or Change Order will be issued.

7.16 Shop Drawings, Samples, and Other Submittals

- A. Shop Drawing and Sample Submittal Requirements:
 - 1. Before submitting a Shop Drawing or Sample, Contractor shall have:
 - a. reviewed and coordinated the Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents;
 - b. determined and verified all field measurements, quantities, dimensions, specified performance and design criteria, installation requirements, materials, catalog numbers, and similar information with respect thereto;

- c. determined and verified the suitability of all materials and equipment offered with respect to the indicated application, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work; and
- d. determined and verified all information relative to Contractor's responsibilities for means, methods, techniques, sequences, and procedures of construction, and safety precautions and programs incident thereto.
- 2. Each submittal shall bear a stamp or specific written certification that Contractor has satisfied Contractor's obligations under the Contract Documents with respect to Contractor's review of that submittal, and that Contractor approves the submittal.
- 3. With each submittal, Contractor shall give Engineer specific written notice of any variations that the Shop Drawing or Sample may have from the requirements of the Contract Documents. This notice shall be set forth in a written communication separate from the Shop Drawings or Sample submittal; and, in addition, in the case of Shop Drawings by a specific notation made on each Shop Drawing submitted to Engineer for review and approval of each such variation.
- B. *Submittal Procedures for Shop Drawings and Samples*: Contractor shall submit Shop Drawings and Samples to Engineer for review and approval in accordance with the accepted Schedule of Submittals. Each submittal will be identified as Engineer may require.
 - 1. Shop Drawings:
 - a. Contractor shall submit the number of copies required in the Specifications.
 - b. Data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show Engineer the services, materials, and equipment Contractor proposes to provide and to enable Engineer to review the information for the limited purposes required by Paragraph 7.16.D.
 - 2. Samples:
 - a. Contractor shall submit the number of Samples required in the Specifications.
 - b. Contractor shall clearly identify each Sample as to material, Supplier, pertinent data such as catalog numbers, the use for which intended and other data as Engineer may require to enable Engineer to review the submittal for the limited purposes required by Paragraph 7.16.D.
 - 3. Where a Shop Drawing or Sample is required by the Contract Documents or the Schedule of Submittals, any related Work performed prior to Engineer's review and approval of the pertinent submittal will be at the sole expense and responsibility of Contractor.
- C. *Other Submittals*: Contractor shall submit other submittals to Engineer in accordance with the accepted Schedule of Submittals, and pursuant to the applicable terms of the Specifications.
- D. Engineer's Review:
 - 1. Engineer will provide timely review of Shop Drawings and Samples in accordance with the Schedule of Submittals acceptable to Engineer. Engineer's review and approval will be only to determine if the items covered by the submittals will, after installation or incorporation in the Work, conform to the information given in the Contract Documents

and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.

- 2. Engineer's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions or programs incident thereto.
- 3. Engineer's review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.
- 4. Engineer's review and approval of a Shop Drawing or Sample shall not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirements of Paragraph 7.16.A.3 and Engineer has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample. Engineer will document any such approved variation from the requirements of the Contract Documents in a Field Order.
- 5. Engineer's review and approval of a Shop Drawing or Sample shall not relieve Contractor from responsibility for complying with the requirements of Paragraph 7.16.A and B.
- 6. Engineer's review and approval of a Shop Drawing or Sample, or of a variation from the requirements of the Contract Documents, shall not, under any circumstances, change the Contract Times or Contract Price, unless such changes are included in a Change Order.
- 7. Neither Engineer's receipt, review, acceptance or approval of a Shop Drawing, Sample, or other submittal shall result in such item becoming a Contract Document.
- 8. Contractor shall perform the Work in compliance with the requirements and commitments set forth in approved Shop Drawings and Samples, subject to the provisions of Paragraph 7.16.D.4.
- E. Resubmittal Procedures:
 - 1. Contractor shall make corrections required by Engineer and shall return the required number of corrected copies of Shop Drawings and submit, as required, new Samples for review and approval. Contractor shall direct specific attention in writing to revisions other than the corrections called for by Engineer on previous submittals.
 - 2. Contractor shall furnish required submittals with sufficient information and accuracy to obtain required approval of an item with no more than three submittals. Engineer will record Engineer's time for reviewing a fourth or subsequent submittal of a Shop Drawings, sample, or other item requiring approval, and Contractor shall be responsible for Engineer's charges to Owner for such time. Owner may impose a set-off against payments due to Contractor to secure reimbursement for such charges.
 - 3. If Contractor requests a change of a previously approved submittal item, Contractor shall be responsible for Engineer's charges to Owner for its review time, and Owner may impose a set-off against payments due to Contractor to secure reimbursement for such charges, unless the need for such change is beyond the control of Contractor.

7.17 Contractor's General Warranty and Guarantee

A. Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective. Engineer and its officers, directors, members,

partners, employees, agents, consultants, and subcontractors shall be entitled to rely on Contractor's warranty and guarantee.

- B. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:
 - 1. abuse, modification, or improper maintenance or operation by persons other than Contractor, Subcontractors, Suppliers, or any other individual or entity for whom Contractor is responsible; or
 - 2. normal wear and tear under normal usage.
- C. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents or a release of Contractor's obligation to perform the Work in accordance with the Contract Documents:
 - 1. observations by Engineer;
 - 2. recommendation by Engineer or payment by Owner of any progress or final payment;
 - 3. the issuance of a certificate of Substantial Completion by Engineer or any payment related thereto by Owner;
 - 4. use or occupancy of the Work or any part thereof by Owner;
 - 5. any review and approval of a Shop Drawing or Sample submittal;
 - 6. the issuance of a notice of acceptability by Engineer;
 - 7. any inspection, test, or approval by others; or
 - 8. any correction of defective Work by Owner.
- D. If the Contract requires the Contractor to accept the assignment of a contract entered into by Owner, then the specific warranties, guarantees, and correction obligations contained in the assigned contract shall govern with respect to Contractor's performance obligations to Owner for the Work described in the assigned contract.
- D. Intentionally omitted.

7.18 Indemnification

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

Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 7.18.A shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.

- C. The indemnification obligations of Contractor under Paragraph 7.18.A shall not extend to the liability of Engineer and Engineer's officers, directors, members, partners, employees, agents, consultants and subcontractors arising out of:
 - 1. the preparation or approval of, or the failure to prepare or approve maps, Drawings, opinions, reports, surveys, Change Orders, designs, or Specifications; or
 - 2. giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage.
- 7.19 Delegation of Professional Design Services
 - A. Contractor will not be required to provide professional design services unless such services are specifically required by the Contract Documents for a portion of the Work or unless such services are required to carry out Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. Contractor shall not be required to provide professional services in violation of applicable Laws and Regulations.
 - B. If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of Contractor by the Contract Documents, Owner and Engineer will specify all performance and design criteria that such services must satisfy. Contractor shall cause such services or certifications to be provided by a properly licensed professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to Engineer.
 - C. Owner and Engineer shall be entitled to rely upon the adequacy, accuracy, and completeness of the services, certifications, or approvals performed by such design professionals, provided Owner and Engineer have specified to Contractor all performance and design criteria that such services must satisfy.
 - D. Pursuant to this paragraph, Engineer's review and approval of design calculations and design drawings will be only for the limited purpose of checking for conformance with performance and design criteria given and the design concept expressed in the Contract Documents. Engineer's review and approval of Shop Drawings and other submittals (except design calculations and design drawings) will be only for the purpose stated in Paragraph 7.16.D.1.
 - E. Contractor shall not be responsible for the adequacy of the performance or design criteria specified by Owner or Engineer.

ARTICLE 8 – OTHER WORK AT THE SITE

- 8.01 Other Work
 - A. In addition to and apart from the Work under the Contract Documents, the Owner may perform other work at or adjacent to the Site. Such other work may be performed by Owner's employees, or through contracts between the Owner and third parties. Owner may also

arrange to have third-party utility owners perform work on their utilities and facilities at or adjacent to the Site.

- B. If Owner performs other work at or adjacent to the Site with Owner's employees, or through contracts for such other work, then Owner shall give Contractor written notice thereof prior to starting any such other work. If Owner has advance information regarding the start of any utility work at or adjacent to the Site, Owner shall provide such information to Contractor.
- C. Contractor shall afford each other contractor that performs such other work, each utility owner performing other work, and Owner, if Owner is performing other work with Owner's employees, proper and safe access to the Site, and provide a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work. Contractor shall do all cutting, fitting, and patching of the Work that may be required to properly connect or otherwise make its several parts come together and properly integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating, or otherwise altering such work; provided, however, that Contractor may cut or alter others' work with the written consent of Engineer and the others whose work will be affected.
- D. If the proper execution or results of any part of Contractor's Work depends upon work performed by others under this Article 8, Contractor shall inspect such other work and promptly report to Engineer in writing any delays, defects, or deficiencies in such other work that render it unavailable or unsuitable for the proper execution and results of Contractor's Work. Contractor's failure to so report will constitute an acceptance of such other work as fit and proper for integration with Contractor's Work except for latent defects and deficiencies in such other work.

8.02 Coordination

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

8.03 Legal Relationships

A. If, in the course of performing other work at or adjacent to the Site for Owner, the Owner's employees, any other contractor working for Owner, or any utility owner for whom the Owner is responsible causes damage to the Work or to the property of Contractor or its Subcontractors, or delays, disrupts, interferes with, or increases the scope or cost of the performance of the Work, through actions or inaction, then Contractor shall be entitled to an equitable adjustment in the Contract Price or the Contract Times, or both. Contractor must submit any Change Proposal seeking an equitable adjustment in the Contract Price or the Contract Times under this paragraph within 30 days of the damaging, delaying,

disrupting, or interfering event. The entitlement to, and extent of, any such equitable adjustment shall take into account information (if any) regarding such other work that was provided to Contractor in the Contract Documents prior to the submittal of the Bid or the final negotiation of the terms of the Contract. When applicable, any such equitable adjustment in Contract Price shall be conditioned on Contractor assigning to Owner all Contractor's rights against such other contractor or utility owner with respect to the damage, delay, disruption, or interference that is the subject of the adjustment. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.

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

ARTICLE 9 – OWNER'S RESPONSIBILITIES

- 9.01 *Communications to Contractor*
 - A. Except as otherwise provided in these General Conditions, Owner shall<u>may</u> issue<u>all</u> communications to Contractor through Engineer.
- 9.02 Replacement of Engineer
 - A. Owner may at its discretion appoint an engineer to replace Engineer, provided Contractor makes no reasonable objection to the replacement engineer. The replacement engineer's status under the Contract Documents shall be that of the former Engineer.

9.03 Furnish Data

- A. Owner shall promptly furnish the data required of Owner under the Contract Documents.
- 9.04 Pay When Due
 - A. Owner shall make payments to Contractor when they are due as provided in the Agreement.

9.05 Lands and Easements; Reports, Tests, and Drawings

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

ARTICLE 10 – ENGINEER'S STATUS DURING CONSTRUCTION

10.01 Owner's Representative

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

10.02 Visits to Site

- A. Engineer will make visits to the Site at intervals appropriate to the various stages of construction as Engineer deems necessary in order to observe as an experienced and qualified design professional the progress that has been made and the quality of the various aspects of Contractor's executed Work. Based on information obtained during such visits and observations, Engineer, for the benefit of Owner, will determine, in general, if the Work is proceeding in accordance with the Contract Documents. Engineer will not be required to make exhaustive or continuous inspections on the Site to check the quality or quantity of the Work. Engineer's efforts will be directed toward providing for Owner a greater degree of confidence that the completed Work will conform generally to the Contract Documents. On the basis of such visits and observations, Engineer will endeavor to guard Owner against defective Work.
- B. Engineer's visits and observations are subject to all the limitations on Engineer's authority and responsibility set forth in Paragraph 10.08. Particularly, but without limitation, during or as a result of Engineer's visits or observations of Contractor's Work, Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work.

10.03 *Project Representative*

A. If Owner and Engineer have agreed that Engineer will furnish a Resident Project Representative to represent Engineer at the Site and assist Engineer in observing the progress and quality of the Work, then the authority and responsibilities of any such Resident Project Representative will be as provided in the Supplementary Conditions, and limitations on the responsibilities thereof will be as provided in Paragraph 10.08. If Owner designates another representative or agent to represent Owner at the Site who is not Engineer's consultant, agent, or employee, the responsibilities and authority and limitations thereon of such other individual or entity will be as provided in the Supplementary Conditions.

10.04 Rejecting Defective Work

- A. Engineer has the authority to reject Work in accordance with Article 14.
- 10.05 Shop Drawings, Change Orders and Payments
 - A. Engineer's authority, and limitations thereof, as to Shop Drawings and Samples, are set forth in Paragraph 7.16.
 - B. Engineer's authority, and limitations thereof, as to design calculations and design drawings submitted in response to a delegation of professional design services, if any, are set forth in Paragraph 7.19.
 - C. Engineer's authority as to Change Orders is set forth in Article 11.
 - D. Engineer's authority as to Applications for Payment is set forth in Article 15.

10.06 Determinations for Unit Price Work

- A. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor as set forth in Paragraph 13.03.
- 10.07 Decisions on Requirements of Contract Documents and Acceptability of Work
 - A. Engineer will render decisions regarding the requirements of the Contract Documents, and judge the acceptability of the Work, pursuant to the specific procedures set forth herein for initial interpretations, Change Proposals, and acceptance of the Work. In rendering such decisions and judgments, Engineer will not show partiality to Owner or Contractor, and will not be liable to Owner, Contractor, or others in connection with any proceedings, interpretations, decisions, or judgments conducted or rendered in good faith.

10.08 Limitations on Engineer's Authority and Responsibilities

- A. Neither Engineer's authority or responsibility under this Article 10 or under any other provision of the Contract, nor any decision made by Engineer in good faith either to exercise or not exercise such authority or responsibility or the undertaking, exercise, or performance of any authority or responsibility by Engineer, shall create, impose, or give rise to any duty in contract, tort, or otherwise owed by Engineer to Contractor, any Subcontractor, any Supplier, any other individual or entity, or to any surety for or employee or agent of any of them.
- A. Intentionally omitted.
- B. Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Engineer will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.
- C. Engineer will not be responsible for the acts or omissions of Contractor or of any Subcontractor, any Supplier, or of any other individual or entity performing any of the Work.
- D. Engineer's review of the final Application for Payment and accompanying documentation and all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by Paragraph 15.06.A will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals, that the results certified indicate compliance with the Contract Documents.
- E. The limitations upon authority and responsibility set forth in this Paragraph 10.08 shall also apply to the Resident Project Representative, if any.
- 10.09 Compliance with Safety Program
 - A. While at the Site, Engineer's employees and representatives will comply with the specific applicable requirements of Owner's and Contractor's safety programs (if any) of which Engineer has been informed.

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

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

- 1. Change Orders:
 - a. If an amendment or supplement to the Contract Documents includes a change in the Contract Price or the Contract Times, such amendment or supplement must be set forth in a Change Order. A Change Order also may be used to establish amendments and supplements of the Contract Documents that do not affect the Contract Price or Contract Times.
 - b. Owner and Contractor may amend those the terms and conditions of the Contract Documents that do notat any time. If the terms and conditions involve (1) the performance or acceptability of the Work, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, without Owner and Contractor may first obtain the recommendation of the Engineer in accordance with Paragraph 11.06. Such an amendment shall be set forth in a Change Order.
- 2. Work Change Directives: A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the modification ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order, following negotiations by the parties as to the Work Change Directive's effect, if any, on the Contract Price and Contract Times; or, if negotiations are unsuccessful, by a determination under the terms of the Contract Documents governing adjustments, expressly including Paragraph 11.04 regarding change of Contract Price. Contractor must submit any Change Proposal seeking an adjustment of the Contract Price or the Contract Times, or both, no later than 30 days after the completion of the Work set out in the Work Change Directive. Owner must submit any Claim seeking an adjustment of the Contract Price or the Contract Price. Owner must submit any Claim seeking an adjustment of the Contract Price or the Contract Price.
- 3. *Field Orders*: Engineer may authorize minor changes in the Work if the changes do not involve an adjustment in the Contract Price or the Contract Times and are compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Such changes will be accomplished by a Field Order and will be binding on Owner and also on Contractor, which shall perform the Work involved promptly. If Contractor believes that a Field Order justifies an adjustment in the Contract Price or Contract Times, or both, then before proceeding with the Work at issue, Contractor shall submit a Change Proposal as provided herein.

11.02 *Owner-Authorized Changes in the Work*

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

11.03 Unauthorized Changes in the Work

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

11.04 Change of Contract Price

- A. The Contract Price may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Price shall comply with the provisions of Paragraph 11.06. Any Claim for an adjustment of Contract Price shall comply with the provisions of Article 12.
- B. An adjustment in the Contract Price will be determined as follows:
 - 1. where the Work involved is covered by unit prices contained in the Contract Documents, then by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 13.03); or
 - 2. where the Work involved is not covered by unit prices contained in the Contract Documents, then by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 11.04.C.2); or
 - 3. where the Work involved is not covered by unit prices contained in the Contract Documents and the parties do not reach mutual agreement to a lump sum, then on the basis of the Cost of the Work (determined as provided in Paragraph 13.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 11.04.C).
- C. *Contractor's Fee*: When applicable, the Contractor's fee for overhead and profit shall be determined as follows:
 - 1. a mutually acceptable fixed fee; or
 - 2. if a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:
 - a. for costs incurred under Paragraphs 13.01.B.1 and 13.01.B.2, the Contractor's fee shall be 15 percent;
 - b. for costs incurred under Paragraph 13.01.B.3, the Contractor's fee shall be five percent;
 - c. where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of Paragraphs 11.04.C.2.a and 11.04.C.2.b is that the Contractor's fee shall be based on: (1) a fee of 15 percent of the costs incurred under Paragraphs 13.01.A.1 and 13.01.A.2 by the Subcontractor that actually performs the Work, at whatever tier, and (2) with respect to Contractor itself and to any Subcontractors of a tier higher than that of the Subcontractor that actually performs the Work, a fee of five percent of the amount (fee plus underlying costs incurred) attributable to the next lower tier Subcontractor; provided, however, that for any such subcontracted work the maximum total fee to be paid by Owner shall be no greater than 27 percent of the costs incurred by the Subcontractor that actually performs the work;
 - d. no fee shall be payable on the basis of costs itemized under Paragraphs 13.01.B.4, 13.01.B.5, and 13.01.C;

- e. the amount of credit to be allowed by Contractor to Owner for any change which results in a net decrease in cost will be the amount of the actual net decrease in cost plus a deduction in Contractor's fee by an amount equal to five percent of such net decrease; and
- f. when both additions and credits are involved in any one change, the adjustment in Contractor's fee shall be computed on the basis of the net change in accordance with Paragraphs 11.04.C.2.a through 11.04.C.2.e, inclusive.

11.05 Change of Contract Times

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

11.06 Change Proposals

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

Proposal, such notice shall be deemed a denial, and Contractor may choose to seek resolution under the terms of Article 12.

- 11.07 Execution of Change Orders
 - A. Owner and Contractor shall execute appropriate Change Orders covering:
 - 1. changes in the Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive;
 - 2. changes in Contract Price resulting from an Owner set-off, unless Contractor has duly contested such set-off;
 - 3. changes in the Work which are: (a) ordered by Owner pursuant to Paragraph 11.02, (b) required because of Owner's acceptance of defective Work under Paragraph 14.04 or Owner's correction of defective Work under Paragraph 14.07, or (c) agreed to by the parties, subject to the need for Engineer's recommendation if the change in the Work involves the design (as set forth in the Drawings, Specifications, or otherwise), or other engineering or technical matters; and
 - 4. changes in the Contract Price or Contract Times, or other changes, which embody the substance of any final and binding results under Paragraph 11.06, or Article 12.
 - B. If Owner or Contractor refuses to execute a Change Order that is required to be executed under the terms of this Paragraph 11.07, it shall be deemed to be of full force and effect, as if fully executed.
 - B. Intentionally omitted.

11.08 Notification to Surety

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

ARTICLE 12 – CLAIMS

12.01 Claims

- A. *Claims Process*: The followingAll unresolved disputes between Owner and Contractor shall be submitted to the Claims process set forth in this Article, including:
 - 1. Appeals by Owner or Contractor of Engineer's decisions regarding Change Proposals;
 - 2. Owner demands for adjustments in the Contract Price or Contract Times, or other relief under the Contract Documents; and
 - 3. Disputes that Engineer has been unable to address because they do not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters.
- B. Submittal of Claim: The party submitting a Claim shall deliver it directly to the other party to the Contract promptly (but in no event later than 30 days) after the start of the event giving rise thereto; in the case of appeals regarding Change Proposals within 30 days of the decision under appeal. The party submitting the Claim shall also furnish a copy to the Engineer, for its information only. The responsibility to substantiate a Claim shall rest with the party making

the Claim. In the case of a Claim by Contractor seeking an increase in the Contract Times or Contract Price, or both, Contractor shall certify that the Claim is made in good faith, that the supporting data are accurate and complete, and that to the best of Contractor's knowledge and belief the amount of time or money requested accurately reflects the full amount to which Contractor is entitled.

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

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

- 13.01 Cost of the Work
 - A. *Purposes for Determination of Cost of the Work*: The term Cost of the Work means the sum of all costs necessary for the proper performance of the Work at issue, as further defined below. The provisions of this Paragraph 13.01 are used for two distinct purposes:
 - 1. To determine Cost of the Work when Cost of the Work is a component of the Contract Price, under cost-plus-fee, time-and-materials, or other cost-based terms; or

- 2. To determine the value of a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price. When the value of any such adjustment is determined on the basis of Cost of the Work, Contractor is entitled only to those additional or incremental costs required because of the change in the Work or because of the event giving rise to the adjustment.
- B. *Costs Included*: Except as otherwise may be agreed to in writing by Owner, costs included in the Cost of the Work shall be in amounts no higher than those prevailing in the locality of the Project, shall not include any of the costs itemized in Paragraph 13.01.C, and shall include only the following items:
 - 1. Payroll costsCosts for employees in the direct employ of Contractor in the performance of the Work under schedules of job classifications, and at billable rates, agreed upon by Owner and Contractor. Such employees shall include, without limitation, superintendents, foremen, and other personnel employed full time on the Work. Payroll costsCosts for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work. Payroll costsThe billable rate shall include, but not be limited to, salaries and wages plus the cost of fringe benefits, which shall include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, bonuses, sick leave, and vacation and holiday pay applicable thereto. The expenses of performing Work outside of regular working hours, on Saturday, Sunday, or legal holidays, shall be included in the above to the extent authorized by Ownerbillable rate.
 - 2. Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts shall accrue to Contractor unless Owner deposits funds with Contractor with which to make payments, in which case the cash discounts shall accrue to Owner. All trade discounts, rebates, and refunds and returns from sale of surplus materials and equipment shall accrue to Owner, and Contractor shall make provisions so that they may be obtained. However, Owner will not pay, and the Cost of the Work shall not include sales and use taxes and any fees and exactions that could be avoided for a public works project by Contractor's use of Owner's tax exempt certification or identification number which will be provided on request
 - 3. Payments made by Contractor to Subcontractors for Work performed by Subcontractors. If required by Owner, Contractor shall obtain competitive bids from subcontractors acceptable to Owner and Contractor and shall deliver such bids to Owner, who will then determine, with the advice of Engineer, which bids, if any, will be acceptable.and make recommendations to Owner and Engineer for their review. If the Owner has reasonable objection to the lowest bidder, the Contractor shall propose another to whom the Owner has no reasonable objection. If the rejected Subcontractor was reasonably capable of performing the Work, the Contract Price and Contract Times shall be equitably adjusted. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work plus a fee, the Subcontractor's Cost of the Work and fee shall be determined in the same manner as Contractor's Cost of the Work and fee as provided in this Paragraph 13.01.
 - 4. Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed for services specifically related to the Work.

- 5. Supplemental costs including the following:
 - a. The proportion of necessary transportation, travel, and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.
 - b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office, and temporary facilities at the Site, and hand tools not owned by the workers, which are consumed in the performance of the Work, and cost, less market value, of such items used but not consumed which remain the property of Contractor.
 - c. Rentals of all construction equipment and machinery, and the parts thereof, whether rented from Contractor or others in accordance with rental agreements approved by Owner-with the advice of Engineer, and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. <u>All construction equipment owned or rented from Contractor will be invoiced at rates provided in Contractor's proposal.</u> All such costs shall be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts shall cease when the use thereof is no longer necessary for the Work.
 - d. Sales, consumer, use, and other similar taxes related to the Work, and for which Contractor is liable, as imposed by Laws and Regulations which cannot be avoided for a public works project or by presentation and use of the Owner's tax-exempt certification or identification.
 - e. Deposits lost for causes other than negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.
 - f. Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by Contractor in connection with the performance of the Work (except losses and damages within the deductible amounts of property insurance established in accordance with Paragraph 6.05), provided such losses and damages have resulted from causes other than the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses shall include settlements made with the written consent and approval of Owner. No such losses, damages, and expenses shall be included in the Cost of the Work for the purpose of determining Contractor's fee.
 - g. The cost of utilities, fuel, and sanitary facilities at the Site.
 - h. Minor expenses such as communication service at the Site, express and courier services, and similar petty cash items in connection with the Work.
 - i. The costs of premiums for all <u>of Contractor's</u> bonds and insurance that Contractor is required by<u>as well as</u> the <u>Contract Documents to purchase</u><u>cost of Subcontractor</u> <u>bonds</u> and <u>maintain</u><u>insurance</u>.
- 6. All costs related to Contractor's temporary office at the jobsite including but not limited to the jobsite office, office supplies and equipment, internet, and utility services.
- C. *Costs Excluded*: The term Cost of the Work shall not include any of the following items:
 - 1. Payroll costs and other compensation of Contractor's officers, executives, principals (of partnerships and sole proprietorships), general managers, safety managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting

agents, expediters, timekeepers, clerks, and other personnel employed by Contractor, whether at the Site or in Contractor's principal or branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 13.01.B.1 or specifically covered by Paragraph 13.01.B.4. The payroll costs and other compensation excluded here are to be considered administrative costs covered by the Contractor's fee.

- 2. Expenses of Contractor's principal and branch offices other than Contractor's office at the Site.
- 3. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.
- 4. Costs due to the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property.
- 5. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraph 13.01.B.
- 5.6. Sales, consumer, use, and other similar taxes related to the Work, and for which Contractor is liable as imposed by laws and Regulations which cannot be avoided for a public works project or by presentation and use of the Owner's tax-exempt certification or identification.
- D. *Contractor's Fee*: When the Work as a whole is performed on the basis of cost-plus, Contractor's fee shall be determined as set forth in the Agreement. When the value of any Work covered by a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price is determined on the basis of Cost of the Work, Contractor's fee shall be determined as set forth in Paragraph 11.04.C.
- E. *Documentation*: Whenever the Cost of the Work for any purpose is to be determined pursuant to this Article 13, Contractor will establish and maintain records thereof in accordance with generally accepted accounting practices and submit in a form acceptable to Engineer an itemized cost breakdown together with supporting data.

13.02 Allowances and Contingencies

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

- D. Contractor's Contingency: Owner agrees that Contractor's contingency, if any, is for use of Contractor to account for overruns in the allowable Cost of the Work as defined in Paragraph 13.01 in the order to maintain the Contract Price and Contract Times.
- D.E. Prior to final payment, an appropriate Change Order will be issued as recommended by Engineer to reflect actual amounts due Contractor on account of Work covered by allowances, and the Contract Price shall be correspondingly adjusted.

13.03 Unit Price Work

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

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

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

14.02 Tests, Inspections, and Approvals

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

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

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

14.03 Defective Work

- A. *Contractor's Obligation*: It is Contractor's obligation to assure that the Work is not defective.
- B. *Engineer's Authority*: Engineer has the authority to determine whether Work is defective, and to reject defective Work.
- C. *Notice of Defects*: Prompt notice of all defective Work of which Owner or Engineer has actual knowledge will be given to Contractor.

- D. *Correction, or Removal and Replacement*: Promptly after receipt of written notice of defective Work, Contractor shall correct all such defective Work, whether or not fabricated, installed, or completed, or, if Engineer has rejected the defective Work, remove it from the Project and replace it with Work that is not defective.
- E. *Preservation of Warranties*: When correcting defective Work, Contractor shall take no action that would void or otherwise impair Owner's special warranty and guarantee, if any, on said Work.
- F. *Costs and Damages*: In addition to its correction, removal, and replacement obligations with respect to defective Work, Contractor shall pay all claims, costs, losses, and damages arising out of or relating to defective Work, including but not limited to the cost of the inspection, testing, correction, removal, replacement, or reconstruction of such defective Work, fines levied against Owner by governmental authorities because the Work is defective, and the costs of repair or replacement of work of others resulting from defective Work. Prior to final payment, if Owner and Contractor are unable to agree as to the measure of such claims, costs, losses, and damages resulting from defective Work, then Owner may impose a reasonable set-off against payments due under Article 15.
- <u>G.</u> Correction of work during the warranty period will be handled in accordance with Paragraph <u>15.08.</u>

14.04 Acceptance of Defective Work

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

14.05 Uncovering Work

- A. Engineer has the authority to require additional inspection or testing of the Work, whether or not the Work is fabricated, installed, or completed.
- B. If any Work is covered contrary to the written request of Engineer, then Contractor shall, if requested by Engineer, uncover such Work for Engineer's observation, and then replace the covering, all at Contractor's expense.
- C. If Engineer considers it necessary or advisable that covered Work be observed by Engineer or inspected or tested by others, then Contractor, at Engineer's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as Engineer may require, that portion of the Work in question, and provide all necessary labor, material, and equipment.
 - 1. If it is found that the uncovered Work is defective, Contractor shall be responsible for all claims, costs, losses, and damages arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or

reconstruction (including but not limited to all costs of repair or replacement of work of others); and pending Contractor's full discharge of this responsibility the Owner shall be entitled to impose a reasonable set-off against payments due under Article 15.

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

14.06 Owner May Stop the Work

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

14.07 Owner May Correct Defective Work

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

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

15.01 *Progress Payments*

A. *Basis for Progress Payments*: The Schedule of Values established as provided in Article 2 will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to Engineer. Progress payments on account of Unit Price Work will

be based on the number of units completed during the pay period, as determined under the provisions of Paragraph 13.03. Progress payments for cost-based Work will be based on Cost of the Work completed by Contractor during the pay period.

- B. Applications for Payments:
 - 1. At least 20 days before the date established in the Agreement for each progress payment (but not more often than once a month), Contractor shall submit to Engineer for review an Application for Payment filled out and signed by Contractor covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment shall also be accompanied by a bill of sale, invoice, or other documentation warranting that Owner has received the materials and equipment free and clear of all Liens, and evidence that the materials and equipment are covered by appropriate property insurance, a warehouse bond, or other arrangements to protect Owner's interest therein, all of which must be satisfactory to Owner.
 - 2. Beginning with the second Application for Payment, each Application shall include an affidavit of Contractor stating that all previous progress payments received on account of the Work have been applied on account to discharge Contractor's legitimate obligations associated with prior Applications for Payment.
 - 3. The amount of retainage with respect to progress payments will be as stipulated in the Agreement.
- C. Review of Applications:
 - 1. Engineer will, within 10 days after receipt of each Application for Payment, including each resubmittal, either indicate in writing a recommendation of payment and present the Application to Owner, or return the Application to Contractor indicating in writing Engineer's reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.
 - 2. Engineer's recommendation of any payment requested in an Application for Payment will constitute a representation by Engineer to Owner, based on Engineer's observations of the executed Work as an experienced and qualified design professional, and on Engineer's review of the Application for Payment and the accompanying data and schedules, that to the best of Engineer's knowledge, information and belief:
 - a. the Work has progressed to the point indicated;
 - b. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, the results of any subsequent tests called for in the Contract Documents, a final determination of quantities and classifications for Unit Price Work under Paragraph 13.03, and any other qualifications stated in the recommendation); and
 - c. the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work.

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

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

- 3. Upon a subsequent determination that Owner's refusal of payment was not justified, the amount wrongfully withheld shall be treated as an amount due as determined by Paragraph 15.01.C.1 and subject to interest as provided in the Agreement.
- 15.02 Contractor's Warranty of Title
 - A. Contractor warrants and guarantees that title to all Work, materials, and equipment furnished under the Contract will pass to Owner free and clear of (1) all Liens and other title defects, and (2) all patent, licensing, copyright, or royalty obligations, no later than seven days after the time of payment by Owner.
- 15.03 Substantial Completion
 - A. When Contractor considers the entire Work ready for its intended use Contractor shall notify Owner and Engineer in writing that the entire Work is substantially complete and request that Engineer issue a certificate of Substantial Completion. Contractor shall at the same time submit to Owner and Engineer an initial draft of punch list items to be completed or corrected before final payment.
 - B. Promptly after Contractor's notification, Owner, Contractor, and Engineer shall make an inspection of the Work to determine the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify Contractor in writing giving the reasons therefor.
 - C. If Engineer considers the Work substantially complete, Engineer will deliver to Owner a preliminary certificate of Substantial Completion which shall fix the date of Substantial Completion. Engineer shall attach to the certificate a punch list of items to be completed or corrected before final payment. Owner shall have seven days after receipt of the preliminary certificate during which to make written objection to Engineer as to any provisions of the certificate or attached punch list. If, after considering the objections to the provisions of the preliminary certificate, Engineer concludes that the Work is not substantially complete, Engineer will, within 14 days after submission of the preliminary certificate, or if despite consideration of Owner's objections Engineer concludes that the Work is substantially complete, stating the reasons therefor. If Owner does not object to the provisions of the certificate, or if despite consideration of Owner's objections Engineer concludes that the Work is substantially complete, then Engineer will, within said 14 days, execute and deliver to Owner and Contractor a final certificate of Substantial Completion (with a revised punch list of items to be completed or corrected) reflecting such changes from the preliminary certificate as Engineer believes justified after consideration of any objections from Owner.
 - D. At the time of receipt of the preliminary certificate of Substantial Completion, Owner and Contractor will confer regarding Owner's use or occupancy of the Work following Substantial Completion, review the builder's risk insurance policy with respect to the end of the builder's risk coverage, and confirm the transition to coverage of the Work under a permanent property insurance policy held by Owner. Unless Owner and Contractor agree otherwise in writing, Owner shall bear responsibility for security, operation, protection of the Work, property insurance, maintenance, heat, and utilities upon Owner's use or occupancy of the Work.
 - E. After Substantial Completion the Contractor shall promptly begin work on the punch list of items to be completed or corrected prior to final payment. In appropriate cases Contractor may submit monthly Applications for Payment for completed punch list items, following the progress payment procedures set forth above.

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

15.04 Partial Use or Occupancy

- A. Prior to Substantial Completion of all the Work, Owner may use or occupy any substantially completed part of the Work which has specifically been identified in the Contract Documents, or which Owner, Engineer, and Contractor agree constitutes a separately functioning and usable part of the Work that can be used by Owner for its intended purpose without significant interference with Contractor's performance of the remainder of the Work, subject to the following conditions:
 - 1. At any time Owner may request in writing that Contractor permit Owner to use or occupy any such part of the Work that Owner believes to be substantially complete. If and when Contractor agrees that such part of the Work is substantially complete, Contractor, Owner, and Engineer will follow the procedures of Paragraph 15.03.A through E for that part of the Work.
 - 2. At any time Contractor may notify Owner and Engineer in writing that Contractor considers any such part of the Work substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work.
 - 3. Within a reasonable time after either such request, Owner, Contractor, and Engineer shall make an inspection of that part of the Work to determine its status of completion. If Engineer does not consider that part of the Work to be substantially complete, Engineer will notify Owner and Contractor in writing giving the reasons therefor. If Engineer considers that part of the Work to be substantially complete, the provisions of Paragraph 15.03 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.
 - 4. No use or occupancy or separate operation of part of the Work may occur prior to compliance with the requirements of Paragraph 6.05 regarding builder's risk or other property insurance.

15.05 Final Inspection

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

15.06 Final Payment

- A. Application for Payment:
 - 1. After Contractor has, in the opinion of Engineer, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of inspection, annotated record documents (as provided in Paragraph 7.11), and other documents, Contractor may make application for final payment.

- 2. The final Application for Payment shall be accompanied (except as previously delivered) by:
 - a. all documentation called for in the Contract Documents;
 - b. consent of the surety, if any, to final payment;
 - c. satisfactory evidence that all title issues have been resolved such that title to all Work, materials, and equipment has passed to Owner free and clear of any Liens or other title defects, or will so pass upon final payment.
 - d. a list of all disputes that Contractor believes are unsettled; and
 - e. complete and legally effective <u>conditional</u> releases or waivers (satisfactory to Owner) of all Lien rights arising out of the Work, and of Liens filed in connection with the Work.
- 3. In lieu of the releases or waivers of Liens specified in Paragraph 15.06.A.2 and as approved by Owner, Contractor may furnish receipts or releases in full and an affidavit of Contractor that: (a) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (b) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which Owner might in any way be responsible, or which might in any way result in liens or other burdens on Owner's property, have been paid or otherwise satisfied. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, Contractor may furnish a bond or other collateral satisfactory to Owner to indemnify Owner against any Lien, or Owner at its option may issue joint checks payable to Contractor and specified Subcontractors and Suppliers.
- B. Engineer's Review of Application and Acceptance:
 - If, on the basis of Engineer's observation of the Work during construction and final 1. inspection, and Engineer's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, Engineer is satisfied that the Work has been completed and Contractor's other obligations under the Contract have been fulfilled, Engineer will, within ten days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of final payment and present the Application for Payment to Owner for payment. Such recommendation shall account for any set-offs against payment that are necessary in Engineer's opinion to protect Owner from loss for the reasons stated above with respect to progress payments. At the same time Engineer will also give written notice to Owner and Contractor that the Work is acceptable, subject to the provisions of Paragraph 15.07. Otherwise, Engineer will return the Application for Payment to Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case Contractor shall make the necessary corrections and resubmit the Application for Payment.
- C. *Completion of Work*: The Work is complete (subject to surviving obligations) when it is ready for final payment as established by the Engineer's written recommendation of final payment.
- D. *Payment Becomes Due*: Thirty days after the presentation to Owner of the final Application for Payment and accompanying documentation, the amount recommended by Engineer (less any further sum Owner is entitled to set off against Engineer's recommendation, including but not limited to set-offs for liquidated damages and set-offs allowed under the provisions above with respect to progress payments) will become due and shall be paid by Owner to Contractor.

15.07 Waiver of Claims

- A. The making of final payment will not constitute a waiver by Owner of claims or rights against Contractor. Owner expressly reserves claims and rights arising from unsettled Liens, from defective Work appearing after final inspection pursuant to Paragraph 15.05, from Contractor's failure to comply with the Contract Documents or the terms of any special guarantees specified therein, from outstanding Claims by Owner, or from Contractor's continuing obligations under the Contract Documents.
- B. The acceptance of final payment by Contractor will constitute a waiver by Contractor of all claims and rights against Owner other than those pending matters that have been duly submitted or appealed under the provisions of Article 17.
- 15.08 Correction Period
 - A. If within one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the terms of any applicable special guarantee required by the Contract Documents, or by any specific provision of the Contract Documents), any Work is found to be defective, or if the repair of any damages to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas used by Contractor as permitted by Laws and Regulations, is found to be defective, then Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:
 - 1. correct the defective repairs to the Site or such other adjacent areas;
 - 2. correct such defective Work;
 - 3. if the defective Work has been rejected by Owner, remove it from the Project and replace it with Work that is not defective, and
 - 4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others, or to other land or areas resulting therefrom.
 - B. If Contractor does not promptly comply with the terms of Owner's written instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others).
 - C. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications.
 - D. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this paragraph, the correction period hereunder with respect to such Work willshall not be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.
 - E. Contractor's obligations under this paragraph are in addition to all other obligations and warranties. The provisions of this paragraph shall not be construed as a substitute for, or a waiver of, the provisions of any applicable statute of limitation or repose.

ARTICLE 16 – SUSPENSION OF WORK AND TERMINATION

16.01 Owner May Suspend Work

- A. At any time and without cause, Owner may suspend the Work or any portion thereof for a period of not more than 90 consecutive days by written notice to Contractor and Engineer. Such notice will fix the date on which Work will be resumed. Contractor shall resume the Work on the date so fixed. Contractor shall be entitled to an adjustment in the Contract Price or an extension of the Contract Times, or both, directly attributable to any such suspension. Any Change Proposal seeking such adjustments shall be submitted no later than 30 days after the date fixed for resumption of Work.
- 16.02 Owner May Terminate for Cause
 - A. The occurrence of any one or more of the following events will constitute a default by Contractor and justify termination for cause:
 - 1. Contractor's persistent failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the Progress Schedule);
 - 2. Failure of Contractor to perform or otherwise to comply with a material term of the Contract Documents; or

3. Contractor's disregard of Laws or Regulations of any public body having jurisdiction; or

4.3. Contractor's repeated disregard of the authority of Owner or Engineer.

- B. If one or more of the events identified in Paragraph 16.02.A occurs, then after giving Contractor (and any surety) ten days written notice that Owner is considering a declaration that Contractor is in default and termination of the contract, Owner may proceed to:
 - 1. declare Contractor to be in default, and give Contractor (and any surety) notice that the Contract is terminated; and
 - 2. enforce the rights available to Owner under any applicable performance bond.
- C. Subject to the terms and operation of any applicable performance bond, if Owner has terminated the Contract for cause, Owner may exclude Contractor from the Site, take possession of the Work, incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere, and complete the Work as Owner may deem expedient.
- D. Owner may not proceed with termination of the Contract under Paragraph 16.02.B if Contractor within <u>seventen</u> days of receipt of notice of intent to terminate begins to correct its failure to perform and proceeds diligently to cure such failure.
- E. If Owner proceeds as provided in Paragraph 16.02.B, Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price exceeds the cost to complete the Work, including all related claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals) sustained by Owner, such excess will be paid to Contractor. If the cost to complete the Work including such related claims, costs, losses, and damages exceeds such unpaid balance, Contractor shall pay the difference to Owner. Such claims, costs, losses, and damages incurred by Owner will be reviewed by Engineer as to their reasonableness and, when so approved by Engineer, incorporated in a Change Order. When

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

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

16.03 *Owner May Terminate For Convenience*

- A. Upon seven days written notice to Contractor and Engineer, Owner may, without cause and without prejudice to any other right or remedy of Owner, terminate the Contract. In such case, Contractor shall be paid for (without duplication of any items):
 - 1. completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Work;
 - 2. expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses; and
 - 3. other reasonable expenses directly attributable to termination, including costs incurred to prepare a termination for convenience cost proposal.
- B. Contractor shall not be paid on account of loss of anticipated overhead, profits, or revenue, or other economic loss arising out of or resulting from such termination.
- 16.04 Contractor May Stop Work or Terminate
 - A. If, through no act or fault of Contractor, (1) the Work is suspended for more than 90 consecutive days by Owner or under an order of court or other public authority, or (2) Engineer fails to act on any Application for Payment within 30 days after it is submitted, or (3) Owner fails for 30 days to pay Contractor any sum finally determined to be due, then Contractor may, upon seven days written notice to Owner and Engineer, and provided Owner or Engineer do not remedy such suspension or failure within that time, terminate the contract and recover from Owner payment on the same terms as provided in Paragraph 16.03.
 - B. In lieu of terminating the Contract and without prejudice to any other right or remedy, if Engineer has failed to act on an Application for Payment within 30 days after it is submitted, or Owner has failed for 30 days to pay Contractor any sum finally determined to be due, Contractor may, seven days after written notice to Owner and Engineer, stop the Work until payment is made of all such amounts due Contractor, including interest thereon. The provisions of this paragraph are not intended to preclude Contractor from submitting a Change Proposal for an adjustment in Contract Price or Contract Times or otherwise for expenses or damage directly attributable to Contractor's stopping the Work as permitted by this paragraph.

ARTICLE 17 – FINAL RESOLUTION OF DISPUTES

17.01 Methods and Procedures

- A. *Disputes Subject to Final Resolution*: The followingAll disputed matters are subject to final resolution under the provisions of this Article, including:
 - 1. A timely appeal of an approval in part and denial in part of a Claim, or of a denial in full; and
 - 2. Disputes between Owner and Contractor concerning the Work or obligations under the Contract Documents, and arising after final payment has been made.
- B. *Final Resolution of Disputes*: For any dispute subject to resolution under this Article, Owner or Contractor may:
 - 1. elect in writing to invoke the dispute resolution process provided for in the Supplementary Conditions; or
 - 2. agree with the other party to submit the dispute to another dispute resolution process; or
 - 3. if no dispute resolution process is provided for in the Supplementary Conditions or mutually agreed to, give written notice to the other party of the intent to submit the dispute to a court of competent jurisdiction. <u>Any proceedings commenced in any court</u> <u>shall be tried before and decided by the presiding judge without a jury. The parties</u> <u>expressly waive any right to have such proceedings determined by trial by jury.</u>

ARTICLE 18 – MISCELLANEOUS

- 18.01 Giving Notice
 - A. Whenever any provision of the Contract Documents requires the giving of written notice, it will be deemed to have been validly given if:
 - 1. delivered in person, by a commercial courier service or otherwise, to the individual or to a member of the firm or to an officer of the corporation for which it is intended; or
 - 2. delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the sender of the notice.

18.02 Computation of Times

- A. When any period of time is referred to in the Contract by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day will be omitted from the computation.
- 18.03 Cumulative Remedies
 - A. The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee, or by other provisions of the Contract. The provisions of this paragraph will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right, and remedy to which they apply.

18.04 Limitation of Damages

- A. With respect to any and all Change Proposals, Claims, disputes subject to final resolution, and other matters at issue, neither Owner nor Engineer, nor any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, shall be liable to Contractor for any claims, costs, losses, or damages sustained by Contractor on or in connection with any other project or anticipated project.
- B. Owner waives all claims against Contractor for consequential, special, or incidental damages arising out of or relating to Contractor's Work on the Project and this Contract. This waiver includes damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons.

18.05 No Waiver

- A. A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Contract.
- 18.06 Survival of Obligations
 - A. All representations, indemnifications, warranties, and guarantees made in, required by, or given in accordance with the Contract, as well as all continuing obligations indicated in the Contract, will survive final payment, completion, and acceptance of the Work or termination or completion of the Contract or termination of the services of Contractor.
- 18.07 Controlling Law
 - A. This Contract is to be governed by the law of the state in which the Project is located.
- 18.08 Headings
 - A. Article and paragraph headings are inserted for convenience only and do not constitute parts of these General Conditions.



Project: Soldier Canyon-Generator/Filters 5-8

Estimate: SC-Generator/Filters 5-8 - FINAL

Grouped by:		Labor		Materia	ı 🗌	Subcon	tract	Equipm	ent	Tota	
Sector \ CSI \ Trades \ Element \ Items	Quantity	Unit Cost	Amount	Unit Cost	Amount	Unit Cost	Amount	Unit Cost	Amount	Unit Cost	Amoun
01 - Generator Replacement			21,463		6,700		236,761		24,130		289,053
0205 - Sitework			21,463		3,700		14,000		24,130		63,292
0100 - Owned/Rented Equipment					3,700				23,468		27,168
Dump truck	2 wk			350.	700			1,584.	3,168	1,934.	3,868
Excavator (135)	2 mo			750.	1,500			6,000.	12,000	6,750.	13,500
Loader (JD 244)	1 mo			500.	500			2,950.	2,950	3,450.	3,450
Skidsteer	2 mo			500.	1,000			2,675.	5,350	3,175.	6,350
0105 - Geotechnical											
Geotech investigation (not included)	ls										
0212 - Sitework			712				14,000		662		15,374
Erosion control	1 ls					5,000.	5,000			5,000.	5,000
Asphalt repair budget	1 ls					7,500.	7,500			7,500.	7,500
Demo / remove asphalt	539 sf	0.86	461							0.86	461
Re-seeding	1 ls					1,500.	1,500			1,500.	1,500
Saw Cut Asphalt 6" Thick	147 lf	1.71	251					4.5	662	6.21	913
0215 - Excavation			20,751								20,751
Backfill	43 cy	199.52	8,580							199.52	8,580
Move spoils to onsite location	46 cy	28.5	1,311							28.5	1,311
Excavate ductbank-below pad	5 cy	114.01	570							114.01	570
Excavate thk edge	3 cy	57.01	143							57.01	143
Found. Excavation and layback	89 cy	114.01	10,147							114.01	10,147
0250 - Shoring			- /								- /
Shoring (not included)	sf										
0300 - Concrete							68,884				68,884
0300 - Concrete							68,884				68,884
8" Apron to 1'-0" past bollards-SCS	1 ls					5,158.	5,158			5,158.	5,158
Bollard Excav	1 ls					2,500.	2,500			2,500.	2,500
Bollards-SCS	1 ls					6,813.	6,813			6,813.	6,813
Concrete pad 1 (not shown in Adm)	ls					-,	-/			-,	-,
Concrete pad 2 (not shown in Adm)	ls										
Ductbank-concrete/rebar-SCS	1 ls					12,206.	12,206			12,206.	12,206
Generator Pad & Walls-SCS	1 ls					32,112.	32,112			32,112.	32,112
Mobilization-SCS	1 IS					2,595.	2,595			2,595.	2,595
Washout	1 ls					2,500.	2,500			2,500.	2,500
Winter Conditions	1 no					5,000.	5,000			5,000.	5,000
0500 - Metals	1 110				2 000	3,000.	5,000			5,000.	
					3,000						3,000
0500 - Metals Bollards [furnish]	4 ea			750.	3,000 3,000					750.	3,000 3,000
	4 ea			730.	3,000		450.077			750.	
2600 - Electrical							153,877				153,877
2600 - Electrical							153,877				153,877
Demo/remove existing generator-Weifield	1 ls					11,291.	11,291			11,291.	11,291
Electrical Sub-Weifield	1 ls					106,846.	106,846			106,846.	106,846
Steel stairs at generator-Weifield	1 ls					9,260.	9,260			9,260.	9,260
Hydrovac ductbank - contingency	1 ls					10,000.	10,000			10,000.	10,000
Hydrovac ductbank [Kinetic]	1 ls					16,480.	16,480			16,480.	16,480
02 - Filters 5-8			206,977		191,676		371,585		61,050		831,288
0200 - Demolition			43,417				35,400				78,817



Project: Soldier Canyon-Generator/Filters 5-8

Estimate: SC-Generator/Filters 5-8 - FINAL

rouped by:		Labor		Mater	al	Subcon	tract	Equipm	ent	Tota	l.
ector \ CSI \ Trades \ Element \ Items	Quantity	Unit Cost	Amount	Unit Cost	Amount	Unit Cost	Amount	Unit Cost	Amount	Unit Cost	Amount
0200 - Demolition			43,417								43,417
Cut / cap at Ts and Laterals	4 ea	117.16	469							117.16	469
Demo Air Pipe at filters	480 lf	29.29	14,058							29.29	14,058
Demo Air Scour pipe at gallery	24 lf	29.29	703							29.29	703
Demo underdrain caps	72 ea	196.23	14,129							196.23	14,129
Dismantle Steel Ts	4 ea	2,811.7	11,247							2,811.7	11,247
Filter cleanup prior to coatings	1 ls	2,811.7	2,812							2,811.7	2,812
0210 - Media Removal							35,400				35,400
Media off-site disposal (by Owner)	ls										
Media test prior to off-site disposal (by Owner)	ls										-
Remove filter media, stockpile on site [Kinetic]	4 ea					8,850.	35,400			8,850.	35,400
0300 - Concrete			3,515		2,800						6,315
0300 - Concrete			3,515		2,800						6,315
Patch air pipe penetrations	4 ea	117.16	469	50.	200					167.16	669
Patch air scour pipe supports at filters	104 ea	29.29	3,046	25.	2,600					54.29	5,646
0900 - Finishes			11,296		11,026		311,500				333,822
0900 - Coatings							311,500				311,500
Sandblast/Coatings (Coblaco)	1 ls					311,500.	311,500			311,500.	311,500
0950 - Temp Enclosures			11,296		11,026						22,322
Containment walls (not included)	sf										·
Exhaust / negative air system	1 ls	2,811.7	2,812	5,000.	5,000					7,811.7	7,812
Floor protection (5-8)	1,235 sf	1.41	1,736	0.75	926					2.16	2,662
Floor protection (through other filters)	2,800 sf	1.41	3,936	0.75	2,100					2.16	6,036
Plastic wall protection	1 ls	2,811.7	2,812	3,000.	3,000					5,811.7	5,812
2600 - Electrical							20,785				20,785
2600 - Electrical							20,785				20,785
Electrical Sub [Filters]-Weifield	1 mo					20,785.	20,785			20,785.	20,785
4000 - Process Piping			76,231		169,350		3,900		44,800		294,281
1505 - Gallery Piping			76,231		169,350		3,900		44,800		294,281
15.00 - Owned/Rented Equipment					3,000				44,400		47,400
Access / Scaffold rental	2 mo							10,000.	20,000	10,000.	20,000
Fuel cell	3 mo			500.	1,500			3,800.	11,400	4,300.	12,900
Gantry Crane	2 mo							800.	1,600	800.	1,600
Skidster w/ Forks	3 mo			500.	1,500			3,800.	11,400	4,300.	12,900
15.01 - 8" Stainless Steel [above 6-0]			25,729		4,000		3,600		400		33,729
8" BFV - air actuated	4 ea	585.77	2,343							585.77	2,343
8" Check Valve - Dual Disc	2 ea	585.77	1,172							585.77	1,172
EPDM/SS expansion joint	1 ea	540.67	541							540.67	541
Pipe Supports [5/M601]	8 ea	175.73	1,406	350.	2,800					525.73	4,206
SS, Sch 10 Pipe 8"	125 lf	117.15	14,644							117.15	14,644
SS, Sch 10 Pipe 8"-field welds	10 ea					300.	3,000			300.	3,000
SS, Sch 10-8" loose flange welds	2 ea					300.	600			300.	600
Wall penetration-core	8 ea	468.62	3,749					50.	400	518.62	4,149
Wall penetration-link seals	8 ea	234.31	1,874	150.	1,200					384.31	3,074
15.05 - 6" PVC, Sch 80 Filter to Waste [below 6-0]			11,093		2,100		300				13,493
Butterfly Valve 6" - actuated	4 ea	351.46	1,406							351.46	1,406
Check Valve 8"-single flap, low head	2 ea	339.1	678							339.1	678
8" Field Weld for Tap	2 ea					150.	300		Т	150.	300



Project: Soldier Canyon-Generator/Filters 5-8

Estimate: SC-Generator/Filters 5-8 - FINAL

iped by:		Labor		Mater	al	Subcontract	I	Equipm	ent	Tota	d .
tor \ CSI \ Trades \ Element \ Items	Quantity	Unit Cost	Amount	Unit Cost	Amount	Unit Cost	Amount	Unit Cost	Amount	Unit Cost	Amoun
Dismantling joint 10"	4 ea	540.67	2,163							540.67	2,163
Pipe Supports [5/M601]	6 ea	175.73	1,054	350.	2,100					525.73	3,154
PVC, Sch 80 Pipe 6"	89 lf	65.08	5,792							65.08	5,792
15.10 - Filter Effluent-Carbon Steel			35,146								35,146
Dismantling joint 10"	4 ea	878.66	3,515							878.66	3,515
Mag flow meter 10" (install only)	4 ea	878.66	3,515							878.66	3,515
Carbon Steel, 3/8" wall - 16" Tee	4 ea	4,217.55	16,870							4,217.55	16,870
Carbon Steel, 3/8" wall - 16"x10" reducer	4 ea	2,811.7	11,247							2,811.7	11,247
Pipe supports - assume reuse existing	ea										
15.20 - Filter Wash Pipe Adjustments			4,263		250						4,513
PVC, Sch 80, 4" pipe	40 LF	65.02	2,601							65.02	2,601
PVC 80 90 EII SxS 4	2 ea	49.79	100							49.79	100
Pipe supports	1 ls	1,405.85	1,406	250.	250					1,655.85	1,656
PVC 80 Coupling SxS 4	4 ea	39.25	157							39.25	157
15.80 - Pipe & Valve Supply					160,000						160,000
Pipe and Valve Supply (C&M / Staab)	1 ls			160,000.	160,000					160,000.	160,000
4600 - Water Treatment Equipment			72,518		8,500				16,250		97,268
4600 - Equipment			72,518		8,500				16,250		97,268
46.01 - Owned/Rented Equipment			, 1,010		2,000				16,250		18,250
Eductor (haul to and from)	1 mo				2,000		-	500.	500	500.	500
Eductor (rent to owner)	1 mo							550.	550	550.	550
Fuel cell	2 mo			500.	1,000			3,800.	7,600	4,300.	8,600
Skidster w/ Forks	2 mo			500.	1,000			3,800.	7,600	4,300.	8,600
Telehandler	mo				,		-		,		-,
46.05 - Filter Media											
Filter Media - furnish (by Owner)	5,400 cf										
Filter Media - Install (by Owner)	5,400 cf										
46.10 - Air Scour Equipment			55,648		4,500						60,148
Air Header Piping 8"-Install Only [18lf ea]	72 lf	65.08	4,686		.,					65.08	4,686
Air Header-pipe supports-Install Only [3ea]	12 ea	117.15	1,406							117.15	1,406
Air Scour Equip. & Header-furnish (by Owner)	4 ea		,								,
Drop leg-pipe support-Install Only [18ea]	72 ea	117.15	8,435							117.15	8,435
Drop Legs-Install Only [123lf ea]	492 lf	43.93	21,615							43.93	21,615
Repair 45 deg grout fillet	18 cuft	146.44	2,636	250.	4,500					396.44	7,136
Replace IMS Caps-Install Only [18ea]	72 ea	234.31	16,870		,					234.31	16,870
46.15 - Surface Wash Arms			16,870		2,000						18,870
Misc Surface Wash fittings	1 ls			2,000.	2,000					2,000.	2,000
Surface Wash Arms-dismantle	16 ea	351.46	5,623							351.46	5,623
Surface Wash Arms-reinstall / adjust fittings	16 ea	702.92	11,247							702.92	11,247
Subtota			228,440		198,376	6	08,346		85,180		1,120,342
Markups			-, -						,		, ,
General Conditions											\$476,616
Small Tools & Equip - 3% of \$228,440 (L)											\$6,853
Sales Tax - 0% of \$198,376 (MO)											Tax Exempt
Subtota	1								1		\$483,469
Contractor's Bonds - 0.56% of Estimate Total											\$10,450
Builders Risk Insurance - 0.26% of Estimate Total											\$4,852
General Liability Insurance - 0.52% of Estimate Total	1										\$9,704



Project: Soldier Canyon-Generator/Filters 5-8

Estimate: SC-Generator/Filters 5-8 - FINAL

Grouped by:		Labor		Mater	al	Subcontra	act	Equipme	nt	То	tal
Sector \ CSI \ Trades \ Element \ Items	Quantity	Unit Cost	Amount								
Permits											Not Included
Testing & Inspections											Not Included
Escalation - 0% of Running Total											Not Included
Contractor Contingency - 2% of Estimate Total											\$37,321
Subtotal											\$545,796
Profit & Overhead - 12% of Running Total											\$199,937
Subtotal											\$745,733
Total Markups											\$745,733
ESTIMATE TOTAL											\$1,866,074

Hensel Phelps General Conditions

SCWTA-Generator & Filters 5-8 - Fort Collins, CO

DO NOT SORT, FILTER ONLY					Mat	erial	Equipme	nt/Sub	Lal	bor	
Item		Notes	Quantity	Unit	\$/Unit	Amount	\$/Unit	Amount	\$/Unit	Amount	Total
Supervision and Administration											\$0
Project Director	10%		1.0	МО	\$0.00	\$0	\$0.00	\$0	\$20,021	\$20,021	\$20,021
Project Superintendent	100%		9.0	MO	\$0.00	\$0	\$0.00	\$0	\$19,079	\$171,709	\$171,709
Project Manager	50%		4.0	MO	\$0.00		\$0.00	\$0	\$17,033	\$68,132	\$68,132
Office Engineer	100%	Job Engineer	9.0	MO	\$0.00	\$0	\$0.00	\$0	\$11,387	\$102,486	\$102,486
Safety Manager	20%		2.0	MO	\$0.00	\$0	\$0.00	\$0	\$15,234	\$30,468	\$30,468
Misc Supervision and Administration											\$0
Vehicle - Extended Cab Truck		GF Trucks	9	MO		\$0	\$1,200.00	\$10,800	\$0.00	\$0	\$10,800
Vehicle Fuel (Above)			25	MO	\$550.00	\$13,750		\$0	\$0.00	\$0	\$13,750
Engineering and Layout		Generator Civil work	1	MO	\$300.00	\$300	\$450.00	\$450	\$0.00	\$0	\$750
Professional Surveyor		Generator Civil work	1	LS	\$0.00	\$0	\$2,500.00	\$2,500	\$0.00	\$0	\$2,500
Plans and Printing											\$0
As-Builts		Set	2	EA	\$0.00	\$0	\$500.00	\$1,000	\$0.00	\$0	\$1,000
Virtural Design and Construction											\$0
Laser Scanner		w/ Precon	0	LS	\$0.00	\$0	\$2,500.00	\$0	\$0.00	\$0	\$0
Safety and First Aid											\$0
First Aid Cabinets		1 office / 1 field (up to 25 people)	2	EA	\$200.00	\$400	\$0.00	\$0	\$0.00	\$0	\$400
Safety Supplies		Confined Space, Misc. Safety	9	MO	\$850.00	\$7,650	\$200.00	\$1,800	\$0.00	\$0	\$9,450
AED Device			9	MO	\$350.00	\$3,150	\$0.00	\$0	\$0.00	\$0	\$3,150
Fire Ext (1 EA/3,000 sf)			2	EA	\$150.00	\$300	\$0.00	\$0	\$10.00	\$20	\$320
Temporary Facilities											\$0
Office Space Rental		House provided by Owner	9	MO	\$0.00	\$0	\$0.01	\$0	\$0.00	\$0	\$0
Temp. Toilets		1 ea / House toilet also used	9	MO	\$0.00	\$0	\$350.00	\$3,150	\$0.00	\$0	\$3,150
Bulletin Boards			2	EA	\$400.00	\$800	\$0.00	\$0	\$0.00	\$0	\$800
Office Supplies & Equipment			9	MO	\$450.00	\$4,050	\$0.00	\$0	\$0.00	\$0	\$4,050
Office Furniture			1	LS	\$3,000.00	\$3,000	\$0.00	\$0	\$0.00	\$0	\$3,000
Jobsite Copy/Fax/Printer			1	EA	\$0.00	\$0	\$1,500.00	\$1,500	\$0.00	\$0	\$1,500
Jobsite Internet Charges		Starlink	9	MO	\$0.00	\$0	\$350.00	\$3,150	\$0.00	\$0	\$3,150
Ladders & Stairs			1	LS	\$2,500.00	\$2,500	\$0.00	\$0	\$0.00	\$0	\$2,500
Waterperson - Ice & Cups		Deeprock	9	MO	\$150.00	\$1,350	\$0.00	\$0	\$0.00	\$0	\$1,350
Building Services and Clean Up											\$0
Initial Office Clean			1	EA	\$0.00	\$0	\$1,000.00	\$1,000	\$0.00	\$0	\$1,000
Office Cleaning		Cleaning provided by Owner	0	WK	\$0.00	\$0	\$500.00	\$0	\$0.00	\$0	\$0
Dumpster Rental		Pull	9	EA	\$0.00		\$550.00	\$4,950	\$0.00	\$0	\$4,950
Final Clean-Up Estimate - Bldg			3,600	SF	\$0.00	\$0	\$0.50	\$1,800	\$0.00	\$0	\$1,800
Final Clean-Up Estimate - Site		Acre	1	EA	\$0.00		\$1,500.00	\$1,500	\$0.00	\$0	\$1,500
Hauling To & From Job			1	LS	\$0.00	\$0	\$2,500.00	\$2,500	\$0.00	\$0	\$2,500
Inspection and Quality Control											\$0
Quality Program Awards			9	MO	\$150.00	\$1,350	\$0.00	\$0	\$0.00	\$0	\$1,350
SWPP Inspections		Inspect / Maintain	4	MO	\$0.00	\$0	\$150.00	\$600	\$250.00	\$1,000	\$1,600
Temp. Heat and Protection											\$0
Snow Removal		2 events	2	EA	\$0.00	\$0	\$350.00	\$700	\$240.00	\$480	\$1,180
Equipment and Transportation											\$0
John Deere Gator			9	MO	\$200.00	\$1,800	\$500.00	\$4,500	\$0.00	\$0	\$6,300
Bonds, Insurance & Permits											\$0
Sales & Use Taxes											\$0



DO NOT SORT, FILTER ONLY				Mat	erial	Equipme	nt/Sub	La	bor	
Item	Notes	Quantity	Unit	\$/Unit	Amount	\$/Unit	Amount	\$/Unit	Amount	Total
SUMMARY										\$0
	Supervision & Administration	1	LS	-	\$0	-	\$0	-	\$392,816	\$392,816
	Misc. Supervision & Administration	1	LS	-	\$14,050	-	\$13,750	-	\$0	\$27,800
	Plans & Printing	1	LS	-	\$0	-	\$1,000	-	\$0	\$1,000
Virtural Design and Construction			LS	-	\$0	-	\$0	-	\$0	\$0
Safety & First Aid			LS	-	\$11,500	-	\$1,800	-	\$20	\$13,320
	Temporary Facilities			-	\$11,700	-	\$7,800	-	\$0	\$19,500
	Building Services & Clean-Up	1	LS	-	\$0	-	\$11,750	-	\$0	\$11,750
Inspection & Quality Control		1	LS	-	\$1,350	-	\$600	-	\$1,000	\$2,950
Temporary Heat & Protection			LS	-	\$0	-	\$700	-	\$480	\$1,180
Equipment & Transportation			LS	-	\$1,800	-	\$4,500	-	\$0	\$6,300
GRAND TOTAL FOT	TAL GENERAL CONDITIONS COSTS				\$40,400		\$41,900		\$394,316	\$476,616
	COST PER MONTH									\$36,663



Generator Replacement and Filters 5-8 Improvements Projects

Clarifications and Assumptions

The following clarifications and assumptions pertain to the Generator Replacement and Filters 5-8 Improvement Project Estimate dated August 1, 2023:

GENERAL ITEMS

Pricing is based on the following documents provided by Ditesco:

- Generator Project: Appendix A Drawing Set provide with initial RFP, labeled as "Permit Set", and dated November 10, 2021
- Generator Project: Revised Drawing Sets provided on May 17, 2023, May 21, 2023, and May 22, 2023
- Filter Project: 90% Design Drawings dated July 10, 2023 and Project Manual dated October 2022
- A Contractor's Contingency is included in the GMP for the Contractor's exclusive use. All unused Contractor's contingency will be returned to the Owner.
- □ Special inspections, if required, are not included.
- It is assumed adequate temporary utilities for construction usage, including startup and testing will be available on site at no additional cost to the Contractor.
- Existing house and restroom on site is to be utilized by the Contractor for staff office space.
 Additional cost for jobsite trailers or additional services to the house is not included. Initial and weekly cleaning of house to be provided by Owner.
- □ Work regarding contaminated or hazardous materials, soil, or water is not included.

GENERATOR PROJECT:

- Geotechnical testing and / or reports of the existing soils have not been provided. It is understood that the intent of the project is to move the generator position away from the existing hillside to the fullest extent needed to eliminate the need for shoring and meet OSHA Excavation Regulations. Additional soils testing or earth retention systems are not included.
- Concrete layout and wall heights are included as provided in 2023-05-17 Revised Documents, 3'-0" above top of generator slab to elevation 5253.0. Wall heights shown and priced assume the generator position can be moved away from the hillside to eliminate the need for an additional 2'-0" height added to wall.

- Excess soils from excavation are assumed to be spread on site, off-site removal is not included.
- 8" thick concrete apron to 1'-0" beyond the new bollards in front of the generator is included to limit the need for significant asphalt repairs. A budget for minor asphalt repair is included.
- New generator is to be delivered, off-loaded, and set by Owner. ATS and Manual Transfer Switch are to be provided by Owner and installed by Contractor.
- Existing conduit is to be utilized for pathways for new connections inside the building. Costs for interior finish repairs is not included.
- **G** SCADA integration from PLC is by Owner.
- Generator stairs are included.
- Larimer County Electrical Permit costs are included. All other general building permit costs are not included.
- Modifications to the existing Utility Company's CT Cabinet are assumed not to be required, therefore are not included.
- Work at the 600A splice cabinet include lugs for the current installation. Additional lugs that may be required for the future MCC-2 are not included.
- Power wiring from owner provided 60A panel in new generator through existing interior conduit system and new exterior conduit system. 60 LF of 1" conduit to rout to existing power panel in electrical rooms is included. It is assumed a new breaker in the existing power panel is not required. Costs for a new breaker is not included.

FILTERS 5-8 PROJECT:

- Pricing assumes all four (4) filters can be taken offline at the same time and will be drained down by the Owner. Bypassing or temporary piping is not included.
- Filter media will be stockpiled on-site. Off-site disposal of filter media and testing (if required) prior to disposal is by Owner.
- □ 16" tee is included as new.
- Adjustments to filter air wash piping is included. Repairs or coring to existing concrete for this work is not included.
- Air filter piping, IMS caps and equipment from the flange located above the air header pipe including all supports and anchors required for air header pipe and drop legs are provided by Owner and installed by Contractor.
- Filter media is provided and installed by Owner. Cost for rental of eductor for one month is included as well as hauling to and from the jobsite.
- □ Mag flow meters are provided by Owner and Installed by Contractor.
- □ Alternations, connections, and programming at control panel is by Owner.

- Protection of floors and walls in filter area is included. It is anticipated that entire filter area will be closed off during construction. Plastic wall protection is included at the filter area. Additional temporary partitions are not included.
- **□** Pricing assumes that existing basins have not been previously coated.
- Control relays (CR-3x06, 1-4), Hand Stations (HS-3X20, 1-4), and Red and Green Console Lights (ZL-3X20, 1-4) are assumed to be Owner provided.



SOLDIER CANYON WATER TREATMENTAUTHORITY

То:	Soldier Canyon Water Treatment Authority Board
From:	Mark Kempton, P.E., CWP
Date:	July 28, 2023
Re:	Proposed amendment to the Authority Creation Agreement to include District ownership of the Pleasant Valley Pipeline (PVP), PVP Sed Basin, PVP Screen and Horsetooth facilities.

On July 1, 1998, the Soldier Canyon Filter Plant Committee fixed the Tri-District's percent ownership in the PVP and associated facilities as follows:

Table 1: July 1998 to December 2018 percent ownership in 60 MGD capacity in the PVP

ELCO	FCLWD	NWCWD
22.708%	43.512%	33.780%

The Table 1 percent ownerships are also reflected in monthly billing invoices from Soldier Canyon Filter Plant (SCFP) to the Districts up through December 2018. In 2019, District billing was modified to reflect the recommendations of the Raftelis rate study, and the Table 1 PVP percentages were seemingly abandoned.

The Table 1 percentages are subsequently reflected in the following two tables for the District ownership of the PVP, and the PVP Sedimentation Basin. An invoice for the construction of the PVP showing the same percentages as Table 1 is attached below for documentation purposes.

	Capacity in the PVP (60 MGD) - in % and MGD								
Fort Collins (60 MGD)	ELCO	FCLWD	NWCWD						
100%/60 MGD	22.708%/13.62 MGD	43.512%/26.11 MGD	33.780%/20.27 MGD						

Table 2: District % ownership and capacity in the PVP (Source: Table 1)

District percent ownership of the PVP Sedimentation Basin is shown in Table 3 with Table 1 values applied to the Tri-Districts \$807,538 share of the construction cost.

Table 3: District % ownership and costs in the PVP Sedimentation Basin – 60 MGD Capacity(Source: Table 1 values)

Fort Collins	PVP Sedimentation Basin (47%)* – in %/\$ owed to Fort Collins							
	ELCO	FCLWD**	NWCWD					
53%/\$895,554	10.67%/\$183,376	20.45%/\$351,375	15.88%/\$272,787					

*Total project cost = \$1,703,092, Tri-Districts share (47%) = \$807,538.

**Paid \$150,000 to the City in 2015.

<u>Note</u>: One District paid the City in 2013 using Table 1 percentages, therefore Table 3 costs to the City were calculated using Table 1 percentages of \$807,538. Table 3 District ownership percentages were calculated using Table 1 percentage of 47%.

In February 2008, SCFP reimbursed the City of Fort Collins \$111,875, which is 50% of the total cost for the purchase and installation of the HydroDyne Flow Screen at the head of the PVP. This charge was billed by SCFP to the Districts using the then Capital Improvements percent allocation, which differed from the PVP percent allocation in Table 1. Documentation of the City's Screen invoice and associated billing is attached below. The resulting District percentage ownership of the PVP Screen is shown in Table 4.

Table 4: Capacity in the PVP Screen (Source: February 2008 SCFP Monthly Billing to the Districts)

	Capacity in the PVP Screen (50%) – in %								
Fort Collins	ELCO FCLWD NWCWD								
50%	10.05%	21.84%	18.11%						

Authority Ownership - in %				
ELCO FCLWD NWCWD				
22.865%	38.405%	38.73%		

*Table 5 is for reference and comparison purposes only.

Tables 6 and 7 are for known existing executed agreements with the individual Districts and have been requested to be included in the Creation Agreement for reference only.

Table 6: Northern Water 57-inch Horsetooth Outlet Pipe Capacities (Source: 1977Agreement/w individual Districts and Northern Water)

Capacity	Capacity in the HT Outlet Line - MGD				
ELCO	NWCWD				
35 MGD	9.1 MGD	16.4 MGD			

Table 7: Horsetooth Outlet Project Pump Station – 35.3 MGD maximum capacity (Source: April 2020 Agreement/w individual Districts and Fort Collins)

	Capacity in the HOP Pump Station – in % and MGD				
Fort Collins	ELCO FCLWD NWCWD				
43.3%/15.3 MGD	8.5%/3 MGD	14.2%/5 MGD	34%/12 MGD		

PUT

NORTHERN COLORADO WATER CONSERVANCY DISTRICT AND MUNICIPAL SUBDISTRICT, NORTHERN COLORADO WATER CONSERVANCY DISTRICT

FAX: (970) 663-6907 Office: (970) 667-2437

Address: P.O. Box 679 Loveland, CO 80539

Date:February 28, 2003Deliver to:Bob ReedAt:City of Fort CollinsFAX:970-495-9845From:Jeff Drager

Total pages (including cover sheet) 2

Comments:

Bob,

For your information, I've attached a copy of the invoice that I sent to Alan at North Weld. I would appreciate it if you could send me a copy of your breakdown of the cost between the three districts so our accounting people will recognize the amounts when they are wired into our account. My fax number is 669-1143 -or you can e-mail it to me at <u>idrager@ncwcd.org</u>.

If you have any questions, please call me at 970-622-2333.

Thanks

NCWCD

No. of Concession, Name	n	V	Ô	31 5547 COMM	C	6		
					-	_		

Invoice Number: Date: February 26, 2003

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Northern Colorado Water Conservancy District P O Box 679 Loveland, Colorado 80539 970/667-2437 Fax: 970/663-6907

Bob Reed	
Soldier Canyon Filter Plant	
4424 La Porte Avenue Fort Collins, CO 80521-2170	
Port Com(15, CO 60521-2170	
(970) 482-3143	
	······································

ORDER NO.	DATE SHIPPED	SHIPPED VIA	TERMS
N/A	N/A	N/A	DUE: March 3, 2003

DESCRIPTION	TOTAL
Pleasant Valley Pipeline Project	
Allattee's Construction Cost	\$11,338,908
4% Contingency Fund	\$453.556
	TOTAL DUE \$11,792,464

SOLDIER CANYON FILTER PLANT

4424 LA PORTE AVE FT COLLINS, CO 80521-2170

DATE	INVOICE #
2/25/2003	1056

BILL TO	
Pleasant Valley Pipeline	

P.O. NUMBER	TERMS	REF	SHIP	VIA	F.O.B.	F	PROJECT
			2/25/2003				
QUANTITY			DESCRIPT	ION	PRICE E	EACH	AMOUNT
	PVP-ELCO PVP-FCLWD PVP-NWCWD	Pleasant Va	lley Pipeline - 22.708% lley Pipeline - 43.512% lley Pipeline - 33.780%	D	5,13	7,832.73 1,136.94 3,494.33	2,677,832.73 5,131,136.94 3,983,494.33
\bigcirc							
< <u> </u>					Tota	l	\$11,792,464.0

Invoice

SHIP TO		



Invoice



No. W996268

Soldier Canyon Water Treatment Facility Attn: Bill Roberts 4424 LaPorte Ave. Fort Collins, CO 80521

Remit to: City of Fort Collins **Customer Service Division** 330 S. College Ave. P.O. Box 580 Fort Collins, CO 80522-0580

Cust No: 251296

 \approx

Please detach and return upper portion with your remittance - cancelled check is your receipt.

DESCRIPTION	DATE	REFERENCE	CHARGES	CREDITS	BALANCE	
£	2/20/2008			DAN		
Soldier Canyon's p Dual Flow screen for Total Cost paid for \$223,750.00.	or Pleasant \ by the City of	'alley Pipeline.	111,875.00	TOT	MENT APPROVAL AL	
	AMOUNT D		ays of Invoice date.		\$111,875.00	
2001 C 05.529290.6		P.O.	Collins Utilities Box 580 ns. CO 80522	s No.	W996268	-

Please direct any questions concerning this statement to the Fort Collins Utilities, 970-221-6216

Capital Improvements

SOLDIER CANYON FILTER PLANT District Billing - Summary Sheet Capital Expenses - Improvements/Other Feb-08

Capital Expenses - Other:	<u>Amount</u>	
Bernard Lyons Gaddis & Kahn - Brown Ditch-\$2481.09, Jackson Ditch-\$48.00,		
Application Fees-\$96.00	\$2,625.09	
City of Ft. Collins - Pleasant Valley Pipeline Screen Project	\$111,875.00	
Dana Kepner - Dewatering Bldg. Materials	\$132.00	
ELCO - Dewatering Bldg. Materials	\$1,195.35	
Fastenal - Dewatering Bldg. Materials	\$568.14	
Fischer, Brown Bartlett & Gunn-General Matter	\$967.45	
Hasler, Fonfara & Maxwell - Linder Transaction-\$1255.00, Trieber/Warson-\$390.00	\$1,145.00	
HD Supply Waterworks - Dewatering Bldg. Materials	\$1,979.36	
High Country Pipelines - Dewatering Bldg. Materials	\$900.00	
North American Title - Earnest Money for Water Purchase	\$5,000.00	
TZA Water Engineers-Attend Steering Committee Mtg., Raw Water Master		
Plan Update, Develop Future Sources of Supply	\$6,514.00	

(Credit from)

TOTAL CAPITAL EXPENDITURES - Other \$132,901.39

		Amount	<u>Imp. %</u>	
North Weld	\$48,	157.06	36.235%	
Fort Collins/Loveland	\$58,	038.30	43.670%	
ELCO	\$26,	706.04	20.095%	
Anticipated Major Expenditures				
a. b.	,			
с.	1			

	<u>\$0.00</u>			
		Alloc %		
North Weld	0.000	33.333%		
Ft. Collins/Loveland	\$0.00	33.333%		
ELCO	\$0.00	33.333%		

Other: