

RESOLUTION NO. 2018 - 132

**A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AUTHORIZING THE COUNTY ADMINISTRATOR, OR DESIGNEE, TO AWARD BID NO. 18-41 AND TO EXECUTE AN AGREEMENT FOR SHORES WASTEWATER TREATMENT PLANT MASTER PUMP STATION REPLACEMENT**

**RECITALS**

**WHEREAS**, the County desires to enter into a contract with G&H Underground Construction, Inc. to complete the Shores Wastewater Treatment Plant Master Pump Station Replacement; and

**WHEREAS**, The project includes upgrades to the Shores WWTP Master Pump Station within the Shores community in Saint Augustine, FL and generally includes removal/demolition of existing lift station infrastructure, new concrete wet well and manhole, pour-in-place concrete slabs, installation of new submersible pumps and backup diesel pump, stainless steel discharge piping per SJCU standards, miscellaneous site work associated with lift station modifications, installation of precast electrical building, and electrical and instrumentation work as shown in the bid documents.

**WHEREAS**, through the County's formal Bid process, G&H Underground Construction, Inc. was the lowest, responsive, responsible bidder to enter into a contract with the County to perform the work referenced above; and;

**WHEREAS**, the County has reviewed the terms, provisions, conditions and requirements of the proposed contract (attached hereto, an incorporated herein) and finds that entering into contracts to complete the work services serves a public purpose.

**WHEREAS**, the contract will be in substantial conformance with the attached draft contract.

**NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA**, as follows:

Section 1. The above Recitals are incorporated by reference into the body of this Resolution and such Recitals are adopted as finds of fact.

Section 2. The County Administrator, or designee, is hereby authorized to award Bid 18-41 to Shores Wastewater Treatment Plant Master Pump Station Replacement and to execute a contract for the services set forth therein.

Section 3. Upon Board approval, the County Administrator, or designee, is authorized to execute an agreement in substantially the same form and format as the attached draft on behalf of the County to provide the scope of services as specifically provided in Bid 18-41.

Section 4. To the extent that there are typographical and/or administrative errors that do not change the tone, tenor, or concept of this Resolution, then this Resolution may be revised without subsequent approval by the Board of County Commissioners.

**PASSED AND ADOPTED** by the Board of County Commissioners of St. Johns County, Florida, this 15 day of May, 2018.

**BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA**

By: Henry Dean  
Henry Dean, Chair

ATTEST: Hunter S. Conrad, Clerk  
By: Pam Hattman  
Deputy Clerk

RENDITION DATE 5/17/18



**AGREEMENT  
BETWEEN OWNER AND CONTRACTOR  
FOR CONSTRUCTION CONTRACT (STIPULATED PRICE)**

THIS AGREEMENT is by and between St. Johns County, Florida ("Owner") and **G&H Underground Construction, Inc.** ("Contractor"), with offices located at: 2200 N Ponce De Leon Blvd, Suite 11, St. Augustine, FL 32084, Phone: (904) 829-8199, Fax: (904) 810-0531, and Email: ghunderground@bellsouth.net, under seal for Construction of **Bid No: 18-41, Shores Wastewater Treatment Plant Mast Pump Station Replacement**, hereinafter referred to as the "Project". 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:
- A. The construction of the Shores WWTP Master Pump Station Replacement project requires contractor to furnish all labor, materials, tools, equipment and incidentals required to construct the removal/demolition of existing lift station infrastructure, new concrete wet well and manhole, pour-in-place concrete slabs, installation of new submersible pumps and backup diesel pump, stainless steel discharge piping per SJCUD standards, miscellaneous site work associated with lift station modifications, installation of precast electrical building, and electrical and instrumentation work, and permitting per all applicable St. Johns County Utility Department (SJCUD) standards and as provided in the Contract documents.

**Article 2. PROJECT**

- 2.01 The Project, of which the Work under the Contract Documents is a part, is generally described as follows:
- A. Bid No. 18-41; Shores WWTP Master Pump Station Replacement, St. Johns County, Florida

**Article 3. ENGINEER**

- 3.01 The Project has been designed by CDM Smith Inc., 8381 Dix Ellis Trail, Suite 400, Jacksonville, Florida, 32256.
- 3.02 The Owner has retained CDM Smith Inc., 8381 Dix Ellis Trail, Suite 400, Jacksonville, Florida, 32256 ("Engineer") to act as Owner's Representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

**Article 4. CONTRACT TIMES**

- 4.01 Time of the Essence

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

#### 4.02 Contract Times: Days.

- A. The Work will be substantially completed within Two Hundred and Forty (240) consecutive days after the date when the Contract Times commence and will 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 Thirty (30) days after Substantial Completion.

#### 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):
  1. Substantial Completion: Contractor shall pay Owner \$1,584.00 for each day that expires after the time (as duly adjusted pursuant to the Contract) specified in Paragraph 4.02.A above for Substantial Completion until the Work is substantially complete.
  2. Completion of Remaining Work: After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Time (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Contractor shall pay Owner \$1,584.00 for each day that expires after such time until the Work is completed and ready for final payment.
  3. Liquidated damages for failing to timely attain Substantial Completion and final completion are not additive and will not be imposed concurrently.

#### 4.04 Special Damages

- A. In addition to the amount provided for liquidated damages, Contractor shall reimburse Owner (1) for any fines or penalties imposed on Owner as a direct result of the Contractor's failure to attain Substantial Completion according to the Contract Times, and (2) for the actual costs reasonably incurred by Owner for engineering, construction observation, inspection, and administrative services needed after the time specified in Paragraph 4.02 for Substantial Completion (as duly adjusted pursuant to the Contract), until the Work is substantially complete
- B. After Contractor achieves Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times, Contractor shall reimburse Owner for the actual costs reasonably incurred by Owner for engineering, construction observation, inspection, and administrative services needed, after the time specified in Paragraph 4.02 for Work to be completed and ready for final payment (as duly adjusted pursuant to the Contract), until the Work is completed and

ready for final payment.

**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, a lump sum of:

**One Million One Hundred Forty Five Thousand Sixteen dollars (\$1,145,016.00).**

All specific cash allowances are included in the above price in accordance with Paragraph 13.02 of the General Conditions.

5.02 For all Unit Price Work, an amount equal to the sum of the extended prices (established for each separately identified item of Unit Price Work by multiplying the unit price times the actual quantity of that item):

Unit Price Work					
Item No.	Description	Unit	Estimated Quantity	Unit Price	Extended Price
Total of all Extended Prices for Unit Price Work (subject to final adjustment based on actual quantities)					\$

5.03 Total of Lump Sum Amount and Unit Price Work (subject to final Unit Price adjustment)

**One Million One Hundred Forty Five Thousand Sixteen dollars (\$1,145,016.00).**

5.04 For all Work, at the prices stated in Contractor's Bid, attached hereto as an exhibit.

**Article 6. PAYMENT PROCEDURES**

6.01 Submittal and Processing of Payments

A. Contractor shall submit Applications for Payment in accordance with Article 15 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

6.02 Progress Payments; Retainage

- A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment on or about the day of each month during performance of the Work as provided in Paragraph 6.02.A.1 below, provided that such Applications for Payment have been submitted in a timely manner and otherwise meet the requirements of the Contract. All such payments will be measured by the Schedule of Values established as provided in the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no Schedule of Values, as provided elsewhere in the Contract.
1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Owner may withhold, including but not limited to liquidated damages, in accordance with the Contract:
    - a. Ninety (90%) percent of Work completed (with the balance being retainage). If the Work has been 50 percent completed as determined by Engineer, and if the character and progress of the Work have been satisfactory to Owner and Engineer, then as long as the character and progress of the Work remain satisfactory to Owner and Engineer, there will be no additional retainage; and
    - b. Fifty (50%) percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).
- B. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to One Hundred (100%) percent of the Work completed, less such amounts set off by Owner pursuant to Paragraph 15.01.E of the General Conditions, and less Two Hundred (200%) percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the punch list of items to be completed or corrected prior to final payment.

#### 6.03 Final Payment

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

### Article 7. INTEREST

- 7.01 All amounts not paid when due shall bear interest at the rate of Zero (0.00) percent per annum

### Article 8. CONTRACTOR'S REPRESENTATIONS

- 8.01 In order to induce Owner to enter into this Contract, Contractor makes the following representations
- A. Contractor has examined and carefully studied the Contract Documents, and any data and reference items identified in the Contract Documents.

- B. Contractor has visited the Site, conducted a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
- C. Contractor is familiar with and is satisfied as to all 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 that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings, and (2) reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings.
- E. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Site-related reports 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 9. CONTRACT DOCUMENTS**

### **9.01 Contents:**

- A. The Contract Documents consist of the following:

1. This Agreement (pages 1 to 8, inclusive).
  2. Public construction bond (pages 1 to 2, inclusive).
  3. General Conditions (pages 1 to 65, inclusive).
  4. Supplementary Conditions (pages 1 to 12, inclusive).
  5. Specifications as listed in the table of contents of the Project Manual.
  6. Drawings (not attached but incorporated by reference) consisting of 27 sheets with each sheet bearing the following general title: Shores WWTP Master Pump Station Replacement, St. Johns County, Florida
  7. Addenda (numbers 1 to 3, inclusive)
  8. Exhibits to this Agreement (enumerated as follows):
    - a. Contractor's Bid (pages 1 to 38, inclusive).
  9. The following which may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:
    - a. Notice to Proceed.
    - b. Work Change Directives.
    - c. Change Orders.
    - d. Field Orders.
- B. The documents listed in Paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 9.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in the General Conditions.

## **Article 10. MISCELLANEOUS**

### **10.01 Terms**

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

### **10.02 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.

### **10.03 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.

#### 10.04 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.

#### 10.05 Contractor's Certifications

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

#### 10.06 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.

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

This Agreement will be effective \_\_\_\_\_ (which is the Effective Date of the Contract).



**OWNER:**

**St. Johns County, FL**

By: \_\_\_\_\_  
Signature of Authorized Representative

Jaime T. Locklear, MPA, CPPB, FCCM  
Print Name

Purchasing Manager  
Title

\_\_\_\_\_  
Date of Execution:

**ATTEST:**

**St. Johns County, FL  
Clerk of Courts**

By: \_\_\_\_\_

Title: \_\_\_\_\_

**Legally Sufficient:**

\_\_\_\_\_  
Deputy County Attorney

\_\_\_\_\_  
Date of Execution:

Mailing Address for giving notices:

500 San Sebastian View  
St. Augustine, FL 32084

**CONTRACTOR:**

**G&H Underground Construction, Inc.**

\_\_\_\_\_  
(Typed Name)

By: \_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date of Execution:

Attest: \_\_\_\_\_

Title: \_\_\_\_\_

Mailing Address for giving notices:

\_\_\_\_\_

\_\_\_\_\_

License No.: \_\_\_\_\_

This document has important legal consequences; consultation with an attorney is encouraged with respect to its use or modification. This document should be adapted to the particular circumstances of the contemplated Project and the controlling Laws and Regulations.

## STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

Prepared by



Issued and Published Jointly by



Endorsed by



These General Conditions have been prepared for use with the Agreement Between Owner and Contractor for Construction Contract (EJCDC® C-520, Stipulated Sum, or C-525, Cost-Plus, 2013 Editions). Their provisions are interrelated and a change in one may necessitate a change in the other.

To prepare supplementary conditions that are coordinated with the General Conditions, use EJCDC's Guide to the Preparation of Supplementary Conditions (EJCDC® C-800, 2013 Edition). The full EJCDC Construction series of documents is discussed in the Commentary on the 2013 EJCDC Construction Documents (EJCDC® C-001, 2013 Edition).

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

3. The words "perform" or "provide," when used in connection with services, materials, or equipment, shall mean to furnish and install said services, materials, or equipment complete and ready for intended use.
  4. If the Contract Documents establish an obligation of Contractor with respect to specific services, materials, or equipment, but do not expressly use any of the four words "furnish," "install," "perform," or "provide," then Contractor shall furnish and install said services, materials, or equipment complete and ready for intended use.
- F. Unless stated otherwise in the Contract Documents, words or phrases that have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with such recognized meaning.

## ARTICLE 2 – PRELIMINARY MATTERS

### 2.01 *Delivery of Bonds and Evidence of Insurance*

- A. *Bonds*: When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner such bonds as Contractor may be required to furnish.
- B. *Evidence of Contractor's Insurance*: When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner, with copies to each named insured and additional insured (as identified in the Supplementary Conditions or elsewhere in the Contract), the certificates and other evidence of insurance required to be provided by Contractor in accordance with Article 6.
- C. *Evidence of Owner's Insurance*: After receipt of the executed counterparts of the Agreement and all required bonds and insurance documentation, Owner shall promptly deliver to Contractor, with copies to each named insured and additional insured (as identified in the Supplementary Conditions or otherwise), the certificates and other evidence of insurance required to be provided by Owner under Article 6.

### 2.02 *Copies of Documents*

- A. Owner shall furnish to Contractor four printed copies of the Contract (including one fully executed counterpart of the Agreement), and one copy in electronic portable document format (PDF). Additional printed copies will be furnished upon request at the cost of reproduction.
- B. Owner shall maintain and safeguard at least one original printed record version of the Contract, including Drawings and Specifications signed and sealed by Engineer and other design professionals. Owner shall make such original printed record version of the Contract available to Contractor for review. Owner may delegate the responsibilities under this provision to Engineer.

### 2.03 *Before Starting Construction*

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

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

2.04 *Preconstruction Conference; Designation of Authorized Representatives*

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

2.05 *Initial Acceptance of Schedules*

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

2.06 *Electronic Transmittals*

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

computer hardware differing from those used in the drafting or transmittal of the items, or from those established in applicable transmittal protocols.

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

#### 3.01 *Intent*

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

#### 3.02 *Reference Standards*

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

#### 3.03 *Reporting and Resolving Discrepancies*

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



error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract Documents issued pursuant to Paragraph 11.01.

2. *Contractor's Review of Contract Documents:* If, before or during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents, or between the Contract Documents and (a) any applicable Law or Regulation, (b) actual field conditions, (c) any standard specification, manual, reference standard, or code, or (d) any instruction of any Supplier, then Contractor shall promptly report it to Engineer in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Paragraph 7.15) until the conflict, error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract Documents issued pursuant to Paragraph 11.01.
3. Contractor shall not be liable to Owner or Engineer for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless Contractor had actual knowledge thereof.

B. *Resolving Discrepancies:*

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

3.04 *Requirements of the Contract Documents*

- A. During the performance of the Work and until final payment, Contractor and Owner shall submit to the Engineer all matters in question concerning the requirements of the Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Contract Documents, as soon as possible after such matters arise. Engineer will be the initial interpreter of the requirements of the Contract Documents, and judge of the acceptability of the Work thereunder.
- B. Engineer will, with reasonable promptness, render a written clarification, interpretation, or decision on the issue submitted, or initiate an amendment or supplement to the Contract Documents. Engineer's written clarification, interpretation, or decision will be final and binding on Contractor, unless it appeals by submitting a Change Proposal, and on Owner, unless it appeals by filing a Claim.
- C. If a submitted matter in question concerns terms and conditions of the Contract Documents that do not involve (1) the performance or acceptability of the Work under the Contract Documents, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, then Engineer will promptly give written notice to Owner and Contractor that Engineer is unable to provide a decision or interpretation. If Owner and Contractor are unable to agree on resolution of such a matter in question, either party may pursue resolution as provided in Article 12.

3.05 *Reuse of Documents*

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

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

4.01 *Commencement of Contract Times; Notice to Proceed*

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

4.02 *Starting the Work*

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

4.03 *Reference Points*

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

4.04 *Progress Schedule*

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

2. Proposed adjustments in the Progress Schedule that will change the Contract Times shall be submitted in accordance with the requirements of Article 11.

B. Contractor shall carry on the Work and adhere to the Progress Schedule during all disputes or disagreements with Owner. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, or during any appeal process, except as permitted by Paragraph 16.04, or as Owner and Contractor may otherwise agree in writing.

#### 4.05 *Delays in Contractor's Progress*

A. If Owner, Engineer, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress of the Work, then Contractor shall be entitled to an equitable adjustment in the Contract Times and Contract Price. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.

B. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delay, disruption, or interference caused by or within the control of Contractor. Delay, disruption, and interference attributable to and within the control of a Subcontractor or Supplier shall be deemed to be within the control of Contractor.

C. If Contractor's performance or progress is delayed, disrupted, or interfered with by unanticipated causes not the fault of and beyond the control of Owner, Contractor, and those for which they are responsible, then Contractor shall be entitled to an equitable adjustment in Contract Times. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times. Such an adjustment shall be Contractor's sole and exclusive remedy for the delays, disruption, and interference described in this paragraph. Causes of delay, disruption, or interference that may give rise to an adjustment in Contract Times under this paragraph include but are not limited to the following:

1. severe and unavoidable natural catastrophes such as fires, floods, epidemics, and earthquakes;
2. abnormal weather conditions;
3. acts or failures to act of utility owners (other than those performing other work at or adjacent to the Site by arrangement with the Owner, as contemplated in Article 8); and
4. acts of war or terrorism.

D. Delays, disruption, and interference to the performance or progress of the Work resulting from the existence of a differing subsurface or physical condition, an Underground Facility that was not shown or indicated by the Contract Documents, or not shown or indicated with reasonable accuracy, and those resulting from Hazardous Environmental Conditions, are governed by Article 5.

E. Paragraph 8.03 governs delays, disruption, and interference to the performance or progress of the Work resulting from the performance of certain other work at or adjacent to the Site.

F. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for any delay, disruption, or interference if such delay is concurrent with a delay, disruption, or interference caused by or within the control of Contractor.

- G. Contractor must submit any Change Proposal seeking an adjustment in Contract Price or Contract Times under this paragraph within 30 days of the commencement of the delaying, disrupting, or interfering event.

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

**5.01 Availability of Lands**

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

**5.02 Use of Site and Other Areas**

- A. *Limitation on Use of Site and Other Areas:*
  - 1. Contractor shall confine construction equipment, temporary construction facilities, the storage of materials and equipment, and the operations of workers to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and such other adjacent areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility for (a) damage to the Site; (b) damage to any such other adjacent areas used for Contractor's operations; (c) damage to any other adjacent land or areas; and (d) for injuries and losses sustained by the owners or occupants of any such land or areas; provided that such damage or injuries result from the performance of the Work or from other actions or conduct of the Contractor or those for which Contractor is responsible.
  - 2. If a damage or injury claim is made by the owner or occupant of any such land or area because of the performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible, Contractor shall, (a) take immediate corrective or remedial action as required by Paragraph 7.12, or otherwise; (b) promptly attempt to settle the claim as to all parties through negotiations with such owner or occupant, or otherwise resolve the claim by arbitration or other dispute resolution proceeding, or at law; and (c) to the fullest extent permitted by Laws and Regulations, indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against any such claim, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable, brought by any such owner or occupant against Owner, Engineer, or any other party indemnified hereunder to the extent caused directly or indirectly, in whole or in part

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

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

### 5.03 *Subsurface and Physical Conditions*

- A. *Reports and Drawings:* The Supplementary Conditions identify:
  - 1. those reports known to Owner of explorations and tests of subsurface conditions at or adjacent to the Site;
  - 2. those drawings known to Owner of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities); and
  - 3. Technical Data contained in such reports and drawings.
- B. *Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the accuracy of the Technical Data expressly identified in the Supplementary Conditions with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely upon the accuracy of the Technical Data (as defined in Article 1) contained in any geotechnical or environmental report prepared for the Project and made available to Contractor. Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, with respect to:
  - 1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto; or
  - 2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or
  - 3. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions, or information.

5.04 *Differing Subsurface or Physical Conditions*

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

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

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

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

#### 5.05 *Underground Facilities*

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

becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), identify the owner of such Underground Facility and give written notice to that owner and to Owner and Engineer.

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



5.06 *Hazardous Environmental Conditions at Site*

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

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

## ARTICLE 6 – BONDS AND INSURANCE

### 6.01 *Performance, Payment, and Other Bonds*

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

### 6.02 *Insurance—General Provisions*

- A. Owner and Contractor shall obtain and maintain insurance as required in this Article and in the Supplementary Conditions.
- B. All insurance required by the Contract to be purchased and maintained by Owner or Contractor shall be obtained from insurance companies that are duly licensed or authorized, in the state or jurisdiction in which the Project is located, to issue insurance policies for the required limits and coverages. Unless a different standard is indicated in the Supplementary Conditions, all companies that provide insurance policies required under this Contract shall have an A.M. Best rating of A-VII or better.
- C. Contractor shall deliver to Owner, with copies to each named insured and additional insured (as identified in this Article, in the Supplementary Conditions, or elsewhere in the Contract), certificates of insurance establishing that Contractor has obtained and is

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

- D. Owner shall deliver to Contractor, with copies to each named insured and additional insured (as identified in this Article, the Supplementary Conditions, or elsewhere in the Contract), certificates of insurance establishing that Owner has obtained and is maintaining the policies, coverages, and endorsements required of Owner by the Contract (if any). Upon request by Contractor or any other insured, Owner shall also provide other evidence of such required insurance (if any), including but not limited to copies of policies and endorsements, and documentation of applicable self-insured retentions and deductibles. Owner may block out (redact) any confidential premium or pricing information contained in any policy or endorsement furnished under this provision.
- E. Failure of Owner or Contractor to demand such certificates or other evidence of the other party's full compliance with these insurance requirements, or failure of Owner or Contractor to identify a deficiency in compliance from the evidence provided, shall not be construed as a waiver of the other party's obligation to obtain and maintain such insurance.
- F. If either party does not purchase or maintain all of the insurance required of such party by the Contract, such party shall notify the other party in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage.
- G. If Contractor has failed to obtain and maintain required insurance, Owner may exclude the Contractor from the Site, impose an appropriate set-off against payment, and exercise Owner's termination rights under Article 16.
- H. Without prejudice to any other right or remedy, if a party has failed to obtain required insurance, the other party may elect to obtain equivalent insurance to protect such other party's interests at the expense of the party who was required to provide such coverage, and the Contract Price shall be adjusted accordingly.
- I. Owner does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect Contractor or Contractor's interests.
- J. The insurance and insurance limits required herein shall not be deemed as a limitation on Contractor's liability under the indemnities granted to Owner and other individuals and entities in the Contract.

#### 6.03 Contractor's Insurance

- A. *Workers' Compensation:* Contractor shall purchase and maintain workers' compensation and employer's liability insurance for:
  - 1. claims under workers' compensation, disability benefits, and other similar employee benefit acts.
  - 2. United States Longshoreman and Harbor Workers' Compensation Act and Jones Act coverage (if applicable).
  - 3. claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees (by stop-gap endorsement in monopolist worker's compensation states).

4. Foreign voluntary worker compensation (if applicable).
- B. *Commercial General Liability—Claims Covered:* Contractor shall purchase and maintain commercial general liability insurance, covering all operations by or on behalf of Contractor, on an occurrence basis, against:
1. claims for damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees.
  2. claims for damages insured by reasonably available personal injury liability coverage.
  3. claims for damages, other than to the Work itself, because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom.
- C. *Commercial General Liability—Form and Content:* Contractor's commercial liability policy shall be written on a 1996 (or later) ISO commercial general liability form (occurrence form) and include the following coverages and endorsements:
1. Products and completed operations coverage:
    - a. Such insurance shall be maintained for three years after final payment.
    - b. Contractor shall furnish Owner and each other additional insured (as identified in the Supplementary Conditions or elsewhere in the Contract) evidence of continuation of such insurance at final payment and three years thereafter.
  2. Blanket contractual liability coverage, to the extent permitted by law, including but not limited to coverage of Contractor's contractual indemnity obligations in Paragraph 7.18.
  3. Broad form property damage coverage.
  4. Severability of interest.
  5. Underground, explosion, and collapse coverage.
  6. Personal injury coverage.
  7. Additional insured endorsements that include both ongoing operations and products and completed operations coverage through ISO Endorsements CG 20 10 10 01 and CG 20 37 10 01 (together); or CG 20 10 07 04 and CG 20 37 07 04 (together); or their equivalent.
  8. For design professional additional insureds, ISO Endorsement CG 20 32 07 04, "Additional Insured—Engineers, Architects or Surveyors Not Engaged by the Named Insured" or its equivalent.
- D. *Automobile liability:* Contractor shall purchase and maintain automobile liability insurance against claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance, or use of any motor vehicle. The automobile liability policy shall be written on an occurrence basis.
- E. *Umbrella or excess liability:* Contractor shall purchase and maintain umbrella or excess liability insurance written over the underlying employer's liability, commercial general liability, and automobile liability insurance described in the paragraphs above. Subject to industry-standard exclusions, the coverage afforded shall follow form as to each and every one of the underlying policies.
- F. *Contractor's pollution liability insurance:* Contractor shall purchase and maintain a policy covering third-party injury and property damage claims, including clean-up costs, as a result

of pollution conditions arising from Contractor's operations and completed operations. This insurance shall be maintained for no less than three years after final completion.

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

6.04 *Owner's Liability Insurance*

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

6.05 *Property Insurance*

- A. *Builder's Risk:* Unless otherwise provided in the Supplementary Conditions, Contractor shall purchase and maintain builder's risk insurance upon the Work on a completed value basis, in the amount of the full insurable replacement cost thereof (subject to such deductible amounts as may be provided in the Supplementary Conditions or required by Laws and Regulations). This insurance shall:
  - 1. include the Owner and Contractor as named insureds, and all Subcontractors, and any individuals or entities required by the Supplementary Conditions to be insured under such builder's risk policy, as insureds or named insureds. For purposes of the remainder of this Paragraph 6.05, Paragraphs 6.06 and 6.07, and any corresponding Supplementary Conditions, the parties required to be insured shall collectively be referred to as "insureds."
  - 2. be written on a builder's risk "all risk" policy form that shall at least include insurance for physical loss or damage to the Work, temporary buildings, falsework, and materials and equipment in transit, and shall insure against at least the following perils or causes of loss: fire; lightning; windstorm; riot; civil commotion; terrorism; vehicle impact; aircraft; smoke; theft; vandalism and malicious mischief; mechanical breakdown, boiler explosion, and artificially generated electric current; earthquake; volcanic activity, and other earth movement; flood; collapse; explosion; debris removal; demolition occasioned by enforcement of Laws and Regulations; water damage (other than that caused by flood); and such other perils or causes of loss as may be specifically required by the Supplementary Conditions. If insurance against mechanical breakdown, boiler explosion, and artificially generated electric current; earthquake; volcanic activity, and other earth movement; or flood, are not commercially available under builder's risk policies, by endorsement or otherwise, such insurance may be provided through other insurance policies acceptable to Owner and Contractor.
  - 3. cover, as insured property, at least the following: (a) the Work and all materials, supplies, machinery, apparatus, equipment, fixtures, and other property of a similar nature that are to be incorporated into or used in the preparation, fabrication, construction, erection, or completion of the Work, including Owner-furnished or assigned property; (b) spare parts inventory required within the scope of the Contract; and (c) temporary works which are not intended to form part of the permanent constructed Work but which are intended to provide working access to the Site, or to the Work under construction, or which are intended to provide temporary support for the Work under construction, including scaffolding, form work, fences, shoring, falsework, and temporary structures.
  - 4. cover expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers and architects).

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



6.06 *Waiver of Rights*

- A. All policies purchased in accordance with Paragraph 6.05, expressly including the builder's risk policy, shall contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any insureds thereunder, or against Engineer or its consultants, or their officers, directors, members, partners, employees, agents, consultants, or subcontractors. Owner and Contractor waive all rights against each other and the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work; and, in addition, waive all such rights against Engineer, its consultants, all Subcontractors, all individuals or entities identified in the Supplementary Conditions as insureds, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, under such policies for losses and damages so caused. None of the above waivers shall extend to the rights that any party making such waiver may have to the proceeds of insurance held by Owner or Contractor as trustee or fiduciary, or otherwise payable under any policy so issued.
- B. Owner waives all rights against Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, for:
1. loss due to business interruption, loss of use, or other consequential loss extending beyond direct physical loss or damage to Owner's property or the Work caused by, arising out of, or resulting from fire or other perils whether or not insured by Owner; and
  2. loss or damage to the completed Project or part thereof caused by, arising out of, or resulting from fire or other insured peril or cause of loss covered by any property insurance maintained on the completed Project or part thereof by Owner during partial occupancy or use pursuant to Paragraph 15.04, after Substantial Completion pursuant to Paragraph 15.03, or after final payment pursuant to Paragraph 15.06.
- C. Any insurance policy maintained by Owner covering any loss, damage or consequential loss referred to in Paragraph 6.06.B shall contain provisions to the effect that in the event of payment of any such loss, damage, or consequential loss, the insurers will have no rights of recovery against Contractor, Subcontractors, or Engineer, or the officers, directors, members, partners, employees, agents, consultants, or subcontractors of each and any of them.
- D. Contractor shall be responsible for assuring that the agreement under which a Subcontractor performs a portion of the Work contains provisions whereby the Subcontractor waives all rights against Owner, Contractor, all individuals or entities identified in the Supplementary Conditions as insureds, the Engineer and its consultants, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, relating to, or resulting from any of the perils or causes of loss covered by builder's risk insurance and any other property insurance applicable to the Work.

6.07 *Receipt and Application of Property Insurance Proceeds*

- A. Any insured loss under the builder's risk and other policies of insurance required by Paragraph 6.05 will be adjusted and settled with the named insured that purchased the

policy. Such named insured shall act as fiduciary for the other insureds, and give notice to such other insureds that adjustment and settlement of a claim is in progress. Any other insured may state its position regarding a claim for insured loss in writing within 15 days after notice of such claim.

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

## **ARTICLE 7 – CONTRACTOR'S RESPONSIBILITIES**

### **7.01 *Supervision and Superintendence***

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

### **7.02 *Labor; Working Hours***

- A. Contractor shall provide competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. Contractor shall at all times maintain good discipline and order at the Site.
- B. Except as otherwise required for the safety or protection of persons or the Work or property, at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site shall be performed during regular working hours, Monday through Friday. Contractor will not perform Work on a Saturday, Sunday, or any legal holiday. Contractor may perform Work outside regular working hours or on Saturdays, Sundays, or legal holidays only with Owner's written consent, which will not be unreasonably withheld.

### **7.03 *Services, Materials, and Equipment***

- A. Unless otherwise specified in the Contract Documents, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start up, and completion of the Work, whether or not such items are specifically called for in the Contract Documents.
- B. All materials and equipment incorporated into the Work shall be of good quality and new, except as otherwise provided in the Contract Documents. All special warranties and

guarantees required by the Specifications shall expressly run to the benefit of Owner. If required by Engineer, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment.

- C. All materials and equipment shall be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise may be provided in the Contract Documents.

#### 7.04 "Or Equals"

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

- 1. If Engineer in its sole discretion determines that an item of material or equipment proposed by Contractor is functionally equal to that named and sufficiently similar so that no change in related Work will be required, Engineer shall deem it an "or equal" item. For the purposes of this paragraph, a proposed item of material or equipment will be considered functionally equal to an item so named if:

- a. in the exercise of reasonable judgment Engineer determines that:

- 1) it is at least equal in materials of construction, quality, durability, appearance, strength, and design characteristics;
- 2) it will reliably perform at least equally well the function and achieve the results imposed by the design concept of the completed Project as a functioning whole;
- 3) it has a proven record of performance and availability of responsive service; and
- 4) it is not objectionable to Owner.

- b. Contractor certifies that, if approved and incorporated into the Work:

- 1) there will be no increase in cost to the Owner or increase in Contract Times; and
- 2) it will conform substantially to the detailed requirements of the item named in the Contract Documents.

- B. *Contractor's Expense:* Contractor shall provide all data in support of any proposed "or equal" item at Contractor's expense.

- C. *Engineer's Evaluation and Determination:* Engineer will be allowed a reasonable time to evaluate each "or-equal" request. Engineer may require Contractor to furnish additional data about the proposed "or-equal" item. Engineer will be the sole judge of acceptability. No "or-equal" item will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an "or-equal", which will be evidenced by an approved Shop Drawing or other written communication. Engineer will advise Contractor in writing of any negative determination.

- D. *Effect of Engineer's Determination:* Neither approval nor denial of an "or-equal" request shall result in any change in Contract Price. The Engineer's denial of an "or-equal" request shall be final and binding, and may not be reversed through an appeal under any provision of the Contract Documents.
- E. *Treatment as a Substitution Request:* If Engineer determines that an item of material or equipment proposed by Contractor does not qualify as an "or-equal" item, Contractor may request that Engineer consider the proposed item as a substitute pursuant to Paragraph 7.05.

#### 7.05 Substitutes

- A. Unless the specification or description of an item of material or equipment required to be furnished under the Contract Documents contains or is followed by words reading that no substitution is permitted, Contractor may request that Engineer authorize the use of other items of material or equipment under the circumstances described below. To the extent possible such requests shall be made before commencement of related construction at the Site.
  - 1. Contractor shall submit sufficient information as provided below to allow Engineer to determine if the item of material or equipment proposed is functionally equivalent to that named and an acceptable substitute therefor. Engineer will not accept requests for review of proposed substitute items of material or equipment from anyone other than Contractor.
  - 2. The requirements for review by Engineer will be as set forth in Paragraph 7.05.B, as supplemented by the Specifications, and as Engineer may decide is appropriate under the circumstances.
  - 3. Contractor shall make written application to Engineer for review of a proposed substitute item of material or equipment that Contractor seeks to furnish or use. The application:
    - a. shall certify that the proposed substitute item will:
      - 1) perform adequately the functions and achieve the results called for by the general design,
      - 2) be similar in substance to that specified, and
      - 3) be suited to the same use as that specified.
    - b. will state:
      - 1) the extent, if any, to which the use of the proposed substitute item will necessitate a change in Contract Times,
      - 2) whether use of the proposed substitute item in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with Owner for other work on the Project) to adapt the design to the proposed substitute item, and
      - 3) whether incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty.
    - c. will identify:
      - 1) all variations of the proposed substitute item from that specified, and

- 2) available engineering, sales, maintenance, repair, and replacement services.
  - d. shall contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including but not limited to changes in Contract Price, shared savings, costs of redesign, and claims of other contractors affected by any resulting change.
- B. *Engineer's Evaluation and Determination:* Engineer will be allowed a reasonable time to evaluate each substitute request, and to obtain comments and direction from Owner. Engineer may require Contractor to furnish additional data about the proposed substitute item. Engineer will be the sole judge of acceptability. No substitute will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an acceptable substitute. Engineer's determination will be evidenced by a Field Order or a proposed Change Order accounting for the substitution itself and all related impacts, including changes in Contract Price or Contract Times. Engineer will advise Contractor in writing of any negative determination.
  - C. *Special Guarantee:* Owner may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute.
  - D. *Reimbursement of Engineer's Cost:* Engineer will record Engineer's costs in evaluating a substitute proposed or submitted by Contractor. Whether or not Engineer approves a substitute so proposed or submitted by Contractor, Contractor shall reimburse Owner for the reasonable charges of Engineer for evaluating each such proposed substitute. Contractor shall also reimburse Owner for the reasonable charges of Engineer for making changes in the Contract Documents (or in the provisions of any other direct contract with Owner) resulting from the acceptance of each proposed substitute.
  - E. *Contractor's Expense:* Contractor shall provide all data in support of any proposed substitute at Contractor's expense.
  - F. *Effect of Engineer's Determination:* If Engineer approves the substitution request, Contractor shall execute the proposed Change Order and proceed with the substitution. The Engineer's denial of a substitution request shall be final and binding, and may not be reversed through an appeal under any provision of the Contract Documents. Contractor may challenge the scope of reimbursement costs imposed under Paragraph 7.05.D, by timely submittal of a Change Proposal.

#### 7.06 *Concerning Subcontractors, Suppliers, and Others*

- A. Contractor may retain Subcontractors and Suppliers for the performance of parts of the Work. Such Subcontractors and Suppliers must be acceptable to Owner.
- B. Contractor shall retain specific Subcontractors, Suppliers, or other individuals or entities for the performance of designated parts of the Work if required by the Contract to do so.
- C. Subsequent to the submittal of Contractor's Bid or final negotiation of the terms of the Contract, Owner may not require Contractor to retain any Subcontractor, Supplier, or other individual or entity to furnish or perform any of the Work against which Contractor has reasonable objection.
- D. Prior to entry into any binding subcontract or purchase order, Contractor shall submit to Owner the identity of the proposed Subcontractor or Supplier (unless Owner has already deemed such proposed Subcontractor or Supplier acceptable, during the bidding process or otherwise). Such proposed Subcontractor or Supplier shall be deemed acceptable to Owner unless Owner raises a substantive, reasonable objection within five days.

- E. Owner may require the replacement of any Subcontractor, Supplier, or other individual or entity retained by Contractor to perform any part of the Work. Owner also may require Contractor to retain specific replacements; provided, however, that Owner may not require a replacement to which Contractor has a reasonable objection. If Contractor has submitted the identity of certain Subcontractors, Suppliers, or other individuals or entities for acceptance by Owner, and Owner has accepted it (either in writing or by failing to make written objection thereto), then Owner may subsequently revoke the acceptance of any such Subcontractor, Supplier, or other individual or entity so identified solely on the basis of substantive, reasonable objection after due investigation. Contractor shall submit an acceptable replacement for the rejected Subcontractor, Supplier, or other individual or entity.
- F. If Owner requires the replacement of any Subcontractor, Supplier, or other individual or entity retained by Contractor to perform any part of the Work, then Contractor shall be entitled to an adjustment in Contract Price or Contract Times, or both, with respect to the replacement; and Contractor shall initiate a Change Proposal for such adjustment within 30 days of Owner's requirement of replacement.
- G. No acceptance by Owner of any such Subcontractor, Supplier, or other individual or entity, whether initially or as a replacement, shall constitute a waiver of the right of Owner to the completion of the Work in accordance with the Contract Documents.
- H. On a monthly basis Contractor shall submit to Engineer a complete list of all Subcontractors and Suppliers having a direct contract with Contractor, and of all other Subcontractors and Suppliers known to Contractor at the time of submittal.
- I. Contractor shall be fully responsible to Owner and Engineer for all acts and omissions of the Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work just as Contractor is responsible for Contractor's own acts and omissions.
- J. Contractor shall be solely responsible for scheduling and coordinating the work of Subcontractors, Suppliers, and all other individuals or entities performing or furnishing any of the Work.
- K. Contractor shall restrict all Subcontractors, Suppliers, and such other individuals or entities performing or furnishing any of the Work from communicating with Engineer or Owner, except through Contractor or in case of an emergency, or as otherwise expressly allowed herein.
- L. The divisions and sections of the Specifications and the identifications of any Drawings shall not control Contractor in dividing the Work among Subcontractors or Suppliers or delineating the Work to be performed by any specific trade.
- M. All Work performed for Contractor by a Subcontractor or Supplier shall be pursuant to an appropriate contractual agreement that specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract Documents for the benefit of Owner and Engineer.
- N. Owner may furnish to any Subcontractor or Supplier, to the extent practicable, information about amounts paid to Contractor on account of Work performed for Contractor by the particular Subcontractor or Supplier.

O. Nothing in the Contract Documents:

1. shall create for the benefit of any such Subcontractor, Supplier, or other individual or entity any contractual relationship between Owner or Engineer and any such Subcontractor, Supplier, or other individual or entity; nor
2. shall create any obligation on the part of Owner or Engineer to pay or to see to the payment of any money due any such Subcontractor, Supplier, or other individual or entity except as may otherwise be required by Laws and Regulations.

7.07 *Patent Fees and Royalties*

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

7.08 *Permits*

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

7.09 *Taxes*

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

7.10 *Laws and Regulations*

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

7.11 *Record Documents*

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

7.12 *Safety and Protection*

- A. Contractor shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. Such responsibility does not relieve Subcontractors of their responsibility for the safety of persons or property in the performance of their work, nor for compliance with applicable safety Laws and Regulations. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to:
  - 1. all persons on the Site or who may be affected by the Work;



2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and
  3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, other work in progress, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.
- B. Contractor shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection. Contractor shall notify Owner; the owners of adjacent property, Underground Facilities, and other utilities; and other contractors and utility owners performing work at or adjacent to the Site, when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property or work in progress.
  - C. Contractor shall comply with the applicable requirements of Owner's safety programs, if any. The Supplementary Conditions identify any Owner's safety programs that are applicable to the Work.
  - D. Contractor shall inform Owner and Engineer of the specific requirements of Contractor's safety program with which Owner's and Engineer's employees and representatives must comply while at the Site.
  - E. All damage; injury, or loss to any property referred to in Paragraph 7.12.A.2 or 7.12.A.3 caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by Contractor at its expense (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of Owner or Engineer or anyone employed by any of them, or anyone for whose acts any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them).
  - F. Contractor's duties and responsibilities for safety and protection shall continue until such time as all the Work is completed and Engineer has issued a notice to Owner and Contractor in accordance with Paragraph 15.06.B that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion).
  - G. Contractor's duties and responsibilities for safety and protection shall resume whenever Contractor or any Subcontractor or Supplier returns to the Site to fulfill warranty or correction obligations, or to conduct other tasks arising from the Contract Documents.

**7.13 Safety Representative**

- A. Contractor shall designate a qualified and experienced safety representative at the Site whose duties and responsibilities shall be the prevention of accidents and the maintaining and supervising of safety precautions and programs.

**7.14 Hazard Communication Programs**

- A. Contractor shall be responsible for coordinating any exchange of material safety data sheets or other hazard communication information required, to be made available to or

exchanged between or among employers at the Site in accordance with Laws or Regulations.

#### 7.15 *Emergencies*

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

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

##### A. *Shop Drawing and Sample Submittal Requirements:*

1. Before submitting a Shop Drawing or Sample, Contractor shall have:
  - a. reviewed and coordinated the Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents;
  - b. determined and verified all field measurements, quantities, dimensions, specified performance and design criteria, installation requirements, materials, catalog numbers, and similar information with respect thereto;
  - c. determined and verified the suitability of all materials and equipment offered with respect to the indicated application, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work; and
  - d. determined and verified all information relative to Contractor's responsibilities for means, methods, techniques, sequences, and procedures of construction, and safety precautions and programs incident thereto.
2. Each submittal shall bear a stamp or specific written certification that Contractor has satisfied Contractor's obligations under the Contract Documents with respect to Contractor's review of that submittal, and that Contractor approves the submittal.
3. With each submittal, Contractor shall give Engineer specific written notice of any variations that the Shop Drawing or Sample may have from the requirements of the Contract Documents. This notice shall be set forth in a written communication separate from the Shop Drawings or Sample submittal; and, in addition, in the case of Shop Drawings by a specific notation made on each Shop Drawing submitted to Engineer for review and approval of each such variation.

- B. *Submittal Procedures for Shop Drawings and Samples:* Contractor shall submit Shop Drawings and Samples to Engineer for review and approval in accordance with the accepted Schedule of Submittals. Each submittal will be identified as Engineer may require.

##### 1. *Shop Drawings:*

- a. Contractor shall submit the number of copies required in the Specifications.
- b. Data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show Engineer the services, materials, and equipment Contractor proposes to

provide and to enable Engineer to review the information for the limited purposes required by Paragraph 7.16.D.

2. *Samples:*

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

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

C. *Other Submittals:* Contractor shall submit other submittals to Engineer in accordance with the accepted Schedule of Submittals, and pursuant to the applicable terms of the Specifications.

D. *Engineer's Review:*

1. Engineer will provide timely review of Shop Drawings and Samples in accordance with the Schedule of Submittals acceptable to Engineer. Engineer's review and approval will be only to determine if the items covered by the submittals will, after installation or incorporation in the Work, conform to the information given in the Contract Documents and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.
2. Engineer's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions or programs incident thereto.
3. Engineer's review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.
4. Engineer's review and approval of a Shop Drawing or Sample shall not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirements of Paragraph 7.16.A.3 and Engineer has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample. Engineer will document any such approved variation from the requirements of the Contract Documents in a Field Order.
5. Engineer's review and approval of a Shop Drawing or Sample shall not relieve Contractor from responsibility for complying with the requirements of Paragraph 7.16.A and B.
6. Engineer's review and approval of a Shop Drawing or Sample, or of a variation from the requirements of the Contract Documents, shall not, under any circumstances, change the Contract Times or Contract Price, unless such changes are included in a Change Order.
7. Neither Engineer's receipt, review, acceptance or approval of a Shop Drawing, Sample, or other submittal shall result in such item becoming a Contract Document.

8. Contractor shall perform the Work in compliance with the requirements and commitments set forth in approved Shop Drawings and Samples, subject to the provisions of Paragraph 7.16.D.4.

E. *Resubmittal Procedures:*

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

7.17 *Contractor's General Warranty and Guarantee*

- A. Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective. Engineer and its officers, directors, members, partners, employees, agents, consultants, and subcontractors shall be entitled to rely on Contractor's warranty and guarantee.
- B. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:
  1. abuse, modification, or improper maintenance or operation by persons other than Contractor, Subcontractors, Suppliers, or any other individual or entity for whom Contractor is responsible; or
  2. normal wear and tear under normal usage.
- C. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents or a release of Contractor's obligation to perform the Work in accordance with the Contract Documents:
  1. observations by Engineer;
  2. recommendation by Engineer or payment by Owner of any progress or final payment;
  3. the issuance of a certificate of Substantial Completion by Engineer or any payment related thereto by Owner;
  4. use or occupancy of the Work or any part thereof by Owner;
  5. any review and approval of a Shop Drawing or Sample submittal;
  6. the issuance of a notice of acceptability by Engineer;
  7. any inspection, test, or approval by others; or
  8. any correction of defective Work by Owner.

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

#### 7.18 *Indemnification*

- A. To the fullest extent permitted by Laws and Regulations, and in addition to any other obligations of Contractor under the Contract or otherwise, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the performance of the Work, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom but only to the extent caused by any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts any of them may be liable.
- B. In any and all claims against Owner or Engineer or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors by any employee (or the survivor or personal representative of such employee) of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 7.18.A shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.
- C. The indemnification obligations of Contractor under Paragraph 7.18.A shall not extend to the liability of Engineer and Engineer's officers, directors, members, partners, employees, agents, consultants and subcontractors arising out of:
  - 1. the preparation or approval of, or the failure to prepare or approve maps, Drawings, opinions, reports, surveys, Change Orders, designs, or Specifications; or
  - 2. giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage.

#### 7.19 *Delegation of Professional Design Services*

- A. Contractor will not be required to provide professional design services unless such services are specifically required by the Contract Documents for a portion of the Work or unless such services are required to carry out Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. Contractor shall not be required to provide professional services in violation of applicable Laws and Regulations.
- B. If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of Contractor by the Contract Documents, Owner and Engineer will specify all performance and design criteria that such services must satisfy. Contractor shall cause such services or certifications to be provided by a properly licensed professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, and other submittals prepared by such professional. Shop

Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to Engineer.

- C. Owner and Engineer shall be entitled to rely upon the adequacy, accuracy, and completeness of the services, certifications, or approvals performed by such design professionals, provided Owner and Engineer have specified to Contractor all performance and design criteria that such services must satisfy.
- D. Pursuant to this paragraph, Engineer's review and approval of design calculations and design drawings will be only for the limited purpose of checking for conformance with performance and design criteria given and the design concept expressed in the Contract Documents. Engineer's review and approval of Shop Drawings and other submittals (except design calculations and design drawings) will be only for the purpose stated in Paragraph 7.16.D.1.
- E. Contractor shall not be responsible for the adequacy of the performance or design criteria specified by Owner or Engineer.

## ARTICLE 8 – OTHER WORK AT THE SITE

### 8.01 *Other Work*

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

## 8.02 *Coordination*

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

## 8.03 *Legal Relationships*

- A. If, in the course of performing other work at or adjacent to the Site for Owner, the Owner's employees, any other contractor working for Owner, or any utility owner for whom the Owner is responsible causes damage to the Work or to the property of Contractor or its Subcontractors, or delays, disrupts, interferes with, or increases the scope or cost of the performance of the Work, through actions or inaction, then Contractor shall be entitled to an equitable adjustment in the Contract Price or the Contract Times, or both. Contractor must submit any Change Proposal seeking an equitable adjustment in the Contract Price or the Contract Times under this paragraph within 30 days of the damaging, delaying, disrupting, or interfering event. The entitlement to, and extent of, any such equitable adjustment shall take into account information (if any) regarding such other work that was provided to Contractor in the Contract Documents prior to the submittal of the Bid or the final negotiation of the terms of the Contract. When applicable, any such equitable adjustment in Contract Price shall be conditioned on Contractor assigning to Owner all Contractor's rights against such other contractor or utility owner with respect to the damage, delay, disruption, or interference that is the subject of the adjustment. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.
- B. Contractor shall take reasonable and customary measures to avoid damaging, delaying, disrupting, or interfering with the work of Owner, any other contractor, or any utility owner performing other work at or adjacent to the Site. If Contractor fails to take such measures and as a result damages, delays, disrupts, or interferes with the work of any such other contractor or utility owner, then Owner may impose a set-off against payments due to Contractor, and assign to such other contractor or utility owner the Owner's contractual rights against Contractor with respect to the breach of the obligations set forth in this paragraph.
- C. When Owner is performing other work at or adjacent to the Site with Owner's employees, Contractor shall be liable to Owner for damage to such other work, and for the reasonable direct delay, disruption, and interference costs incurred by Owner as a result of Contractor's failure to take reasonable and customary measures with respect to Owner's other work. In response to such damage, delay, disruption, or interference, Owner may impose a set-off against payments due to Contractor.

- D. If Contractor damages, delays, disrupts, or interferes with the work of any other contractor, or any utility owner performing other work at or adjacent to the Site, through Contractor's failure to take reasonable and customary measures to avoid such impacts, or if any claim arising out of Contractor's actions, inactions, or negligence in performance of the Work at or adjacent to the Site is made by any such other contractor or utility owner against Contractor, Owner, or Engineer, then Contractor shall (1) promptly attempt to settle the claim as to all parties through negotiations with such other contractor or utility owner, or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law, and (2) indemnify and hold harmless Owner and Engineer; and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against any such claims, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such damage, delay, disruption, or interference.

## ARTICLE 9 – OWNER'S RESPONSIBILITIES

### 9.01 *Communications to Contractor*

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

### 9.02 *Replacement of Engineer*

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

### 9.03 *Furnish Data*

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

### 9.04 *Pay When Due*

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

### 9.05 *Lands and Easements; Reports, Tests, and Drawings*

- A. Owner's duties with respect to providing lands and easements are set forth in Paragraph 5.01.
- B. Owner's duties with respect to providing engineering surveys to establish reference points are set forth in Paragraph 4.03.
- C. Article 5 refers to Owner's identifying and making available to Contractor copies of reports of explorations and tests of conditions at the Site, and drawings of physical conditions relating to existing surface or subsurface structures at the Site.

### 9.06 *Insurance*

- A. Owner's responsibilities, if any, with respect to purchasing and maintaining liability and property insurance are set forth in Article 6.

### 9.07 *Change Orders*

- A. Owner's responsibilities with respect to Change Orders are set forth in Article 11.



9.08 *Inspections, Tests, and Approvals*

- A. Owner's responsibility with respect to certain inspections, tests, and approvals is set forth in Paragraph 14.02.B.

9.09 *Limitations on Owner's Responsibilities*

- A. The Owner shall not supervise, direct, or have control or authority over, nor be responsible for, Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Owner will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.

9.10 *Undisclosed Hazardous Environmental Condition*

- A. Owner's responsibility in respect to an undisclosed Hazardous Environmental Condition is set forth in Paragraph 5.06.

9.11 *Evidence of Financial Arrangements*

- A. Upon request of Contractor, Owner shall furnish Contractor reasonable evidence that financial arrangements have been made to satisfy Owner's obligations under the Contract Documents (including obligations under proposed changes in the Work).

9.12 *Safety Programs*

- A. While at the Site, Owner's employees and representatives shall comply with the specific applicable requirements of Contractor's safety programs of which Owner has been informed.
- B. Owner shall furnish copies of any applicable Owner safety programs to Contractor.

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

10.01 *Owner's Representative*

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

10.02 *Visits to Site*

- A. Engineer will make visits to the Site at intervals appropriate to the various stages of construction as Engineer deems necessary in order to observe as an experienced and qualified design professional the progress that has been made and the quality of the various aspects of Contractor's executed Work. Based on information obtained during such visits and observations, Engineer, for the benefit of Owner, will determine, in general, if the Work is proceeding in accordance with the Contract Documents. Engineer will not be required to make exhaustive or continuous inspections on the Site to check the quality or quantity of the Work. Engineer's efforts will be directed toward providing for Owner a greater degree of confidence that the completed Work will conform generally to the Contract Documents. On the basis of such visits and observations, Engineer will keep Owner informed of the progress of the Work and will endeavor to guard Owner against defective Work.
- B. Engineer's visits and observations are subject to all the limitations on Engineer's authority and responsibility set forth in Paragraph 10.08. Particularly, but without limitation, during

or as a result of Engineer's visits or observations of Contractor's Work, Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work.

10.03 *Project Representative*

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

10.04 *Rejecting Defective Work*

- A. Engineer has the authority to reject Work in accordance with Article 14.

10.05 *Shop Drawings, Change Orders and Payments*

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

10.06 *Determinations for Unit Price Work*

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

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

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

10.08 *Limitations on Engineer's Authority and Responsibilities*

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

- B. Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Engineer will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.
- C. Engineer will not be responsible for the acts or omissions of Contractor or of any Subcontractor, any Supplier, or of any other individual or entity performing any of the Work.
- D. Engineer's review of the final Application for Payment and accompanying documentation and all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by Paragraph 15.06.A will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals, that the results certified indicate compliance with the Contract Documents.
- E. The limitations upon authority and responsibility set forth in this Paragraph 10.08 shall also apply to the Resident Project Representative, if any.

#### 10.09 *Compliance with Safety Program*

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

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

#### 11.01 *Amending and Supplementing Contract Documents*

- A. The Contract Documents may be amended or supplemented by a Change Order, a Work Change Directive, or a Field Order.
  - 1. *Change Orders:*
    - a. If an amendment or supplement to the Contract Documents includes a change in the Contract Price or the Contract Times, such amendment or supplement must be set forth in a Change Order. A Change Order also may be used to establish amendments and supplements of the Contract Documents that do not affect the Contract Price or Contract Times.
    - b. Owner and Contractor may amend those terms and conditions of the Contract Documents that do not involve (1) the performance or acceptability of the Work, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, without the recommendation of the Engineer. Such an amendment shall be set forth in a Change Order.
  - 2. *Work Change Directives:* A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the modification ordered or documented by a Work Change Directive, will be incorporated in a subsequently issued Change Order, following negotiations by the parties as to the Work Change Directive's effect, if any, on the Contract Price and Contract Times; or, if negotiations are unsuccessful, by a determination under the terms of the Contract Documents governing adjustments, expressly including Paragraph 11.04 regarding change of Contract Price. Contractor must submit any Change Proposal seeking an

adjustment of the Contract Price or the Contract Times, or both, no later than 30 days after the completion of the Work set out in the Work Change Directive. Owner must submit any Claim seeking an adjustment of the Contract Price or the Contract Times, or both, no later than 60 days after issuance of the Work Change Directive.

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

#### 11.02 *Owner-Authorized Changes in the Work*

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

#### 11.03 *Unauthorized Changes in the Work*

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

#### 11.04 *Change of Contract Price*

- A. The Contract Price may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Price shall comply with the provisions of Paragraph 11.06. Any Claim for an adjustment of Contract Price shall comply with the provisions of Article 12.
- B. An adjustment in the Contract Price will be determined as follows:
  1. where the Work involved is covered by unit prices contained in the Contract Documents, then by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 13.03); or
  2. where the Work involved is not covered by unit prices contained in the Contract Documents, then by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 11.04.C.2); or
  3. where the Work involved is not covered by unit prices contained in the Contract Documents and the parties do not reach mutual agreement to a lump sum; then on

the basis of the Cost of the Work (determined as provided in Paragraph 13.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 11.04.C).

- C. *Contractor's Fee:* When applicable, the Contractor's fee for overhead and profit shall be determined as follows:
1. a mutually acceptable fixed fee; or
  2. if a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:
    - a. for costs incurred under Paragraphs 13.01.B.1 and 13.01.B.2, the Contractor's fee shall be 15 percent;
    - b. for costs incurred under Paragraph 13.01.B.3, the Contractor's fee shall be five percent;
    - c. where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of Paragraphs 11.04.C.2.a and 11.04.C.2.b is that the Contractor's fee shall be based on: (1) a fee of 15 percent of the costs incurred under Paragraphs 13.01.A.1 and 13.01.A.2 by the Subcontractor that actually performs the Work, at whatever tier, and (2) with respect to Contractor itself and to any Subcontractors of a tier higher than that of the Subcontractor that actually performs the Work, a fee of five percent of the amount (fee plus underlying costs incurred) attributable to the next lower tier Subcontractor; provided, however, that for any such subcontracted work the maximum total fee to be paid by Owner shall be no greater than 27 percent of the costs incurred by the Subcontractor that actually performs the work;
    - d. no fee shall be payable on the basis of costs itemized under Paragraphs 13.01.B.4, 13.01.B.5, and 13.01.C;
    - e. the amount of credit to be allowed by Contractor to Owner for any change which results in a net decrease in cost will be the amount of the actual net decrease in cost plus a deduction in Contractor's fee by an amount equal to five percent of such net decrease; and
    - f. when both additions and credits are involved in any one change, the adjustment in Contractor's fee shall be computed on the basis of the net change in accordance with Paragraphs 11.04.C.2.a through 11.04.C.2.e, inclusive.

#### 11.05 *Change of Contract Times*

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

#### 11.06 *Change Proposals*

- A. Contractor shall submit a Change Proposal to Engineer to request an adjustment in the Contract Times or Contract Price; appeal an initial decision by Engineer concerning the requirements of the Contract Documents or relating to the acceptability of the Work under the Contract Documents; contest a set-off against payment due; or seek other relief under

the Contract. The Change Proposal shall specify any proposed change in Contract Times or Contract Price, or both, or other proposed relief, and explain the reason for the proposed change, with citations to any governing or applicable provisions of the Contract Documents.

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

#### 11.07 Execution of Change Orders

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

- B. If Owner or Contractor refuses to execute a Change Order that is required to be executed under the terms of this Paragraph 11.07, it shall be deemed to be of full force and effect, as if fully executed.

11.08 *Notification to Surety*

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

**ARTICLE 12 – CLAIMS**

12.01 *Claims*

- A. *Claims Process:* The following disputes between Owner and Contractor shall be submitted to the Claims process set forth in this Article:
  - 1. Appeals by Owner or Contractor of Engineer's decisions regarding Change Proposals;
  - 2. Owner demands for adjustments in the Contract Price or Contract Times, or other relief under the Contract Documents; and
  - 3. Disputes that Engineer has been unable to address because they do not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters.
- B. *Submittal of Claim:* The party submitting a Claim shall deliver it directly to the other party to the Contract promptly (but in no event later than 30 days) after the start of the event giving rise thereto; in the case of appeals regarding Change Proposals within 30 days of the decision under appeal. The party submitting the Claim shall also furnish a copy to the Engineer, for its information only. The responsibility to substantiate a Claim shall rest with the party making the Claim. In the case of a Claim by Contractor seeking an increase in the Contract Times or Contract Price, or both, Contractor shall certify that the Claim is made in good faith, that the supporting data are accurate and complete, and that to the best of Contractor's knowledge and belief the amount of time or money requested accurately reflects the full amount to which Contractor is entitled.
- C. *Review and Resolution:* The party receiving a Claim shall review it thoroughly, giving full consideration to its merits. The two parties shall seek to resolve the Claim through the exchange of information and direct negotiations. The parties may extend the time for resolving the Claim by mutual agreement. All actions taken on a Claim shall be stated in writing and submitted to the other party, with a copy to Engineer.
- D. *Mediation:*
  - 1. At any time after initiation of a Claim, Owner and Contractor may mutually agree to mediation of the underlying dispute. The agreement to mediate shall stay the Claim submittal and response process.
  - 2. If Owner and Contractor agree to mediation, then after 60 days from such agreement, either Owner or Contractor may unilaterally terminate the mediation process, and the Claim submittal and decision process shall resume as of the date of the termination. If the mediation proceeds but is unsuccessful in resolving the dispute, the Claim

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submittal and decision process shall resume as of the date of the conclusion of the mediation, as determined by the mediator.

3. Owner and Contractor shall each pay one-half of the mediator's fees and costs.
- E. *Partial Approval*: If the party receiving a Claim approves the Claim in part and denies it in part, such action shall be final and binding unless within 30 days of such action the other party invokes the procedure set forth in Article 17 for final resolution of disputes.
- F. *Denial of Claim*: If efforts to resolve a Claim are not successful, the party receiving the Claim may deny it by giving written notice of denial to the other party. If the receiving party does not take action on the Claim within 90 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of the inaction, the Claim is deemed denied, thereby commencing the time for appeal of the denial. A denial of the Claim shall be final and binding unless within 30 days of the denial the other party invokes the procedure set forth in Article 17 for the final resolution of disputes.
- G. *Final and Binding Results*: If the parties reach a mutual agreement regarding a Claim, whether through approval of the Claim, direct negotiations, mediation, or otherwise; or if a Claim is approved in part and denied in part, or denied in full, and such actions become final and binding; then the results of the agreement or action on the Claim shall be incorporated in a Change Order to the extent they affect the Contract, including the Work, the Contract Times, or the Contract Price.

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

### 13.01 *Cost of the Work*

- A. *Purposes for Determination of Cost of the Work*: The term Cost of the Work means the sum of all costs necessary for the proper performance of the Work at issue, as further defined below. The provisions of this Paragraph 13.01 are used for two distinct purposes:
  1. To determine Cost of the Work when Cost of the Work is a component of the Contract Price, under cost-plus-fee, time-and-materials, or other cost-based terms; or
  2. To determine the value of a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price. When the value of any such adjustment is determined on the basis of Cost of the Work, Contractor is entitled only to those additional or incremental costs required because of the change in the Work or because of the event giving rise to the adjustment.
- B. *Costs Included*: Except as otherwise may be agreed to in writing by Owner, costs included in the Cost of the Work shall be in amounts no higher than those prevailing in the locality of the Project, shall not include any of the costs itemized in Paragraph 13.01.C, and shall include only the following items:
  1. Payroll costs for employees in the direct employ of Contractor in the performance of the Work under schedules of job classifications agreed upon by Owner and Contractor. Such employees shall include, without limitation, superintendents, foremen, and other personnel employed full time on the Work. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits, which shall include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, bonuses, sick leave, and vacation and holiday pay applicable



thereto. The expenses of performing Work outside of regular working hours, on Saturday, Sunday, or legal holidays, shall be included in the above to the extent authorized by Owner.

2. Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts shall accrue to Contractor unless Owner deposits funds with Contractor with which to make payments, in which case the cash discounts shall accrue to Owner. All trade discounts, rebates, and refunds and returns from sale of surplus materials and equipment shall accrue to Owner, and Contractor shall make provisions so that they may be obtained.
3. Payments made by Contractor to Subcontractors for Work performed by Subcontractors. If required by Owner, Contractor shall obtain competitive bids from subcontractors acceptable to Owner and Contractor and shall deliver such bids to Owner, who will then determine, with the advice of Engineer, which bids, if any, will be acceptable. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work plus a fee, the Subcontractor's Cost of the Work and fee shall be determined in the same manner as Contractor's Cost of the Work and fee as provided in this Paragraph 13.01.
4. Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed for services specifically related to the Work.
5. Supplemental costs including the following:
  - a. The proportion of necessary transportation, travel, and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.
  - b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office, and temporary facilities at the Site, and hand tools not owned by the workers, which are consumed in the performance of the Work, and cost, less market value, of such items used but not consumed which remain the property of Contractor.
  - c. Rentals of all construction equipment and machinery, and the parts thereof, whether rented from Contractor or others in accordance with rental agreements approved by Owner with the advice of Engineer, and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs shall be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts shall cease when the use thereof is no longer necessary for the Work.
  - d. Sales, consumer, use, and other similar taxes related to the Work, and for which Contractor is liable, as imposed by Laws and Regulations.
  - e. Deposits lost for causes other than negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.
  - f. Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by Contractor in connection with the performance of the Work (except losses and damages within the deductible amounts of property insurance established in accordance with Paragraph 6.05), provided such losses and damages have resulted from causes

other than the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses shall include settlements made with the written consent and approval of Owner. No such losses, damages, and expenses shall be included in the Cost of the Work for the purpose of determining Contractor's fee.

- g. The cost of utilities, fuel, and sanitary facilities at the Site.
- h. Minor expenses such as communication service at the Site, express and courier services, and similar petty cash items in connection with the Work.
- i. The costs of premiums for all bonds and insurance that Contractor is required by the Contract Documents to purchase and maintain.

C. *Costs Excluded:* The term Cost of the Work shall not include any of the following items:

- 1. Payroll costs and other compensation of Contractor's officers, executives, principals (of partnerships and sole proprietorships), general managers, safety managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks, and other personnel employed by Contractor, whether at the Site or in Contractor's principal or branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 13.01.B.1 or specifically covered by Paragraph 13.01.B.4. The payroll costs and other compensation excluded here are to be considered administrative costs covered by the Contractor's fee.
- 2. Expenses of Contractor's principal and branch offices other than Contractor's office at the Site.
- 3. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.
- 4. Costs due to the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property.
- 5. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraph 13.01.B.

D. *Contractor's Fee:* When the Work as a whole is performed on the basis of cost-plus, Contractor's fee shall be determined as set forth in the Agreement. When the value of any Work covered by a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price is determined on the basis of Cost of the Work, Contractor's fee shall be determined as set forth in Paragraph 11.04.C.

E. *Documentation:* Whenever the Cost of the Work for any purpose is to be determined pursuant to this Article 13, Contractor will establish and maintain records thereof in accordance with generally accepted accounting practices and submit in a form acceptable to Engineer an itemized cost breakdown together with supporting data.

### 13.02 Allowances

- A. It is understood that Contractor has included in the Contract Price all allowances so named in the Contract Documents and shall cause the Work so covered to be performed for such sums and by such persons or entities as may be acceptable to Owner and Engineer.

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

### 13.03 *Unit Price Work*

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

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

14.01 *Access to Work*

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

14.02 *Tests, Inspections, and Approvals*

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

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

- E. If the Contract Documents require the Work (or part thereof) to be approved by Owner, Engineer, or another designated individual or entity, then Contractor shall assume full responsibility for arranging and obtaining such approvals.
- F. If any Work (or the work of others) that is to be inspected, tested, or approved is covered by Contractor without written concurrence of Engineer, Contractor shall, if requested by Engineer, uncover such Work for observation. Such uncovering shall be at Contractor's expense unless Contractor had given Engineer timely notice of Contractor's intention to

cover the same and Engineer had not acted with reasonable promptness in response to such notice.

#### 14.03 *Defective Work*

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

#### 14.04 *Acceptance of Defective Work*

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

#### 14.05 *Uncovering Work*

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

- B. If any Work is covered contrary to the written request of Engineer, then Contractor shall, if requested by Engineer, uncover such Work for Engineer's observation, and then replace the covering, all at Contractor's expense.
- C. If Engineer considers it necessary or advisable that covered Work be observed by Engineer or inspected or tested by others, then Contractor, at Engineer's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as Engineer may require, that portion of the Work in question, and provide all necessary labor, material, and equipment.
  - 1. If it is found that the uncovered Work is defective, Contractor shall be responsible for all claims, costs, losses, and damages arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); and pending Contractor's full discharge of this responsibility the Owner shall be entitled to impose a reasonable set-off against payments due under Article 15.
  - 2. If the uncovered Work is not found to be defective, Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Times, or both, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction. If the parties are unable to agree as to the amount or extent thereof, then Contractor may submit a Change Proposal within 30 days of the determination that the Work is not defective.

#### 14.06 *Owner May Stop the Work*

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

#### 14.07 *Owner May Correct Defective Work*

- A. If Contractor fails within a reasonable time after written notice from Engineer to correct defective Work, or to remove and replace rejected Work as required by Engineer, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any other provision of the Contract Documents, then Owner may, after seven days written notice to Contractor, correct or remedy any such deficiency.
- B. In exercising the rights and remedies under this Paragraph 14.07, Owner shall proceed expeditiously. In connection with such corrective or remedial action, Owner may exclude Contractor from all or part of the Site, take possession of all or part of the Work and suspend Contractor's services related thereto, and incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere. Contractor shall allow Owner, Owner's representatives, agents and employees, Owner's other contractors, and Engineer and Engineer's consultants access to the Site to enable Owner to exercise the rights and remedies under this paragraph.
- C. All claims, costs, losses, and damages incurred or sustained by Owner in exercising the rights and remedies under this Paragraph 14.07 will be charged against Contractor as set-offs against payments due under Article 15. Such claims, costs, losses and damages will

include but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of Contractor's defective Work.

- D. Contractor shall not be allowed an extension of the Contract Times because of any delay in the performance of the Work attributable to the exercise by Owner of Owner's rights and remedies under this Paragraph 14.07.

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

### **15.01 Progress Payments**

- A. *Basis for Progress Payments:* The Schedule of Values established as provided in Article 2 will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to Engineer. Progress payments on account of Unit Price Work will be based on the number of units completed during the pay period, as determined under the provisions of Paragraph 13.03. Progress payments for cost-based Work will be based on Cost of the Work completed by Contractor during the pay period.
- B. *Applications for Payments:*
1. At least 20 days before the date established in the Agreement for each progress payment (but not more often than once a month), Contractor shall submit to Engineer for review an Application for Payment filled out and signed by Contractor covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment shall also be accompanied by a bill of sale, invoice, or other documentation warranting that Owner has received the materials and equipment free and clear of all Liens, and evidence that the materials and equipment are covered by appropriate property insurance, a warehouse bond, or other arrangements to protect Owner's interest therein, all of which must be satisfactory to Owner.
  2. Beginning with the second Application for Payment, each Application shall include an affidavit of Contractor stating that all previous progress payments received on account of the Work have been applied on account to discharge Contractor's legitimate obligations associated with prior Applications for Payment.
  3. The amount of retainage with respect to progress payments will be as stipulated in the Agreement.
- C. *Review of Applications:*
1. Engineer will, within 10 days after receipt of each Application for Payment, including each resubmittal, either indicate in writing a recommendation of payment and present the Application to Owner, or return the Application to Contractor indicating in writing Engineer's reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.
  2. Engineer's recommendation of any payment requested in an Application for Payment will constitute a representation by Engineer to Owner, based on Engineer's observations of the executed Work as an experienced and qualified design professional, and on Engineer's review of the Application for Payment and the accompanying data and schedules, that to the best of Engineer's knowledge, information and belief:

- a. the Work has progressed to the point indicated;
  - b. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, the results of any subsequent tests called for in the Contract Documents, a final determination of quantities and classifications for Unit Price Work under Paragraph 13.03, and any other qualifications stated in the recommendation); and
  - c. the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work.
3. By recommending any such payment Engineer will not thereby be deemed to have represented that:
- a. inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in the Contract; or
  - b. there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by Owner or entitle Owner to withhold payment to Contractor.
4. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment, including final payment, will impose responsibility on Engineer:
- a. to supervise, direct, or control the Work, or
  - b. for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or
  - c. for Contractor's failure to comply with Laws and Regulations applicable to Contractor's performance of the Work, or
  - d. to make any examination to ascertain how or for what purposes Contractor has used the money paid on account of the Contract Price, or
  - e. to determine that title to any of the Work, materials, or equipment has passed to Owner free and clear of any Liens.
5. Engineer may refuse to recommend the whole or any part of any payment if, in Engineer's opinion, it would be incorrect to make the representations to Owner stated in Paragraph 15.01.C.2.
6. Engineer will recommend reductions in payment (set-offs) necessary in Engineer's opinion to protect Owner from loss because:
- a. the Work is defective, requiring correction or replacement;
  - b. the Contract Price has been reduced by Change Orders;
  - c. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;
  - d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible; or



- e. Engineer has actual knowledge of the occurrence of any of the events that would constitute a default by Contractor and therefore justify termination for cause under the Contract Documents.

D. *Payment Becomes Due:*

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

E. *Reductions in Payment by Owner:*

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

remaining after deduction of the amount so withheld. Owner shall promptly pay Contractor the amount so withheld, or any adjustment thereto agreed to by Owner and Contractor, if Contractor remedies the reasons for such action. The reduction imposed shall be binding on Contractor unless it duly submits a Change Proposal contesting the reduction.

3. Upon a subsequent determination that Owner's refusal of payment was not justified, the amount wrongfully withheld shall be treated as an amount due as determined by Paragraph 15.01.C.1 and subject to interest as provided in the Agreement.

#### 15.02 *Contractor's Warranty of Title*

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

#### 15.03 *Substantial Completion*

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

- E. After Substantial Completion the Contractor shall promptly begin work on the punch list of items to be completed or corrected prior to final payment. In appropriate cases Contractor may submit monthly Applications for Payment for completed punch list items, following the progress payment procedures set forth above.
- F. Owner shall have the right to exclude Contractor from the Site after the date of Substantial Completion subject to allowing Contractor reasonable access to remove its property and complete or correct items on the punch list.

#### 15.04 *Partial Use or Occupancy*

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

#### 15.05 *Final Inspection*

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

#### 15.06 *Final Payment*

- A. *Application for Payment:*
  - 1. After Contractor has, in the opinion of Engineer, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of

inspection, annotated record documents (as provided in Paragraph 7.11), and other documents, Contractor may make application for final payment.

2. The final Application for Payment shall be accompanied (except as previously delivered) by:
  - a. all documentation called for in the Contract Documents;
  - b. consent of the surety, if any, to final payment;
  - c. satisfactory evidence that all title issues have been resolved such that title to all Work, materials, and equipment has passed to Owner free and clear of any Liens or other title defects, or will so pass upon final payment.
  - d. a list of all disputes that Contractor believes are unsettled; and
  - e. complete and legally effective releases or waivers (satisfactory to Owner) of all Lien rights arising out of the Work, and of Liens filed in connection with the Work.
3. In lieu of the releases or waivers of Liens specified in Paragraph 15.06.A.2 and as approved by Owner, Contractor may furnish receipts or releases in full and an affidavit of Contractor that: (a) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (b) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which Owner might in any way be responsible, or which might in any way result in liens or other burdens on Owner's property, have been paid or otherwise satisfied. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, Contractor may furnish a bond or other collateral satisfactory to Owner to indemnify Owner against any Lien, or Owner at its option may issue joint checks payable to Contractor and specified Subcontractors and Suppliers.

**B. *Engineer's Review of Application and Acceptance:***

1. If, on the basis of Engineer's observation of the Work during construction and final inspection, and Engineer's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, Engineer is satisfied that the Work has been completed and Contractor's other obligations under the Contract have been fulfilled, Engineer will, within ten days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of final payment and present the Application for Payment to Owner for payment. Such recommendation shall account for any set-offs against payment that are necessary in Engineer's opinion to protect Owner from loss for the reasons stated above with respect to progress payments. At the same time Engineer will also give written notice to Owner and Contractor that the Work is acceptable, subject to the provisions of Paragraph 15.07. Otherwise, Engineer will return the Application for Payment to Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case Contractor shall make the necessary corrections and resubmit the Application for Payment.

**C. *Completion of Work:*** The Work is complete (subject to surviving obligations) when it is ready for final payment as established by the Engineer's written recommendation of final payment.

**D. *Payment Becomes Due:*** Thirty days after the presentation to Owner of the final Application for Payment and accompanying documentation, the amount recommended by Engineer (less any further sum Owner is entitled to set off against Engineer's recommendation,

including but not limited to set-offs for liquidated damages and set-offs allowed under the provisions above with respect to progress payments). will become due and shall be paid by Owner to Contractor.

15.07 *Waiver of Claims*

- A. The making of final payment will not constitute a waiver by Owner of claims or rights against Contractor. Owner expressly reserves claims and rights arising from unsettled Liens, from defective Work appearing after final inspection pursuant to Paragraph 15.05, from Contractor's failure to comply with the Contract Documents or the terms of any special guarantees specified therein, from outstanding Claims by Owner, or from Contractor's continuing obligations under the Contract Documents.
- B. The acceptance of final payment by Contractor will constitute a waiver by Contractor of all claims and rights against Owner other than those pending matters that have been duly submitted or appealed under the provisions of Article 17.

15.08 *Correction Period*

- A. If within one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the terms of any applicable special guarantee required by the Contract Documents, or by any specific provision of the Contract Documents), any Work is found to be defective, or if the repair of any damages to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas used by Contractor as permitted by Laws and Regulations, is found to be defective, then Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:
  - 1. correct the defective repairs to the Site or such other adjacent areas;
  - 2. correct such defective Work;
  - 3. if the defective Work has been rejected by Owner, remove it from the Project and replace it with Work that is not defective, and
  - 4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others, or to other land or areas resulting therefrom.
- B. If Contractor does not promptly comply with the terms of Owner's written instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others).
- C. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications.
- D. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this paragraph, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.

- E. Contractor's obligations under this paragraph are in addition to all other obligations and warranties. The provisions of this paragraph shall not be construed as a substitute for, or a waiver of, the provisions of any applicable statute of limitation or repose.

## ARTICLE 16 – SUSPENSION OF WORK AND TERMINATION

### 16.01 *Owner May Suspend Work*

- A. At any time and without cause, Owner may suspend the Work or any portion thereof for a period of not more than 90 consecutive days by written notice to Contractor and Engineer. Such notice will fix the date on which Work will be resumed. Contractor shall resume the Work on the date so fixed. Contractor shall be entitled to an adjustment in the Contract Price or an extension of the Contract Times, or both, directly attributable to any such suspension. Any Change Proposal seeking such adjustments shall be submitted no later than 30 days after the date fixed for resumption of Work.

### 16.02 *Owner May Terminate for Cause*

- A. The occurrence of any one or more of the following events will constitute a default by Contractor and justify termination for cause:
  - 1. Contractor's persistent failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the Progress Schedule);
  - 2. Failure of Contractor to perform or otherwise to comply with a material term of the Contract Documents;
  - 3. Contractor's disregard of Laws or Regulations of any public body having jurisdiction; or
  - 4. Contractor's repeated disregard of the authority of Owner or Engineer.
- B. If one or more of the events identified in Paragraph 16.02.A occurs, then after giving Contractor (and any surety) ten days written notice that Owner is considering a declaration that Contractor is in default and termination of the contract, Owner may proceed to:
  - 1. declare Contractor to be in default, and give Contractor (and any surety) notice that the Contract is terminated; and
  - 2. enforce the rights available to Owner under any applicable performance bond.
- C. Subject to the terms and operation of any applicable performance bond, if Owner has terminated the Contract for cause, Owner may exclude Contractor from the Site, take possession of the Work, incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere, and complete the Work as Owner may deem expedient.
- D. Owner may not proceed with termination of the Contract under Paragraph 16.02.B if Contractor within seven days of receipt of notice of intent to terminate begins to correct its failure to perform and proceeds diligently to cure such failure.
- E. If Owner proceeds as provided in Paragraph 16.02.B, Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price exceeds the cost to complete the Work, including all related claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals) sustained by Owner, such excess will be paid to Contractor. If the cost to complete the Work including such related claims, costs, losses,

and damages exceeds such unpaid balance, Contractor shall pay the difference to Owner. Such claims, costs, losses, and damages incurred by Owner will be reviewed by Engineer as to their reasonableness and, when so approved by Engineer, incorporated in a Change Order. When exercising any rights or remedies under this paragraph, Owner shall not be required to obtain the lowest price for the Work performed.

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

#### 16.03 *Owner May Terminate For Convenience*

- A. Upon seven days written notice to Contractor and Engineer, Owner may, without cause and without prejudice to any other right or remedy of Owner, terminate the Contract. In such case, Contractor shall be paid for (without duplication of any items):
  - 1. completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Work;
  - 2. expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses; and
  - 3. other reasonable expenses directly attributable to termination, including costs incurred to prepare a termination for convenience cost proposal.
- B. Contractor shall not be paid on account of loss of anticipated overhead, profits, or revenue, or other economic loss arising out of or resulting from such termination.

#### 16.04 *Contractor May Stop Work or Terminate*

- A. If, through no act or fault of Contractor, (1) the Work is suspended for more than 90 consecutive days by Owner or under an order of court or other public authority, or (2) Engineer fails to act on any Application for Payment within 30 days after it is submitted, or (3) Owner fails for 30 days to pay Contractor any sum finally determined to be due, then Contractor may, upon seven days written notice to Owner and Engineer, and provided Owner or Engineer do not remedy such suspension or failure within that time, terminate the contract and recover from Owner payment on the same terms as provided in Paragraph 16.03.
- B. In lieu of terminating the Contract and without prejudice to any other right or remedy, if Engineer has failed to act on an Application for Payment within 30 days after it is submitted, or Owner has failed for 30 days to pay Contractor any sum finally determined to be due, Contractor may, seven days after written notice to Owner and Engineer, stop the Work until payment is made of all such amounts due Contractor, including interest thereon. The provisions of this paragraph are not intended to preclude Contractor from submitting a Change Proposal for an adjustment in Contract Price or Contract Times or otherwise for

expenses or damage directly attributable to Contractor's stopping the Work as permitted by this paragraph.

## **ARTICLE 17 – FINAL RESOLUTION OF DISPUTES**

### **17.01 *Methods and Procedures***

- A. *Disputes Subject to Final Resolution:* The following disputed matters are subject to final resolution under the provisions of this Article:
  - 1. A timely appeal of an approval in part and denial in part of a Claim, or of a denial in full; and
  - 2. Disputes between Owner and Contractor concerning the Work or obligations under the Contract Documents, and arising after final payment has been made.
- B. *Final Resolution of Disputes:* For any dispute subject to resolution under this Article, Owner or Contractor may:
  - 1. elect in writing to invoke the dispute resolution process provided for in the Supplementary Conditions; or
  - 2. agree with the other party to submit the dispute to another dispute resolution process; or
  - 3. if no dispute resolution process is provided for in the Supplementary Conditions or mutually agreed to, give written notice to the other party of the intent to submit the dispute to a court of competent jurisdiction.

## **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.



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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 except as amended by Article 1. Additional terms used in these Supplementary Conditions have the meanings stated in Article 1 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.

ARTICLE 1 – DEFINITIONS AND TERMINOLOGY

SC 1.01 Add the following language at the end of last sentence of Paragraph 1.01.A.8:

**The Change Order form to be used on this Project is provided by the Owner. Owner approval is required before Change Orders are effective.**

SC 1.01 Delete Paragraph 1.01.A.15 in its entirety and add the following in its place:

**Contract Times - The number of days or the dates stated in the Agreement to complete the Work so that it is ready for final payment as evidenced by Engineer's written recommendation.**

SC 1.01 Add the following new language at the end of the last sentence of Paragraph 1.01.A.28:

**The authorized representative of Owner assigned to this project is herein, referred to as Project Director.**

SC 1.01 Add the following new language at the end of the last sentence of Paragraph 1.01.A.48:

**A Work Change directive cannot change Contract Price or Contract Times. Contract Price or Contract time can only be modified with a Change Order.**

ARTICLE 2 – PRELIMINARY MATTERS

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

**A. OWNER shall furnish to the Contractor three (3) copies of the Contract Document (including one fully executed counter part of the Agreement) and one copy in electronic portable document format (PDF).**

SC 2.06 Delete Paragraph 2.06.B in its entirety.

ARTICLE 4 – COMMENCEMENT AND PROGRESS OF THE WORK

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SC 4.01 Delete Paragraph 4.01.A in its entirety and add the following in its place:

- A. Notice to Proceed – The OWNER will, after executing the Contract, issue to the Contractor in writing a Notice to Proceed. The beginning of the time allotted for the Contract completion will be 10 days after the date of the Notice to Proceed, or the day on which Work is actually started, whichever occurs first.**

SC. 4.05 Add the following paragraphs immediately after Paragraph 4.05.C.2

- a. Claims for delays due to abnormal weather conditions shall be handled on a monthly basis. The Contractor shall submit a notice of a claim for a weather delay in each particular month on the last day of that month. Failure to submit notice as required shall constitute a waiver of any claim because of abnormal weather conditions for that month. The Contractor shall submit the notice to the Engineer. Within seven (7) calendar days after the submission of the weather claim notice, the Contractor will submit to the Engineer evidence to justify the claim. This evidence will include the following:**

- 1. The days of the month on which the adverse weather occurred. The Contractor will also provide the hours of the day during which the adverse weather occurred at the job site.**
- 2. A detailed description of the activities that were affected by the adverse weather.**
- 3. A detailed description of claim for the impact of the adverse weather on the critical path of the schedule.**

- b. The Engineer will review the claim evidence submitted by the Contractor. The Engineer will first compare the adverse weather received during the month against the weather that could have been anticipated for that month, then compare the number of days in the month that exceeded 0.1 inches, then verify that the days requested had greater than 1-inch of precipitation. Anticipated weather for a month will be defined as the average of the weather conditions that have occurred in that month for the years 2014-2016, as documented by the NOAA National Data Center at the St. Augustine Lighthouse.**

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

SC 5.03 Add the following paragraphs immediately after Paragraph 5.03.A.3

- A. Report dated December 27, 2017 titled “Report of Geotechnical Exploration For Shores WWTP Master Pump Station Upgrades, St. Augustine, Florida” is included in the Specifications as Appendix A**

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- **Geotechnical Report.**

ARTICLE 6 – BONDS AND INSURANCE

SC 6.01 Amend Paragraph A to read as follows:

- A. Contractor shall furnish a public construction bond, 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. The bond 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.**

SC 6.01 Amend Paragraph F to read as follows:

- F. Upon request, Owner shall provide a copy of the public construction bond to any Subcontractor, Supplier, or other person or entity claiming to have furnished labor or materials used in the performance of the Work.**

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

- K. The Contractor shall not commence work under this Contract until he/she has obtained all insurance required under this section and such insurance has been approved by the County. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida. The Contractor shall furnish proof of insurance to the County prior to the commencement of operations. The Certificate(s) shall clearly indicate the Contractor has obtained insurance of the type, amount, and classification as required by contract and that no material change or cancellation of the insurance shall be effective without thirty (30) days prior written notice to the County. Certificates shall specifically include the County as Additional Insured for all lines of coverage except Workers' Compensation and Professional Liability. A copy of the endorsement must accompany the certificate. Compliance with the foregoing requirements shall not relieve the Contractor of its liability and obligations under this Contract.**

**Certificate Holder Address:**

**St. Johns County, a political subdivision of the State of Florida  
500 San Sebastian View  
St. Augustine, FL 32084**

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- SC 6.03 Delete Paragraph 6.03.A. and replace with the following paragraph:
- A. **Workers' Compensation:** The Contractor shall maintain during the life of this Contract, adequate Workers' Compensation Insurance in at least such amounts as are required by the law for all of its per Florida Statute 440.02.
- SC 6.03 Delete paragraph 6.03 B and replace with the following paragraph:
- B. **Comprehensive General Liability:** The Contractor shall maintain during the life of this Contract, Comprehensive General Liability Insurance with minimum limits of \$1,000,000 per occurrence, \$2,000,000 aggregate to protect the Contractor from claims for damages for bodily injury, including wrongful death, as well as from claims of property damages which may arise from any operations under this Contract, whether such operations be by the Contractor or by anyone directly employed by or contracting with the Contractor.
- SC 6.03 Delete paragraph 6.03 C in its entirety.
- SC 6.03 Delete paragraph 6.03 D and replace with the following paragraph:
- D. **Automotive Liability:** The Contractor shall maintain during the life of this Contract, Comprehensive Automobile Liability Insurance with minimum limits of \$2,000,000 combined single limit for bodily injury and property damage liability to protect the Contractor from claims for damages for bodily injury, including the ownership, use, or maintenance of owned and non-owned automobiles, including rented/hired automobiles whether such operations be by the Contractor or by anyone directly or indirectly employed by a Contractor.
- SC 6.03 Delete paragraph 6.03 E and replace with the following paragraph:
- E. **Umbrella or Excess Liability:** The Contractor shall maintain Umbrella or Excess Liability Insurance covering workers compensation, commercial general liability and business auto liability with minimum limits of liability of \$1,000,000.
- SC 6.03 Delete Paragraph 6.03.F in its entirety and replace with the following paragraph:
- F. **Builder's Risk:** The CONTRACTOR shall maintain during the life of this Contract, adequate Builder's Risk Insurance in the amount of the initial contract amount plus the values of subsequent modifications, change orders, and loss of materials supplied or installed by others comprising the value of the entire project at the site on a replacement cost basis.
- SC 6.03 Delete paragraph 6.03.G in its entirety.
- SC 6.03 Delete Paragraph 6.03.H in its entirety and replace with the following paragraph:

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- H. **Contractor's professional liability insurance:** The Contractor shall maintain during the life of the contract, Professional Liability or Errors and Omissions Insurance with minimum limits of \$1,000,000, if applicable.

ARTICLE 7 – CONTRACTOR'S RESPONSIBILITIES

SC 7.02 Amend the first sentence of Paragraph 7.02.B by adding 7:00 AM to 5:00 PM.

SC 7.04 Delete Paragraph 7.04 in its entirety and replace with the following paragraph:

- A. **Should the Contractor wish to deviate from the design provided herein, costs for review and approval of these modifications will be borne by the Contractor. The Contractor must submit a request for deviation and acknowledgement that they are responsible for all costs prior to the Engineer reviewing said changes.**
- B. **For products, materials, or equipment specified by name and which do not include "Engineer Approved Equal" or "Or Equal", there is not an option to provide a substitution and one of the product manufacturers or equipment listed shall be provided.**
- C. **Any equipment, materials, or products that the Contractor wishes to provide an alternate product, material, or equipment vendor and which are listed in the technical specifications or on the Drawings as "Engineer Approved Equal" or "Or Equal" shall be approved PRIOR to the bid opening. Contractor shall submit all information for approval by the Engineer a minimum of 14-days prior to the bid opening. Substitutions provided after that date will not be accepted or allowed.**
1. **Provide the following information with the substitutions package for review during the bid phase:**
- a. **Name of the material or equipment for which it is to be substituted and a complete description of the proposed substitute, including drawings, cut sheets, performance and testing data, and any other information necessary for the evaluation. Standard brochures are not acceptable. Information shall be specific and detailed for this project.**
  - b. **Provide a statement comparing the product, material, or equipment with the technical specification or drawings with any deviations, changes, or modifications required clearly outlined.**
  - c. **Provide a list of references of similar sized equipment or installation references for review. At least three separate references shall be provided.**
2. **Approval of substitutions is strictly at the discretion of the Owner and Engineer.**

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SC 7.05 Delete Paragraph 7.05 in its entirety.

SC 7.06 Amend Paragraph 7.06.A by adding the following text to the end of the paragraph:

**The Contractor shall not award work valued at more than 50 percent of the Contract Price less cost of direct purchased items and the Sales Tax Exemption Agreement to Subcontractor(s), without prior written approval of the OWNER.**

SC 7.16 Delete Paragraph 7.16.B. and replace with the following paragraph:

***Submittal Procedures for Shop Drawings, Samples and Other Submittals:* Contractor shall submit as per Section 01300 of the Specifications.**

SC 7.16 Delete Paragraph 7.16.C in its entirety.

SC 7.16 Amend Paragraph 7.16.E.2 by striking out the following: "~~three~~" and replace with:  
**two**

SC 7.16 Amend Paragraph 7.16.E.2 by striking out the following: "~~fourth~~" and replace with:  
**third**

ARTICLE 9 – OWNER'S RESPONSIBILITIES

SC 9.13 Add the following new paragraph immediately after Paragraph 9.12.

**9.13 Project Director**

- A. The Project Director, unless otherwise directed by the Owner shall perform those duties and discharge those responsibilities allocated to the Project Director as set forth in this Agreement. The Project Director shall be the Owner's representative from the effective date of this Agreement until Final Payment has been made. The Project Director shall be authorized to act on behalf of the Owner only to the extent provided in this Agreement.**
- B. The Owner and the Contractor shall communicate with each other in the first instance through the Engineer and Project Director.**
- C. The Project Director shall be the initial interpreter of the requirements of the drawings and specifications and the judge of the performance there under by the Contractor. The Project Director shall render written or graphic interpretations necessary for the proper execution or progress of the Work with reasonable promptness on request of the Contractor.**
- D. The Engineer and Project Director shall review the Contractor's Applications for Payment and shall certify to the Owner for payment to the**

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Contractor, those amounts then due to the Contractor as provided in this Agreement.

- E. The Project Director shall have authority to reject Work, which is defective or does not conform to the requirements of this Agreement. If the Project Director deems it necessary or advisable, the Project Director shall authority to require additional inspection or testing of the Work for compliance with Contract requirements at Contractor's expense.
- F. The Project Director shall review and approve, or take other appropriate action as necessary, concerning the Contractor's submittals including Product Data and Samples. Such review, approval or other action shall be for the sole purpose of determining conformance with the design concept and information given through the Contract Documents.
- G. The Project Director shall prepare Change Orders and may authorize minor changes in the Work by field order as provided elsewhere herein.
- H. The Project Director shall, upon written request from the Contractor, conduct inspections to determine the date of Substantial Completion and the date of Final Completion, shall receive and forward to the Owner for the Owner's review and records, written warranties and related documents required by this Agreement and shall issue a Final Certificate for Payment upon compliance with the requirements of this Agreement.
- I. The Project Director's decision in matters relating to aesthetic effect shall be final if consistent with the intent of this Agreement.

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

SC 15.01 Add the following language at the end of Paragraph 15.01.B.3:

**No payments will be made that would deplete the retainage, place in escrow any funds that are required for retainage, or invest the retainage for the benefit of the Contractor.**

SC 15.01 Add the following new paragraph immediately after Paragraph 15.01.B.3

**4. The Application for Payment form to be used on this Project is supplied by Owner. The OWNER must approve all Applications for Payment before payment is made.**

SC 15.01 Delete Paragraph 15.01.D.1 in its entirety and replace with the following:

**The Application for Payment with Engineer's recommendations will be presented to the OWNER and Agency for consideration. If the OWNER finds the Application for Payment acceptable, the recommended amount less any reduction under the provisions of Paragraph 15.01.E will become due twenty (20) days after the Application for Payment is presented to the OWNER, and the OWNER will make payment to the Contractor.**

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- SC 15.02 Amend Paragraph 15.02.A by striking out the following: "~~no later than seven days after the time of payment by Owner~~" and replace with:
- no later than the time of payment by OWNER.**
- SC 16.02 Add the following new paragraphs immediately after Paragraph 16.02.A.4
5. **fails to make prompt payment to Subcontractors, or for materials or labor;**
  6. **persistently disregards laws, ordinances, rules, regulations or orders of any public authority having jurisdiction; or**
  7. **otherwise substantially violates a material provision of this Agreement,**
- SC 16.02 Replace the words **performance bond** with the words **public construction bond** in Paragraph 16.02.B.2
- SC 16.02 Replace the words **performance bond** with the words **public construction bond** in Paragraph 16.02.C
- SC 16.02 Replace the words **payment bond or performance bond** with the words **public construction bond** in Paragraph 16.02.F.
- SC 16.02 Replace the words **payment bond or performance bond** with the words **public construction bond** in Paragraph 16.02.G.
- SC 16.03 Add the following new paragraph immediately after Paragraph 16.03.B
- C. **The Contractor shall incur no further obligations in connection with the Work and the Contractor shall stop Work when such termination becomes effective. The Contractor shall also terminate outstanding orders and subcontracts. The Contractor shall settle liabilities and claims arising out of the termination of subcontracts and orders. The Owner may direct the Contractor to assign the Contractor's right, title and interest under terminated orders or subcontracts to the Owner or its designee.**
  - D. **The Contractor shall transfer title and deliver to the Owner such completed or partially completed Work and materials, equipment, parts, fixtures, information and Contract rights as the Contractor has.**
  - E. **The Contractor shall submit a termination claim to the Project Director specifying the amounts due because of the termination for convenience together with costs, pricing or other data required by the Project Director. If the Contractor fails to file a termination claim within one (1) year from the effective date of termination, the Owner shall pay the Contractor, an amount derived in accordance with subparagraph (G) below.**
  - F. **The Owner and the Contractor may agree to compensation, if any, due to the Contractor hereunder.**
  - G. **Absent agreement to the amount due to the Contractor, the Owner shall pay the Contractor the following amounts;**



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1. **Contract prices for labor, materials, equipment, and other services accepted under this Agreement;**
2. **Reasonable costs incurred in preparing to perform and in performing a portion of the Work prior to termination and not included in (G.1.) or (G.2), and in terminating the Contractor's performance, plus a fair and reasonable allowance for overhead and profit thereon (such profit shall not include anticipated profit or consequential damages); provided, however, that if it appears that the Contractor would have not profited or would have sustained a loss if the entire Contract had been completed, no profit shall be allowed or included and the amount of compensation shall be reduced to reflect the anticipated rate of loss, if any;**
3. **Reasonable costs of settling and paying claims arising out of the termination of Subcontracts or orders pursuant to Subparagraph 16.03.C of this Paragraph. These costs shall not include amounts paid in accordance with other provisions hereof.**

**H. The total sum to be paid the Contractor under this Subparagraph 16.03 shall not exceed the total Contract Price, as properly adjusted, reduced by the amount of payments otherwise made, and shall in no event include duplication of payment.**

SC 18.01 Delete from Paragraph A.2 the words "registered or certified."

SC 18.09 Add the following new paragraph immediately after Paragraph 18.08

**18.09 Contractor's Employment Opportunity**

- A. **The Contractor and all Subcontractors shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin or age.**
- B. **The Contractor shall take affirmative action to insure that applicants are employed, and that employees are treated during employment without regard to their race, religion, color, sex, national origin or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertisement, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the policies of non-discrimination.**
- C. **The Contractor and all Subcontractors shall, in all solicitations or advertisements for employees placed by them or on their behalf, state that all qualified applicants shall receive consideration for employment without regard to race, religion, color, sex, national origin or age.**

SC 18.10 Add the following new paragraph immediately after Paragraph 18.09

**18.10 Apprenticeship Law (Chapter 446, Florida Statutes)**

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- A. The Contractor shall make a diligent effort to hire for Performance of the Contract a number of apprentices in each occupation which bears to the average number of journeyman in that occupation to be employed in the performance of the Contract, the ratio of at least one (1) apprentice or trainee to every five (5) journeymen.
- B. The Contractor shall, when feasible and except when the number of apprentices or trainees to be hired is fewer than four (4), assure that twenty-five (25) percent of such apprentices or trainees are in their first year of training. Feasibility here involves a consideration of the availability of training opportunities for first year apprentices or trainees, the hazardous nature of the Work for beginning workers, and excessive unemployment of apprentices or trainees in their second or subsequent years of training.
- C. The Contractor, during the performance of the Contract, shall make diligent efforts to employ the number of apprentices or trainees necessary to meet requirements of Subparagraphs a. and b. However, on-the-job training programs shall only be established in non-apprenticable trades or occupations to meet the requirements of this section.
- D. The Contractor agrees to return records of employment, by trade, of the number of apprentices or trainees by first year of training, and the number of journeymen and the wages paid, and hours of work, of such persons on a form as prescribed by the Bureau of Apprenticeship of the Division of Labor at three (3) month intervals. Submission of duplicate copies of forms submitted to the United States Department of Labor shall be sufficient compliance with the provisions of the section.
- E. The Contractor agrees to supply the Bureau of Apprenticeship of the Division of Labor, at three (3) months intervals, a statement describing steps taken toward making diligent effort and containing a breakdown by craft or hours worked and wages paid for first year apprentices or trainees, other apprentices or trainees and journeymen.
- F. The Contractor agrees to insert in any Subcontract under this Agreement the requirements contained in this section. "The term Contractor" as used in such clauses and any Subcontract shall mean the Subcontractor.
- G. Anything herein to the Contrary notwithstanding, Contractor agrees to comply with all of the provisions of Florida Statutes 446 and all regulations prescribed by the Bureau of Apprenticeship of the Division of Labor.

SC 18.11 Add the following new paragraph immediately after Paragraph 18.10.

**18.11 Public Records**

- A. The cost of reproduction, access to, disclosure, non-disclosure, or exemption of records, data, documents, and/or materials, associated with this Agreement shall be subject to the applicable provisions of the Florida Public Records Law (Chapter 119, Florida Statutes), and other applicable State and Federal provisions. Access to such public records, may not be

SECTION 00800  
SUPPLEMENTARY CONDITIONS

blocked, thwarted, and/or hindered by placing the public records in the possession of a third party, or an unaffiliated party.

- B.** In accordance with Florida law, to the extent that Contractor's performance under this Contract constitutes an act on behalf of the County, Contractor shall comply with all requirements of Florida's public records law. Specifically, if Contractor is expressly authorized, and acts on behalf of the County under this Agreement, Contractor shall:

(1) Keep and maintain public records that ordinarily and necessarily would be required by the County in order to perform the Services;

(2) Upon request from the County's custodian of public records, provide the County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost as provided in Chapter 119, Florida Statutes, or as otherwise provided by law;

(3) Ensure that public records related to this Agreement that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by applicable law for the duration of this Agreement and following completion of this Agreement if the Contractor does not transfer the records to the County; and

(4) Upon completion of this Agreement, transfer, at no cost, to the County all public records in possession of the Contractor or keep and maintain public records required by the County to perform the Services.

- C.** If the Contractor transfers all public records to the County upon completion of this Agreement, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of this Agreement, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the County, upon request from the County's custodian of public records, in a format that is compatible with the County's information technology systems.

- D.** Failure by the Contractor to comply with the requirements of this section shall be grounds for immediate, unilateral termination of this Agreement by the County.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO ITS DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT: OCA, ATTN: Public Records Manager, 500 San Sebastian View, St. Augustine, FL 32084, PH: (904) 209-0805, EMAIL: [publicrecords@sjcfl.us](mailto:publicrecords@sjcfl.us).



## St. Johns County Board of County Commissioners

Purchasing Division

### NOTICE OF INTENT TO AWARD

April 25, 2018

**RE: Bid No: 18-41 – Shores Wastewater Treatment Plant Master Pump Station Replacement**

Please be advised that the Purchasing Department of St. Johns County is issuing this notice of its Intent to Award a contract to G&H Underground Construction, Inc. as the lowest responsive, responsible bidder for Bid No: 18-41 – Shores Wastewater Treatment Plant Master Pump Station Replacement. This notice will remain posted St. Johns County Purchasing Department bulletin board until 9:00 AM, Monday, April 30, 2018.

Any person (including any bidder or proposer) who is, or claims to be, adversely affected by the County's decision or proposed decision shall file a written Notice of Protest with the Purchasing Department of St. Johns County within 72 hours after the posting of the notice of decision or proposed decision. Failure to file a Notice of Protest within the time prescribed in Section 304.10 of the St. Johns County Purchasing Manual (the Bid Protest Procedure), or failure to post the bond or other security required by the County within the time allowed for filing a bond, shall constitute a waiver of proceedings and a waiver of the right to protest. The protest procedures may be obtained from the Purchasing Department and are included in the County's Purchasing Manual. All of the terms and conditions of the County Purchasing Manual are incorporated herein by reference and are fully binding.

Should the Purchasing Department receive no protests in response to this notice, an agenda item will be submitted to the St. Johns County Board of County Commissioners for their consideration and subsequent approval to award a contract.

Please forward all correspondence, requests or inquiries directly to my attention at the information provided below.

Sincerely,  
St. Johns County  
Board of County Commissioners

  
County Representative Signature

Date: 4/25/18

Leigh A. Daniels, CPPB,  
Procurement Supervisor  
(904) 209-0154 – Direct  
(904) 209-0155 – Fax  
[ldaniels@sjcfl.us](mailto:ldaniels@sjcfl.us)



ST. JOHNS COUNTY  
PURCHASING DEPARTMENT

500 San Sebastian View  
St. Augustine, Florida 32084

INTEROFFICE MEMORANDUM

TO: Scott Trigg, P.E., Chief Engineer – Capital Projects  
FROM: Leigh Daniels, CPPB, Procurement Supervisor *LD*  
SUBJECT: Department Approval for Bid No. 18-41, Shores WWTP Master Pump Station  
Replacement  
DATE: April 18, 2018

Attached is a copy of the technical proposal review summary sheet.

Please review, evaluate and make a written recommendation for this project. Also, indicate the budgeted amount for this item along with the appropriate charge code and return at your earliest convenience. We will prepare the agenda item and contract.

Please let me know if I can assist your department in any other way.

Department Head Approval *Scott Trigg*  
Date *4-18-18*  
Budget Amount *\$ 1,500,000*  
Account Funding Title *2016 Shores WWTP Booster*  
Funding Charge Code *4483-56302-65007-56302*  
Award to *G & H Underground*  
Award Amount *\$ 1,145,016.00*

ST JOHNS COUNTY

APR 19 '18

PURCHASING

**ST. JOHNS COUNTY  
BID TABULATION**

*LD*  
LEIGH DANIELS  
BRYAN MATUS 2

**BID TITLE** SHORES WWTP MASTER PUMP STATION REPLACEMENT

**BID NUMBER** 18-41

**OPENING DATE/TIME** April 18, 2018 2:00 PM

**POSTING DATE/TIME** FROM 04/18/18 3:00 PM UNTIL 04/23/18 3:00 PM

ANY BIDDER AFFECTED ADVERSELY BY AN INTENDED DECISION WITH RESPECT TO THE AWARD OF ANY BID, SHALL FILE WITH THE PURCHASING DEPARTMENT FOR ST. JOHNS COUNTY, A WRITTEN NOTICE OF INTENT FILE A PROTEST NOT LATER THAN SEVENTY-TWO (72) HOURS (EXCLUDING SATURDAY, SUNDAY AND LEGAL HOLIDAYS) AFTER THE POSTING OF THE BID TABULATION PROTEST PROCEDURES MAY BE OBTAINED IN THE PURCHASING DEPARTMENT.

**OPENED BY**  
**TABULATED BY**  
**VERIFIED BY**

BIDDERS	BASE BID PRICE	TESTING ALLOWANCE	FPL ALLOWANCE	TOTAL BID PRICE	BID BOND	ATTENDED MANDATORY PRE-BID MEETING	ADDENDUM # 1, ADDENDUM # 2 & ADDENDUM # 3
SAWCROSS, INC	\$1,477,000.00	\$5,000.00	\$1,500.00	\$1,483,500.00	Yes	Yes	Yes
PETTICOAT-SCHMITT CIVIL CONTRACTORS, INC	\$1,583,000.00	\$5,000.00	\$1,500.00	\$1,589,500.00	Yes	Yes	Yes
G & H UNDERGROUND CONSTRUCTION	\$1,138,516.00	\$5,000.00	\$1,500.00	\$1,145,016.00	Yes	Yes	Yes

BID AWARD DATE - \_\_\_\_\_

BID NO: 18-41

OFFICIAL COUNTY BID FORM  
ST. JOHNS COUNTY, FLORIDA

PROJECT: SHORES WWTP MASTER PUMP STATION REPLACEMENT

TO: THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA

DATE SUBMITTED: 4-18-18

BID PROPOSAL OF

G+H Underground Construction, Inc  
Full Legal Company Name

(904) 829-8199

2200 N Ponce De Leon Blvd Ste 11 St Augustine, FL 32084  
Mailing Address

Telephone Number

904-810-0531  
Fax Number

Bidders: Having become familiar with requirements of the project, and having carefully examined the Bidding Documents and Specifications entitled for Bid No: 18-41, SHORES WWTP MASTER PUMP STATION REPLACEMENT in St. Johns County, Florida, the undersigned proposes to furnish all materials, labor and equipment, supervision and all other requirements necessary to comply with the Contract Documents to submit the following Bid Proposal summarized as follows:

BASE BID

FOR: SHORES WWTP MASTER PUMP STATION REPLACEMENT as per plans and specifications.

BASE BID PRICE:

\$ 1,138,516.00  
Base Bid Price (Numerical)

one million one hundred thirty eight thousand five hundred sixteen/100 Dollars  
Base Bid Price (Amount written or typed in words)

Bidder shall insert the Lump Sum Base Bid Price in numerals and in words. Any discrepancy between the two submitted amounts shall be determined by the amount written in words.

TESTING SERVICE ALLOWANCE\*:

\$ 5,000.00  
Total Testing Service Allowance Price (Numerical)

Five Thousand and Zero /100 Dollars  
(Amount written or typed in words)

\*The allowance shown is an estimated unit price allowance and will be adjusted (+/-) upon receipt of an invoice for applicable testing.

**FPL ALLOWANCE\*:**

\$ 1,500.00  
Total FPL Allowance (Numerical)

One Thousand and Five Hundred /100 Dollars  
(Amount written or typed in words)

\*The allowance shown is an estimated unit price allowance and will be adjusted (+/-) upon receipt of an invoice from FPL.

**TOTAL BID PRICE (Base Bid + Allowances):**

\$ 1,145,016.<sup>00</sup>  
Total Bid Price (Numerical)

ONE million one hundred forty five thousand sixteen dollars /100 Dollars  
Total Bid Price (Amount written or typed in words)

Bidder shall insert the Total Bid Price in numerals and in words. Any discrepancy between the two submitted amounts shall be determined by the amount written in words.

During the preparation of the Bid, the following addenda, if any, were received:

No.: 1 Date Received: 4-2-18

No.: 2 Date Received: 4-6-18

No.: 3 Date Received: 4-10-18

We, the undersigned, hereby declare that no person or persons, firm or corporation, other than the undersigned are interested, in this proposal, as principals, and that this proposal is made without collusion with any person, firm or corporation, and we have carefully and to our satisfaction examined the Bid Documents and Project Specifications.

We have made a full examination of the location of the proposed work and the sources of supply of materials, and we hereby agree to furnish all necessary labor, equipment and materials, fully understanding that any quantities shown therewith are approximate only, and that we will fully complete all requirements therein as prepared by the Owner, within the same time limit specified in the Bid Documents as indicated above.

If the Undersigned is notified of the acceptance of this Bid Proposal by the Board within ninety (90) calendar days for the time set for the opening of Bids, the Undersigned further agrees, to execute a contract for the above work within ten (10) days after notice that his Bid has been accepted for the above stated compensation in the form of a Contract presented by the Owner.

The Undersigned further agrees that security in the form of a Bid Bond, certified or cashier's check in the amount of not less than five percent (5%) of Total Bid Price, payable to the Owner, accompanies this Bid; that the amount is not to be construed as a penalty, but as liquidated damages which said Owner will sustain by failure of the Undersigned to execute and deliver the Contract and Bond within ten (10) days of the written notification of the Award of the Contract to him; thereupon, the security shall become the property of the Owner, but if this Bid is not accepted within ninety (90) days of



---

the time set for the submission of Bids, or if the Undersigned delivers the executed Contract upon receipt, the Security shall be returned to the Bidder within seven (7) working days.

**CORPORATE/COMPANY**

Full Legal Company Name: G & H Underground Construction, Inc. (Seal)

By: Wade Gibby Wade Gibby, President  
Signature of Authorized Representative (Name & Title typed or printed)

By: \_\_\_\_\_  
Signature of Authorized Representative (Name & Title typed or printed)

Address: 2200 N Ponce De Leon Blvd Ste 11 St Augustine, Fl. 32084

Telephone No.: (904) 829-8199 Fax No.: (904) 810-0531

Email Address for Authorized Company Representative: ghunderground@bellsouth.net

Federal I.D. Tax Number: 06-1747700 DUNS #: \_\_\_\_\_  
(If applicable)

**INDIVIDUAL**

Name: \_\_\_\_\_  
(Signature) (Name typed or printed) (Title)

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

Telephone No.: ( ) \_\_\_\_\_ Fax No.: \_\_\_\_\_

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

Federal I.D. Tax Number: \_\_\_\_\_

- Submittal Requirements:
- Official County Bid Form
  - Attachment "A" – St Johns County Board of County Commissioners Affidavit
  - Attachment "B" – Certificate as to Corporate Principal
  - Attachment "C" – License/Certification List
  - Attachment "D" – List of Proposed Sub-Contractors/Suppliers
  - Attachment "E" – Conflict of Interest Disclosure Form
  - Attachment "F" – Certificate of Compliance with Florida Trench Safety Act
  - Attachment "G" – Proof of Insurance
  - Attachment "H" – Contractor's Qualifications Form
  - Attachment "I" – List of Proposed Major Material/Equipment Suppliers
  - Bid Bond Form
  - Fully Acknowledged Addenda Applicable to this bid

Official County Bid Form, Attachments "A", "B", "C", "D", "E", "F", "G", "H", "I", and Bid Bond must be completed, along with a fully acknowledged copy of each Addendum applicable to this Bid and submitted with each copy of the Bid Proposal. One (1) original and two (2) copies of all required forms must be submitted.

BID NO.: 18-41

ATTACHMENT "A"

**ST. JOHNS COUNTY, BOARD OF COUNTY COMMISSIONERS AFFIDAVIT**

TO: ST. JOHNS COUNTY, BOARD OF COUNTY COMMISSIONERS,  
ST. JOHNS COUNTY, ST. AUGUSTINE, FLORIDA.

At the time the proposal is submitted, the Bidder shall attach to his Bid a sworn statement.

This sworn statement shall be an affidavit in the following form, executed by an officer of the firm, association, or corporation submitting the proposal, and shall be sworn to before a person who is authorized by law to administer oaths.

STATE OF FLORIDA, COUNTY OF ST. JOHNS

Before me, the Undersigned authority, personally appeared Wade Gibby who being duly sworn, deposes and says he is President (Title) of the firm of G+H Underground Const. Bidder submitting the attached proposal for the services covered by the bid documents for Bid No: 18-41: Shores WWTP Master Pump Station Replacement, in St. Johns County, Florida.

The affiant further states that no more than one proposal for the above-referenced project will be submitted from the individual, his firm or corporation under the same or different name, and that such Bidder has no financial interest in the firm of another bidder for the same work. That neither he, his firm, association nor corporation has either directly or indirectly entered into any agreement, participated in any collusion, nor otherwise taken any action in restraint of free competitive bidding in connection with this firm's Bid on the above-described project. Furthermore, neither the firm nor any of its officers are barred from participating in public contract lettings in the State of Florida or any other state.

G+H Underground Construction, Inc.  
(Bidder)

By: Wade Gibby  
President  
(Title)

Sworn and subscribed to me this 18 day  
of April, 2018.

Notary Public:  
Jennifer Smith  
Signature  
Jennifer Smith  
Printed



My commission Expires: 12-6-2021

BIDDER ON ALL COUNTY PROJECTS MUST EXECUTE AND ATTACH THIS AFFADAVIT TO EACH BID.







*Florida Department of Transportation*

RICK SCOTT  
GOVERNOR

605 Suwannee Street  
Tallahassee, FL 32399-0450

RACHEL D. CONE  
INTERIM SECRETARY

May 9, 2017

G&H UNDERGROUND CONSTRUCTION INC  
2200 N PONCE DE LEON BLVD  
ST AUGUSTINE, FL

RE: CERTIFICATE OF QUALIFICATION

Dear Sir/Madam:

The Department of Transportation has qualified your company for the type of work indicated below. Unless your company is notified otherwise, this Certificate of Qualification will expire 6/30/2018. However, the new application is due 4/30/2018.

In accordance with S.337.14 (1) F.S. your next application must be filed within (4) months of the ending date of the applicant's audited annual financial statements.

If your company's maximum capacity has been revised, you can access it by logging into the Contractor Prequalification Application System via the following link:  
[HTTPS://fdotwpl.dot.state.fl.us/ContractorPreQualification/](https://fdotwpl.dot.state.fl.us/ContractorPreQualification/)

Once logged in, select "View" for the most recently approved application, and then click the "Manage" and "Application Summary" tabs.

**FDOT APPROVED WORK CLASSES:**

DRAINAGE, FLEXIBLE PAVING, GRADING, GRASSING, SEEDING AND SODDING, SIDEWALK, Underground Utilities (Water & Sewer).

You may apply for a Revised Certificate of Qualification at any time prior to the expiration date of this certificate according to Section 14-22.0041(3), Florida Administrative Code (F.A.C.), by accessing your most recently approved application as shown above and choosing "Update" instead of "View." If certification in additional classes of work is desired, documentation is needed to show that your company has done such work with your own forces and equipment or that experience was gained with another contractor and that you have the necessary equipment for each additional class of work requested.

All prequalified contractors are required by Section 14-22.006(3), F.A.C., to certify their work underway monthly in order to adjust maximum bidding capacity to available bidding capacity. You can find the link to this report at the website shown above.

Sincerely,

Alan Autry, Manager  
Contracts Administration Office

AA:cj

THIS RECEIPT IS ISSUED PURSUANT  
TO COUNTY ORDINANCE 87-38

# 2017/2018 ST. JOHNS COUNTY LOCAL BUSINESS TAX RECEIPT

MUST BE DISPLAYED IN A CONSPICUOUS PLACE

ACCOUNT 25043

EXPIRES September 30, 2018

TYPE OF BUSINESS 000264 LAND CLEARING SERVICE

BUSINESS ADDRESS 2200 N PONCE DE LEON BLVD STE 11  
ST. AUGUSTINE, FL 32084

BUSINESS NAME G & H CONSTRUCTION  
OWNER GIBBY WADE D & HARDWICK JEFFERY

MAILING ADDRESS 2200 N PONCE DE LEON BLVD #11  
ST. AUGUSTINE, FL 32084

XNEW BUSINESS TRANSFER ORIGINAL TAX 22.00

AMOUNT 22.00

PENALTY .00

COLLECTION COST

TOTAL 22.00

THIS FORM BECOMES A RECEIPT ONLY WHEN VALIDATED

PAID-8154673-0001-0001 SOL 09/28/2017 22.00

DENNIS W. HOLLINGSWORTH  
ST. JOHNS COUNTY TAX COLLECTOR

This receipt does not constitute a franchise, an agreement, or permission or authority to perform the services or operate this business described herein when a franchise agreement, or other county, commission, state or federal permission of authority is required by county, state or federal law.

RICK SCOTT, GOVERNOR

KEN LAWSON, SECRETARY

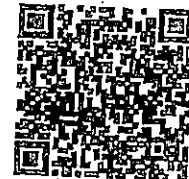
## STATE OF FLORIDA DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION CONSTRUCTION INDUSTRY LICENSING BOARD

LICENSE NUMBER

CUC1224124

The UNDERGROUND UTILITY & EXCAVATION CO  
Named below IS CERTIFIED  
Under the provisions of Chapter 489 FS.  
Expiration date: AUG 31, 2018

HARDWICK, JEFFERY L  
G & H UNDERGROUND CONSTRUCTION INC  
4980 PORTER ROAD  
ST. AUGUSTINE FL 32095



ISSUED: 06/22/2016

DISPLAY AS REQUIRED BY LAW

SEQ# L1606220001196

BID NO.: 18-41

**ATTACHMENT "D"**  
**LIST OF PROPOSED SUBCONTRACTORS/SUPPLIER LIST**

All subcontractors and major materials suppliers are subject to approval of Owner. The following are subcontractors and manufacturers of materials and/or equipment that are proposed to be utilized by the Contractor in the performance of this work, provide company names and contacts for the following as a minimum and list any additional as necessary:

Company Name	Division/Discipline	Primary Contact Name	Contact Number and Email Address
Burchfield Electric	electric	Brian Burchfield	904-829-5735 bb1@aug.com
Kudzue	asphalt	Donna Williams	904-388-7838 kudzue3@yaho.com
A&J Land Surveys	Asbuilt & Survey	Jeff Ward	904-346-1783 jward@ajsurvey.com
Xylom/Godwin	Submersible Pump	Josh Blackwell	904-695-2131 joshua.blackwell@xylominc.com
Xylom/Flight	Diesel Engine Driven Pump	David Williams	239-825-8884 david.williams@xylominc.com
Leesburg Concrete	Prefab Building	Kirk Kruse	352-787-4177 kruse@leesburgconcrete.com
Curry Controls	Scada	Scott Cyphert	863-646-5781 swc@currycontrols.com
Ferguson	Pipe & Fittings	Gordon Spottswood	904-885-3400 gordon.spottswood@ferguson.com
ECS Florida LLC	Testing	Milke Gruber	904-880-0960 mgruber@ecslimited.com
WR Townsend	demolition	WR Townsend	904-829-8020 wr@wrtownsend.com
BB Gay Const	Kemlite interior walls	Alan Reeves	904-351-8201 warrhggay@bellsouth.net
Standard Precast	Precast Structures	Rick Finnis	904-813-1438 rick@standardprecast.com
Curb systems	Concrete Slab	Gary Allgood	904-829-3455 curbflorida@bellsouth.net



BID NO.: 18-41

ATTACHMENT "E"

**St. Johns County Board of County Commissioners  
Conflict of Interest Disclosure Form**

Project (BID) Number/Description: Bid No 18-41; Shores WWTP Master Pump Station Replacement

The term "conflict of interest" refers to situations in which financial or other considerations may adversely affect, or have the appearance of adversely affecting a consultant's/contractor's professional judgment in completing work for the benefit of St. Johns County ("County"). The bias such conflicts could conceivably impart may inappropriately affect the goals, processes, methods of analysis or outcomes desired by the County.

Consultants/Contractors are expected to safeguard their ability to make objective, fair, and impartial decisions when performing work for the benefit of the County. Consultants/Contractors, therefore must there avoid situations in which financial or other considerations may adversely affect, or have the appearance of adversely affecting the consultant's/contractor's professional judgement when completing work for the benefit of the County.

The mere appearance of a conflict may be as serious and potentially damaging as an actual distortion of goals, processes, methods of analysis or outcomes. Reports of conflicts based upon appearances can undermine public trust in ways that may not be adequately restored even when the mitigating facts of a situation are brought to light. Apparent conflicts, therefore, should be disclosed and evaluated with the same vigor as actual conflicts.

It is expressly understood that failure to disclose conflicts of interest as described herein may result in immediate disqualification from evaluation or immediate termination from work for the County.

Please check the appropriate statement:



I hereby attest that the undersigned Respondent has no actual or potential conflict of interest due to any other clients, contracts, or property interests for completing work on the above referenced project.



The undersigned Respondent, by attachment to this form, submits information which may be a potential conflict of interest due to other clients, contracts or property interests for completing work on the above referenced project.

Legal Name of Respondent:

G+H Underground Construction, Inc.

Authorized Representative(s) :

Wade Gitty  
Signature

Wade Gitty, President  
Print Name/Title

Signature

Print Name/Title

BID NO.: 18-41

ATTACHMENT "F"

CERTIFICATE OF COMPLIANCE WITH FLORIDA TRENCH SAFETY ACT

Bidder acknowledges that he is solely responsible for complying with the Florida Trench Safety Act (ACT) and Occupational Safety and Health Administrations excavation safety standard 29 CFR 1926.650 (Subpart P as amended) and the St. Johns County Trenching and Excavation Safety Program. If there is a conflict between the ACT and the St. Johns County Trenching and Excavation Safety Program, the more stringent requirement would apply. Bidder further acknowledges that included in the various items of the proposal and in the Total Bid Price are costs for complying with the Florida Trench Safety Act (90-96, Laws of Florida) effective October 1, 1990 and the Occupational Safety and Health Administrations excavation safety standard.

By: Wade Gibby

G+H Underground Const-Inc  
Bidder

4-18-18  
Date

Wade Gibby  
Authorized Signature

BID NO.: 18-41

ATTACHMENT "G"

CERTIFICATE OF INSURANCE

INSERT CERTIFICATE OF INSURANCE HERE



BID NO.: 18-41

ATTACHMENT "H"

**CONTRACTOR'S QUALIFICATION FORM**

Bidder acknowledges that he is fully licensed to perform work in the STATE OF FLORIDA.

Any material misrepresentation, as determined by the County, shall result in disqualification.

By: G+H Underground Const. Inc 4-18-18  
Bidder Wade Gibby Date  
Authorized Signature

**Contractor's Project Experience**

The Bidder shall provide the following information regarding experience within the **past five (5) years** of this solicitation. Bidder must demonstrate the successful completion of **three (3) projects** of similar complexity, nature, size, and dollar amount of project.

Contractor's Project Experience Details Project No. 1	
Name of Project:	City of St Augustine Annual Const. Services for Roadway, Drainage, & Utilities
Project Manager Name:	Wade Gibby
Superintendent Name:	Jeff Hardwick
Project Description:	Pump Stations, water main, roadway construction, sewer force mains
Owner Information	
Name:	City of St Augustine
Address:	PO Box 210 St Augustine, FL 32085
Contact Person:	Danny Hodges
Telephone Number:	904-825-1040
Engineer/Architect Information	
Name:	City of St Augustine
Address:	PO Box 210 St Augustine, FL 32085
Contact Person:	
Telephone Number:	
Contract Dates	
Started:	April 2016 - Present
Original Contractual Completion:	ongoing contract

Contractor's Project Experience Details	
Project No. 1	
Final Contractual Completion:	ongoing contract
Actual Completion:	
<b>Contract Value</b>	
Original Contract Value:	
Final Contract Value:	around 1 million but this is a continuing contract.
Value of Change Orders to Date:	
Value of Outstanding Claims to Date:	
<b>Bonding Company Information</b>	
Name:	Merchants Bonding Company
Address:	PO Box 14498 Des Moines, IA. 50320
Contact Person:	Bon Powell
Telephone Number:	904-353-3181
<b>Major Subcontractor Information</b>	
Name:	Kudzu 3 Trucking
Address:	500 King St Jacksonville, Fl. 32204
Contact Person:	Donna Williams
Telephone Number:	904-388-7838
Name:	Burchfield Electric
Address:	2900 Pleasure Ln St Augustine, Fl. 32084
Contact Person:	Brian Burchfield
Telephone Number:	904-829-5735
Name:	A+J Land Surveyors
Address:	5847 Luella St. Jacksonville, Fl. 32207
Contact Person:	Jeff Ward
Telephone Number:	904-346-1733

Contractor's Project Experience Details	
Project No. 2	
Name of Project:	Villages of Selay 2B
Project Manager Name:	Wade Gibby
Superintendent Name:	Jeff Hardwick

Contractor's Project Experience Details Project No. 2	
Project Description:	Pump stations, Watermain, Fire main, sewer force mains, roadway construction
<b>Owner Information</b>	
Name:	Uniflorida IV, LLC
Address:	295 Seby Dr St Augustine, Fl. 32084
Contact Person:	Kelly Moore
Telephone Number:	904-342-2545
<b>Engineer/Architect Information</b>	
Name:	Zev Cohen + Associates
Address:	300 Interchange Blvd, Suite C Ormond Beach, Fl. 32174
Contact Person:	Kris Rowley
Telephone Number:	886-677-2482
<b>Contract Dates</b>	
Started:	March 2017
Original Contractual Completion:	11-30-17
Final Contractual Completion:	11-17-17
Actual Completion:	
<b>Contract Value</b>	
Original Contract Value:	1,382,822.90
Final Contract Value:	1,382,822.90
Value of Change Orders to Date:	
Value of Outstanding Claims to Date:	0
<b>Bonding Company Information</b>	
Name:	Merchants Bonding Company
Address:	PO BOX 14498 Des Moines, IA. 50306
Contact Person:	Ben Powell
Telephone Number:	904-353-3181
<b>Major Subcontractor Information</b>	
Name:	Curb Systems
Address:	101 Canova Ct St Augustine, Fl. 32086
Contact Person:	Gary Alligood

Contractor's Project Experience Details Project No. 2	
Telephone Number:	904-797-3700
Name:	A+J Land Surveyors
Address:	5847 Luella St Jacksonville, FL 32207
Contact Person:	Jeff Ward
Telephone Number:	904-347-1733
Name:	Burchfield Electric
Address:	2900 Pleasure Lane St Augustine, FL 32084
Contact Person:	Brian Burchfield
Telephone Number:	904-829-5735

Contractor's Project Experience Details Project No. 3	
Name of Project:	Williams Coastal Blvd + South Beach Infrastructure
Project Manager Name:	Wade Gibby
Superintendent Name:	Jeff Hardwick
Project Description:	Water main, sewer, forcemains, roadway construction, Pump stations.
Owner Information	
Name:	City of Jacksonville Beach
Address:	1400 A Shatter Ave Jacksonville Beach, FL 32250
Contact Person:	Dennis Dupries
Telephone Number:	904-247-1228
Engineer/Architect Information	
Name:	Jones Edmunds + associates
Address:	1100 Cesery Blvd, 2nd Fl. Jacksonville, FL 32211
Contact Person:	Brian Hepburn
Telephone Number:	904-744-5401
Contract Dates	
Started:	May 2013
Original Contractual Completion:	December 2014
Final Contractual Completion:	July 2017



Contractor's Project Experience Details Project No. 3	
Actual Completion:	July 2017
Contract Value	
Original Contract Value:	3,286,488.32
Final Contract Value:	3,597,507.20
Value of Change Orders to Date:	
Value of Outstanding Claims to Date:	
Bonding Company Information	
Name:	Merchants Bonding
Address:	PO Box 14498 Des Moines IA. 50306
Contact Person:	Ben Powell
Telephone Number:	904-353-3181
Major Subcontractor Information	
Name:	Kudzue 3 Trucking
Address:	500 King St. Jacksonville, FL. 32204
Contact Person:	Donna Williams
Telephone Number:	904-388-7838
Name:	Carb systems
Address:	101 Canova Ct. St Augustine, FL. 32086
Contact Person:	Gary Alligood
Telephone Number:	904-797-3700
Name:	A+J Land Surveyors
Address:	5847 Luella St Jacksonville, FL. 32207
Contact Person:	Jeff Ward
Telephone Number:	904-347-1733

**Additional Questions**

Do you have any similar work in progress at this time?  Yes  No

Length of time in business: 12 Years

Is your company currently involved in any active litigation? no If Yes, explain: \_\_\_\_\_

Has your company ever been sued? no If Yes, explain and/or submit court decision or judgment, as applicable:

\_\_\_\_\_  
\_\_\_\_\_

Bid No.: 18-41

ATTACHMENT I

LIST OF PROPOSED MAJOR MATERIAL/EQUIPMENT SUPPLIERS

All equipment suppliers are subject to approval of Owner and Engineer. The following are suppliers proposed to be used in connection with this work. The Bidder shall circle the supplier used in his Bid. Alternate suppliers can only be added whose product has been approved via Addenda prior to the receipt of Bids. Refer to the Supplementary Conditions 7.04 for additional information. The Owner and Engineer reserve the right to reject or accept the alternate supplier. Where no specific manufacturer is listed, the submitted manufacturer must still meet the specification requirements.

EQUIPMENT ITEM OR MATERIAL	SUPPLIER
Submersible Pumps	(A) Xylem-Flygt
Diesel Engine Driven Pump	(A) Xylem-Godwin
Motor Control Centers	(A) Eaton/Cutler-Hammer
Variable frequency drive (inside MCCs)	(A) Eaton/Cutler-Hammer
Magnetic Flow Meter	(A) Siemens

BID NO.: 18-41

BID BOND

STATE OF FLORIDA  
COUNTY OF ST. JOHNS

KNOW ALL MEN BY THESE PRESENTS, that G & H Underground Construction, Inc. as Principal, and \*  
as Surety, are held and firmly bound unto St. Johns County, Florida, in the penal sum of \*\*  
Dollars (\$ 5% ) lawful money of the United States, we bind ourselves, our heirs, executors,  
administrators, and successors, jointly and severally, firmly by these presents.

\*Merchants Bonding Company \*\*Not to Exceed Five Percent of Total Bid Amount

THE CONDITION OF THIS OBLIGATIONS IS SUCH that whereas the Principal has submitted the accompanying Bid,  
dated April 18th, 2018.

For

SHORES WWTP MASTER PUMP STATION REPLACEMENT

St. Johns County, Florida

NOW THEREFORE,

- (a) If the Principal shall not withdraw said Bid within ninety (90) days after Bid Award date, and shall within ten (10) days after prescribed forms are presented to him for signature, enter into a written Contract with the County in accordance with the Bid as accepted, and give Bond with good and sufficient Surety or Sureties, as may be required, for the faithful performance and proper fulfillment of such Contract, then the above obligations shall be void and of no effect, otherwise to remain in full force and virtue.
- (b) In the event of the withdrawal of said Bid within the period specified, or the failure to enter into such Contract and give such Bond within the time specified, if the Principal shall pay the County the difference between the amount specified, in said Bid and the amount for which the County may procure the required Work and supplies, if the latter amount be in excess of the former, then the above obligations shall be void and of no effect, otherwise to remain in full force and virtue.

IN WITNESS WHEREOF, the above bounded parties have executed this instrument under their several seals, this 18th day of April A.D., 2018, the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

BID NO.: 18-41

WITNESSES:

(If Sole Ownership or Partnership two (2) Witnesses required).  
(If Corporation, Secretary only will attest and affix seal).

WITNESSES:

Janis Smith  
D. Abernathy

Wade Hill  
PRINCIPAL

G & H Underground Construction, Inc.  
NAME OF FIRM:

Wade Hill  
SIGNATURE OF AUTHORIZED  
OFFICER (AFFIX SEAL)

President  
TITLE

2200 N. Ponce de Leon Blvd., Ste. 11  
BUSINESS ADDRESS

St. Augustine, FL 32084  
CITY STATE

WITNESS:

Kassandra S. Sullins  
Kassandra S. Sullins, Witness

SURETY:  
Merchants Bonding Company

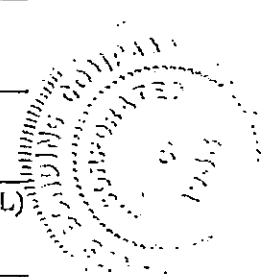
CORPORATE SURETY

ATTORNEY-IN-FACT (AFFIX SEAL)  
Benjamin K. Powell  
P.O. Box 14498

BUSINESS ADDRESS

Des Moines, IA 50306  
CITY STATE

Cecil W. Powell & Company  
NAME OF LOCAL INSURANCE AGENCY



ATTACHMENT C  
CERTIFICATES AS TO CORPORATE PRINCIPAL

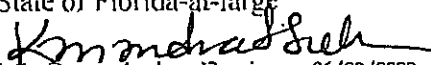
I, Wade Gibby, certify that I am the Secretary of the Corporation named as Principal in the attached bond; that Wade Gibby who signed the said bond on behalf of the Principal, was then President of said Corporation; that I know his signature, and his signature hereto is genuine; and that said bond was duly signed, sealed, and attested for and in behalf of said Corporation by authority of its governing body.

  
Secretary Corporate Seal

(STATE OF FLORIDA  
COUNTY OF ST. JOHNS)

Before me, a Notary Public duly commissioned, qualified and acting, personally appeared Benjamin K. Powell to me well known, who being by me first duly sworn upon oath, says that he is the Attorney-in-Fact, for the Merchants Bonding Company and that he has been authorized by Merchants Bonding Company to execute the foregoing bond on behalf of the surety named therein in favor of St. Johns County, Florida.

Subscribed and sworn to me this 18th day of April, 2018, 2018, A.D.

NOTARY PUBLIC  
State of Florida-at-large  
  
My Commission Expires: 06/22/2022

KASSANDRA S. SULLINS  
Notary Public, State of Florida  
My Comm. Expires 06/22/2022  
Commission No. GG202445

(Attach Power of Attorney to original Bid Bond and Financial Statement of Surety Company)

18-14  
Bid No. ~~02030~~

**MERCHANTS**  
**BONDING COMPANY**<sup>TM</sup>  
**POWER OF ATTORNEY**

Know All Persons By These Presents, that MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC., both being corporations of the State of Iowa (herein collectively called the "Companies") do hereby make, constitute and appoint, individually, Benjamin Powell; Fitzhugh K Powell Jr; Robert T Theus; Susan W Jordan

their true and lawful Attorney(s)-in-Fact, to sign its name as surety(ies) and to execute, seal and acknowledge any and all bonds, undertakings, contracts and other written instruments in the nature thereof, on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

This Power-of-Attorney is granted and is signed and sealed by facsimile, under and by authority of the following By-Laws adopted by the Board of Directors of Merchants Bonding Company (Mutual) on April 23, 2011 and amended August 14, 2015 and adopted by the Board of Directors of Merchants National Bonding, Inc., on October 16, 2015.

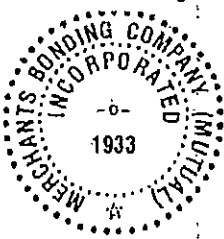
"The President, Secretary, Treasurer, or any Assistant Treasurer or any Assistant Secretary or any Vice President shall have power and authority to appoint Attorneys-in-Fact, and to authorize them to execute on behalf of the Company, and attach the seal of the Company thereto, bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof."

"The signature of any authorized officer and the seal of the Company may be affixed by facsimile or electronic transmission to any Power of Attorney or Certification thereof authorizing the execution and delivery of any bond, undertaking, recognizance, or other suretyship obligations of the Company, and such signature and seal when so used shall have the same force and effect as though manually fixed."

In connection with obligations in favor of the Florida Department of Transportation only, it is agreed that the power and authority hereby given to the Attorney-in-Fact includes any and all consents for the release of retained percentages and/or final estimates on engineering and construction contracts required by the State of Florida Department of Transportation. It is fully understood that consenting to the State of Florida Department of Transportation making payment of the final estimate to the Contractor and/or its assignee, shall not relieve this surety company of any of its obligations under its bond.

In connection with obligations in favor of the Kentucky Department of Highways only, it is agreed that the power and authority hereby given to the Attorney-in-Fact cannot be modified or revoked unless prior written personal notice of such intent has been given to the Commissioner-Department of Highways of the Commonwealth of Kentucky at least thirty (30) days prior to the modification or revocation.

In Witness Whereof, the Companies have caused this instrument to be signed and sealed this 27th day of April, 2017

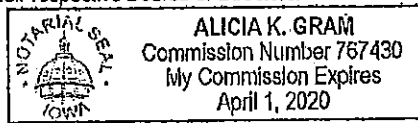


MERCHANTS BONDING COMPANY (MUTUAL)  
MERCHANTS NATIONAL BONDING, INC.

By *Larry Taylor*  
President

STATE OF IOWA  
COUNTY OF DALLAS ss.

On this this 27th day of April 2017, before me appeared Larry Taylor, to me personally known, who being by me duly sworn did say that he is President of MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC.; and that the seals affixed to the foregoing instrument are the Corporate Seals of the Companies; and that the said instrument was signed and sealed in behalf of the Companies by authority of their respective Boards of Directors.



*Alicia K. Gram*  
Notary Public

(Expiration of notary's commission does not invalidate this Instrument)

I, William Warner, Jr., Secretary of MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC., do hereby certify that the above and foregoing is a true and correct copy of the POWER-OF-ATTORNEY executed by said Companies, which is still in full force and effect and has not been amended or revoked.

In Witness Whereof, I have hereunto set my hand and affixed the seal of the Companies on this 18th day of April, 2018



*William Warner Jr.*  
Secretary



**St. Johns County Board of County Commissioners**

Purchasing Division

April 2, 2018

**ADDENDUM #1**

**To: Prospective Bidders**  
**From: St. Johns County Purchasing Department**  
**Subject: Bid No. 18-41, Shores WWTP Master Pump Station Replacement**

This Addendum #1 is issued for further respondent's information and is hereby incorporated into the Bid documents. Each respondent will ascertain before submitting a proposal that he/she has received all Addenda. Please return an original copy of this signed Addendum with proposal to the St. Johns County Purchasing Department, Leigh A. Daniels, CPPB; 500 San Sebastian View; St. Augustine, FL 32084.

ADDENDUM #1 SHALL BE INCORPORATED INTO THE AGREEMENT DOCUMENTS, PROPOSAL REQUIREMENTS, AGREEMENT FORMS, CONDITIONS OF THE AGREEMENT, AND TECHNICAL SPECIFICATIONS  
DATED MARCH 2018

Proposers on the Project are hereby notified that this Addendum shall be attached to and made a part of the above-named Proposal Documents and Specifications. These items shall have full force and effect as the Proposal Documents and Specifications and cost involved shall be included in the Proposal Contract Prices. Proposals to be submitted on the specified bid date shall conform with the additions/deletions/revisions listed herein.

**IN THE TECHNICAL SPECIFICATIONS**

1. Specification Section 01010, paragraph 1.02.B.2.c: Add sentence "Contractor shall be responsible for removal and disposal of fuel."
2. Specification Section 11148, paragraph 2.01.C: Replace the words "ball-type" with "flap".
3. Specification Section 11148, paragraph 2.01.K: Replace required pump model "CD 150M" with "CD160M".
4. Specification Section 11148, paragraph 2.02.A: Replace last two sentences with the following, "Drive unit shall be a John Deer 6068285 or equal, rated at 156 HP (continuous) at 2,000 RPM. A certified continuous duty engine curve shall be supplied to the owner/engineer."
5. Specification Section 11148, paragraph 2.03.A.2: Replace paragraph with the following:

- "2. Secondary Capacity
- |                             |     |
|-----------------------------|-----|
| a. Flow(gpm)                | 475 |
| b. Total dynamic head, (ft) | 159 |
| c. Maximum NPSHr, (ft)      | 7 " |



6. Specification Section 11148, paragraph 2.03.A.: Replace paragraph with the following

"2. Run-out Capacity

- a. Flow(gpm) 1,500
- b. Total dynamic head, (ft) 118
- c. Maximum NPSHr, (ft) 10 "

7. Specification Section 11148, paragraph 2.03.A.4: Replace required operating speed of "2,200" with "1,600".

8. Specification Section 11148, paragraph 2.03.A: Add the following:

"8. Suction Pipe Entrance Elevation: 18.00 ft

9. Suction Pipe Minimum Submergence: 20.93 ft

10. Diesel Pump Float Elevations:

- a. Diesel Pump "ON": 25.93 ft
- b. Diesel Pump "OFF": 21.75 ft "

9. Specification Section 11148, paragraph 3.03.B.2: Replace "ANSI/HI 11.6" with "ANSI/HI 14.6".

10. Specification Section 11148; paragraph 3.03.B.3: Replace "ANSI/HI 11.6" with "ANSI/HI 14.6".

11. Specification Section 11148, paragraph 3.03.D: Replace sentence with the following:

"D. After installation and as soon as conditions permit full speed operation, and in the presence of the Engineer, have the vibration tests performed on each unit by a minimum level III qualified vibration technician as defined by Vibration Institute or equivalent to (a) establish compliance with a maximum vibration level of 0.35 inches per second RMS, and (b) prove that there are no field installed resonant conditions due to misalignment, the foundation, or the connecting piping and its supports, when operating at any speed within the specified operating range."

12. Specification Section 16900, paragraph 2.05.B.5: Replace paragraph with the following:

"5. Provide one additional ultrasonic level transducer as spare parts. Provide a hand held HART calibrator or PC based HART programming capability including HART Modem and Pulsar set-up software. The Instrumentation System Supplier shall demonstrate calibration of the active ultrasonic level transducer using the HART programming capability provided. Upon final acceptance, the Instrumentation System Supplier shall demonstrate duplicate calibration of the spare ultrasonic level transducer."

#### ON THE DRAWINGS

13. Refer to Revised Sheets C-1A, C-2, S-1, M-1, M-2, M-3 and M-4.

#### ANSWERS TO QUESTIONS RECEIVED DURING BIDDING, CLARIFICATION AND GENERAL INFORMATION

14. Pump Selection – The duty points listed in the specification are unobtainable with the CD150 DBS we offer. We will need to bump up to a CD160 or CD180 (the only difference is the CD180 has 8" connection and the CD160 has 6" connections, they have the same curve) to achieve the primary duty point that they have listed in the specs (1390gpm @ 120' TDH).

*Answer: See revisions to Specification Section 11148, paragraph 2.03 and revised drawing sheets M-2, M-3, and M-4.*

15. Onsite Vibration Testing – The specs call for onsite vibration testing... "vibration tests performed in accordance with ANSI/HI 11.6 on each unit by a minimum level III qualified vibration technician as defined by Vibration Institute or equivalent..."
- a. ANSI/HI 11.6 is for Rotodynamic Submersible Pumps, not non-submersed pumps
  - b. ANSI/HI 9.6.4 "Rotodynamic Pumps for Vibration Measurements and Allowable Values" excludes reciprocating engine-driven pumps from that standard. Since and engine-driven pump is

what will be supplied, we are excluded from having to meet the vibration standards outlined in that section.

*Answer: See revisions to Specification Section 11148, Part 3.03.*

16. Specifications Section 16900 2.05 B 5 ask for a Emerson 475 Field Communicator. Do you want a \$6,000.00 instrument to program a \$1,000.00 level transmitter?

*Answer: See revisions to Specification Section 16900, paragraph 2.05B.5.*

17. We would like to know if the County is supplying any Materials or Equipment on this project?

*Answer: No not at this time, we did place in the bid document on page 14 that the County reserves the right to Owner Direct Purchase materials or equipment in order to achieve sales taxes to other cost savings but that will not be determined until a contract is issued.*

18. What is the estimate for the subject project?

*Answer: \$850,000.00*

**ATTACHMENTS TO ADDENDUM #1**

- Sheets C-1A, C-2, S-1, M-1, M-2, M-3 and M-4.
- As-builts for the three ground storage tanks proposed for demolition attached.

**THE BID DUE DATE REMAINS April 18, 2018 AT 2:00 P.M.**

Acknowledgment

*Wade Gibbs 4-18-18*  
Signature and Date

*Wade Gibbs, President*  
Printed Name/Title

*G+H Underground Const. Inc*  
Company Name (Print)

Sincerely,

Leigh A. Daniels, CPPB  
Procurement Supervisor

**END OF ADDENDUM NO. 1**



## St. Johns County Board of County Commissioners

Purchasing Division

### ADDENDUM #2

April 6, 2018

**To:** Prospective Bidders  
**From:** St. Johns County Purchasing Department  
**Subject:** Bid No: 18-41 Shores WWTP Master Pump Station Replacement

This Addendum #2 is issued for further bidder's information and is hereby incorporated into the bid documents. Each bidder will ascertain before submitting a proposal that he/she has received all Addenda. *Please return a signed copy of this Addendum with Bid Proposal (1 original & 2 copies).*

ADDENDUM #2 SHALL BE INCORPORATED INTO THE AGREEMENT DOCUMENTS, PROPOSAL REQUIREMENTS, AGREEMENT FORMS, CONDITIONS OF THE AGREEMENT, AND TECHNICAL SPECIFICATIONS DATED APRIL, 2018.

Bidders are hereby notified that this Addendum shall be attached to and made a part of the Bid Documents and Specifications. These items shall have full force and effect as the Bid Documents and Specifications and any changes in cost involved shall be included in the submitted Bid Prices. Bids submitted on the specified bid date shall conform to the additions/deletions/revisions listed herein.

#### IN THE TECHNICAL SPECIFICATIONS

1. Specification Section 01014, paragraph 1.03 Add the following paragraph:

"E. Existing Tank No. 1 (as indicated on Sheet C-1A) is hydraulically connected to the existing master pump station. This tank shall not be demolished until after the new submersible master pump station is installed and substantially complete."

2. Specification Section 02050, paragraph 3.01 Add the following sentence:

"D. Contractor may use crushed concrete from demolition for recycled concrete aggregate provided the crushed concrete conforms to FDOT Section 911."

3. Specification Section 16600, paragraph 1.03.B: Remove this paragraph in its entirety.

#### ON THE DRAWINGS

4. Refer to Revised Sheets, C-1A and CD-1.

#### QUESTIONS/ANSWERS, CLARIFICATION AND GENERAL INFORMATION

5. Numbers 9 and 10 on the addendum call to replace ANSI/HI 11.6 with ANSI/HI 14.6. ANSI/HI 14.6 ultimately refers back to ANSI/HI 9.6.4 which states, "Rotodynamic Pumps for Vibration Measurements and Allowable Values" excludes reciprocating engine-driven pumps from that standard." Since an engine-driven pump is what will be supplied, I would assume we are excluded from having to meet the vibration standards outlined in that section.

*Answer: The ANSI/HI standards are for reference only. The engine-driven pump is excluded from the vibration standard.*

6. Robbins Lightning, Inc. requests being listed as an approved supplier for lightning protection materials.

*Answer: Pre-approval is not required for suppliers. Products provided shall be per plans and specifications.*

7. For project Shores Wastewater Treatment Plant Master Pump Station Replacement it indicates bypass pumping but I cannot find the flow rate. Could you please provide.

*Answer: The intent is for the existing master pump station to be kept in service until the new pump station is fully operational. Therefore, bypass pumping may not be necessary. However, if it is determined that bypass pumping is required, the Contractor shall be fully responsible for providing a complete bypass pumping system as outlined in Specification Section 01014. The bypass pump shall be capable of pumping 1,350 gallons per minute at 120 feet total head.*

**ATTACHMENTS TO ADDENDUM #2**

- FDOT Section 911 Base and Stabilized Base Materials
- Sheets C-1A and CD-1

**THE BID DUE DATE SHALL REMAIN: April 18, 2018 by 2:00 P.M.**

Acknowledgment

 4-18-18  
Signature and Date

Sincerely,

Leigh Daniels, CPPB  
Procurement Supervisor

Wade Gibby, Pres.  
Printed Name and Title

G+H Underground Const.  
Company Name (Print)

**END OF ADDENDUM #2**



St. Johns County Board of County Commissioners

Purchasing Division

ADDENDUM #3

April 10, 2018

To: Prospective Bidders  
From: St. Johns County Purchasing Department  
Subject: Bid No: 18-41 Shores WWTP Master Pump Station Replacement

This Addendum #3 is issued for further bidder's information and is hereby incorporated into the bid documents. Each bidder will ascertain before submitting a proposal that he/she has received all Addenda. *Please return a signed copy of this Addendum with Bid Proposal (1 original & 2 copies).*

ADDENDUM #3 SHALL BE INCORPORATED INTO THE AGREEMENT DOCUMENTS, PROPOSAL REQUIREMENTS, AGREEMENT FORMS, CONDITIONS OF THE AGREEMENT, AND TECHNICAL SPECIFICATIONS DATED APRIL, 2018.

Bidders are hereby notified that this Addendum shall be attached to and made a part of the Bid Documents and Specifications. These items shall have full force and effect as the Bid Documents and Specifications and any changes in cost involved shall be included in the submitted Bid Prices. Bids submitted on the specified bid date shall conform to the additions/deletions/revisions listed herein.

There is little debris inside the tanks to be demolished.

**ATTACHMENTS TO ADDENDUM #3**

- Pictures of inside tanks

THE BID DUE DATE SHALL REMAIN: April 18, 2018 by 2:00 P.M.

Acknowledgment

Wade Gibby 4-18-18  
Signature and Date

Sincerely,

Leigh Daniels, CPPB  
Procurement Supervisor

Wade Gibby, Pres.  
Printed Name and Title

G+H Underground Const.  
Company Name (Print)

END OF ADDENDUM #3

**CONSTRUCTORS QUALIFICATION QUESTIONNAIRE  
ORGANIZATION AND BACKGROUND**

**Name:** G & H Underground Construction Inc.

**Address:** 2200 N Ponce De Leon Blvd Ste 11 City, State, Zip: St. Augustine, Florida  
32084

**Phone:** 904-829-8199 Fax: 904-810-0531

**Fed I.D.#** 06-1747700 **Contractors License Number:** CUC1224124

**Date business formed:** May 5, 2005 **Date Incorporated:** May 5, 2005

**PRINCIPLE OFFICERS OF THE COMPANY**

Name: Wade Gibby  
Position: President / Owner  
% of ownership: 50%  
Experience: 40 years Sup. & GM

Name: Jeffery Hardwick  
Position: Treasurer / Owner  
% of Ownership: 50%  
Experience: 36 years Sup. & GM

**TYPE OF WORK PERFORMED:**

Commercial Roadwork  
Excavation Water System  
Sewers Storm Systems

**GEOGRAPHICAL AREAS OF OPERATION:**

St. Johns County Volusia County  
Duval County Flagler County  
Clay County

**LIST OF MOST RECENT CONTRACTS IN LAST TEN YEARS:**

Uniflorida IV LLC  
5975 Sunset Drive  
Miami, Fl. 33143

Contract Amount: 3,798,772.34  
March 2017 - Present

Project: Villages of Seloy  
3A & 3B

St Johns County Purchasing  
500 San Sebastian View  
St Augustine, Fl .32084

Contract Amount: 1,141,950.00  
July 2017 - Present

Project: 16<sup>th</sup> Street Reclaimed  
Water Main & Force Main  
Improvements

St Johns County Purchasing  
500 San Sebastian View  
St Augustine, Fl .32084

Contract Amount: 530,240.00  
June 30 2017 - Present

Project: Ocean Village Club  
Raintree, & Anastasia Oaks  
Lift Station

St Johns County Purchasing  
500 San Sebastian View  
St Augustine, Fl .32084

Contract Amount: 476,360.00  
June 30 2017 - Present

Project: Ponce De Leon Villas,  
Raintree, & Anastasia Oaks  
Lift Station

St Johns County Purchasing  
500 San Sebastian View  
St Augustine, Fl .32084

Contract Amount: 362,942.97  
March 2017 - November 2017

Project: Six Mile 1 Master Lift  
Station Improvements

Uniflorida IV LLC  
5975 Sunset Drive  
Miami, Fl. 33143

Contract Amount: 1,343,702.90  
March 2017 - Present

Project: Villages of Selo  
y  
2B

City of St Augustine  
75 King St  
St Augustine, Fl. 32085

Contract Amount: 561,213.72  
February 2017- July 2017

Project: Davenport Park / County  
Library

St Johns County Purchasing  
500 San Sebastian View  
St Augustine, Fl. 32084

Contract Amount: 191,816.05  
November 2016 - July 2017

Project: Stone Gate Lift Station  
Improvements

R.B. Gay Construction  
P.O. Box 3995  
Jacksonville, FL 32206  
Contact: Alan Reeves

Contract Amount: \$319,623.00  
January 2017 - Present  
Phone: 904-354-8201

Project: 2<sup>nd</sup> St North Parking  
Lot Improvements  
Jacksonville Beach

City of St Augustine  
75 King St  
St Augustine, Fl. 32085

Contract Amount: 267,799.20  
July 2016 - January 2017

Project: Pump Station 50-51  
Water Main Improvements

City of St Augustine  
75 King St  
St Augustine, Fl. 32085

Contract Amount: 441,611.34  
June 2016 - Jan 2017

Project: Sidney Storm Water  
Improvements

Petticoat Schmitt Civil Contractors  
6380 Philips Hwy  
Jacksonville, Fl. 32216

Contract Amount: 238,041.28  
June 2016 - November 2016

Project: Racetrack Road Widening

Coastal Contracting  
3491 Pall Mall Dr Ste 201  
Jacksonville, FL. 32257

Contract Amount: 397,704.51  
April 2016 - September 2016

Project: Gates of St Johns

Uniflorida IV LLC  
5975 Sunset Drive  
Miami, Fl. 33143

Contract Amount: 1,215,823.20  
August 2016 - Present

Project: Villages of Selo  
y  
2A

Uniflorida IV LLC  
5975 Sunset Drive  
Miami, Fl. 33143

Contract Amount: 265,000.  
April 2016- Present

Project: Villages of Selo  
Lift Station 1

St Johns County Purchasing  
500 San Sebastian View  
St Augustine, Fl. 32084

Contract Amount: 294,305.00  
April 2016 - Present

Project: Lift Station Imp  
Osprey & Sawgrass Marriott

Flores Construction Co. 5470 East Busch Blvd #511	Contract Amount: 280,521.00 March 2016 – Present	Project: City of Jacksonville Beach South Beach Park Pond Removal
City of Jacksonville Beach 11 <sup>th</sup> North ThirdSt Jacksonville Beach, Fl. 32250	Contract Amount \$ 1,303,131.40	Project: Ocean Forest Drainage Improvements
City of St Augustine 75 King St St Augustine, Fl. 32085	Contract Amount: 185,961.00	Project: Isla Drive Drainage Improvements
City of Atlantic Beach . 1200 Sandpiper Lane Atlantic Beach. Fl. 32233	Contract Amount: 91,150.00	Project: Russell Park Multi Purpose Path
City of Atlantic Beach 1200 Sandpiper Lane Atlantic Beach. Fl. 32233	Contract Amount: 380,000.00	Project: Salt Air Neighborhood Storm Water Improvements
City of St Augustine 75 King St St Augustine, Fl. 32085	Contract Amount: 957,551.00	Project: Magnolia Ave Area Water Main Improvements
Petticoat Schmitt Civil Contractors 6380 Philips Hwy Jacksonville, Fl. 32216	Contract Amount: 807,729.08 November 2014 – September 2015	Project: Dobbs Rd / Kings Estate Rd
City of Jacksonville Beach 11 <sup>th</sup> North ThirdSt Jacksonville Beach, Fl. 32250 Beach Infra.	Contract Amount \$ 3,597,507.20 May 2013 – March 2015	Project: Williams Coastal Blvd Heights & South
City of St Augustine 75 King St St Augustine, Fl. 32085	Contract Amount \$605,209.98	Project: Abbott Tract Utility Imp.
City of St Augustine 75 King St St Augustine, Fl. 32085	Contract Amount \$50,842.00 July 2014 - September 2014	Project: Palmetto Ave City of St Augustine Maintenance



City of Jacksonville Beach  
11<sup>th</sup> North Third St  
Jacksonville Beach, Fl. 32250

Contract Amount \$ 865,868.86  
February 2014 – January 2015

Project: Phase IIIB Improvements

City of St Augustine  
75 King St  
St Augustine, Fl. 32085

Contract Amount \$169,105.50

Project: North City Imp  
Old Mission Ave Water Main

C&D Construction, Inc  
P.O. Box 236577  
Cocoa, Fl. 32923-6577

Contract Amount \$445,369.53

Project: Avenida Menendez  
Seawall

City of Jacksonville Beach  
11 North Third St  
Jacksonville, Fl. 32250

Contract Amount \$633,010.00

Project : 12<sup>th</sup> Ave South  
Erosion Control

City of St Augustine  
75 King St  
St Augustine , Fl. 32084

Contract Amount : \$340,587.01

Project: Palmer St water Main  
Upgrade

City of Jacksonville Beach  
11 North third St  
Jacksonville , Fl. 32250

Contract Amount \$ 171,162.00

Project: Water main Valve  
Rep. Various Locations

City of St Augustine  
75 King St  
St Augustine, Fl. 32084

Contract Amount \$467,990.00

Project: Lincolnville Water Main  
Improvements

City of Jacksonville Beach  
11 North Third St  
Jacksonville, Fl. 32250

Contract Amount \$521,116.70  
June 2012 – May 2013

Project : Duval Drive Roadway &  
Drainage Improvement

City of St Augustine  
75 King St  
St Augustine , Fl. 32084

Contract Amount : \$ 719,080.00

Project: Lift Station 51 & 52

City of Jacksonville Beach  
11 North third Street  
Jacksonville, Fl. 32250

Contract Amount : \$532,515.00

Project: Modification to LS # 3

**City of St Augustine**  
75 King St  
St Augustine , Fl. 32084

Contract Amount : \$ 268,275.00

Project: Storm Water Upgrades

**City of Jacksonville Beach**  
11 North Third Street  
Jacksonville, FL 32250  
Contact Junior Lilly

Contract Amount: \$455,000.00

Project: Lake Mildred Storm Water  
Pump station

Phone: 904-247-6286

**City of Jacksonville Beach**  
11 North Third Street  
Jacksonville, FL 32250  
Contact Junior Lilly

Contract Amount: \$455,000

Project: 2<sup>nd</sup> & 4<sup>th</sup> Ave North Water  
Main Imp.

Phone: 904-247-6286

**City Of St Augustine**  
75 King Street  
St Augustine Fl, 32084  
Attn: Marcus Pinson

Contract Amount: \$44,750.00  
Contract Amount: \$55,559.00  
Contract Amount: \$37,391.00  
Marcus Pinson: 904-209-4278

Project: Ribault  
Project: Andreas  
Project: North Matanzas

**City Of St Augustine**  
75 King Street  
St Augustine Fl, 32084  
Attn: Marcus Pinson

Contract Amount: \$72,000.00

Project: Pump Station No 2  
Rehabilitation

Phone: 904-209-4278

**St Johns County**  
2446 Dobbs Rd  
St Augustine, Fl. 32086  
Aaron Zambo

Contract Amount: \$413,953.00

Project: Sevilla Gardens  
Sewer System Improvements

Phone: 904-209-2628

**St Johns County**  
2446 Dobbs Rd  
St Augustine, Fl. 32086  
Aaron Zambo

Contract Amount: \$838,393.40

Project: Woodland West  
Subdivision . Sewer System Imp.

Phone: 904-260-6288

**City Of Palatka**  
201 North 2<sup>nd</sup> St  
Palatka, Fl. 32177  
Daryl Myers

Contract Amount: \$819,419.72

Project: Dunham Street Water Main  
Extension

Phone: 904-260-6288

**Pat Cook Construction**  
1904 Manatee Ave W #300  
Bradenton, FL 34205  
Mark Coyne

Contract Amount: \$100,650.00

Project: Wards Creek &  
Timberlin Creek Elementary  
Sewer/Gravity

Phone: 941-749-1959

<p><b>City of Atlantic Beach</b> Project 800 Seminole Road Atlantic Beach, FL 32233 Contact: Rick Carper</p>	<p>Contract Amount: \$39,252.68  Phone: 904-247-5834</p>	<p>Project: George Street Sidewalk and Drainage CDBG</p>
<p><b>St. Johns County BOCC</b> 2740 Industry Center Road St. Augustine, FL 32084 Contact Joan Anderson</p>	<p>Contract Amount: \$195,011.00  Phone: 904-209-0128</p>	<p>Project: Shores Blvd Pipe Replacement</p>
<p><b>St. Johns County BOCC</b> 1205 SR 16 St. Augustine, FL 32084 Contact Robert Zammataro, PE</p>	<p>Contract Amount: \$490,761.98  Phone: 904-209-2604</p>	<p>Project: Treasure Beach Water Main Improvements</p>
<p><b>City of St. Augustine</b> P.O. Box 210 St. Augustine, FL 32085 Contact: Paul Spangler</p>	<p>Contract Amount: \$21,529.00  Phone: 904-825-1042</p>	<p>Project: Pump Station 23 Repairs</p>
<p><b>City of Jacksonville Beach</b> 11 North Third Street Jacksonville, FL 32250 Contact Junior Lilly</p>	<p>Contract Amount: \$1,519,325.95  Phone: 904-247-6286</p>	<p>Project: Infrastructure Improvements Parts A, B &amp; C</p>
<p><b>R.B. Gay Construction</b> P.O. Box 3995 Jacksonville, FL 32206 Contact: Alan Reeves</p>	<p>Contract Amount: \$778,727.87  Phone: 904-354-8201</p>	<p>Project: EOC</p>
<p><b>Ruggeri Construction</b> 815 S.R. 206 East St. Augustine, FL 32086</p>	<p>Contract Amount: \$156,960.00  Phone: 904-797-0201</p>	<p>Project: Forest Oaks</p>
<p><b>Halifax Paving</b> P.O. Box 730549 Ormond Beach, FL. 32173 Contact: Ruth</p>	<p>Contract Amount: \$ 2,350,000  Phone: 904-354-8201</p>	<p>Project: Conservatory</p>
<p><b>PCI</b> 3702 Olson Drive Daytona Beach, FL. 32124 Contact: Cathy Cobb</p>	<p>Contract Amount: \$ 1,070,000  Phone: 386-258-3807</p>	<p>Project: Old Kings Road Tymber Creek</p>
<p><b>R.B. Gay Construction</b> P.O. Box 3995 Jacksonville, FL. 32206 Contact: George Durance</p>	<p>Contract Amount: \$ 1,010,000  Phone: 904-354-8201</p>	<p>Project: St. Johns Co. Fire &amp; Rescue</p>

**Cats Paw Marina**  
220 Nix Boat Yard Rd.  
St. Augustine, FL. 32086  
Contact: Sonya Jenson Phone: 904-829-0840

Contract Amount: \$ 327,000

Project: Cats Paw Marina

**Lucas Marine**  
1100 Shelter Ave.  
Jacksonville, FL. 32250  
Contact: Frank Subjenski

Contract Amount: \$ 172,400

Project: FLA # \*8 Shoreline

Phone: 904-246-6017

**Largest work on-hand position of company, at any one time was \$ 2,500,000**

**ADDITIONAL REFERENCES:**

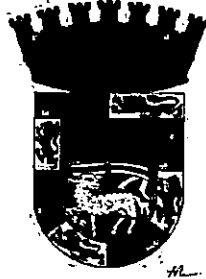
**Dennis Deprise**  
11 North Third St  
City of Jacksonville Beach  
Jacksonville Beach, 32250  
Email : [dduprics@jaxbchfl.net](mailto:dduprics@jaxbchfl.net)  
904-247-6286

**Bill Mendez**  
City of St Augustine  
75 King St  
St Augustine, Fl. 32085  
Email: [bmendez@citystaug.com](mailto:bmendez@citystaug.com)  
904-825-1040

**Rueben Franklin**  
City of St Augustine  
75 King St  
St Augustine, Fl. 32085  
Email: [rfranklin@citystaug.com](mailto:rfranklin@citystaug.com)  
904-209-4279

**Marcus Pinson**  
City of St Augustine  
75 King St  
St Augustine, Fl. 32085  
Email: [mpinson@citystaug.com](mailto:mpinson@citystaug.com)  
904-823-2204

**Brian Hepburn**  
Edmunds & Associates  
1100 Cesery Terrace  
Jacksonville, Fl. 32211  
Email: [bhepburn@joncsedmunds.com](mailto:bhepburn@joncsedmunds.com)  
904-744-5401



**Board of County Commissioners  
St. Johns County Florida**

**BID NO: 18-41**

**SHORES WWTP MASTER PUMP STATION REPLACEMENT**

**BID DOCUMENTS  
PROJECT SPECIFICATIONS**

**St. Johns County Purchasing Department  
500 San Sebastian View  
St. Augustine FL 32084  
904.209.0150**

**FINAL: 03/07/18**

**Bid No: 18-41; Shores WWTP Master Pump Station Replacement**

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**BID NO: 18-41**

## **NOTICE TO BIDDERS**

Notice is hereby given that sealed bids will be received until 2:00 P.M. on Wednesday, April 18, 2018 by the St. Johns County Purchasing Department, located at 500 San Sebastian View, St. Augustine, Florida 32084 for **Bid No: 18-41; Shores WWTP Master Pump Station Replacement.** Bids will be opened promptly after the 2:00 P.M. deadline. **Note:** Bids delivered or received in the Purchasing Department after the 2:00 P.M. deadline shall not be give consideration and shall be returned to the sender unopened.

### **Scope of Work:**

The project includes upgrades to the Shores WWTP Master Pump Station within the Shores community in Saint Augustine, FL and generally includes removal/demolition of existing lift station infrastructure, new concrete wet well and manhole, pour-in-place concrete slabs, installation of new submersible pumps and backup diesel pump, stainless steel discharge piping per SJCUD standards, miscellaneous site work associated with lift station modifications, installation of precast electrical building, and electrical and instrumentation work as shown in the bid documents.

### **Minimum Qualifications**

Prime bidder must be fully licensed to do business in the State of Florida and be currently licensed as a Certified Underground Utility Contractor or Certified General Contractor in the State of Florida, and provide proof of licensure with the submitted Bid Proposal. Bidders must have successfully completed, as a Prime or Sub-contractor, at least three (3) projects, in the past five (5) years, of similar type, size and dollar value of the project described herein.

### **Pre-Bid Conference**

There will be a **Mandatory** Pre-Bid Conference on **Wednesday, March 28, 2018 at 9:30 AM** at the St. Johns County Utility Department, 1205 State Road 16, St. Augustine, FL 32084. A non-mandatory site visit will be held following the pre-bid conference for those who are interested. Attendance is required at the Pre-Bid Conference in order to be eligible to submit a bid for this project. Failure to sign in at the Pre-Bid Conference shall result in a bidder being deemed non-responsive, and removal from consideration for award. **Please do not park in designated customer service parking spots.**

### **Bid Documents, Project Specifications and Drawings**

Documents related to this bid may be obtained from Onvia DemandStar, Inc., at the following web address: [www.demandstar.com](http://www.demandstar.com) by requesting St. Johns County Bid Document #18-41. For technical assistance with this Website please contact Onvia Supplier Services at 1-800-711-1712. A link to the Onvia DemandStar website is available through the St. Johns County Purchasing Website by clicking on the following link: [www.sjcfl.us/BCC/Purchasing/Open\\_Bids.aspx](http://www.sjcfl.us/BCC/Purchasing/Open_Bids.aspx). Check the County's site for download availability and any applicable fees.

### **Point of Contact**

Any and all questions related to this project shall be directed, *in writing*, to Leigh Daniels, CPPB, Procurement Supervisor, SJC Purchasing Department, via email to [ldaniels@sjcfl.us](mailto:ldaniels@sjcfl.us) or fax to (904) 209-0155. **Questions must be submitted, in writing, no later than four o'clock (4:00PM) on Wednesday, April 4, 2018,** so that any necessary addenda may be issued in a timely manner. Any questions received after the deadline will not be answered unless previously approved by the SJC Purchasing Manager or other designated County Representative.

Any bidder, proposer or person substantially and adversely affected by an intended decision or by an term, condition, procedure or specification with respect to any bid, invitation, solicitation of proposals or requests for qualifications, shall file with the Purchasing Department for St. Johns County, a written notice of intent to

protest no later than 72 hours (excluding Saturdays, Sundays and legal holidays for employees of St. Johns County) after the posting either electronically or by other means of the notice of intended action, notice of intended award, bid tabulation, publication by posting electronically or by other means of a procedure, specification, term or condition which the person intends to protest, or the right to protest such matter shall be waived. The protest procedures may be obtained from the Purchasing Department and are included in the County's Purchasing Manual. All of the terms and conditions of the County Purchasing Manual are incorporated by reference and are fully binding.

**Vendors shall not contact, lobby, or otherwise communicate with any SJC employee, including any member of the Board of County Commissioners, other than the above referenced individual from the point of advertisement of the Bid until contract(s) are executed by all parties, per SJC Purchasing Code 304.6.5 "Procedures Concerning Lobbying". According to SJC policy, any such communication shall disqualify the vendor, contractor, or consultant from responding to the subject invitation to bid, request for quote, request for proposal, invitation to negotiate, or request for qualifications. St. Johns County reserves the right to accept or reject any or all bids/proposals, waive minor formalities, and to award the bid/proposal that best serves the interests of St. Johns County. St. Johns County also reserves the right to award the base bid and any alternate bids in any combination that best suits the needs of the County.**

St. Johns County reserves the right to accept or reject any or all bids/proposals, waive minor formalities, and to award the bid/proposal that best serves the interests of St. Johns County. St. Johns County also reserves the right to award the base bid and any alternate bids in any combination that best suits the needs of the County.

BOARD OF COUNTY COMMISSIONERS  
OF ST. JOHNS COUNTY, FLORIDA  
HUNTER S. CONRAD, CLERK  
BY: \_\_\_\_\_

Deputy Clerk



# **FRONT END BID DOCUMENTS**

## INSTRUCTION TO BIDDERS

**OWNER:** The Board of County Commissioners of St. Johns County, Florida ("County") OR ("Owner")

**PROJECT:** BID NO.: 18-41; Shores WWTP Master Pump Station Replacement

### DEFINITIONS

All definitions set forth in the General Conditions of the Contract or in other Contract Documents are applicable to the Bidding Documents.

Addenda are written or graphic instruments issued by the Purchasing Department prior to the time and date for receiving Bids that modify or interpret the Bidding Documents by addition, deletion, clarification, or corrections.

Base Bid is complete and properly signed proposal to do the work, or designated portion thereof, for the sums stipulated therein supported by data called for by the Bidding Documents.

Bid An offer, as a price, whether for payment or acceptance. A quotation, specifically given to a prospective purchaser upon its request, usually in competition with other vendors

Bid (Formal or Sealed) A request for firm prices by Advertised Legal Notice. Prices are submitted in sealed envelopes and in conformance with a prescribed format, all of which are opened in public on an appointed hour and date as advertised.

Bid Bond A good faith monetary commitment which a bidder or surety forfeits to the County of the bidder refuses, or is unable to enter into a contract after submitting a bid, or the bidder cannot furnish the required bonds, usually five percent (5%) of the bid proposal price.

Bidder is a firm or individual who submits a Bid to the Owner for the work described in the proposed Contract Documents.

Bidding Documents include the Advertisement/Notice to Bidders, Front End Bid Documents, Contract Forms and Conditions, Specifications and Plans including any Addenda issued prior to receipt of Bids.

Contract A delivered agreement between two or more parties, legally binding and enforceable, to perform a specific act or acts or exchange goods for consideration. A purchase order becomes a contract when accepted by a vendor. A unilateral contract is one in which only one party promises performance. A bilateral contract is one in which both parties promise performance.

Contractor An individual or firm having a contract to provide goods, service or construction for a specified price

County St. Johns County, a political subdivision of the State of Florida (F.S. 217.73)

Responsible Bidder A bidder capable of performing in all respects to fulfill the contract requirements. This includes having the ability to perform, the experience, reliability, capacity, credit, facilities and equipment to meet the contractual obligation.

Responsive Bid, Responsive Proposal, or Responsive Reply A bid, proposal, or reply submitted by a responsive and responsible vendor conforming in all material respects to the solicitation.

Specifications A clear, complete and accurate statement of the physical, functional or technical requirements descriptive of an item and if applicable, the procedure to be followed to determine if the requirements are met.

Subcontractor A party who contracts with a prime contractor to perform all or any part of the prime contractor's obligations.

Unit Price is an amount stated in the Bid as a price per unit of measurement for materials or services as described in the contract documents which shall include all labor, materials, equipment and any other item/s essential to accomplish the scope of work of the Unit Price.

### **BIDDER'S REPRESENTATION**

Each Bidder, by marking his Bid, represents that he has read and understands the Bidding and Contract Documents and his Bid is made in accordance herewith: he has visited the Site and has familiarized himself with the local conditions under which the Work is to be performed; and his Bid is based upon the materials, systems and equipment described in the Bidding Documents without exceptions.

### **BIDDING DOCUMENTS**

Bidding documents may be obtained from [www.demandstar.com](http://www.demandstar.com) as stated in the Advertisement or Invitation - Notice to Bidders. Complete sets of Bidding Documents shall be used in preparing the Bid Proposal. St. Johns County shall not assume any responsibility for errors or misinterpretations resulting from the use of complete or incomplete sets of Bidding Documents. The Owner, in making copies of the Bidding Documents available on the above terms, do so only for the purpose of obtaining bids on the Work and do not confer a license or grant for any other use.

### **INTERPRETATION OR CORRECTION OF BIDDING DOCUMENTS**

Bidders shall promptly notify the Owner of any ambiguity, inconsistency, or error which they may discover upon examination of the Bidding Documents or of the site and local conditions. Bidders requiring clarification of interpretation of the Bidding Documents shall make a written request to the Owner, to reach him at least **fourteen (14) days** prior to the date for receipt of Bids.

An interpretation, correction, or change of the bidding Documents will be made by Addendum. Interpretation, corrections, or changes of the Bidding Documents made in any other manner will not be binding, and Bidders shall not rely upon such interpretation, corrections, and change. No change will be made to the Bidding Documents by the Owner or its Representative **seven (7) days** prior to Bid receiving date, however, the Owner reserves the authority to decrease this time depending on the necessity of such change.

### **SUBSTITUTIONS**

The materials, products and equipment described in the Bidding Documents establish a standard of required function, dimension, appearance and quality to be met by any proposed substitution. No substitution will be considered unless written request for approval has been submitted by the Bidder and has been received by the Owner at least **fourteen (14) days** prior to the date for receipt of Bids. Each such request shall include the name of the material or equipment for which it is to be substituted and a complete description of the proposed substitute, including drawings, cuts, performance and test data any other information necessary for an evaluation. A statement setting forth any changes in other materials, equipment or work that incorporation of the substitute would require shall be included. The burden of proof of the merit of the proposed substitute is upon the proposer. The project director's approval or disapproval of a proposed substitution shall be final.

If County Staff approves any proposed substitution, such approval will be set forth in an Addendum. Bidders shall **not** rely upon approval made in any other manner.

### **PRE-BID CONFERENCE**

There will be a **Mandatory Pre-Bid Conference on Wednesday, March 28, 2018 at 9:30 AM** at the St. Johns County Utility Department, 1205 State Road 16, St. Augustine, FL 32084. A non-mandatory site visit will be held following the pre-bid conference for those who are interested. Attendance is required at the Pre-Bid Conference in order to be eligible to submit a bid for this project. Failure to sign in at the Pre-Bid Conference shall result in a bidder being deemed non-responsive, and removal from consideration for award.

### **DESIGNATED POINT OF CONTACT**

The County's Designated Point of Contact for this Bid is Leigh Daniels, CPPB, Procurement Supervisor, St. Johns County Purchasing Department. Any and all questions and/or inquiries shall be directed to Ms. Daniels, *in writing*, via email at [ldaniels@sjcfl.us](mailto:ldaniels@sjcfl.us) or fax to (904) 209-0155. Bidders shall not contact, lobby, or otherwise communicate with any other County Staff, including members of the Board of County Commissioners, other than the designated representative shown above. Failure to comply with this requirement shall disqualify a bidder from consideration for award, as provided in St. Johns County Purchasing Code 304.6.5 as provided below:

Vendors shall not contact, lobby, or otherwise communicate with any SJC employee, including any member of the Board of County Commissioners, other than the above referenced individual from the point of advertisement of the Bid until contract(s) are executed by all parties, per SJC Purchasing Code 304.6.5 "Procedures Concerning Lobbying". According to SJC policy, any such communication shall disqualify the vendor, contractor, or consultant from responding to the subject invitation to bid, request for quote, request for proposal, invitation to negotiate, or request for qualifications. St. Johns County reserves the right to accept or reject any or all bids/proposals, waive minor formalities, and to award the bid/proposal that best serves the interests of St. Johns County. St. Johns County also reserves the right to award the base bid and any alternate bids in any combination that best suits the needs of the County.

**QUESTIONS**

Any and all questions related to this project shall be directed, *in writing*, to Leigh Daniels, CPPB, Procurement Supervisor, SJC Purchasing Department, via email to [ldaniels@sjcfl.us](mailto:ldaniels@sjcfl.us) or fax to (904) 209-0155. Questions must be submitted, in writing, no later than four o'clock (4:00PM) on Wednesday, April 4, 2018, so that any necessary addenda may be issued in a timely manner. Any questions received after the deadline will not be answered unless previously approved by the SJC Purchasing Manager or other designated County Representative.

**ADDENDA**

Addenda will be distributed to all who are known by the entity responsible for distribution of the complete set of Bidding Documents. Copies of Addenda will be made available for inspection wherever Bidding Documents are on file for that purpose.

Each Bidder shall ascertain prior to submitting a bid, that all issued addenda have been received, and each Bidder **shall** acknowledge receipt, of all issued addenda in the space provided in the Official County Bid Form, and a fully acknowledged copy of each issued addendum must be included in the submitted bid proposal. Failure to provide fully acknowledged copies of each addendum may result in a bid proposal being deemed non-responsive.

**BID SUBMITTAL REQUIREMENTS**

Bids shall be submitted in **TRIPLICATE** (one (1) original and two (2) copies) on the required forms provided herein. All blanks on the Bid Form shall be filled in by typewriter or manually in blue or black ink. Bidders are not required to submit a copy of this Bid Document with their bid proposals. The bidders are required to submit, at a minimum, the Bid Proposal Attachments listed in this Document.

Bid proposals must be placed in an envelope, sealed and placed in a second envelope or container, plainly marked on the outside addressed to St. Johns County Purchasing Department, with the bidder's return address in top left hand corner and recite: "BID NO: 18-41; Shores WWTP Master Pump Station Replacement"

***See Example Below:***

ABC Company, Inc. 123 Aviles Street St. Augustine, FL 32084	St. Johns County Purchasing Department 500 San Sebastian View St. Augustine, FL 32084 <b>BID NO.: XX-XX – SEALED BID FOR SAMPLE PROJECT</b>
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At the end of this document, a sealed Bid mailing label is provided for convenience. Bidders shall affix the provided label to the outside of the sealed envelope/container to submit their Bid.

Bidder shall assume full responsibility for timely delivery at location designated for receipts of Bids. Bids shall be deposited at the designated location prior to the time and date for receipt of Bids indicated in the Advertisement/Notice to Bidders, or any time extension thereof made by Addendum. Bids received after the time and date for receipt of Bids will be returned to the sender unopened.

Oral, telephonic, telegraphic or electronic Bids are invalid and will not receive consideration.

Where so indicated by the makeup of the Bid Form, sums shall be expressed in both words and figures, and in the case of discrepancy between the two, the amount expressed in words shall govern.

Any interlineations, alteration or erasure must be initialed by the signer of the Bid; failure to do so may cause the Bidder's proposal to be considered non-responsive.

Bidder shall make no stipulation on the Bid Form nor qualify his Bid in any manner, to do so will classify the Bid as being non-responsive, and may result in the Bidder being removed from consideration for award.

Each submitted copy of the Bid Proposal shall include the full legal company name, address, telephone number and legal name of an authorized representative for the Bidder and a statement as to whether the Bidder is a sole proprietor, partnership, corporation, or any other legal entity. Each copy of the submitted Bid shall be signed by the person or persons legally authorized to bind the Bidder to a contract. A Bid by a corporation shall further give the state of incorporation and have the corporation seal affixed.

A Bid submitted by an agent shall have a current Power of Attorney attached certifying agent's authority to bind the Bidder.

### **BID SECURITY**

Each submitted Bid shall be accompanied by a Bid Security, submitted on the Bid Bond Form provided herein, or in the form of a certified or cashier's check, in the amount of five percent (5%) of the Total Lump Sum Bid amount submitted on the Official County Bid Form, pledging that the Bidder will enter into a contract with the Owner on the terms stated in the Bid and will, if required, furnish bonds as described hereunder covering the faithful performance of the Contract and the payment of all obligations arising thereunder. Should the Bidder refuse to enter into such Contract or fail to furnish such bonds to the Owner, if required, the amount of the Bid Security shall be forfeited, not as penalty, but as liquidated damages.

A Bid Security in the form of a certified or cashier's check must be made payable to the Board of County Commissioners of St. Johns County. Bidders submitting a certified or cashier's check as the bid security are not required to submit Attachment "B" – Certificate as to Corporate Principal, or the Bid Bond forms provided herein.

A Bid Security in the form of a Bid Bond shall be written on the form provided herein, with an acceptable surety, and the Attorney-in-Fact who executes the bond on behalf of the surety shall affix to the bond a certified and current copy of his Power of Attorney. Acceptable surety companies are defined herein under "Surety Bond". The Surety Company shall be licensed to do business in the State of Florida and shall be listed by the U.S. Treasury Department. Any Bidder submitting a Bid Security in the form of a Bid Bond must also submit Attachment "B" – Certificate as to Corporate Principal.

The Owner shall have the right to retain the Bid Security of Bidders until either: (a) the Contract is executed and bonds, if required, have been furnished, or (b) the specified time has elapsed so that Bids may be withdrawn, or (c) all Bids have been rejected.

### **BID BOND INSTRUCTIONS**

If a Bidder chooses to submit a Bid Bond on the form provided herein, he must submit the bond as follows:

1. Prepare and submit one (1) original and two (2) copies of the required Bid Bond Forms as shown above
2. Type or print Bidder's and Surety's names in the same language as in the Advertisement, or Invitation to Bid.
3. Affix the Corporate Seal, and type or print the name of the Surety on the line provided and affix its corporate seal.
4. Attach a copy of Surety agent's Power of Attorney, unless the Power of Attorney has been recorded in St. Johns County. If it has been recorded, give the record book and page. If not recorded, the copy of the Power of Attorney must have an original signature of the Secretary or Assistant Secretary of Surety certifying the copy. The Surety's corporate seal must be affixed.

### **BID POSTPONEMENT/CANCELLATION**

The County may, at its sole and absolute discretion, reject any bids that are not submitted in accordance with the terms in this Bid Solicitation. The County may re-advertise this Bid; postpone or cancel, at any time, this Bid process; or waive any irregularities in this Bid or in the proposals received as a result of this Bid.

### **MODIFICATION OR WITHDRAWAL OF BID**

A Bid may not be modified, withdrawn or canceled by the Bidder during the stipulated time period following the time and date designated for the receipt of Bids, and Bidder so agrees in submitting his Bid.

Prior to time and date designated for receipt of Bids, a Bid submitted early may be modified or withdrawn only by notice to the party receiving Bids at the place and prior to the time designated for receipt of Bids.

Such notice shall be in writing over the signature of the Bidder. If by telephone, written confirmation over the signature of Bidder must be mailed and postmarked on or before the date and time set for receipt of Bids; it shall be so worded as not to reveal the amount of the original Bid.

Withdrawn Bids may be resubmitted up to the time designated for the receipt of Bids provided that they are then fully in conformance with these Instructions to Bidders.

Bid Security shall be in the amount of five percent (5%) of the Bid as modified or resubmitted.

### **COSTS INCURRED BY BIDDERS**

All expenses involved with the preparation and submission of bids to the County, or any work performed in connection therewith, shall be borne by the Bidder(s). No rights of ownership will be conferred until title of the property is transferred to the successful bidder. All fees for copying and reproduction services for items listed herein are nonrefundable.

### **CONSIDERATION OF BIDS**

**Opening of Bids:** Unless stated otherwise in an Addenda to the Advertisement/Notice to Bidders, the properly identified Bids received on time will be opened publicly as specified in the Advertisement and a tabulation of the bid amounts of the Base Bids and major Alternates, if any, will be made available to Bidders. The Bid Tabulation will be posted on the Purchasing Department bulletin board for seventy two (72) hours.

Any bidder, proposer or person substantially and adversely affected by an intended decision or by a term, condition, procedure or specification with respect to any bid, invitation, solicitation of proposals or requests for qualifications, shall file with the Purchasing Department for St. Johns County, a written notice of intent to protest no later than seventy two (72) hours (excluding Saturdays, Sundays and legal holidays for employees of St. Johns County) after the posting either electronically or by other means of the notice of intended action, not of intended award, bid tabulation, publication by posting electronically or by other means of a procedure, specification, term or condition which the person intends to protest, or the right to protest such matter shall be waived. The protest procedures may be obtained from the Purchasing Department and are included in the Owner's Purchasing Manual. All of the terms and conditions of the Owner Purchasing Manual are incorporated by reference and are fully binding.

**Rejection of Bids:** The Owner reserves the right to reject any or all Bids and in particular to reject a Bid not accompanied by any required Bid Security or data required by the Bidding Documents or a Bid in any way incomplete or irregular.

**Acceptance of Bid (Award):** The Owner shall have the right to reject any or all Bids or waive any minor formality or irregularity in any Bid received.

The Owner shall have the right to accept alternates in any order or combination and to determine the low Bidder on the basis of the sum of the Base Bid and/or the Alternates accepted if alternate bids are requested in the Official County Bid Form.

It is the intent of the Owner to award a contract to the lowest responsible Bidder provided the Bid has been submitted in accordance with the requirements of the Bidding Documents, if judged to be reasonable, and does not exceed the funds budgeted for the Project.

If the Contract is awarded, it will be awarded within a minimum of ninety (90) days from the date of the Bid opening, or as designated in the Bid Documents.

### **MINIMUM QUALIFICATION OF CONTRACTORS**

Prime bidder must be fully licensed to do business in the State of Florida and be currently licensed as a Certified Underground Utility Contractor or Certified General Contractor in the State of Florida, and provide proof of licensure

with the submitted Bid Proposal. Bidders must have successfully completed, as a Prime or Sub-contractor, at least three (3) projects, in the past five (5) years, of similar type, size and dollar value of the project described herein.

Proof of qualifications shall be provided by completing and submitting Attachment "H" – Contractor's Qualifications Form and Attachment "C" along with a copy of each license and certificate listed. All licenses, certifications and pre-qualifications must be valid and current on the date bids are submitted.

Bidders to whom award of a contract is under consideration shall submit to the County, upon his request, a properly executed Contractor's Qualification Statement of AIA Document A305, unless such a statement has been previously required and submitted as a prerequisite to the issuance of Bidding Documents.

### **SUB-CONTRACTORS**

Each Bidder shall submit to the County, a list of Subcontractors and major materials suppliers to be used if awarded the contract. A copy of the form, Attachment "D", is provided in the Bidding Documents.

Upon request by the County, the successful Bidder shall within seven (7) days thereafter, submit all data required to establish to the satisfaction of the County, the reliability and responsibility of the proposed Subcontractors to furnish and perform the work described in the Sections of the Specifications pertaining to such proposed Subcontractor's respective trades.

Prior to the award of the Contract, the County will notify the Bidder in writing if either the County, after due investigation, has reasonable and substantial objection to any person or organization proposed as a Subcontractor. The Bidder then may, at his option, withdraw his Bid without forfeiture of Bid Security or submit an acceptable substitute at no increase in Bid price. If the Bidder fails to submit an acceptable substitute within seven (7) days of the original notification, the County then may, at his option, disqualify the Bidder, at no cost to the County.

The County reserves the right to disqualify any Contractor, Subcontractor, Vendor, or material supplier due to previously documented project problems, either with performance or quality.

Subcontractors and other persons and organizations proposed by the Bidder and accepted by the County, must be used on the work for which they were proposed and accepted and shall not be changed except with the written approval of the County.

### **PUBLIC CONSTRUCTION BOND**

The Contractor shall be required to obtain and submit a recorded Public Construction Bond covering the faithful performance of the Contract and the payment of all obligations arising thereunder in full amount of the Contract, with such acceptable sureties, secured through the Bidder's usual sources as may be agreeable to the parties. The Contractor shall furnish the required bond, after full execution of the awarded Contract. The Bond shall be released upon satisfactory completion of the project.

### **SURETY BOND**

Acceptable Surety Companies: To be responsible to the Owner as Surety on Bonds, Surety shall comply with the following provisions:

1. Surety must be licensed to do business in the State of Florida;
2. Surety must have been in business and have a record of successful continuous operations for at least three (3) years;
3. Surety shall not have exposed itself to any loss on any one risk in an amount exceeding twenty percent (20%) of its surplus to policyholders;
4. Surety must have fulfilled all of its obligations on all other bonds given to the Owner;
5. Surety must have good underwriting, economic management, adequate reserves for undisclosed liabilities, and net resources for unusual stock and sound investment.

### **Time of Delivery and Form of Bonds**

The Public Construction Bond form will be forwarded to the successful Bidder with his copy of the fully executed contract. **The Public Construction Bond must be recorded after the contract is signed by all parties.** The bidder will have 3 days from receipt of fully executed contract to have the Public Construction Bond recorded. The bidder shall have the Public Construction Bond recorded at the St. Johns County Clerk of Courts office, in St. Augustine, Florida. After the

book and page number have been assigned to the bond by the recording person, the Bidder is to obtain from the recording person a certified copy of the recorded bond, and deliver the certified copy to the Owner's Contract Administrator. No work can commence until the required bond and Insurance Certificates have been delivered to the Owner. Upon receipt of the certified copy of the recorded bond, the Owner may issue a Notice to Proceed.

Unless otherwise specified in the Bid Documents, the bonds shall be written on the form provided herein. The Bidder shall require the Attorney-in-Fact who executes the required bonds on behalf of the Surety to affix thereto a certified and current copy of his Power of Attorney authorizing his firm to act as agent for the Surety in issuing the bonds.

### **INDEMNIFICATION**

To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, its officials, and employees, from and against liability, claims, damages, losses and expenses including attorney's fees arising out of or resulting from performance of the work, provided that such liability, claims, damages, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the work itself) including loss of use resulting therefrom, but only to the extent caused in whole or in part, by negligent acts or omissions of the Contractor, a Subcontractor, or anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such liability, claim, damage, loss or expense is caused in part by a party indemnified hereunder.

In claims against any person or entity indemnified under this paragraph by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefits acts or other employee benefits acts.

### **TERMINATION**

Failure on the part of the Contractor to comply with any portion of the duties and obligations under the Contract Agreement shall be cause for termination. If the Contractor fails to perform any aspect of the responsibilities described herein St. Johns County shall provide written notification of any and all items of non-compliance. The Contractor shall then have five (5) consecutive calendar days to correct any and all items of non-compliance. If the items of non-compliance are not corrected, or acceptable corrective action has not been taken within the five (5) consecutive calendar days, the Contract Agreement may be terminated by St. Johns County for cause, upon giving fourteen (14) consecutive calendar days written notice to the Contractor.

The County may terminate the Contract Agreement at any time, without cause, upon thirty (30) days written notice to the Contractor of intention to do so.

If, at any time, the Contract Agreement with the awarded vendor is terminated by the County, whether for cause or for convenience, the County may, at its sole discretion, negotiate with the second lowest, responsible, responsive bidder for the required services in order to enter into a contract with that vendor to prevent a gap in services for the County, if it serves the best interest of the County to do so.

### **FORM OF AGREEMENT BETWEEN OWNER AND CONTRACTOR**

Form to be used: Unless otherwise provided in the Bidding Documents, the Agreement for Work will be written on C-520 Agreement Stipulated Price.

### **CONTRACT TIME – LIQUIDATED DAMAGES**

The Contractor shall have ten (10) days to return Contract originals from the time the Contractor receives a "Notice of Award". St. Johns County will return a "fully executed" Contract to the Contractor no later than seven (7) days after the return of the executed Contract originals (but no later than seventeen (17) days from the Notice of Award).

The Contractor will furnish a recorded original of the Public Construction Bond three (3) business days after receipt of the fully executed Contract (the Public Construction Bond must be recorded after the Contract is fully executed by all parties including the County Clerk). Upon receipt of the recorded Public Construction Bond, the County will issue a Notice to Proceed. If the Contractor fails to meet any of the dates and timeframes set forth in this section, or fails to execute the Contract, or to provide a Public Construction Bond, the County may elect at its option to consider the Contractor non-



responsive and Contract with the next best Bidder.

The work to be performed under this Agreement shall be commenced within **ten (10)** days of the date of the Notice to Proceed, in writing. Construction of the project shall be substantially complete within **two hundred and forty (240)** consecutive calendar days from the date stipulated on the Notice to Proceed. Final completion shall be attained **thirty (30)** consecutive calendar days from the date of substantial completion.

**Conditions under which Liquidated Damages are Imposed:**

Should the Contractor or, in case of his default, the Surety fail to complete the work within the time stipulated in the contract, or within such extra time as may have been granted by the Owner, the Contractor or, in case of his default, the Surety shall pay to the Owner, not as a penalty but as liquidated damages, the amount so due as determined by the following schedule:

<u>Original Contract Amount</u>	<u>Daily Charge Per Calendar Day</u>
\$50,000 and under.....	\$763 Over
\$50,000 but less than \$250,000.....	\$958
\$250,000 but less than \$500,000.....	\$1,099
\$500,000 but less than \$2,500,000.....	\$1,584
\$2,500,000 but less than \$5,000,000.....	\$2,811
\$5,000,000 but less than \$10,000,000.....	\$3,645
\$10,000,000 but less than \$15,000,000.....	\$4,217
\$15,000,000 but less than \$20,000,000.....	\$4,698
\$20,000,000 and over.....	\$6,323 plus 0.00005 of any amount over \$20 million

(Round to nearest whole dollar)

**INSURANCE**

The CONTRACTOR shall not commence work under this Contract until he/she has obtained all insurance required under this section and such insurance has been approved by the COUNTY. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida. The CONTRACTOR shall furnish proof of Insurance to the COUNTY prior to the commencement of operations. The Certificate(s) shall clearly indicate the CONTRACTOR has obtained insurance of the type, amount, and classification as required by contract and that no material change or cancellation of the insurance shall be effective without thirty (30) days prior written notice to the COUNTY. Certificates shall specifically include the COUNTY as Additional Insured for all lines of coverage except Workers' Compensation and Professional Liability. A copy of the endorsement must accompany the certificate. Compliance with the foregoing requirements shall not relieve the CONTRACTOR of its liability and obligations under this Contract.

Certificate Holder Address: St. Johns County, a political subdivision of the State of Florida  
500 San Sebastian View  
St. Augustine, FL 32084

The CONTRACTOR shall maintain during the life of this Contract, Comprehensive General Liability Insurance with minimum limits of \$1,000,000 per occurrence, \$2,000,000 aggregate to protect the CONTRACTOR from claims for damages for bodily injury, including wrongful death, as well as from claims of property damages which may arise from any operations under this Contract, whether such operations be by the CONTRACTOR or by anyone directly employed by or contracting with the CONTRACTOR.

The CONTRACTOR shall maintain during the life of the contract, Professional Liability or Errors and Omissions Insurance with minimum limits of \$1,000,000, if applicable.

The CONTRACTOR shall maintain during the life of this Contract, Comprehensive Automobile Liability Insurance with minimum limits of \$2,000,000 combined single limit for bodily injury and property damage liability to protect the CONTRACTOR from claims for damages for bodily injury, including the ownership, use, or maintenance of owned and non-owned automobiles, including rented/hired automobiles whether such operations be by the CONTRACTOR or by anyone directly or indirectly employed by a CONTRACTOR.

The CONTRACTOR shall maintain Umbrella or Excess Liability Insurance covering workers compensation, commercial

general liability and business auto liability with minimum limits of liability of \$1,000,000.

The CONTRACTOR shall maintain during the life of this Contract, adequate Workers' Compensation Insurance in at least such amounts as are required by the law for all of its per Florida Statute 440.02.

The CONTRACTOR shall maintain during the life of this Contract, adequate Builder's Risk Insurance, in the amount of the initial contract amount plus the values of subsequent modifications, change orders, and loss of materials supplied or installed by others comprising the value of the entire project at the site on a replacement cost basis.

In the event of unusual circumstances, the County Administrator, or his designee, may adjust these insurance requirements.

#### **GOVERNING LAWS & REGULATIONS**

The Contractor shall be responsible for being familiar and complying with any and all federal, state, and local laws, ordinances, rules and regulations that, in any manner, affect the work required under this contract. The agreement shall be governed by the laws of the State of Florida and St. Johns County both as to interpretation and performance.

#### **TAXES**

Project is subject to Federal Excise and Florida Sales Taxes, which must be included in Bidder's proposal.

#### **FLORIDA TRENCH SAFETY ACT**

Bidders shall complete Certificate of Compliance with Florida Trench Safety Act, in accordance with the requirements of Chapter 553, Florida Statutes. If trenching is not required for this project, state so thereon. Contractor shall be responsible for compliance with all trenching shoring safety requirements.

#### **LIST OF MAJOR EQUIPMENT/MATERIAL SUPPLIERS**

Bidders shall complete List of Major Equipment/Material Suppliers to be used if awarded the Contract. The Bidder shall circle the supplier used in his Bid. No substitution will be considered unless written request for approval has been submitted by the Bidder and has been received by the Engineer at least **fourteen (14) calendar days** prior to the date for receipt of Bids and has been approved by Owner/Engineer via addenda. A copy of the form, Attachment I, is provided in the Bidding Documents. The bid will not be accepted unless the Attachment I is provided along with the Bid Form.

The Owner reserves the right to disqualify any Contractor, Subcontractor, Vendor, or material/equipment supplier due to previously documented problems, either with performance or quality.

#### **OWNER DIRECT PURCHASE**

**St. Johns County reserves the right to Owner Direct Purchase materials or equipment in accordance with County Purchasing Policy 302.21 or implement other means in order to achieve related sales tax or other cost savings.**

END OF SECTION

**OFFICIAL COUNTY BID FORM  
WITH ATTACHMENTS**

**BID NO: 18-41**

**OFFICIAL COUNTY BID FORM  
ST. JOHNS COUNTY, FLORIDA**

**PROJECT: SHORES WWTP MASTER PUMP STATION REPLACEMENT**

**TO: THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA**

DATE SUBMITTED: \_\_\_\_\_

**BID PROPOSAL OF**

\_\_\_\_\_  
Full Legal Company Name

\_\_\_\_\_  
Mailing Address

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Fax Number

Bidders: Having become familiar with requirements of the project, and having carefully examined the Bidding Documents and Specifications entitled for Bid No: 18-41, SHORES WWTP MASTER PUMP STATION REPLACEMENT in St. Johns County, Florida, the undersigned proposes to furnish all materials, labor and equipment, supervision and all other requirements necessary to comply with the Contract Documents to submit the following Bid Proposal summarized as follows:

**BASE BID**

**FOR: SHORES WWTP MASTER PUMP STATION REPLACEMENT** as per plans and specifications.

**BASE BID PRICE:**

\$ \_\_\_\_\_  
Base Bid Price (Numerical)

\_\_\_\_\_  
Base Bid Price (Amount written or typed in words) /100 Dollars

Bidder shall insert the Lump Sum Base Bid Price in numerals and in words. Any discrepancy between the two submitted amounts shall be determined by the amount written in words.

**TESTING SERVICE ALLOWANCE\*:**

\$ \_\_\_\_\_ 5,000.00  
Total Testing Service Allowance Price (Numerical)

\_\_\_\_\_  
Five Thousand and Zero /100 Dollars  
(Amount written or typed in words)

*\*The allowance shown is an estimated unit price allowance and will be adjusted (+/-) upon receipt of an invoice for applicable testing.*

**FPL ALLOWANCE\*:**

\$ 1,500.00  
Total FPL Allowance (Numerical)

One Thousand and Five Hundred /100 Dollars  
(Amount written or typed in words)

*\*The allowance shown is an estimated unit price allowance and will be adjusted (+/-) upon receipt of an invoice from FPL.*

**TOTAL BID PRICE (Base Bid + Allowances):**

\$ \_\_\_\_\_  
Total Bid Price (Numerical)

\_\_\_\_\_ /100 Dollars  
Total Bid Price (Amount written or typed in words)

Bidder shall insert the Total Bid Price in numerals and in words. Any discrepancy between the two submitted amounts shall be determined by the amount written in words.

During the preparation of the Bid, the following addenda, if any, were received:

No.: \_\_\_\_\_ Date Received:

No.: \_\_\_\_\_ Date Received:

No.: \_\_\_\_\_ Date Received:

We, the undersigned, hereby declare that no person or persons, firm or corporation, other than the undersigned are interested, in this proposal, as principals, and that this proposal is made without collusion with any person, firm or corporation, and we have carefully and to our satisfaction examined the Bid Documents and Project Specifications.

We have made a full examination of the location of the proposed work and the sources of supply of materials, and we hereby agree to furnish all necessary labor, equipment and materials, fully understanding that any quantities shown therewith are approximate only, and that we will fully complete all requirements therein as prepared by the Owner, within the same time limit specified in the Bid Documents as indicated above.

If the Undersigned is notified of the acceptance of this Bid Proposal by the Board within ninety (90) calendar days for the time set for the opening of Bids, the Undersigned further agrees, to execute a contract for the above work within ten (10) days after notice that his Bid has been accepted for the above stated compensation in the form of a Contract presented by the Owner.

The Undersigned further agrees that security in the form of a Bid Bond, certified or cashier's check in the amount of not less than five percent (5%) of Total Bid Price, payable to the Owner, accompanies this Bid; that the amount is not to be construed as a penalty, but as liquidated damages which said Owner will sustain by failure of the Undersigned to execute and deliver the Contract and Bond within ten (10) days of the written notification of the Award of the Contract to him; thereupon, the security shall become the property of the Owner, but if this Bid is not accepted within ninety (90) days of

the time set for the submission of Bids, or if the Undersigned delivers the executed Contract upon receipt, the Security shall be returned to the Bidder within seven (7) working days.

**CORPORATE/COMPANY**

Full Legal Company Name: \_\_\_\_\_ (Seal)

By: \_\_\_\_\_  
Signature of Authorized Representative (Name & Title typed or printed)

By: \_\_\_\_\_  
Signature of Authorized Representative (Name & Title typed or printed)

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

Telephone No.: (\_\_\_\_) \_\_\_\_\_ Fax No.: (\_\_\_\_) \_\_\_\_\_

Email Address for Authorized Company Representative: \_\_\_\_\_

Federal I.D. Tax Number: \_\_\_\_\_ DUNS #: \_\_\_\_\_  
(If applicable)

**INDIVIDUAL**

Name: \_\_\_\_\_  
(Signature) (Name typed or printed) (Title)

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

Telephone No.: (\_\_\_\_) \_\_\_\_\_ Fax No.: \_\_\_\_\_

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

Federal I.D. Tax Number: \_\_\_\_\_

- Submittal Requirements:
- Official County Bid Form
  - Attachment "A" – St Johns County Board of County Commissioners Affidavit
  - Attachment "B" – Certificate as to Corporate Principal
  - Attachment "C" – License/Certification List
  - Attachment "D" – List of Proposed Sub-Contractors/Suppliers
  - Attachment "E" – Conflict of Interest Disclosure Form
  - Attachment "F" – Certificate of Compliance with Florida Trench Safety Act
  - Attachment "G" – Proof of Insurance
  - Attachment "H" – Contractor's Qualifications Form
  - Attachment "I" – List of Proposed Major Material/Equipment Suppliers
  - Bid Bond Form
  - Fully Acknowledged Addenda Applicable to this bid

Official County Bid Form, Attachments "A", "B", "C", "D", "E", "F", "G", "H", "I", and Bid Bond must be completed, along with a fully acknowledged copy of each Addendum applicable to this Bid and submitted with each copy of the Bid Proposal. One (1) original and two (2) copies of all required forms must be submitted.

**BID NO.: 18-41**

**ATTACHMENT "A"**

**ST. JOHNS COUNTY, BOARD OF COUNTY COMMISSIONERS AFFIDAVIT**

TO: ST. JOHNS COUNTY, BOARD OF COUNTY COMMISSIONERS,  
ST. JOHNS COUNTY, ST. AUGUSTINE, FLORIDA.

At the time the proposal is submitted, the Bidder shall attach to his Bid a sworn statement.

This sworn statement shall be an affidavit in the following form, executed by an officer of the firm, association, or corporation submitting the proposal, and shall be sworn to before a person who is authorized by law to administer oaths.

STATE OF FLORIDA, COUNTY OF ST. JOHNS

Before me, the Undersigned authority, personally appeared \_\_\_\_\_ who being duly sworn, deposes and says he is \_\_\_\_\_ (Title) of the firm of \_\_\_\_\_ Bidder submitting the attached proposal for the services covered by the bid documents for Bid No: 18-41; Shores WWTP Master Pump Station Replacement, in St. Johns County, Florida.

The affiant further states that no more than one proposal for the above-referenced project will be submitted from the individual, his firm or corporation under the same or different name, and that such Bidder has no financial interest in the firm of another bidder for the same work. That neither he, his firm, association nor corporation has either directly or indirectly entered into any agreement, participated in any collusion, nor otherwise taken any action in restraint of free competitive bidding in connection with this firm's Bid on the above-described project. Furthermore, neither the firm nor any of its officers are barred from participating in public contract lettings in the State of Florida or any other state.

\_\_\_\_\_  
(Bidder)

Sworn and subscribed to me this \_\_\_\_\_ day  
of \_\_\_\_\_, 20\_\_\_\_.

By: \_\_\_\_\_  
\_\_\_\_\_  
(Title)

Notary Public:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed

My commission Expires: \_\_\_\_\_

**BIDDER ON ALL COUNTY PROJECTS MUST EXECUTE AND ATTACH THIS AFFADAVIT TO EACH BID.**



BID NO.: 18-41

**ATTACHMENT "B"**  
**CERTIFICATES AS TO CORPORATE PRINCIPAL**

I, \_\_\_\_\_, certify that I am the Secretary of the Corporation named as Principal in the attached bond; that \_\_\_\_\_ who signed the said bond on behalf of the Principal, was then of said Corporation; that I know his signature, and his signature hereto is genuine; and that said bond was duly signed, sealed, and attested for and in behalf of said Corporation by authority of it's governing body.

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Corporate Seal

(STATE OF FLORIDA  
COUNTY OF ST. JOHNS)

Before me, a Notary Public duly commissioned, qualified and acting, personally appeared to me well known, who being by me first duly sworn upon oath, says that he is the Attorney-In-Fact, for the and that he has been authorized by \_\_\_\_\_ to execute the foregoing bond on behalf of the surety named therein in favor of St. Johns County, Florida.

Subscribed and sworn to me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, A.D.

NOTARY PUBLIC  
State of Florida-at-large

My Commission Expires:

(Attach Power of Attorney to original Bid Bond and Financial Statement of Surety Company)





BID NO.: 18-41

**ATTACHMENT "E"**

**St. Johns County Board of County Commissioners  
Conflict of Interest Disclosure Form**

Project (BID) Number/Description: Bid No 18-41: Shores WWTP Master Pump Station Replacement

The term "conflict of interest" refers to situations in which financial or other considerations may adversely affect, or have the appearance of adversely affecting a consultant's/contractor's professional judgment in completing work for the benefit of St. Johns County ("County"). The bias such conflicts could conceivably impart may inappropriately affect the goals, processes, methods of analysis or outcomes desired by the County.

Consultants/Contractors are expected to safeguard their ability to make objective, fair, and impartial decisions when performing work for the benefit of the County. Consultants/Contractors, therefore must there avoid situations in which financial or other considerations may adversely affect, or have the appearance of adversely affecting the consultant's/contractor's professional judgement when completing work for the benefit of the County.

The mere appearance of a conflict may be as serious and potentially damaging as an actual distortion of goals, processes, methods of analysis or outcomes. Reports of conflicts based upon appearances can undermine public trust in ways that may not be adequately restored even when the mitigating facts of a situation are brought to light. Apparent conflicts, therefore, should be disclosed and evaluated with the same vigor as actual conflicts.

It is expressly understood that failure to disclose conflicts of interest as described herein may result in immediate disqualification from evaluation or immediate termination from work for the County.

Please check the appropriate statement:

- I hereby attest that the undersigned Respondent has no actual or potential conflict of interest due to any other clients, contracts, or property interests for completing work on the above referenced project.
- The undersigned Respondent, by attachment to this form, submits information which may be a potential conflict of interest due to other clients, contracts or property interests for completing work on the above referenced project.

Legal Name of Respondent: \_\_\_\_\_

Authorized Representative(s) :	_____	_____
	Signature	Print Name/Title
	_____	_____
	Signature	Print Name/Title

**BID NO.: 18-41**

**ATTACHMENT "F"**

**CERTIFICATE OF COMPLIANCE WITH FLORIDA TRENCH SAFETY ACT**

Bidder acknowledges that he is solely responsible for complying with the Florida Trench Safety Act (ACT) and Occupational Safety and Health Administrations excavation safety standard 29 CFR 1926.650 (Subpart P as amended) and the St. Johns County Trenching and Excavation Safety Program. If there is a conflict between the ACT and the St. Johns County Trenching and Excavation Safety Program, the more stringent requirement would apply. Bidder further acknowledges that included in the various items of the proposal and in the Total Bid Price are costs for complying with the Florida Trench Safety Act (90-96, Laws of Florida) effective October 1, 1990 and the Occupational Safety and Health Administrations excavation safety standard.

By: \_\_\_\_\_

\_\_\_\_\_  
Bidder

\_\_\_\_\_  
Date

\_\_\_\_\_  
Authorized Signature

**BID NO.: 18-41**

**ATTACHMENT "G"**

**CERTIFICATE OF INSURANCE**

INSERT CERTIFICATE OF INSURANCE HERE

BID NO.: 18-41

ATTACHMENT "H"

**CONTRACTOR'S QUALIFICATION FORM**

Bidder acknowledges that he is fully licensed to perform work in the STATE OF FLORIDA.

Any material misrepresentation, as determined by the County, shall result in disqualification.

By: \_\_\_\_\_ Date \_\_\_\_\_  
Bidder  
\_\_\_\_\_  
Authorized Signature

**Contractor's Project Experience**

The Bidder shall provide the following information regarding experience within the **past five (5) years** of this solicitation. Bidder must demonstrate the successful completion of **three (3) projects** of similar complexity, nature, size, and dollar amount of project.

<b>Contractor's Project Experience Details</b>	
<b>Project No. 1</b>	
Name of Project:	
Project Manager Name:	
Superintendent Name:	
Project Description:	
<b>Owner Information</b>	
Name:	
Address:	
Contact Person:	
Telephone Number:	
<b>Engineer/Architect Information</b>	
Name:	
Address:	
Contact Person:	
Telephone Number:	
<b>Contract Dates</b>	
Started:	
Original Contractual Completion:	

Contractor's Project Experience Details Project No. 1	
Final Contractual Completion:	
Actual Completion:	
<b>Contract Value</b>	
Original Contract Value:	
Final Contract Value:	
Value of Change Orders to Date:	
Value of Outstanding Claims to Date:	
<b>Bonding Company Information</b>	
Name:	
Address:	
Contact Person:	
Telephone Number:	
<b>Major Subcontractor Information</b>	
Name:	
Address:	
Contact Person:	
Telephone Number:	
Name:	
Address:	
Contact Person:	
Telephone Number:	
Name:	
Address:	
Contact Person:	
Telephone Number:	

Contractor's Project Experience Details Project No. 2	
Name of Project:	
Project Manager Name:	
Superintendent Name:	



**Contractor's Project Experience Details**  
Project No. 2

Project Description:	
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**Owner Information**

Name:	
Address:	
Contact Person:	
Telephone Number:	

**Engineer/Architect Information**

Name:	
Address:	
Contact Person:	
Telephone Number:	

**Contract Dates**

Started:	
Original Contractual Completion:	
Final Contractual Completion:	
Actual Completion:	

**Contract Value**

Original Contract Value:	
Final Contract Value:	
Value of Change Orders to Date:	
Value of Outstanding Claims to Date:	

**Bonding Company Information**

Name:	
Address:	
Contact Person:	
Telephone Number:	

**Major Subcontractor Information**

Name:	
Address:	
Contact Person:	

Contractor's Project Experience Details Project No. 2	
Telephone Number:	
Name:	
Address:	
Contact Person:	
Telephone Number:	
Name:	
Address:	
Contact Person:	
Telephone Number:	

Contractor's Project Experience Details Project No. 3	
Name of Project:	
Project Manager Name:	
Superintendent Name:	
Project Description:	
<b>Owner Information</b>	
Name:	
Address:	
Contact Person:	
Telephone Number:	
<b>Engineer/Architect Information</b>	
Name:	
Address:	
Contact Person:	
Telephone Number:	
<b>Contract Dates</b>	
Started:	
Original Contractual Completion:	
Final Contractual Completion:	

<b>Contractor's Project Experience Details</b>
<b>Project No: 3</b>

Actual Completion:	
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<b>Contract Value</b>
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Original Contract Value:	
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Final Contract Value:	
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Value of Change Orders to Date:	
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Value of Outstanding Claims to Date:	
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<b>Bonding Company Information</b>
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Name:	
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Address:	
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Contact Person:	
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Telephone Number:	
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<b>Major Subcontractor Information</b>
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Name:	
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Address:	
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Contact Person:	
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Telephone Number:	
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Name:	
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Address:	
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Contact Person:	
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Telephone Number:	
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Name:	
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Address:	
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Contact Person:	
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Telephone Number:	
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**Additional Questions**

Do you have any similar work in progress at this time? \_\_\_\_\_ Yes \_\_\_\_\_ No

Length of time in business: \_\_\_\_\_ Years

Is your company currently involved in any active litigation? \_\_\_\_\_ If Yes, explain: \_\_\_\_\_

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Has your company ever been sued? \_\_\_\_\_ If Yes, explain and/or submit court decision or judgment, as applicable:

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**ATTACHMENT I**

**LIST OF PROPOSED MAJOR MATERIAL/EQUIPMENT SUPPLIERS**

All equipment suppliers are subject to approval of Owner and Engineer. The following are suppliers proposed to be used in connection with this work. The Bidder shall circle the supplier used in his Bid. Alternate suppliers can only be added whose product has been approved via Addenda prior to the receipt of Bids. Refer to the Supplementary Conditions 7.04 for additional information. The Owner and Engineer reserve the right to reject or accept the alternate supplier. Where no specific manufacturer is listed, the submitted manufacturer must still meet the specification requirements.

<b>EQUIPMENT ITEM OR MATERIAL</b>	<b>SUPPLIER</b>
Submersible Pumps	A. Xylem-Flygt
Diesel Engine Driven Pump	A. Xylem-Godwin
Motor Control Centers	A. Eaton/Cutler-Hammer
Variable frequency drive (inside MCCs)	A. Eaton/Cutler-Hammer
Magnetic Flow Meter	A. Siemens

**BID BOND**

STATE OF FLORIDA  
COUNTY OF ST. JOHNS

KNOW ALL MEN BY THESE PRESENTS, that \_\_\_\_\_ as Principal, and as Surety, are held and firmly bound unto St. Johns County, Florida, in the penal sum of Dollars (\$ \_\_\_\_\_) lawful money of the United States, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATIONS IS SUCH that whereas the Principal has submitted the accompanying Bid, dated \_\_\_\_\_, 20\_\_.

For

**SHORES WWTP MASTER PUMP STATION REPLACEMENT**

St. Johns County, Florida

NOW THEREFORE,

- (a) If the Principal shall not withdraw said Bid within ninety (90) days after Bid Award date, and shall within ten (10) days after prescribed forms are presented to him for signature, enter into a written Contract with the County in accordance with the Bid as accepted, and give Bond with good and sufficient Surety or Sureties, as may be required, for the faithful performance and proper fulfillment of such Contract, then the above obligations shall be void and of no effect, otherwise to remain in full force and virtue.
- (b) In the event of the withdrawal of said Bid within the period specified, or the failure to enter into such Contract and give such Bond within the time specified, if the Principal shall pay the County the difference between the amount specified, in said Bid and the amount for which the County may procure the required Work and supplies, if the latter amount be in excess of the former, then the above obligations shall be void and of no effect, otherwise to remain in full force and virtue.

IN WITNESS WHEREOF, the above bounded parties have executed this instrument under their several seals, this day of \_\_\_\_\_ A.D., 20\_\_, the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

**BID NO.: 18-41**

WITNESSES:

(If Sole Ownership or Partnership two (2) Witnesses required).  
(If Corporation, Secretary only will attest and affix seal).

WITNESSES:

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PRINCIPAL:

NAME OF FIRM:

SIGNATURE OF AUTHORIZED  
OFFICER (AFFIX SEAL)

TITLE

BUSINESS ADDRESS

CITY

STATE

WITNESS:

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SURETY:

CORPORATE SURETY

ATTORNEY-IN-FACT (AFFIX SEAL)

BUSINESS ADDRESS

CITY

STATE


NAME OF LOCAL INSURANCE AGENCY

**SEALED BID MAILING LABEL**

**BID NO: 18-41  
SHORES WWTP MASTER PUMP STATION REPLACEMENT**

**Cut along the outer border and affix this label  
to your sealed bid envelope to identify it as a  
"Sealed BID"**

<b>SEALED BID • DO NOT OPEN</b>	
SEALED BID NO.:	<b>BID NO: 18-41</b>
BID TITLE:	<b>Shores WWTP Master Pump Station Replacement</b>
DUE DATE/TIME:	<b>By 2:00PM – April 18, 2018</b>
SUBMITTED BY:	Company Name
	Company Address
	Company Address
DELIVER TO:	<b>St. Johns County Purchasing Dept. ATTN: Leigh Daniels 500 San Sebastian View St. Augustine FL 32084</b>



**END OF DOCUMENT**





# St. Johns County Board of County Commissioners

Purchasing Division

## ADDENDUM #3

April 10, 2018

**To:** Prospective Bidders  
**From:** St. Johns County Purchasing Department  
**Subject:** Bid No: 18-41 Shores WWTP Master Pump Station Replacement

This Addendum #3 is issued for further bidder's information and is hereby incorporated into the bid documents. Each bidder will ascertain before submitting a proposal that he/she has received all Addenda. *Please return a signed copy of this Addendum with Bid Proposal (1 original & 2 copies).*

ADDENDUM #3 SHALL BE INCORPORATED INTO THE AGREEMENT DOCUMENTS, PROPOSAL REQUIREMENTS, AGREEMENT FORMS, CONDITIONS OF THE AGREEMENT, AND TECHNICAL SPECIFICATIONS DATED APRIL, 2018.

Bidders are hereby notified that this Addendum shall be attached to and made a part of the Bid Documents and Specifications. These items shall have full force and effect as the Bid Documents and Specifications and any changes in cost involved shall be included in the submitted Bid Prices. Bids submitted on the specified bid date shall conform to the additions/deletions/revisions listed herein.

There is little debris inside the tanks to be demolished.

### ATTACHMENTS TO ADDENDUM #3

- Pictures of inside tanks

**THE BID DUE DATE SHALL REMAIN: April 18, 2018 by 2:00 P.M.**

Acknowledgment

Sincerely,

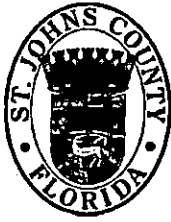
\_\_\_\_\_  
Signature and Date

Leigh Daniels, CPPB  
Procurement Supervisor

\_\_\_\_\_  
Printed Name and Title

\_\_\_\_\_  
Company Name (Print)

END OF ADDENDUM #3



# St. Johns County Board of County Commissioners

Purchasing Division

## ADDENDUM #2

April 6, 2018

**To:** Prospective Bidders  
**From:** St. Johns County Purchasing Department  
**Subject:** Bid No: 18-41 Shores WWTP Master Pump Station Replacement

This Addendum #2 is issued for further bidder's information and is hereby incorporated into the bid documents. Each bidder will ascertain before submitting a proposal that he/she has received all Addenda. *Please return a signed copy of this Addendum with Bid Proposal (1 original & 2 copies).*

ADDENDUM #2 SHALL BE INCORPORATED INTO THE AGREEMENT DOCUMENTS, PROPOSAL REQUIREMENTS, AGREEMENT FORMS, CONDITIONS OF THE AGREEMENT, AND TECHNICAL SPECIFICATIONS DATED APRIL, 2018.

Bidders are hereby notified that this Addendum shall be attached to and made a part of the Bid Documents and Specifications. These items shall have full force and effect as the Bid Documents and Specifications and any changes in cost involved shall be included in the submitted Bid Prices. Bids submitted on the specified bid date shall conform to the additions/deletions/revisions listed herein.

### IN THE TECHNICAL SPECIFICATIONS

1. Specification Section 01014, paragraph 1.03 Add the following paragraph:

"E. Existing Tank No. 1 (as indicated on Sheet C-1A) is hydraulically connected to the existing master pump station. This tank shall not be demolished until after the new submersible master pump station is installed and substantially complete."

2. Specification Section 02050, paragraph 3.01 Add the following sentence:

"D. Contractor may use crushed concrete from demolition for recycled concrete aggregate provided the crushed concrete conforms to FDOT Section 911."

3. Specification Section 16600, paragraph 1.03.B: Remove this paragraph in its entirety.

### ON THE DRAWINGS

4. Refer to Revised Sheets, C-1A and CD-1.

### QUESTIONS/ANSWERS, CLARIFICATION AND GENERAL INFORMATION

5. Numbers 9 and 10 on the addendum call to replace ANSI/HI 11.6 with ANSI/HI 14.6. ANSI/HI 14.6 ultimately refers back to ANSI/HI 9.6.4 which states, "Rotodynamic Pumps for Vibration Measurements and Allowable Values" excludes reciprocating engine-driven pumps from that standard." Since an engine-driven pump is what will be supplied, I would assume we are excluded from having to meet the vibration standards outlined in that section.

*Answer: The ANSI/HI standards are for reference only. The engine-driven pump is excluded from the vibration standard.*

6. Robbins Lightning, Inc. requests being listed as an approved supplier for lightning protection materials.

*Answer: Pre-approval is not required for suppliers. Products provided shall be per plans and specifications.*

7. For project Shores Wastewater Treatment Plant Master Pump Station Replacement it indicates bypass pumping but I cannot find the flow rate. Could you please provide.

*Answer: The intent is for the existing master pump station to be kept in service until the new pump station is fully operational. Therefore, bypass pumping may not be necessary. However, if it is determined that bypass pumping is required, the Contractor shall be fully responsible for providing a complete bypass pumping system as outlined in Specification Section 01014. The bypass pump shall be capable of pumping 1,350 gallons per minute at 120 feet total head.*

**ATTACHMENTS TO ADDENDUM #2**

- FDOT Section 911 Base and Stabilized Base Materials
- Sheets C-1A and CD-1

**THE BID DUE DATE SHALL REMAIN: April 18, 2018 by 2:00 P.M.**

**Acknowledgment**

**Sincerely,**

\_\_\_\_\_  
Signature and Date

**Leigh Daniels, CPPB**  
Procurement Supervisor

\_\_\_\_\_  
Printed Name and Title

\_\_\_\_\_  
Company Name (Print)

**END OF ADDENDUM #2**



## St. Johns County Board of County Commissioners

Purchasing Division

April 2, 2018

### ADDENDUM #1

**To:** Prospective Bidders  
**From:** St. Johns County Purchasing Department  
**Subject:** Bid No. 18-41, Shores WWTP Master Pump Station Replacement

This Addendum #1 is issued for further respondent's information and is hereby incorporated into the Bid documents. Each respondent will ascertain before submitting a proposal that he/she has received all Addenda. **Please return an original copy of this signed Addendum with proposal to the St. Johns County Purchasing Department, Leigh A. Daniels, CPPB; 500 San Sebastian View; St. Augustine, FL 32084.**

ADDENDUM #1 SHALL BE INCORPORATED INTO THE AGREEMENT DOCUMENTS, PROPOSAL REQUIREMENTS, AGREEMENT FORMS, CONDITIONS OF THE AGREEMENT, AND TECHNICAL SPECIFICATIONS  
DATED MARCH 2018

Proposers on the Project are hereby notified that this Addendum shall be attached to and made a part of the above-named Proposal Documents and Specifications. These items shall have full force and effect as the Proposal Documents and Specifications and cost involved shall be included in the Proposal Contract Prices. Proposals to be submitted on the specified bid date shall conform with the additions/deletions/revisions listed herein.

#### IN THE TECHNICAL SPECIFICATIONS

1. Specification Section 01010, paragraph 1.02.B.2.c: Add sentence "Contractor shall be responsible for removal and disposal of fuel."
2. Specification Section 11148, paragraph 2.01.C: Replace the words "ball-type" with "flap".
3. Specification Section 11148, paragraph 2.01.K: Replace required pump model "CD 150M" with "CD160M".
4. Specification Section 11148, paragraph 2.02.A: Replace last two sentences with the following, "Drive unit shall be a John Deer 6068285 or equal, rated at 156 HP (continuous) at 2,000 RPM. A certified continuous duty engine curve shall be supplied to the owner/engineer."
5. Specification Section 11148, paragraph 2.03.A.2: Replace paragraph with the following:

"2. Secondary Capacity

- |                             |     |
|-----------------------------|-----|
| a. Flow(gpm)                | 475 |
| b. Total dynamic head, (ft) | 159 |
| c. Maximum NPSHr, (ft)      | 7 " |

6. Specification Section 11148, paragraph 2.03.A.: Replace paragraph with the following
- “2. Run-out Capacity
- |                             |       |   |
|-----------------------------|-------|---|
| a. Flow(gpm)                | 1,500 |   |
| b. Total dynamic head, (ft) | 118   |   |
| c. Maximum NPSHr, (ft)      | 10    | ” |
7. Specification Section 11148, paragraph 2.03.A.4: Replace required operating speed of “2,200” with “1,600”.
8. Specification Section 11148, paragraph 2.03.A: Add the following:
- “8. Suction Pipe Entrance Elevation: 18.00 ft  
 9. Suction Pipe Minimum Submergence: 20.93 ft  
 10. Diesel Pump Float Elevations:  
 a. Diesel Pump “ON”: 25.93 ft  
 b. Diesel Pump “OFF”: 21.75 ft ”
9. Specification Section 11148, paragraph 3.03.B.2: Replace “ANSI/HI 11.6” with “ANSI/HI 14.6”.
10. Specification Section 11148, paragraph 3.03.B.3: Replace “ANSI/HI 11.6” with “ANSI/HI 14.6”.
11. Specification Section 11148, paragraph 3.03.D: Replace sentence with the following:
- “D. After installation and as soon as conditions permit full speed operation, and in the presence of the Engineer, have the vibration tests performed on each unit by a minimum level III qualified vibration technician as defined by Vibration Institute or equivalent to (a) establish compliance with a maximum vibration level of 0.35 inches per second RMS, and (b) prove that there are no field installed resonant conditions due to misalignment, the foundation, or the connecting piping and its supports, when operating at any speed within the specified operating range.”
12. Specification Section 16900, paragraph 2.05.B.5: Replace paragraph with the following:
- “5. Provide one additional ultrasonic level transducer as spare parts. Provide a hand held HART calibrator or PC based HART programming capability including HART Modem and Pulsar set-up software. The Instrumentation System Supplier shall demonstrate calibration of the active ultrasonic level transducer using the HART programming capability provided. Upon final acceptance, the Instrumentation System Supplier shall demonstrate duplicate calibration of the spare ultrasonic level transducer.”

**ON THE DRAWINGS**

13. Refer to Revised Sheets C-1A, C-2, S-1, M-1, M-2, M-3 and M-4.

**ANSWERS TO QUESTIONS RECEIVED DURING BIDDING. CLARIFICATION AND GENERAL INFORMATION**

14. Pump Selection – The duty points listed in the specification are unobtainable with the CD150 DBS we offer. We will need to bump up to a CD160 or CD180 (the only difference is the CD180 has 8” connection and the CD160 has 6” connections, they have the same curve) to achieve the primary duty point that they have listed in the specs (1390gpm @ 120’ TDH).

*Answer: See revisions to Specification Section 11148, paragraph 2.03 and revised drawing sheets M-2, M-3, and M-4.*

15. Onsite Vibration Testing – The specs call for onsite vibration testing... “vibration tests performed in accordance with ANSI/HI 11.6 on each unit by a minimum level III qualified vibration technician as defined by Vibration Institute or equivalent...”
- ANSI/HI 11.6 is for Rotodynamic Submersible Pumps, not non-submersed pumps
  - ANSI/HI 9.6.4 “Rotodynamic Pumps for Vibration Measurements and Allowable Values” excludes reciprocating engine-driven pumps from that standard. Since an engine-driven pump is

what will be supplied, we are excluded from having to meet the vibration standards outlined in that section.

*Answer: See revisions to Specification Section 11148, Part 3.03.*

16. Specifications Section 16900 2.05 B 5 ask for a Emerson 475 Field Communicator. Do you want a \$6,000.00 instrument to program a \$1,000.00 level transmitter?

*Answer: See revisions to Specification Section 16900, paragraph 2.05B.5.*

17. We would like to know if the County is supplying any Materials or Equipment on this project?

*Answer: No not at this time, we did place in the bid document on page 14 that the County reserves the right to Owner Direct Purchase materials or equipment in order to achieve sales taxes to other cost savings but that will not be determined until a contract is issued.*

18. What is the estimate for the subject project?

*Answer: \$850,000.00*

**ATTACHMENTS TO ADDENDUM #1**

- Sheets C-1A, C-2, S-1, M-1, M-2, M-3 and M-4.
- As-builts for the three ground storage tanks proposed for demolition attached.

**THE BID DUE DATE REMAINS April 18, 2018 AT 2:00 P.M.**

**Acknowledgment**

**Sincerely,**

\_\_\_\_\_  
Signature and Date

Leigh A. Daniels, CPPB  
Procurement Supervisor

\_\_\_\_\_  
Printed Name/Title

\_\_\_\_\_  
Company Name (Print)

**END OF ADDENDUM NO. 1**