



South Fork Water Board
15962 Hunter Avenue
Oregon City, Oregon 97045

**ADDENDUM NO. 1 to Contract Documents for
WATER QUALITY SYSTEMS BUILDING
PROJECT NO. CIP-01**

DATE: August 10, 2026
SUBJECT: ADDENDUM 1 - CHANGES TO THE CONTRACT DOCUMENTS
TO: PROSPECTIVE BIDDERS AND PLANHOLDERS

The Contract Documents for the above project are not modified in any way by this *Addendum No. 1* except as provided below.

ITEM NO. 1 – DIVISION 0 FRONT END SPECIFICATIONS

- A. Delete DIVISION 0, FRONT END SPECIFICATIONS in its entirety and replace with the attached revised Division 0.
- B. The following is a summary of revisions made to Division 0.
 - a. 00 11 13 Advertisement for Bid
 - i. Insert the following after the sixth paragraph:

Owner anticipates that the Project's total bid price will range between approximately \$10,000,000 and \$12,000,000.
 - b. 00 21 13 Instructions to Bidders
 - i. Replace all references to Section 00 72 00 and 00 73 00 as follows:

Article 5, 5.2. – Delete and replace with the following:

 - 1. Supplementary Information, included with these Specifications identifies the following regarding existing conditions at or adjacent to the Site:
 - a. Those reports of explorations and tests of subsurface conditions at or adjacent to the Site that contain Technical Data.
 - b. Those Record Drawings known to Owner of existing physical conditions at or adjacent to the Site, including those drawings depicting existing surface or subsurface structures at or adjacent to the Site.
 - c. Arborist Report regarding trees on the project site.
 - 2..The above referenced documents are included as Supplementary Information to these Contract Documents. While these reports and drawings are not part of the Contract Documents, the Technical Data contained therein

upon whose accuracy Bidder is entitled to rely, as provided in these contract documents. Bidder is responsible for all interpretations and conclusions Bidder draws from any Technical Data or any other data, interpretations, opinions, or information contained in such reports or shown or indicated in such drawings.

Article 5, 5.3.A. – Delete and replace with the following:

A. Reference is made to Section 00 52 43, Public Improvement Contract for the identification of the general nature of other work of which Owner is aware (if any) that is to be performed at the Site by Owner or others (such as utilities and other prime contractors) and relates to the Work contemplated by these Bidding Documents. If Owner is party to a written contract for such other work, then on request, Owner will provide to each Bidder access to examine such contracts (other than portions thereof related to price and other confidential matters), if any.

Article 8, 8.1 – Delete and replace with the following:

8.1 A Bid must be accompanied by Bid Security made payable to Owner in an amount of 10 percent of the Bidder's maximum Bid price (determined by adding the base bid and all alternates) and in the form of a Bid Bond issued by a surety meeting the requirements Section 00 43 13, Bid Bond. Such Bid Bond will be issued in the form included in the Bidding Documents.

Article 11, 11.4 – Delete and replace with the following:

11.4 If apparent Successful Bidder declines to make any such substitution, Owner may award the Contract to the next lowest Bidder that proposes to use acceptable Subcontractors and Suppliers. Declining to make requested substitutions will constitute grounds for forfeiture of the Bid security of any Bidder. Any Subcontractor or Supplier, so listed and against which Owner or Engineer makes no written objection prior to the giving of the Notice of Award will be deemed acceptable to Owner and Engineer subject to subsequent revocation of such acceptance as provided in 00 52 43, Public Improvement Contract.

Article 13, 13.1.B – Delete and replace with the following:

B. The "Bid Price" (sometimes referred to as the extended price) for each unit price Bid item will be the product of the "Estimated Quantity", which Owner or its representative has set forth in the Bid Form, for the item and the corresponding "Bid Unit Price" offered by the Bidder. The total of all unit price Bid items will be the sum of these "Bid Prices"; such total will be used by Owner for Bid comparison purposes. The final quantities and Contract Price will be determined in accordance with 00 52 43, Public Improvement Contract.

Article 19, 19.1 – Delete and replace with the following:

1. Section 00 43 13, Bid Bond, sets forth Owner's requirements as to performance and payment bonds, other required bonds (if any), and insurance and addresses the requirements for providing bid

bonds as part of the bidding process. When the Successful Bidder delivers the executed Agreement to Owner, it must be accompanied by required bonds and insurance documentation.

Article 19, 19.2 – Delete in its entirety.

Article 20, 20.1 – Delete and replace with the following:

1. When Owner issues a Notice of Award to the Successful Bidder, it will be accompanied by the unexecuted counterparts of the Agreement along with the other Contract Documents as identified in Agreement. Within 15 days thereafter, Successful Bidder must execute and deliver the required number of counterparts of the Agreement and any bonds and insurance documentation required to be delivered by the Contract Documents to Owner. Within 10 days thereafter, Owner will deliver one fully executed counterpart of the Agreement to Successful Bidder, together with printed and electronic copies of the Contract Documents as set forth in Section 00 52 43, Public Improvement Contract.

c. 00 41 13 Bid Form

Article 2, 2.1 – delete in its entirety and replace with the following:

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

- A. Section 00 41 13, Bid Form
- B. Section 00 43 13, Bid Bond;
- C. Section 00 45 13.01, Responsibility Determination Form
- D. Section 00 45 17, First-Tier Subcontractors Disclosure Form;
- E. Section 00 45 19, Non-Collusion Affidavit

Article 3, 3.1 – Add the following item to the Bid Table:

Item 60.f, Coordination with Owner’s SCADA Integrator, LS.

Article 4, 4.1 – delete in its entirety and replace with the following:

Bidder agrees that the Work will be substantially complete and will be completed and ready for final payment on or before the dates or within the number of calendar days indicated in the Contract.

d. 00 43 13 Bid Bond

ADD Section 00 43 13, Bid Bond to Division 0.

e. 00 45 13.01 Responsibility Determination Form

Replace all occurrences of “Bidder’s Qualification Statement” with “Responsibility Determination Form”.

f. 00 45 17 First-Tier Sub Disclosure Form

Replace all occurrences of 00 41 00 in Footer with 00 45 17.

g. 00 52 43 Public Improvement Contract

i. Article 7 - delete in its entirety and replace with the following:

7. Addresses for Notice. Any notice required by the terms of this Contract

shall be provided by written notice to the contact information listed below and served in one of the following manners: a) in-person delivery; b) deposited in the U.S. Mail under certified or registered handling, postage prepaid; or c) via email, with read receipt function enabled and with the words "Formal Notice" or similar in the e-mail's subject line. Except as provided in this Contract, it is agreed that fifteen calendar days shall constitute reasonable notice for the exercise of any right in the event that applicable law specifically requires such notice.

ii. Article 12.5.1.f - delete in its entirety and replace with the following:

f. Nothing herein negates any obligation 1) in the Contract to create, provide, or maintain an original printed record version of Drawings and Specifications, signed and sealed according to applicable Laws and Regulations; 2) to comply with any applicable Law or Regulation governing the signing and sealing of design documents or the signing and electronic transmission of any other documents; or 3) to comply with the notice requirements of this Contract.

ITEM NO. 2 – DIVISION 01 GENERAL REQUIRMENTS, SECTION 01 20 20, MEASUREMENT AND PAYMENT

A. Delete SECTION 01 20 20, MEASUREMENT AND PAYMENT in its entirety and replace with the attached revised SECTION 01 20 20.

ITEM NO. 3 – SECTION 00 01 10, TABLE OF CONTENTS

A. Delete SECTION 00 01 10, TABLE OF CONTENTS in its entirety and replace with the attached revised SECTION 00 01 00.

Bidder's Signature

Date

Company Name

CONTRACT DOCUMENTS

FOR

CONSTRUCTION OF

WATER QUALITY SYSTEMS BUILDING

FOR

SOUTH FORK WATER BOARD

AUGUST 2026

Consor North America, Inc.
One SW Columbia Avenue, Suite 1700
Portland, OR 97204
503-225-9010

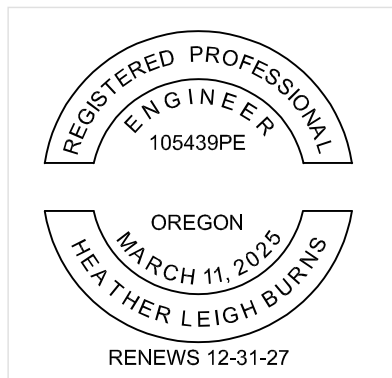
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SECTION 00 01 07 - SEALS PAGE
FOR
WATER QUALITY SYSTEMS BUILDING
FOR
SOUTH FORK WATER BOARD

See Table of Contents for author of each specification section, identified by author's initials as follows:

AUTHOR'S NAME = INITIALS

HEATHER LEIGH BURNS, PE= HLB
ADAM N. BLAIR, PE = ANB
JEFFREY D. FUCHS = JDF
SHIVANI AMOL SAPTARISHY, PE= SAS
JOHN C DEERKOP, PE= JCD
PHILIP E. WALZ, AIA= PEW
MATTHEW ERICH PERKINS PE= MEP



HLB STAMP



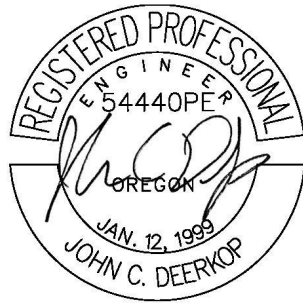
ANB STAMP



JDF STAMP

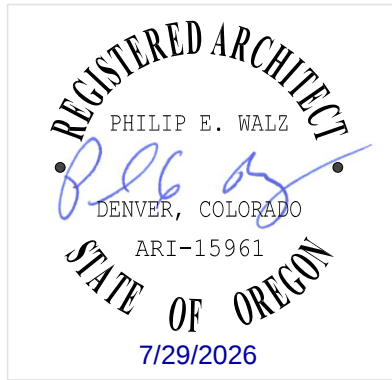


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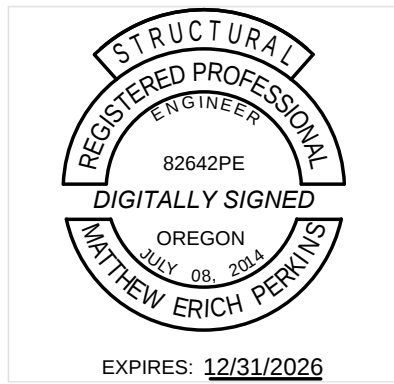


EXPIRES: 12/31/27

JCD STAMP



PEW STAMP



MEP STAMP

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FOR
SOUTH FORK WATER BOARD (SFWB)**

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SUPPLEMENTARY INFORMATION

- A. Geotechnical Engineering Report, Shannon & Wilson, September 2021
- B. Arborist Report, Integrated Arboricultural Solutions, March 2021
- C. Record Drawings
 - a. Existing Water Treatment Building Design Drawings, Stevens & Thompson Consulting Engineers, 1957
 - b. Existing Water Treatment Building Modifications Drawings, Stevens, Thompson & Runyan, Inc., 1976
 - c. System Capacity Improvements Drawings, MWH, 2024

END OF SECTION

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**SECTION 00 11 13 ADVERTISEMENT FOR BIDS
SOUTH FORK WATER BOARD
OREGON CITY, OREGON
WATER QUALITY SYSTEMS BUILDING**

General Notice

South Fork Water Board ("Owner" and "Board") is requesting Bids for the construction of the following Project:

**WATER QUALITY SYSTEMS BUILDING
W253326OR.00**

Sealed Bids for the construction of the Project will be received electronically via a link at sfwbor.gov/bids-and-rfps, until Friday, August 28, 2026 at 2:00 PM local time. At that time the Bids received will be opened publicly and read aloud. **No bids will be accepted after this time. The bid opening will be in person at the following address unless circumstances prevent that from happening. In that case, the Owner will arrange for a virtual bid opening.**

Bids will be received by Sebastian Dirringer, Capital Projects Manager, 15962 Hunter Ave, Oregon City, Oregon. Sebastian may be contacted at sebastiand@sfwbor.gov or 201-220-4616.

The Bidder is required to submit a First Tier Subcontractor Disclosure Form, as described by ORS 279C.370, within two (2) hours of bid closing time on the bid date. The Owner must reject a bid if the bidder fails to submit the disclosure form by the deadline.

A contract will be awarded within sixty (60) days after the selection of the lowest responsible responsive bidder. No bidder may withdraw or modify the bidder's bid after the hour set for the closing thereof, until after the lapse of this time period.

The Project includes the following Work as described in the Contract Documents:

Construction of a 6,826 SF building that will house meeting space, restrooms, a staff kitchen, and chemical storage and distribution equipment providing water treatment chemicals for the existing treatment plant; on-site sodium hypochlorite generators, relocation of an existing 24" water distribution pipe; associated electrical improvement; site/civil improvements; public street frontage improvements; and storm water facilities. The work generally consists of, but is not limited to, furnishing required labor, equipment, and materials for construction of the Water Quality Systems Building facility as described in the Contract Documents.

Owner anticipates that the Project's total bid price will range between approximately \$10,000,000 and \$12,000,000.

This Project is anticipated to be partially funded by the United States Environmental Protection Agency (EPA)'s Water Infrastructure Finance and Innovation Act (WIFIA). As such, all work on this Project is subject to the Federal American Iron and Steel (AIS) requirements, as well as all other WIFIA requirements. Materials specified to be incorporated into this Project shall meet the AIS requirement of P.L. 113-76, Consolidated Appropriations Act, 2014. The Contractor awarded the Project shall adhere to all requirements stated within the Specifications and other WIFIA requirements. Each bid form shall include

specific acknowledgment, in the space provided, of bidder's understanding of the WIFIA funding requirements. Failure to acknowledge may result in the bid being rejected as not responsive.

The Contract is for a Public Work subject to ORS 279C.800 to 279C.870 and the Davis-Bacon Act (40 U.S.C. 3141 to 3148)

Obtaining the Bidding Documents

Plans may be viewed, ordered, or electronically downloaded from the South Fork Water Board at sfwbor.gov/bids-and-rfps.

Copies of contract terms, conditions, specifications, and solicitation documents may be reviewed at:

South Fork Water Board, 15962 S. Hunter Ave., Oregon City, OR 97045

Prospective Bidders are urged to register with the designated website as a plan holder, even if Bidding Documents are obtained from a plan room or source other than the designated website. The designated website will be updated periodically with addenda, lists of registered plan holders, reports, and other information relevant to submitting a Bid for the Project. All official notifications, addenda, and other Bidding Documents will be offered only through the designated website. Neither Owner nor Engineer will be responsible for Bidding Documents, including addenda, if any, obtained from sources other than the designated website.

Pre-bid Conference

A voluntary pre-bid conference for the Project will be held on August 14, 2026 at 9:00 AM at South Fork Water Board, 15962 Hunter Ave, Oregon City, OR 97045. Statements made by the Owner's representatives at the conference will not be binding on the Board unless confirmed by written addendum.

Instructions to Bidders.

For all further requirements regarding bid submittal, qualifications, procedures, and contract award, refer to Section 00 21 13, Instructions to Bidders that are included in the Bidding Documents.

This Advertisement is issued by:

Owner: South Fork Water Board
By: Sebastian Dirringer
Title: Capital Projects Manager
Date: July 31, 2026

SECTION 00 21 13 - INSTRUCTIONS TO BIDDERS

ARTICLE 1 DEFINED TERMS

- 1.1 Terms used in these Instructions to Bidders have the meanings indicated in the General Conditions and Supplementary Conditions. Additional terms used in these Instructions to Bidders have the meanings indicated below:
- A. First-Tier Subcontractor - an individual, firm or corporation having a direct contract with the Contractor for furnishing labor or furnishing labor and materials in connection with the performance of a part of the work.
 - B. Issuing Office—The office and/or website from which the Bidding Documents are to be issued, and which registers plan holders.

ARTICLE 2 BIDDING DOCUMENTS

- 2.1 GENERAL: Bidder shall obtain a complete set of Bidding Requirements and proposed Contract Documents (together, the Bidding Documents). See Section 00 52 43, Public Improvement Contract for a list of the Contract Documents. It is Bidder's responsibility to determine that it is using a complete set of documents in the preparation of a Bid. Bidder assumes sole responsibility for errors or misinterpretations resulting from the use of incomplete documents, by Bidder itself or by its prospective Subcontractors and Suppliers.

AIS REQUIREMENTS: This Project is anticipated to be partially funded by the United States Environmental Protection Agency's (EPA) Water Infrastructure Finance and Innovation Act (WIFIA). As such, all work on this Project is subject to the Federal American Iron and Steel (AIS) requirements. Materials specified to be incorporated into this Project shall meet the AIS requirement of P.L. 113-76, Consolidated Appropriations Act, 2014. The Contractor shall adhere to all requirements stated within the Specifications and to all other WIFIA requirements.

- 2.2 Bidding Documents are made available for the sole purpose of obtaining Bids for completion of the Project and permission to download or distribution of the Bidding Documents does not confer a license or grant permission or authorization for any other use. Authorization to download documents, or other distribution, includes the right for plan holders to print documents solely for their use, and the use of their prospective Subcontractors and Suppliers, provided the plan holder pays all costs associated with printing or reproduction. Printed documents may not be re-sold under any circumstances.
- 2.3 Owner has established a Bidding Documents Website as indicated in the Advertisement to Bid. Owner recommends that Bidder register as a plan holder with the Issuing Office at such website and obtain a complete set of the Bidding Documents from such website. Bidders may assume that sets of Bidding Documents obtained from the Bidding Documents Website are complete unless an omission is blatant. Registered plan holders will receive email notification when an addendum is issued by Owner.

2.4 Bidder may register as a plan holder and obtain complete sets of Bidding Documents, in the number and format stated in Section 00 11 13, Advertisement for Bid, from sfwbor.gov/bids-and-rfps. Registered plan holders will receive email notification when an addendum is issued by Owner.

2.5 Electronic Documents

- A. When the Bidding Requirements indicate that electronic (digital) copies of the Bidding Documents are available, such documents will be made available to the Bidders as Electronic Documents in the manner specified in Section 00 11 13, Advertisement for Bid.
- B. Bidding Documents will be provided in Adobe PDF (Portable Document Format, .pdf). It is the intent of the Engineer and Owner that such Electronic Documents are to be exactly representative of the paper copies of the documents. However, because the Owner and Engineer cannot totally control the transmission and receipt of Electronic Documents nor the Contractor's means of reproduction of such documents, the Owner and Engineer cannot and do not guarantee that Electronic Documents and reproductions prepared from those versions are identical in every manner to the paper copies.
- C. Unless otherwise stated in the Bidding Documents, the Bidder may use and rely upon complete sets of Electronic Documents of the Bidding Documents. However, Bidder assumes all risks associated with differences arising from transmission/receipt of Electronic Documents versions of Bidding Documents and reproductions prepared from those versions and, further, assumes all risks, costs, and responsibility associated with use of the Electronic Documents versions to derive information that is not explicitly contained in printed paper versions of the documents, and for Bidder's reliance upon such derived information.

ARTICLE 3 BIDDER RESPONSIBILITY CRITERIA

- 3.1 Bidder shall submit the following information with its Bid to demonstrate Bidder's qualifications to perform the Work and refer to Section 00 45 13.01, Responsibility Determination Form for requirements.
 - A. Completed responsibility determination form.
 - B. A written statement that Bidder is authorized to do business in the state where the Project is located, or a written certification that Bidder will obtain such authority prior to the Effective Date of the Contract.
 - C. Bidder's state or other contractor license number, if applicable.
- 3.2 A Bidder's failure to submit required qualification information within the times indicated may disqualify Bidder from receiving an award of the Contract.
- 3.3 No requirement in this Article 3 to submit information will prejudice the right of Owner to seek additional pertinent information regarding Bidder's qualifications.

ARTICLE 4 PRE-BID CONFERENCE

- 4.1 A voluntary pre-bid conference will be held at the time and location indicated in the Advertisement to Bid. Representatives of Owner and Engineer will be present to discuss the Project.

- 4.2 Information presented at the pre-Bid conference does not alter the Contract Documents. Owner will issue Addenda to make any changes to the Contract Documents that result from discussions at the pre-Bid conference. Information presented, and statements made at the pre-bid conference will not be binding or legally effective unless incorporated in an Addendum.

ARTICLE 5 EXISTING SITE CONDITIONS AND EXAMINATION

5.1 Site and Other Areas

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

5.2 Existing Site Conditions

- A. Subsurface and Physical Conditions; Hazardous Environmental Conditions
1. Supplementary Information, included with these Specifications identifies the following regarding existing conditions at or adjacent to the Site:
 - a. Those reports of explorations and tests of subsurface conditions at or adjacent to the Site that contain Technical Data.
 - b. Those Record Drawings known to Owner of existing physical conditions at or adjacent to the Site, including those drawings depicting existing surface or subsurface structures at or adjacent to the Site.
 - c. Arborist Report regarding trees on the project site.
 2. The above referenced documents are included as Supplementary Information to these Contract Documents. While these reports and drawings are not part of the Contract Documents, the Technical Data contained therein upon whose accuracy Bidder is entitled to rely, as provided in these contract documents. Bidder is responsible for all interpretations and conclusions Bidder draws from any Technical Data or any other data, interpretations, opinions, or information contained in such reports or shown or indicated in such drawings.

5.3 Other Work at the Site

- A. Reference is made to Section 00 52 43, Public Improvement Contract for the identification of the general nature of other work of which Owner is aware (if any) that is to be performed at the Site by Owner or others (such as utilities and other prime contractors) and relates to the Work contemplated by these Bidding Documents. If Owner is party to a written contract for such other work, then on request, Owner will provide to each Bidder access to examine such contracts (other than portions thereof related to price and other confidential matters), if any.

ARTICLE 6 BIDDER'S REPRESENTATIONS AND CERTIFICATIONS

6.1 Express Representations and Certifications in Bid Form, Agreement

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

ARTICLE 7 INTERPRETATIONS AND ADDENDA

- 7.1 Owner on its own initiative may issue Addenda to clarify, correct, supplement, or change the Bidding Documents.
- 7.2 All Addenda will be posted at sfwbor.gov.bids-and-rfps and registered plan holders will be notified by email.
- 7.3 Bidder shall submit all questions about the meaning or intent of the Bidding Documents to Owner and Engineer in writing and address the request to Sebastian Dirringer, sebastiand@sfbwor.gov and Jeff Fuchs, jeff.fuchs@consoreng.com.
- 7.4 Interpretations or clarifications considered necessary by Engineer in response to such questions will be issued by Addenda delivered to all registered plan holders. Questions received less than seven (7) days prior to the date for opening of Bids may not be answered.
- 7.5 Only responses set forth in an Addendum will be binding. Oral and other interpretations or clarifications will be without legal effect. Responses to questions are not part of the Contract Documents unless set forth in an Addendum that expressly modifies or supplements the Contract Documents.
- 7.6 All Addenda issued prior to the time for receiving Bids shall be incorporated in and become a part of the BIDDING DOCUMENTS as if they were originally included therein. Bidders shall acknowledge receipt of Addenda by completing the lines provided on the Bid form for such acknowledgment.

ARTICLE 8 BID SECURITY

- 8.1 A Bid must be accompanied by Bid Security made payable to Owner in an amount of 10 percent of the Bidder's maximum Bid price (determined by adding the base bid and all alternates) and in the form of a Bid Bond issued by a surety meeting the requirements Section 00 43 13, Bid Bond. Such Bid Bond will be issued in the form included in the Bidding Documents.
- 8.2 The Bid Security of the Apparent Successful Bidder will be retained until Owner awards the contract to such Bidder, and such Bidder has executed the Contract, furnished the required Contract security, and met the other conditions of the Notice of Award, whereupon the Bid security will be released. If the Successful Bidder fails to execute and deliver the Contract and furnish the required Contract security within 15 days after the Notice of Award, Owner may consider Bidder to be in default, annul

the Notice of Award, and the Bid Security of that Bidder will be forfeited, in whole in the case of a penal sum bid bond. Such forfeiture will be Owner's exclusive remedy if Bidder defaults.

- 8.3 The Bid Security of other Bidders that Owner believes to have a reasonable chance of receiving the award may be retained by Owner until the earlier of 10 days after the Effective Date of the Contract or 60 days after the Bid opening, whereupon Bid security furnished by such Bidders will be released.
- 8.4 Bid security of other Bidders that Owner believes do not have a reasonable chance of receiving the award will be released within 7 days after the Bid opening.

ARTICLE 9 CONTRACT TIMES

- 9.1 The number of days within which, or the dates by which, the Work is to be (a) substantially completed and (b) ready for final payment, and (c) Milestones (if any) are to be achieved, are set forth in Section 00 52 43, Agreement.
- 9.2 Provisions for liquidated damages, if any, for failure to timely attain a Milestone, Substantial Completion, or completion of the Work in readiness for final payment, are set forth in Section 00 52 43, Agreement.

ARTICLE 10 SUBSTITUTE AND "OR EQUAL" ITEMS

- 10.1 The Contract for the Work, as awarded, will be on the basis of materials and equipment specified or described in the Bidding Documents without consideration during the bidding and Contract award process of possible substitute or "or-equal" items. In cases in which the Contract allows the Contractor to request that Engineer authorize the use of a substitute or "or-equal" item of material or equipment, application for such acceptance may not be made to and will not be considered by Engineer until after the Effective Date of the Contract.
- 10.2 All prices that Bidder sets forth in its Bid will be based on the presumption that the Contractor will furnish the materials and equipment specified or described in the Bidding Documents, as supplemented by Addenda. Any assumptions regarding the possibility of post-Bid approvals of "or-equal" or substitution requests are made at Bidder's sole risk.

ARTICLE 11 SUBCONTRACTORS, SUPPLIERS, AND OTHERS

- 11.1 All Bidder must be prepared to retain specific Subcontractors and Suppliers for the performance of the Work if required to do so by the Bidding Documents or in the Specifications. If a prospective Bidder objects to retaining any such Subcontractor or Supplier and the concern is not relieved by an Addendum, then the prospective Bidder should refrain from submitting a Bid.
- 11.2 Bidder must submit a list of the proposed Subcontractors and Suppliers with their bid for the following portions of the Work.
 - A. On Site Sodium Hypochlorite Generator equipment
 - B. FRP Tanks
 - C. Chemical Feed Pumps
 - D. Process Mechanical Piping Installation

- 11.3 If Owner or Engineer, after due investigation, has reasonable objection to any proposed Subcontractor or Supplier, Owner may, before the Notice of Award is given, request apparent Successful Bidder to submit an acceptable substitute, in which case apparent Successful Bidder will submit a substitute, Bidder's Bid price will be increased (or decreased) by the difference in cost occasioned by such substitution, and Owner may consider such price adjustment in evaluating Bids and making the Contract award.
- 11.4 If apparent Successful Bidder declines to make any such substitution, Owner may award the Contract to the next lowest Bidder that proposes to use acceptable Subcontractors and Suppliers. Declining to make requested substitutions will constitute grounds for forfeiture of the Bid security of any Bidder. Any Subcontractor or Supplier, so listed and against which Owner or Engineer makes no written objection prior to the giving of the Notice of Award will be deemed acceptable to Owner and Engineer subject to subsequent revocation of such acceptance as provided in 00 52 43, Public Improvement Contract.

ARTICLE 12 PREPARATION OF BID

- 12.1 The Bid Form is included with the Bidding Documents. All blanks on the Bid Form must be completed. A Bid price must be indicated for each section, Bid item, alternate, adjustment unit price item, and price item listed therein.
- 12.2 If Bidder has obtained the Bidding Documents as Electronic Documents, then Bidder shall prepare its Bid on a copy of the Bid Form from the Electronic Documents version of the Bidding Documents. The Bid Form must be clearly legible and as closely identical in appearance to the Electronic Document version of the Bid Form as may be practical. The Owner reserves the right to accept Bid Forms which nominally vary in appearance from the original version of the Bid Form, providing that all required information and submittals are included with the Bid.
- 12.3 A Bid by a corporation must be executed in the corporate name by a corporate officer (whose title must appear under the signature). The corporate address and state of incorporation must also be shown.
- 12.4 A Bid by a partnership must be executed in the partnership name and signed by a partner (whose title must appear under the signature). The official address of the partnership must be also shown.
- 12.5 A Bid by a limited liability corporation (LLC) must be executed in the name of the firm by a member or other authorized person. The state of formation of the firm and the official address of the firm must also be shown.
- 12.6 A Bid by an individual must show the Bidder's name and official address.
- 12.7 A Bid by a joint venture must be executed by an authorized representative in the manner indicated on the Bid Form. The joint venture must have been formally established prior to submittal of a Bid, and the official address of the joint venture must also be shown.
- 12.8 All names must be printed below the signatures.
- 12.9 The Bid must contain evidence of Bidder's authority to do business in the state where the Project is located, or Bidder must certify in writing that it will obtain such authority within the time for acceptance of Bids and attach such certification to the Bid.

- 12.10 The Bid must contain an acknowledgment of receipt of all Addenda, the numbers of which must be filled in on the Bid Form.
- 12.11 Postal and email addresses and telephone number for communications regarding the Bid must be shown.
- 12.12 If Bidder is required to be licensed to submit a Bid or perform the Work in the state where the Project is located, the Bid must contain evidence of Bidder's licensure, or Bidder must certify in writing that it will obtain such licensure within the time. Bidder's state Contractor license number, if any, must also be shown on the Bid Form.

ARTICLE 13 BASIS OF BID

13.1 Unit Price Basis

- A. Bidders must submit a Bid on a unit price basis for each item of Work listed in the unit price section of the Bid Form.
- B. The "Bid Price" (sometimes referred to as the extended price) for each unit price Bid item will be the product of the "Estimated Quantity", which Owner or its representative has set forth in the Bid Form, for the item and the corresponding "Bid Unit Price" offered by the Bidder. The total of all unit price Bid items will be the sum of these "Bid Prices"; such total will be used by Owner for Bid comparison purposes. The final quantities and Contract Price will be determined in accordance with 00 52 43, Public Improvement Contract.
- C. Discrepancies between the multiplication of units of Work and unit prices will be resolved in favor of the unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum.]

ARTICLE 14 SUBMITTAL OF BID

- 14.1 Bids must be submitted to Sebastian Dirringer, Capital Projects Manager, via the link at sfwbor.gov/bids-and-rfps.
- 14.2 The Bidding Documents include one separate unbound copy of the Bid Form, and, if required, the Bid Bond Form. The unbound copy of the Bid Form is to be completed and submitted with the Bid security and the other documents required to be submitted under the terms of Article 2 of the Bid Form.
- 14.3 All Bids must be received no later than the date and time prescribed and at the place indicated in the Advertisement to Bid, and must be accompanied by the Bid security and other required documents.
- 14.4 Bids received after the date and time prescribed for the opening of bids or not submitted at the correct location or in the designated manner, will not be accepted and will be returned to the Bidder unopened.

ARTICLE 15 MODIFICATION AND WITHDRAWAL OF BID

- 15.1 An unopened Bid may be withdrawn by an appropriate document duly executed in the same manner that a Bid must be executed and delivered to the place where Bids are to be submitted prior to the date and time for the opening of Bids. Upon receipt of such notice, the unopened Bid will be returned to the Bidder.
- 15.2 If a Bidder wishes to modify its Bid prior to Bid opening, Bidder must withdraw its initial Bid in the manner specified in Paragraph 15.1 and submit a new Bid prior to the date and time for the opening of Bids.
- 15.3 If within 24 hours after Bids are opened any Bidder files a duly signed written notice with Owner and promptly thereafter demonstrates to the reasonable satisfaction of Owner that there was a material and substantial mistake in the preparation of its Bid, the Bidder may request to withdraw its Bid, and if accepted, Bid security will be returned. Thereafter, if the Work is rebid, the Bidder will be disqualified from further bidding on the Work.

ARTICLE 16 OPENING OF BIDS

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

ARTICLE 17 BIDS TO REMAIN SUBJECT TO ACCEPTANCE

- 17.1 All Bids will remain subject to acceptance for the period of time stated in the Bid Form, but Owner may, in its sole discretion, release any Bid and return the Bid Security prior to the end of this period.

ARTICLE 18 EVALUATION OF BIDS AND AWARD OF CONTRACT

- 18.1 Owner reserves the right to reject any or all Bids, including without limitation, nonconforming, nonresponsive, unbalanced, or conditional Bids. Owner also reserves the right to waive immaterial irregularities as an informality.
- 18.2 Owner will reject the Bid of any Bidder that Owner finds, after reasonable inquiry and evaluation, to not be responsible.
- 18.3 If Bidder purports to add terms or conditions to its Bid, takes exception to any provision of the Bidding Documents, or attempts to alter the contents of the Contract Documents for purposes of the Bid, whether in the Bid itself or in a separate communication to Owner or Engineer, then Owner will reject the Bid as nonresponsive.
- 18.4 If Owner awards the contract for the Work, such award will be to the responsible Bidder submitting the lowest responsive Bid.

18.5 Evaluation of Bids

- A. In evaluating Bids, Owner will consider whether the Bids comply with the prescribed requirements, and such other data as may be requested in the Bid Form or prior to the Notice of Award.
- B. In the comparison of Bids, alternates will be applied in the same order of priority as listed in the Bid Form. To determine the Bid prices for purposes of comparison, Owner will announce to all bidders a "Base Bid plus alternates" budget after receiving all Bids, but prior to opening them. For comparison purposes alternates will be accepted, following the order of priority established in the Bid Form, until doing so would cause the budget to be exceeded. After determination of the Successful Bidder based on this comparative process and on the responsiveness, responsibility, and other factors set forth in these Instructions, the award may be made to said Successful Bidder on its base Bid and any combination of its additive alternate Bids for which Owner determines funds will be available at the time of award.
- C. For determination of the apparent low Bidder when unit price bids are submitted, Bids will be compared on the basis of the total of the products of the estimated quantity of each item and unit price Bid for that item, together with any lump sum items.

18.6 In evaluating whether a Bidder is responsible, Owner will consider the responsibility criteria identified in the attached responsibility determination form.

18.7 Owner may conduct such investigations as Owner deems necessary to establish the responsibility of Bidders and any proposed Subcontractors or Suppliers.

ARTICLE 19 BONDS AND INSURANCE

19.1 Section 00 43 13, Bid Bond, sets forth Owner's requirements as to performance and payment bonds, other required bonds (if any), and insurance and addresses the requirements for providing bid bonds as part of the bidding process. When the Successful Bidder delivers the executed Agreement to Owner, it must be accompanied by required bonds and insurance documentation.

ARTICLE 20 SIGNING OF AGREEMENT

20.1 When Owner issues a Notice of Award to the Successful Bidder, it will be accompanied by the unexecuted counterparts of the Agreement along with the other Contract Documents as identified in Agreement. Within 15 days thereafter, Successful Bidder must execute and deliver the required number of counterparts of the Agreement and any bonds and insurance documentation required to be delivered by the Contract Documents to Owner. Within 10 days thereafter, Owner will deliver one fully executed counterpart of the Agreement to Successful Bidder, together with printed and electronic copies of the Contract Documents as set forth in Section 00 52 43, Public Improvement Contract.

ARTICLE 21 OREGON REQUIRED TERMS

21.1 Each bidder must identify whether the Bidder is a "resident Bidder," as defined in ORS 279A.120.

- 21.2 No offer will be received or considered by the Board unless the offer contains a statement by the Bidder as a part of its offer that "Contractor agrees to be bound by and will comply with the provisions of 279C.838, 279C.840 or 40 U.S.C. 3141 to 3148."
- 21.3 The Board will not receive or consider an offer unless the Bidder is registered with the Construction Contractors Board, or is licensed by the State Landscape Contractors Board, as specified in OAR 137-049-0230.
- 21.4 Bidders and their subcontractors need not be licensed under ORS 468A.720 regarding asbestos abatement projects.
- 21.5 Bidders shall certify in their bid that it has not discriminated and will not discriminate, in violation of ORS 279A.110(1), against a disadvantaged business enterprise, a minority-owned business, a woman-owned business, a veteran-owned business or an emerging small business in awarding a subcontract.

ARTICLE 22 CONFIDENTIALITY STATEMENT

- 22.1 The South Fork Water Board abides by the public records laws of the State of Oregon. As such, bid documents are generally considered to be a matter of public record after the contract for work has been awarded. Information in a bid may or may not be considered to be exempt from public disclosure based on the following:

- Trade secrets as identified in ORS 192.345(2);
- Information submitted in confidence as identified in ORS 192.355(2).

If bidder believes any portion of its bid contains information considered a trade secret under ORS 192.345(2), or otherwise is exempt from disclosure under the Oregon Public Records Law, ORS 192.311 through 192.478, each page containing such information must include the following:

"This data is exempt from disclosure under the Oregon Public Records Law pursuant to ORS192 and is not to be disclosed except in accordance with the Oregon Public Records Law, ORS 192.311 through 192.478."

Identifying the bid in whole as exempt from disclosure is not acceptable. Cost information submitted in response to an ITB is generally not considered a trade secret under Oregon Public Records Law. If bidder fails to identify the portions of the Bid which Bidder claims are exempt from disclosure, bidder is deemed to have waived any future claim of non-disclosure of that information.

END OF SECTION

SECTION 00 41 13 - BID FORM

ARTICLE 1 - OWNER AND BIDDER

- 1.1 This Bid is submitted to: South Fork Water Board, 15962 Hunter Ave., Oregon City, Oregon 97045.
- 1.2 The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an Agreement with Owner in the form included in the Bidding Documents to perform all Work as specified or indicated in the Bidding Documents for the prices and within the times indicated in this Bid and in accordance with the other terms and conditions of the Bidding Documents.

ARTICLE 2 - ATTACHMENTS TO THIS BID

- 2.1 The following documents are submitted with and made a condition of this Bid:
 - A. Section 00 41 13, Bid Form
 - B. Section 00 43 13, Bid Bond;
 - C. Section 00 45 13.01, Responsibility Determination Form
 - D. Section 00 45 17, First-Tier Subcontractors Disclosure Form;
 - E. Section 00 45 19, Non-Collusion Affidavit

ARTICLE 3 - BASIS OF BID UNIT PRICES

- 3.1 Unit Price Bids
 - A. Bidder will perform the following Work at the indicated unit prices:
 - B. Note: This project is subject to AIS requirements and Davis-Bacon Wage Rates.

Item	Description	Unit	Quantity	Unit Price	Bid Amount
1	Mobilization, bonds, insurance, and demobilization	LS	1		\$
2	Traffic control	LS	1		\$
3	Erosion control	LS	1		\$
4	Construction survey and staking	LS	1		\$
5	Extra work as authorized	LS	1		\$
6	Demolition of Existing Facilities	LS	1		\$
7	Shop drawings and approvals	LS	1		\$
8	Tree protection and removal, clearing, and grubbing	LS	1		\$
9	Dewatering	LS	1		\$
10	Clearing and Grubbing	LS	1		\$

Item	Description	Unit	Quantity	Unit Price	Bid Amount
11	Backfill with imported material	CY	2300		\$
12	Excavation	LS	1		\$
13	Sawcutting	LF	630		\$
14	Subgrade Stabilization	SY	120		\$
15	Cold Plane Pavement Removal, 2 inches	SY	400		\$
16	Asphalt Concrete Paving (ACP) - Swan Avenue				\$
	a. Level 2, 1/2-Inch ACP, 4-inch depth	TON	100		
	b. Grind and Inlay, 2-Inch ACP	SY	400		
	c. Crushed Aggregate 3/4-Inch (leveling course) - Swan Avenue Roadway	CY	25		
	d. Crushed Aggregate 1/2-Inch (base) - Swan Avenue Roadway	CY	125		
	e. Geotextile Fabric, Woven	SY	450		
17	Concrete Curb and Gutter - Swan Avenue				\$
	a. Concrete Curb and Gutter - Swan Avenue	LF	380		
	b. Crushed Aggregate 3/4-Inch - Swan Avenue Curb and Gutter	CY	30		
18	Concrete Sidewalk - Swan Avenue				\$
	a. Concrete Sidewalk - Swan Avenue	SF	2320		
	b. Crushed Aggregate 3/4-Inch - Concrete Sidewalk - Swan Avenue	CY	20		
	c. Extra for Curb Ramps	EA	6		
19	Concrete Driveway - Swan Avenue				\$
	a. Concrete Driveway - Swan Avenue	SF	600		
	b. Crushed Aggregate 3/4-Inch - Concrete Driveway - Swan Avenue	CY	10		
20	Asphalt Concrete Paving (ACP) - On Site				\$
	a. Level 2, 1/2-Inch ACP, 4-inch depth	TON	400		
	b. Crushed Aggregate 3/4-Inch - Access Road and Parking	CY	590		
	c. Geotextile Fabric, Woven	SY	1770		
21	Concrete Curb - On Site				\$
	a. Concrete Curb - On Site	LF	750		
	b. Crushed Aggregate 3/4-Inch - On Site	CY	50		
22	Concrete Sidewalk - On Site				\$
	a. Concrete Sidewalk - On Site	SF	2090		
	b. Crushed Aggregate 3/4-Inch - Concrete Sidewalk - On Site	CY	20		
23	Chemical Containment Pad - On Site				\$
	a. Concrete Driveway - On Site	SF	300		
	b. Crushed Aggregate 3/4-Inch - Concrete Driveway - On Site	CY	10		

Item	Description	Unit	Quantity	Unit Price	Bid Amount
24	Furnish and Install 7-foot chain link gate and fence, complete				\$
	a. 7-foot Chain Link Fencing with Barbed Wire	LF	360		
	c. Motorized Chainlink Access Gate, 20'-wide, Swing	LS	1		
25	Furnish and install DI pipe with Class B (imported granular material) Trench Backfill				\$
	a. 10" DI Stormwater Pipe, non-restrained	LF	260		
	b. 12" DI Stormwater Pipe, non-restrained	LF	70		
26	Furnish and install 4" PVC Stormwater Pipe	LF	250		\$
27	Furnish and install 8" PVC Stormwater Pipe	LF	70		\$
28	Furnish and install 10" PVC Stormwater Pipe	LF	20		\$
29	Furnish and install 18" Concrete Storm Culvert, Class V, complete	LS	1		\$
30	Site Stormwater system testing and start-up	LS	1		\$
31	Furnish and install NW Rain Garden, Complete	LS	1		\$
32	Furnish and install NE Rain Garden, Complete	LS	1		\$
33	Furnish and install Swan Avenue Stormwater Planter, Complete	LS	1		\$
34	Furnish and install 2' Wide Roadway Drainage Ditch, Complete	LS	1		\$
35	Furnish and install manholes				\$
	a. 48" Stormwater Manhole	EA	8		
	b. 60" Stormwater Manhole	EA	1		
	c. 72" Stormwater Manhole	EA	1		
36	Furnish and install stormwater inlets				\$
	a. Ditch Inlet	EA	1		
	b. Curb Inlet	EA	1		
	c. Catch Basin, Type 3	EA	2		
37	Furnish and install Polydrain PDX H-20, Complete	LF	20		\$
38	Existing Ditch Connection	LS	1		\$
39	Furnish and Install 24-inch Class 52 Ductile Iron Pipe with Class B Trench Backfill	LF	108		\$
40	Common Utility Trench, complete	LS	1		\$
41	Hydrostatic testing, flushing, and disinfection of water mains	LS	1		\$

Item	Description	Unit	Quantity	Unit Price	Bid Amount
42	Furnish and Install Fire Hydrant Assembly	EA	1		\$
43	All work required to constructing landscape items, complete, including all incidental work as specified and necessary	LS	1		\$
44	Alum Bulk Tank, HDPE, (6,000 gal)	EA	2		\$
45	Coagulant Polymer Aid Bulk Tank, HDPE (6,000 gal)	EA	1		\$
46	Brine Tank, FRP (7,100 gal)	EA	1		\$
47	Sodium Hypochlorite Tank, FRP (10,000 gal)	EA	2		\$
48	Sodium hypochlorite Generator, (2) 900 PPD units & Accessories	LS	1		\$
49	Soda Ash Batching System	EA	1		\$
50	Metering Pump Assemblies	EA	1		\$
51	Air Compressor	EA	1		\$
52	Chemical Feed Piping				\$
	a. 1/2-Inch, PVC	LF	20		
	b. 1-Inch, PVC	LF	220		
	c. 2-Inch, PVC	LF	190		
	e. 3-Inch, PVC	LF	300		
	f. 4-Inch, PVC	LF	90		
	g. 8-Inch, PVC	LF	30		
	h. 3/8-Inch, Poly-Braided Tubing	LF	160		
	i. 1/4-Inch, Poly-Braided Tubing	LF	150		
	j. 1-Inch, Poly-Braided Tubing	LF	250		
	k. 1-1/2-Inch, Poly-Braided Tubing	LF	250		
53	Ball Valves				\$
	a. Valves 1/2-inch	EA	9		
	b. Valves, 3/4 inch	EA	4		
	c. Valves 1-1/2-inch	EA	3		
	d. Valves, 2-inch	EA	18		
	e. Valves 3-inch	EA	8		
54	Utility Water Twin Booster Pumps & Accessories	LS	1		\$
55	Hydropneumatic Tanks	EA	2		\$
56	All work and materials required to construct the architectural facilities for water quality systems building, complete, including all incidental work as specified and necessary:				\$
	a. CMU Wall Systems, Complete	LS	1		
	b. Doors and Fenestration, Complete	LS	1		
	c. Architectural Roof System, Complete	LS	1		

Item	Description	Unit	Quantity	Unit Price	Bid Amount
	d. Finishings, Coatings, and Paint, Complete	LS	1		
	e. Furniture and Devices, Complete	LS	1		
57	All work and materials required to construct the structural facilities for water quality systems building, complete, including all incidental work as specified and necessary:				\$
	a. Concrete Foundations and Slab-On-Grade, Complete	LS	1		
	b. Structural Roof Support and steel, Complete	LS	1		
58	All work and materials required to construct the HVAC facilities for water quality systems building, complete, including all incidental work as specified and necessary:				\$
	a. VRF Packaged Heat Pump System, Complete	LS	1		
	b. Makeup Air Handling Unit, Complete	LS	1		
	c. Ducting and Conveyance Systems, Complete	LS	1		
59	All work and materials required to construct the plumbing facilities for water quality systems building, complete, including all incidental work as specified and necessary:				\$
	a. Water Service Piping and Fixtures, Complete	LS	1		
	b. Sewer Collection System, Complete	LS	1		
	c. Emergency Shower and Eyewash Systems, Complete	LS	1		
60	All work required to construct the electrical facilities for the water quality systems building, complete, including all incidental work as specified and necessary				\$
	a. Service & Distribution	LS	1		
	b. Controls / PLC / SCADA / Comms	LS	1		
	c. Lighting & Devices	LS	1		
	d. Equipment Connections	LS	1		
	e. Raceway / Wire / Installation	LS	1		
	f. Coordination with Owner's SCADA Integrator	LS	1		
Total of All Unit Price Bid Items					\$

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

ARTICLE 4 - TIME OF COMPLETION

- 4.1 Bidder agrees that the Work will be substantially complete and will be completed and ready for final payment on or before the dates or within the number of calendar days indicated in the Contract.
- 4.2 Bidder accepts the provisions of the Agreement as to liquidated damages.

ARTICLE 5 - BIDDER'S ACKNOWLEDGEMENTS: ACCEPTANCE PERIOD, INSTRUCTIONS, AND RECEIPT OF ADDENDA

5.1 Bid Acceptance Period

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

5.2 Instructions to Bidders

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

5.3 Receipt of Addenda

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

Addendum Number	Addendum Date

ARTICLE 6 - BIDDER'S REPRESENTATIONS AND CERTIFICATIONS

6.1 Bidder's Representations

- A. In submitting this Bid, Bidder represents the following:
1. Bidder has examined and carefully studied the Bidding Documents, including Addenda.
 2. Bidder has visited the Site, conducted a thorough visual examination of the Site and adjacent areas, and become familiar with the general, local, and Site conditions that may affect cost, progress, and performance of the Work.

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

6.2 Bidder's Certifications

A. The Bidder certifies the following:

1. This Bid is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any collusive agreement or rules of any group, association, organization, or corporation.
2. Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid.

3. Bidder has not solicited or induced any individual or entity to refrain from bidding.
4. Bidder has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the Contract. For the purposes of this contract:
 - a. Corrupt practice means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process.
 - b. Fraudulent practice means an intentional misrepresentation of facts made (a) to influence the bidding process to the detriment of Owner, (b) to establish bid prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition.
 - c. Collusive practice means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish bid prices at artificial, non-competitive levels.
 - d. Coercive practice means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.
- B. Bidder acknowledges of all funding agency requirements for the Contract. The Owner will be utilizing WIFIA funds for this project, which have requirements pertaining to the use of American Iron and Steel (AIS) products, federal Davis-Bacon wage requirements, the requirement that the Bidder and all subcontractors are not subject to debarment and suspension with SAM, certification that any property acquisition complies with the URA 'Uniform Relocation Assistance' requirements, prohibition on certain telecommunication and video surveillance services or equipment, Disadvantaged Business Enterprises (DBE) good faith efforts and reporting, among other requirements. Bidder acknowledges that they have familiarized themselves with all WIFIA funding requirements (described in Section 00 73 45), and have accounted for all required compliance while placing their bid.

BIDDER hereby submits this Bid as set forth above:

Bidder:

(typed or printed name of organization)

By:

(individual's signature)

Name:

(typed or printed)

Title:

(typed or printed)

Date:

(typed or printed)

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

Attest:

(individual's signature)

Name:

(typed or printed)

Title:

(typed or printed)

Date:

(typed or printed)

Address for giving notices:

Bidder's Contact:

Name:

(typed or printed)

Title:

(typed or printed)

Phone:

Email:

Address:

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

END OF SECTION

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SECTION 00 43 13 - BID BOND

Bidder Name: Address (<i>principal place of business</i>):	Surety Name: Address (<i>principal place of business</i>):
Owner Name: South Fork Water Address (<i>principal place of business</i>): 15962 Hunter Ave, Oregon City, OR 97045	Bid Project (name and location): Water Quality Systems Building, CP-01, 15962 Hunter Ave, Oregon City, OR 97045 Bid Due Date:
Bond Penal Sum: Date of Bond:	
Surety and Bidder, intending to be legally bound hereby, subject to the terms set forth in this Bid Bond, do each cause this Bid Bond to be duly executed by an authorized officer, agent, or representative.	
Bidder _____ <i>(Full formal name of Bidder)</i> By: _____ <i>(Signature)</i> Name: _____ <i>(Printed or typed)</i> Title: _____ Attest: _____ <i>(Signature)</i> Name: _____ <i>(Printed or typed)</i> Title: _____	Surety _____ <i>(Full formal name of Surety) (corporate seal)</i> By: _____ <i>(Signature) (Attach Power of Attorney)</i> Name: _____ <i>(Printed or typed)</i> Title: _____ Attest: _____ <i>(Signature)</i> Name: _____ <i>(Printed or typed)</i> Title: _____
<i>Notes: (1) Note: Addresses are to be used for giving any required notice. (2) Provide execution by any additional parties, such as joint venturers, if necessary.</i>	

1. Bidder and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to pay to Owner upon default of Bidder the penal sum set forth on the face of this Bond. Payment of the penal sum is the extent of Bidder's and Surety's liability. Recovery of such penal sum under the terms of this Bond will be Owner's sole and exclusive remedy upon default of Bidder.
2. Default of Bidder occurs upon the failure of Bidder to deliver within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents.
3. This obligation will be null and void if:
 - 3.1. Owner accepts Bidder's Bid and Bidder delivers within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents, or
 - 3.2. All Bids are rejected by Owner, or
 - 3.3. Owner fails to issue a Notice of Award to Bidder within the time specified in the Bidding Documents (or any extension thereof agreed to in writing by Bidder and, if applicable, consented to by Surety when required by Paragraph 5 hereof).
4. Payment under this Bond will be due and payable upon default of Bidder and within 30 calendar days after receipt by Bidder and Surety of written notice of default from Owner, which notice will be given with reasonable promptness, identifying this Bond and the Project, and including a statement of the amount due.
5. Surety waives notice of any and all defenses based on or arising out of any time extension to issue Notice of Award agreed to in writing by Owner and Bidder, provided that the total time for issuing Notice of Award including extensions does not in the aggregate exceed 120 days from the Bid due date without Surety's written consent.
6. No suit or action will be commenced under this Bond prior to 30 calendar days after the notice of default required in Paragraph 4 above is received by Bidder and Surety, and in no case later than one year after the Bid due date.
7. Any suit or action under this Bond will be commenced only in a court of competent jurisdiction located in the state in which the Project is located.
8. Notices required hereunder must be in writing and sent to Bidder and Surety at their respective addresses shown on the face of this Bond. Such notices may be sent by personal delivery, commercial courier, or by United States Postal Service registered or certified mail, return receipt requested, postage pre-paid, and will be deemed to be effective upon receipt by the party concerned.
9. Surety shall cause to be attached to this Bond a current and effective Power of Attorney evidencing the authority of the officer, agent, or representative who executed this Bond on behalf of Surety to execute, seal, and deliver such Bond and bind the Surety thereby.

10. This Bond is intended to conform to all applicable statutory requirements. Any applicable requirement of any applicable statute that has been omitted from this Bond will be deemed to be included herein as if set forth at length. If any provision of this Bond conflicts with any applicable statute, then the provision of said statute governs and the remainder of this Bond that is not in conflict therewith continues in full force and effect.
11. The term "Bid" as used herein includes a Bid, offer, or proposal as applicable.

END OF SECTION

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SECTION 00 45 13.01 - RESPONSIBILITY DETERMINATION FORM

Bidder's Legal Name: _____ **CCB #:** _____

EXPERIENCE: List the number of years Bidder has been operating under its current license. If Bidder's business has been in continuous existence under a current active license and a previous license number, identify the previous license number.

INSURANCE: Does the Bidder have insurance and worker's compensation coverage as specified in the sample contract attached to this solicitation? **YES** ☐ **NO** ☐

LAWSUITS/JUDGMENTS: Within the past 3 years, has Bidder had any lawsuits filed against it involving contract or payment disputes? Include requests for arbitration. **YES** ☐ **NO** ☐

If "YES" indicate dates and ultimate resolution:

BANKRUPTCY: Within the past 3 years, has Bidder filed a bankruptcy action, filed for reorganization, made a general assignment of assets for the benefit of creditors, or had an action for insolvency instituted against it? **YES** ☐ **NO** ☐

If "YES", provide details:

DEFECTIVE WORK. In the past 5 years has your company been ordered to fix defective work on a project?
YES ☐ **NO** ☐

If "YES," identify the owner, the project and the resolution of the problem.

DEBARMENT: Has Bidder been debarred or disqualified by any public agency within the past 3 years?

YES ☐ NO ☐

If "YES" identify the public agencies:

NON-COMPLETION: Has Bidder failed to complete a contract in the last 5 years? YES ☐ NO ☐

If "YES" identify the project(s) and provide details:

REVOKED LICENSE: Has Bidder's company or any key person in the company, had a license revoked by the Oregon Construction Contractors Board? YES ☐ NO ☐

If "YES" explain the reason for the revocation:

CRIMINAL OFFENSE: Has Bidder's company or any owner of or management employee in the company been convicted of a crime involving fraud, material misrepresentation or any crime involving the awarding of a contract for a government construction project or the bidding or performance of a government contract? YES ☐ NO ☐

TERMINATION OF BONDING/INSURANCE COVERAGE: In the last five years, has a surety or insurance company terminated existing bonding and/or insurance coverage due to excessive claims history and/or nonpayment of premiums? YES ☐ NO ☐

CITATIONS OR ENFORCEMENT ACTIONS. Within the last five years, has the Bidder been cited or subject to any enforcement action for violation of any applicable law or regulations related to its performance of a prior construction contract? For the purposes of this section, "applicable law or regulations" includes without limitation, any building, zoning, environmental, site development, or Oregon Public Contracting Code regulations with which a prior project was required to comply, including non-discrimination regulations and prevailing wage requirements. YES ☐ NO ☐

If "YES", please provide details for all:

--

BIDDER REFERENCES FOR COMPARABLE PROJECTS IN SIZE AND SCOPE

Provide three references for projects of comparable size and scope in the past 5 years. The South Fork Water Board reserves the right to contact other persons, agencies or owners not listed below as part of determining whether Bidder is responsible. References may not include current Board staff.

Project Reference #1	
Dates	
Location	
Customer (Agency, Firm, or Person)	
Description	
Contact (Name, Phone, & Email)	
Project Reference #2	
Dates	
Location	
Customer (Agency, Firm, or Person)	
Description	
Contact (Name, Phone, & Email)	
Project Reference #3	
Dates	
Location	
Customer (Agency, Firm, or Person)	

Description	
Contact (Name, Phone, & Email)	

END OF SECTION

ATTACHMENT A - PROJECT EXPERIENCE

PROJECT EXPERIENCE

PROJECT NAME:	DATE COMPLETED:
	PROJECT DURATION:
OWNER NAME:	OWNER ADDRESS:
OWNER CONTACT PERSON:	OWNER CONTACT PHONE NO. (Office and mobile number):
DESIGN FIRM NAME:	DESIGN FIRM ADDRESS:
DESIGN FIRM CONTACT PERSON:	DESIGN FIRM CONTACT PHONE NO. (Office and mobile number):
BRIEF DESCRIPTION OF THE PROJECT:	
INITIAL PROJECT COST:	
CHANGE ORDER COST:	
FINAL PROJECT COST:	
COMMENTS OR EXCEPTIONS:	

**SECTION 00 45 17 –FIRST-TIER SUBCONTRACTOR DISCLOSURE FORM
FOR
WATER QUALITY SYSTEMS BUILDING
CP-01 FOR
SOUTH FORK WATER BOARD**

List below the names of each subcontractor that will be furnishing labor or furnishing labor and materials and that is required to be disclosed, the category of work that the subcontractor will be performing and the dollar value of the subcontract. Enter 'NONE' if there are no subcontractors that need to be disclosed (ATTACH ADDITIONAL SHEETS IF NEEDED). A subcontractor is required to be disclosed if it (1) will be furnishing labor or will be furnishing labor and materials in connection with the public improvement contract; and (2) will have a contract value that is equal to or greater than five percent of the total project bid or \$15,000, whichever is greater, or \$350,000 regardless of the percentage of the total project bid.

Subcontractor Name*	Dollar Value	Category of Work

Form Submitted by (Bidder Name): _____

Contact Name: _____ Phone No.: _____

*If no qualifying subcontractors will be used, sign the above form and submit with bid or within the Disclosure Submittal Deadline. If qualifying subcontractors are utilized, fill out the appropriate information for each qualifying subcontractor, sign the above form and submit with bid or within the Disclosure Submittal Deadline.

END OF SECTION

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SECTION 00 45 19 – NON-COLLUSION AFFIDAVIT
FOR
WATER QUALITY SYSTEMS BUILDING
FOR
SOUTH FORK WATER BOARD

BID FOR:

STATE OF _____

COUNTY OF _____

I state that I am _____ (title) of _____ (name of firm)
and that I am authorized to make this affidavit on behalf of my firm and its owners, directors, and officers. I
am the person responsible in my firm for the price(s) and the amount of this bid.

I state that:

1. The price(s) and amount of this bid have been arrived at independently and without consultation, communication, or agreement with any other contractor, bidder, or potential bidder, except as disclosed on the attached appendix.
2. Neither the price(s) nor the amount of this bid, and neither the approximate price(s) nor approximate amount of this bid, have been disclosed to any other firm or person who is a bidder or potential bidder, and they will not be disclosed before bid opening.
3. No attempt has been made or will be made to induce any firm or person to refrain from bidding on this contract, to submit a bid higher than this bid, or to submit any intentionally high or noncompetitive bid or other form of complementary bid.
4. The bid of my firm is made in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary or other noncompetitive bid.
5. _____ (name of firm), its affiliates, subsidiaries, officers, directors and employees are not currently under investigation by any governmental agency for violating any non-collusion statutes and have not in the last four years been convicted of or found liable for any act prohibited by state or federal law in any jurisdiction, involving conspiracy or collusion with respect to bidding on any public contract, except as described in the attached appendix.

I state that _____ (name of firm) understands and acknowledges that the above representations are material and important and will be relied on by the Owner in awarding the contract(s) for which this bid is submitted. I understand, and my firm understands that any misstatement in this affidavit is and shall be treated as fraudulent concealment from the Owner of the true facts relating to the submission of bids for this contract.

Authorized Signature

Name of Company / Position

Sworn to and subscribed before me this _____ day of _____, 20____.

Notary Public for the State of <_____>

My Commission Expires: _____

SECTION 00 51 00 – NOTICE OF AWARD

Date of Issuance: _____

Owner:	South Fork Water Board	Owner's Project No.:	CP-01
Engineer:	Consor, N.A.	Engineer's Project No.:	W253326OR.00
Project:	Water Quality Systems Building		
Contract Name:	Water Quality Systems Building		
Bidder:	_____		
Bidder's Address:	_____		

You are notified that Owner has accepted your Bid dated _____ for the above Contract, and that you are the Successful Bidder and are awarded a Contract for: South Fork Water Board - Water Quality Systems Building.

The Contract Price of the awarded Contract is \$ _____. Contract Price is subject to adjustment based on the provisions of the Contract, including but not limited to those governing changes, Unit Price Work, and Work performed on a cost-plus-fee basis, as applicable.

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

☐ Drawings will be delivered separately from the other Contract Documents.

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

1. Deliver to Owner _____ counterparts of the Agreement, signed by Bidder (as Contractor).
2. Deliver with the signed Agreement(s) the Contract security (such as required performance and payment bonds) and insurance documentation, as specified in the Instructions to Bidders and in the General Conditions, Articles 2 and 6.
3. Other conditions precedent (if any): _____

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

Within 10 days after you comply with the above conditions, Owner will return to you one fully signed counterpart of the Agreement, together with any additional copies of the Contract Documents as indicated in Paragraph 2.02 of the General Conditions.

Owner: South Fork Water Board

By *(signature)*: _____

Name *(printed)*: _____

Title: _____

Copy: Engineer

END OF SECTION



**SECTION 00 52 43
PUBLIC IMPROVEMENT CONTRACT
CONTRACT NO. 2627-0XX
WATER QUALITY SYSTEMS BUILDING, CP-01**

This contract ("Contract") between the SOUTH FORK WATER BOARD, a public water utility company formed under ORS 190 and jointly operated by Oregon City and West Linn (the "Board" or "Owner") and _____, (the "Contractor").

THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. Contractor's Agreement to Provide Services. Contractor agrees to provide the construction services and materials described Exhibit A (the "Work"), in accordance with the terms and conditions of this Contract. Contractor shall provide all preparatory work and operations, including, but not limited to those necessary for the movement of personnel, equipment and supplies and any incidentals necessary to carry out the Work. Contractor shall warrant all Work against defects in materials, workmanship, and performance for a period of one year following final completion. Within the warranty period, if any defect in the Work arises, Contractor shall repair or replace the defective aspect of the Work promptly at no additional charge to the Board.

Contractor shall perform the Work using commercially reasonable efforts. Contractor shall be responsible for securing all permits, licenses, and other authorizations necessary to perform the Work. Contractor shall bear full responsibility for all Subcontractors and employees performing Work on its behalf, and for prompt payments to the same.

2. Board Responsibilities. Board will assist Contractor by placing at Contractor's disposal all reasonably available information pertinent to completing the Work, including any other relevant data and will promptly respond to questions and issues as they arise. Where possible, Board will assist Contractor in obtaining information from sources outside the Board.

3. Effective Date and Duration. This Contract is effective on _____, 20____, or on the date at which every party has signed this Contract, whichever is later. The Work under this Contract shall be substantially completed, unless otherwise terminated or extended, on or before September 30, 2028 and completed and ready for final payment on or before November 30, 2028.

4. Consideration. Board agrees to pay Contractor for accomplishing all Work required by this Contract according to the price schedule outlined in Exhibit A.

Contractor will submit an invoice on completion of the Work. Board will pay invoices within thirty (30) calendar days of the date the invoice is received and the Board approves the Work provided.

5. Standard Public Improvement Contract Terms and Conditions. This Contract is subject to Standard Contract Terms and Conditions, attached to this contract as Exhibit B.

- 6. Contract Documents.** The Contract Documents are defined to include:
- A. Written amendments to this Contract
 - B. This Contract
 - C. Exhibit B – Standard Contract Terms and Conditions
 - D. Exhibit A – Statement of Work and Payment Schedule (Contractor’s Bid)
 - E. Specifications
 - F. Drawings
 - G. Insurance and any associated bonds
 - H. All other documents expressly adopted by this Contract or by the written consent of both parties

If there is a conflict between the Contract Documents, the parties shall interpret the documents in the order listed above.

7. Addresses for Notice. Any notice required by the terms of this Contract shall be provided by written notice to the contact information listed below and served in one of the following manners: a) in-person delivery; b) deposited in the U.S. Mail under certified or registered handling, postage prepaid; or c) via email, with read receipt function enabled and with the words “Formal Notice” or similar in the e-mail’s subject line. Except as provided in this Contract, it is agreed that fifteen calendar days shall constitute reasonable notice for the exercise of any right in the event that applicable law specifically requires such notice.

Board	Contractor
Sebastian Dirringer Capital Projects Manager 15962 S. Hunter Avenue, Oregon City, OR 97006 (201) 220-4616 sebastiand@sfbwor.gov	

8. Authorized Representatives. The Board’s Authorized Representative is Sebastian Dirringer and is empowered to act for the Board in accordance with the provisions of this Contract, where such acts are not contrary to laws or ordinances. Contractor’s Authorized Representative shall be

Contractor: _____
 Phone: _____
 Email: _____.

As the context requires, each of “Board” and “Contractor” shall refer to their respective authorized representatives.

9. Survival of Covenants. The covenants of this Contract shall survive the expiration or termination of the Contract with respect to compensation, confidentiality, non-appropriation of funds, record keeping, access to records and indemnification.

10. Authorization. The person signing this Contract on behalf of Contractor hereby covenants and warrants that he/she is authorized to do so, and that his/her signature will fully bind Contractor to the terms and conditions of this Contract. Upon Board's request, Contractor shall provide Board with evidence reasonably satisfactory to the Board's confirming the foregoing covenants and warranties.

11. Electronic Signature. This Contract may be executed in counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument. An electronic signature shall be considered an original signature. Executed signature pages may be delivered using PDF or similar file type transmitted via electronic mail, cloud-based serve, e-signature technology or other similar Electronic Means.

12. Entire Contract. This Contract represents the entire understanding of the Board and Contractor as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered herein. This Contract may not be modified or altered except in writing signed by both parties.

[Remainder of this page is intentionally left blank; signatures are on the following page.]

CONTRACTOR DATA, CERTIFICATION, AND SIGNATURE

Business Name (please print): _____
Contact Name: _____ Phone: _____
E-Mail _____ Address: _____

CCB Lic # _____ Federal Tax ID # _____ State Tax ID # _____

Business Designation (check one): ☐ Individual ☐ Partnership ☐ Corporation

☐ Government ☐ Nonprofit ☐ LLC ☐ Other _____

If not a citizen, check one: ☐ Lawful Permanent Resident ☐ Nonresident Alien

The above information must be provided prior to Contract approval. Payment information will be reported to the Internal Revenue Service (IRS) under the name and taxpayer I.D. number provided above. (See IRS 1099 for additional instructions regarding taxpayer ID numbers.)

Contractor understands that all exhibits and attachments are an integral part of this Contract and agrees to perform the Work in accordance with the terms and conditions of this Contract.

Contractor agrees the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

Contractor is familiar with all federal, state and local Laws and Regulations that may affect cost, progress, performance of the Work.

Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Technical Data identified in the Supplementary Conditions or by definition, with respect to the effect of such information, observations, and Technical Data on (a) the cost, progress, and performance of the Work; (b) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (c) Contractor's safety precautions and programs.

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.

Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and of discrepancies between Site conditions and the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.

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 Contract:

1. “corrupt practice” means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process or in the Contract execution;
2. “fraudulent practice” means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
3. “collusive practice” means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
4. “coercive practice” means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

The Contractor acknowledges to and for the benefit of South Fork Water Board and the United States Environmental Protection Agency (“EPA”) that it understands the goods and services under this Contract are being funded with monies made available by the Water Infrastructure Finance and Innovation Act program of the EPA that has statutory requirements commonly known as “American Iron and Steel” that requires all of the iron and steel products used in the project to be produced in the United States (“American Iron and Steel Requirement”) including iron and steel products provided by the Contactor pursuant to this Contract.

The Contractor hereby represents, warrants and covenants to and for the benefit of the Board and the EPA that (a) the Contractor has reviewed and understands the American Iron and Steel Requirement, (b) all of the iron and steel products used in the project will be and/or have been produced in the United States in a manner that complies with the American Iron and Steel Requirement, unless a waiver of the requirement is approved, and (c) the Contractor will provide all further verified information, certification or assurance of compliance with this paragraph, or information necessary to support a waiver of the American Iron and Steel Requirement, as may be requested by the Board or the EPA.

Notwithstanding any other provision of this Contract, any failure to comply with this paragraph by the Contractor shall permit the Board or the EPA to recover as damages against the Contractor any loss, expense, or cost (including without limitation attorney’s fees) incurred by the Board or the EPA resulting from any such failure (including without limitation any impairment or loss of funding, whether in whole or in part, from the EPA or any damages owed to the EPA by the Board). While the Contractor has no direct contractual privity with the EPA, as a lender to the Board for the funding of its project, the Board and the Contractor agree that the EPA is a third- party beneficiary and neither this paragraph (nor any other provision of this Contract necessary to give this paragraph force or effect) shall be amended or waived without the prior written consent of the EPA.

Payment shall be made within thirty (30) calendar days after receipt of invoice and Board approval of services rendered. The invoice shall state the contract number from page 1 of this contract and describe the work performed.

EXHIBIT B – STANDARD TERMS AND CONDITIONS

1. DEFINITIONS.

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.

- 1.1. *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.
- 1.2. *Application for Payment*—The document prepared by Contractor, in a form acceptable to the Board, to request progress or final payments, and which is to be accompanied by such supporting documentation as is required by the Contract Documents.
- 1.3. *Bid*—The offer of a Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.
- 1.4. *Bidder*—An individual or entity that submits a Bid to Owner.
- 1.5. *Bidding Documents*—The Bidding Requirements, the proposed Contract Documents, and all Addenda.
- 1.6. *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.
- 1.7. *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.
- 1.8. *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; challenging a set-off against payments due; or seeking other relief with respect to the terms of the Contract.
- 1.9. *Board or 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.
- 1.10. *Board Authorized Representative or Owner Authorized Representative*-- As defined pursuant to the Contract.
- 1.11. *Constituent of Concern*—Asbestos, petroleum, radioactive materials, polychlorinated biphenyls (PCBs), lead-based paint (as defined by the HUD/EPA standard), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to Laws and Regulations

regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.

- 1.12. *Contract*—The written instrument, executed by Owner and Contractor, that sets forth the Contract Price and Contract Times, identifies the parties, and designates the specific items that are Contract Documents.
- 1.13. *Contract Documents*— As defined pursuant to the Contract.
- 1.14. *Contract Price*—The money that Owner has agreed to pay Contractor for completion of the Work.
- 1.15. *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 pursuant to the Contract Documents.
- 1.16. *Contractor*—The individual or entity with which Owner has contracted for performance of the Work.
- 1.17. *Contractor Authorized Representative* -- As defined pursuant to the Contract.
- 1.18. *Cost of the Work*—See Section 18.1 for definition.
- 1.19. *Drawings*—The part of the Contract that graphically shows the scope, extent, and character of the Work to be performed by Contractor.
- 1.20. *Effective Date of the Contract*—The date, indicated in the Contract, on which the Contract becomes effective.
- 1.21. *Electronic Document*—Any Work-related correspondence, attachments to correspondence, data, documents, drawings, information, or graphics, including but not limited to Shop Drawings and other Submittals, that are in an electronic or digital format.
- 1.22. *Electronic Means*—Electronic mail (email), upload/download from a secure Work website, or other communications methods that allow: (a) the transmission or communication of Electronic Documents; (b) the documentation of transmissions, including sending and receipt; (c) printing of the transmitted Electronic Document by the recipient; (d) the storage and archiving of the Electronic Document by sender and recipient; and (e) the use by recipient of the Electronic Document for purposes permitted by this Contract. Electronic Means does not include the use of text messaging, or of Facebook, Twitter, Instagram, or similar social media services for transmission of Electronic Documents.
- 1.23. *Field Order* —A written order issued by the Owner which requires minor changes in the Work but does not change the Contract Price or the Contract Times.
- 1.24. *Hazardous Environmental Condition* —The presence at the Site of Constituents of Concern in such quantities or circumstances that may present a danger to persons or property exposed thereto.

- a) The presence at the Site of materials that are necessary for the execution of the Work, or that are to be incorporated into the Work, and that are controlled and contained pursuant to industry practices, Laws and Regulations, and the requirements of the Contract, is not a Hazardous Environmental Condition.
 - b) The presence of Constituents of Concern that are to be removed or remediated as part of the Work is not a Hazardous Environmental Condition.
 - c) The presence of Constituents of Concern as part of the routine, anticipated, and obvious working conditions at the Site, is not a Hazardous Environmental Condition.
- 1.25. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and binding decrees, resolutions, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
 - 1.26. *Liens*—Charges, security interests, or encumbrances upon Contract-related funds, real property, or personal property.
 - 1.27. *Milestone*—A principal event in the performance of the Work that the Contract requires Contractor to achieve by an intermediate completion date, or by a time prior to Substantial Completion of all the Work.
 - 1.28. *Notice of Award*—The written notice by Owner to a Bidder of Owner's acceptance of the Bid.
 - 1.29. *Notice to Proceed*—A written notice by Owner to Contractor fixing the date on which the Contract Times will commence to run and on which Contractor shall start to perform the Work.
 - 1.30. *Owner or Board*—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.
 - 1.31. *Owner Authorized Representative or Board Authorized Representative*—As defined pursuant to the Contract.
 - 1.32. *Progress Schedule*—A schedule, prepared and maintained by Contractor, describing the sequence and duration of the activities comprising Contractor's plan to accomplish the Work within the Contract Times.
 - 1.33. *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.
 - 1.34. *Schedule of Submittals*—A schedule, prepared and maintained by Contractor, of required Submittals and the time requirements for the Board's review of the Submittals.

- 1.35. *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.
- 1.36. *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.
- 1.37. *Site*—Lands or areas indicated in the Contract or Specifications as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements, and such other lands or areas furnished by Owner which are designated for the use of Contractor.
- 1.38. *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.
- 1.39. *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.
- 1.40. *Submittal*—A written or graphic document, prepared by or for Contractor, which the Contract Documents require Contractor to submit to Owner, or that is indicated as a Submittal in the Schedule of Submittals accepted by Owner. Submittals may include Shop Drawings and Samples; schedules; product data; Owner-delegated designs; sustainable design information; information on special procedures; testing plans; results of tests and evaluations, source quality-control testing and inspections, and field or Site quality-control testing and inspections; warranties and certifications; Suppliers’ instructions and reports; records of delivery of spare parts and tools; operations and maintenance data; Work photographic documentation; record documents; and other such documents required by the Contract Documents. Submittals, whether or not approved or accepted by Owner, are not Contract Documents. Change Proposals, Change Orders, notices, Applications for Payment, and requests for interpretation or clarification are not Submittals.
- 1.41. *Substantial Completion*—The time at which the Work (or a specified part thereof) has progressed to the point where the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms “substantially complete” and “substantially completed” as applied to all or part of the Work refer to Substantial Completion of such Work.
- 1.42. *Successful Bidder*—The Bidder to which the Owner makes an award of contract.
- 1.43. *Supplier*—A manufacturer, fabricator, supplier, distributor, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or a Subcontractor.

2. SUBCONTRACTS AND ASSIGNMENT.

Contractor shall not enter into any subcontracts for any of the Work, or assign or transfer any of its interest in this Contract, without the prior written consent of Board. The provisions of this Contract shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and assigns, if any.

3. THIRD PARTY BENEFICIARIES.

Board and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this contract gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly, or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract.

4. GOVERNING LAW/VENUE/ATTORNEY FEES.

This Contract shall be governed and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "the claim") between Board and Contractor that arises from or relates to this Contract shall be brought and conducted solely and exclusively within the circuit court of Clackamas County for the State of Oregon. If the claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. Contractor, by its execution of this Contract, hereby consents to the in personal jurisdiction of said courts. If a suit or action is filed to enforce any of the terms of this Contract, each party is responsible for their respective costs and fees, including attorney fees.

5. REMEDIES CUMULATIVE.

All rights and remedies of Board and Contractor shall be cumulative and may be exercised successively or concurrently. The foregoing is without limitation to or waiver of any other rights or remedies of Board according to law.

6. SEVERABILITY/WAIVER.

Board and Contractor agree that, if any term or provision of this Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the contract did not contain the particular term or provision held to be invalid. The failure of either party to enforce any provision of this contract shall not constitute a waiver by that party of that or any other provision of this contract.

7. ASSIGNMENT.

Board or Contractor may not assign this Contract without prior written consent of the other party.

8. COMPLIANCE WITH APPLICABLE LAWS AND REGULATIONS.

- 8.1. Contractor shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Contract. Without limiting the generality of the foregoing, Contractor expressly agrees to comply with the following laws, regulations and executive orders to the extent they are applicable to the Contract: (i) Titles VI and VII of the Civil Rights Act of 1964, as amended; (ii) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Americans with Disabilities Act of 1990, as amended; (iv) Executive Order 11246, as amended; (v) the Health Insurance Portability and Accountability Act of 1996; (vi) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended; (vii) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; (viii) ORS Chapter 659, as amended; (ix) all regulations and administrative rules established pursuant to the foregoing laws; and (x) all other applicable requirements of federal, state and municipal civil rights and rehabilitation statutes, rules and regulations. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Contract and required by law to be so incorporated. The Board's performance under the Contract is conditioned upon Contractor's compliance with the provisions of ORS 279C.505, 279C.510, 279C.515, 279C.520, and 279C.530, which are incorporated by reference herein.
- 8.2. Contractor shall comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations; and Contractor shall not discriminate against Disadvantaged, Minority, Women or Emerging Small Business enterprises, as those terms are defined in ORS 200.005, in the awarding of subcontracts (ORS 279A.110).
- 8.3. Contractor shall maintain, in current and valid form, all licenses and certificates required by law, regulation, or this Contract when performing the Work. Contractor had a current license with the Construction Contractors Board in accordance with ORS 701.035 to 701.055 at the time Contractor's bid was submitted to Board.
- 8.4. Unless contrary to federal law, Contractor shall certify that it shall not accept a bid from Subcontractors to perform Work as described in ORS 701.005 under this Contract unless such Subcontractors have a current license with the Construction Contractors Board in accordance with ORS 701.035 to 701.055 at the time they submit their bids to the Contractor. Contractor shall not employ any Subcontractors currently listed on the Oregon Bureau of Labor and Industry's List of Debarred Contractors.
- 8.5. The following notice is applicable to Contractors who perform excavation Work. ATTENTION: Oregon law requires you to follow rules adopted by the Oregon Utility Notification Center. Those rules are set forth in OAR 952-001-0010 through OAR 952-001-0090. You may obtain copies of the rules by calling the center at (503) 232-1987.
- 8.6. For Contracts exceeding \$10,000, non-resident Contractors shall promptly report to the Department of Revenue for the State of Oregon on forms provided by the Department, the total contract price, terms of payment, length of contract and other information that the Department may require. Contractor shall mail a copy of these forms filed with the Department of Revenue to the Board.

- 8.7. By signing this Contract, Contractor declares that it has complied with all of the State of Oregon's tax laws at the time of contract execution and will comply with same for the life of the Contract, including but not limited to ORS 305.620, and ORS Chapters 316, 317, and 318. Contractor acknowledges that failure to comply with the State of Oregon's tax laws before this Contract was executed or during the term of this Contract is considered a default for which the Board may terminate this Contract and seek damages and other relief available under the terms of this Contract or under applicable law. Failure to comply with any or all of the requirements listed above shall be a breach of Contract and constitute grounds for Contract termination. Damages or costs resulting from such noncompliance shall be the responsibility of Contractor.
- 8.8. This Contract is subject to prevailing rate of wage rules and regulations. Contractor shall comply fully with the provisions of ORS 279C.800 through 279C.870 and Contractor must pay workers not less than the applicable prevailing rate of wage in accordance with ORS 279C.838 and 279C.840. Documents establishing those conditions, as determined by the Commissioner of the Bureau of Labor and Industries (BOLI), can be downloaded from the State of Oregon's BOLI website, www.oregon.gov/boli. The rates that apply are those that are in effect on the date the project was first advertised to bidders. <https://www.oregon.gov/boli/employers/Pages/prevaling-wage-rates.aspx>. If both state and federal prevailing wage rates apply to the Work, Contractor must pay all laborers, including those working on behalf of Subcontractors, the higher of the applicable state or federal wage rate. Contractor will ensure that its Subcontractors also agree to do so in writing. If both state and federal wages apply to the Work, Contractor will ensure that its Subcontractors agree in writing to pay the higher of the applicable state or federal wage rate.
- 8.9. Payroll Certification and BOLI Fee Requirements.
- 8.9.1. In accordance with ORS 279C.830 and ORS 279C.845, the Contractor and every Subcontractor shall submit written certified statements to the Board's Authorized Representative, on the form prescribed by the Commissioner of the Bureau of Labor and Industries, certifying the hourly rate of wage paid each worker which the Contractor or the Subcontractor has employed on the completion of any work subject to prevailing wage and further certifying that no worker employed in such work has been paid less than the applicable state or federal prevailing rate of wage or less than the minimum hourly rate of wage specified in the Contract, which certificate and statement shall be verified by the oath of the Contractor or the Subcontractor that the Contractor or Subcontractor has read such statement and certificate and knows the contents thereof and that the same is true to the Contractor or Subcontractor's best knowledge and belief. The certified statements shall set out accurately and completely the payroll records for the prior week including the name and address of each worker, the worker's correct classification, rate of pay, daily and weekly number of hours worked, deductions made, and actual wages paid. Certified statements for each week during which the Contractor or Subcontractor has employed a worker on completion of the work shall be submitted once a month or upon job completion, with the Contractor's invoice, by the fifth

business day of the following month. If certified payroll statements are not submitted, Board will withhold 25% retainage of any amount earned by Contractor until such certified payroll statements are submitted. Once submitted, the 25% retainage will be paid to Contractor within 14 days of receipt of the certified payroll statements.

8.9.2. The Contractor and Subcontractors shall preserve the certified statements for a period of six years from the date of completion of the Contract.

8.9.3. Board will pay the required fee(s) to the Oregon Bureau of Labor and Industries, as applicable.

8.10. Pursuant to ORS 279C.505 and as a condition to Board's performance hereunder, the Contractor shall:

8.10.1. Make payment promptly, as due according to the applicable prevailing wage rates, to all persons supplying to Contractor labor or materials for the prosecution of the Work provided for in this Contract.

8.10.2. Pay all contributions or amounts due to the State Industrial Accident Fund from such Contractor or Subcontractor incurred in the performance of the Contract.

8.10.3. Not permit any lien or claim to be filed or prosecuted against the Board on account of any labor or material furnished. Contractor will not assign any claims that Contractor has against Board, or assign any sums due by Board, to Subcontractors, Suppliers, or manufacturers, and will not make any Contract or act in any way to give Subcontractors a claim or standing to make a claim against the Board.

8.10.4. Pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.

8.10.5. Contractor and Subcontractors must give written notice to all persons furnishing labor under this Contract, of the number of hours per day and the days of the week required for performance of the Work per OAR 839-025-0020 (2) (a).

8.11. Pursuant to ORS 279C.515, and as a condition to Board's performance hereunder, Contractor agrees:

8.11.1. If Contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to the Contractor or a Subcontractor by any person in connection with the project as such claim becomes due, the proper officer(s) representing the Board may pay the claim and charge the amount of the payment against funds due or to become due Contractor under this Contract. Payment of claims in this manner shall not relieve the Contractor or the Contractor's surety from obligation with respect to any unpaid claims.

8.11.2. If the Contractor or a first-tier Subcontractor fails, neglects or refuses to make payment to a person furnishing labor or materials in connection with the public contract for a public improvement within 30 Days after receipt of payment from

Board or a contractor, the contractor or first-tier Subcontractor shall owe the person the amount due plus interest charges commencing at the end of the 10-Day period that payment is due under ORS 279C.580(3) and ending upon final payment, unless payment is subject to a good faith dispute as defined in ORS 279C.580. The rate of interest charged to the Contractor or first-tier Subcontractor on the amount due shall equal three times the discount rate on 90-Day commercial paper in effect at the Federal Reserve Bank in the Federal Reserve that includes Oregon on the date that is 30 Days after the date when payment was received from Board or from the Contractor, but the rate of interest shall not exceed 30 percent. The amount of interest may not be waived.

8.11.3. If the Contractor or a Subcontractor fails, neglects or refuses to make payment to a person furnishing labor or materials in connection with the Contract, the person may file a complaint with the Construction Contractors Board, unless payment is subject to a good faith dispute as defined in ORS 279C.580. Every contract related to this Contract shall contain a similar clause.

8.12. Pursuant to ORS 279C.580, Contractor shall include in each subcontract for property or services entered into by the Contractor and a first-tier Subcontractor, including a material Supplier, for the purpose of performing a construction contract:

8.12.1. A payment clause that obligates the Contractor to pay the first-tier Subcontractor for satisfactory performance under its subcontract within 10 Days out of such amounts as are paid to the Contractor by Board under the Contract.

8.12.2. An interest penalty clause that obligates the Contractor if payment is not made within 30 Days after receipt of payment from Board, to pay to the first-tier Subcontractor an interest penalty on amounts due in the case of each payment not made in accordance with the payment clause included in the subcontract pursuant to paragraph 8.1 of this subsection. Contractor or first-tier Subcontractor shall not be obligated to pay an interest penalty if the only reason that the Contractor or first-tier Subcontractor did not make payment when payment was due is that the Contractor or first-tier Subcontractor did not receive payment from Board or Contractor when payment was due. The interest penalty shall be for the period beginning on the day after the required payment date and ending on the date on which payment of the amount due is made; and shall be computed at the rate specified in ORS 279C.515(2).

8.12.3. A clause which requires each of Contractor's Subcontractor's to include, in each of their contracts with lower-tier Subcontractors or Suppliers, provisions to the effect that the first-tier Subcontractor shall pay its lower-tier Subcontractors and Suppliers in accordance with the provisions of subsections (a) and (b), above and requiring each of their Subcontractors and Suppliers to include such clauses in their subcontracts and supply contracts.

8.13. All employers, including Contractor, that employ subject workers who work under this contract in the State of Oregon shall comply with ORS 656.017 and provide the required

Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. Contractor shall ensure that each of its Subcontractors complies with these requirements.

- 8.14. Contractor warrants that it is not delinquent in the filing or payment of any Oregon income taxes, Oregon personal property taxes, Oregon municipal taxes, or Oregon real property taxes and that it has otherwise complied with all Oregon tax laws and all tax laws of those Oregon municipalities to which Contractor is subject.
- 8.15. Pursuant to ORS 279C.530, and as a condition to Board's performance hereunder, Contractor shall promptly, as due, make payment to any person, partnership, association or corporation furnishing medical, surgical, and hospital care or other needed care and attention, incident to sickness or injury, to the employees of such Contractor, all sums of which the Contractor agrees to pay for such services and all moneys and sums which the Contractor has collected or deducted from the wages of personnel pursuant to any law, contract or contract for the purpose of providing or paying for such services.
- 8.16. Pursuant to ORS 279C.520 and as a condition to Board's performance hereunder, no person shall be employed to perform Work under this Contract for more than 10 hours in any one day or 40 hours in any one week, except in cases of necessity, emergency or where public policy absolutely requires it. In such instances, Contractor shall pay the employee at least time and a half pay:
- 8.16.1. For all overtime in excess of eight hours a day or 40 hours in any one week when the work week is five consecutive Days, Monday through Friday; or
- 8.16.2. For all overtime in excess of 10 hours a day or 40 hours in any one week when the work week is four consecutive Days, Monday through Friday; and
- 8.16.3. For all Work performed on Saturday and on any legal holiday specified in ORS 279C.540.
- This section will not apply to Contractor's Work under this Contract if Contractor is currently a party to a collective bargaining contract with any labor organization. This Section shall not excuse Contractor from completion of the Work within the time required under this Contract.
- 8.17. Pursuant to ORS 279C.505, Contractor shall demonstrate that an employee drug testing program is in place. The Contractor shall demonstrate that it has a drug-testing program in place by executing a certification on a form provided by the Board, which shall become a term or condition of the Contract. Failure to maintain such a program shall constitute a material breach of Contract.
- 8.18. Bonds. Contractor will:
- 8.18.1. File a public works bond with the Construction Contractors Board pursuant to ORS 279C.836 before starting work, unless exempt under ORS 279C.836(2) (7) or (8), in an amount of not less than \$30,000.

8.18.2. Include in every subcontract a provision requiring the Subcontractor to file a public works bond with the Contractors Board pursuant to ORS 279C.836 before starting work, unless exempt under ORS 279C.836(2), (7) or (8).

8.18.3. Furnish and maintain in effect at all times during the Contract Period, a performance bond and a payment bond on forms acceptable to Owner and in a sum equal to the Contract Price to cover Contractor's obligation to perform and complete the Work and Contractor's obligation to make payments to subcontractors, suppliers and others Contractor is obligated to pay. Bonds issued by a surety company authorized to do business in Oregon are the only acceptable form of security, unless otherwise agreed to by the Owner in writing.

8.19. Retainage.

8.19.1. Retainage shall be withheld and released in accordance with ORS 279C.550 to 279C.570.

8.19.2. Board may reserve as retainage from any progress payment an amount not to exceed five percent of the payment. As Work progresses, Board may reduce the amount of the retainage and may eliminate retainage on any remaining monthly Contract payments after 50 percent of the Work under the Contract is completed if, in the Board's opinion, such Work is progressing satisfactorily. Elimination or reduction of retainage shall be allowed only upon written application by the Contractor, which application shall include written approval of Contractor's surety; except that when the Work is 97-1/2 percent completed the Board may, at its discretion and without application by the Contractor, reduce the retained amount to 100 percent of the value of the Work remaining to be done. Upon receipt of written application by the Contractor, Board shall respond in writing within a reasonable time.

8.19.3. In accordance with the provisions of ORS 279C.560 and related Oregon administrative rules, Contractor may request in writing:

- a) to be paid amounts which would otherwise have been retained from progress payments where Contractor has deposited acceptable bonds and securities of equal value with Board or in an escrow account, satisfactory to Board, with an approved bank or trust company to be held in lieu of the cash retainage for the benefit of Board;
- b) that retainage be deposited in an interest-bearing account, in a bank, savings bank, trust company or savings association for the benefit of Board, with earnings from such account accruing to the Contractor; or
- c) that the Board allow Contractor to deposit a surety bond for the benefit of Board, in a form acceptable to Board, in lieu of all or a portion of funds retained, or to be retained. Such bond and any proceeds therefrom shall be made subject to all claims and liens in the manner and priority as set forth for retainage under ORS 279C.550 to ORS 279C.570.

- 8.19.4. Where the Board has agreed to the Contractor's election of option (a) or (b), Board may recover from Contractor any additional costs incurred through such election by reducing Contractor's final payment. Where the Board has agreed to Contractor's election of option (c), Contractor shall accept like bonds from Subcontractors and Suppliers on the Project. If Contractor elects option (b), the Board will not place the retainage into an escrow account.
- 8.19.5. The retainage held by Board shall be included in and paid to the Contractor as part of any final payment of the Contract Price. The Board shall pay to Contractor interest at the rate of one and one-half percent per month on the final payment due Contractor, interest to commence 30 days after the Work under the Contract has been completed and accepted and to run until the date when final payment is tendered to Contractor. The Contractor shall notify Board in writing when the Contractor considers the Work complete and Board shall, within 15 days after receiving the written notice, either accept the Work or notify the Contractor of Work yet to be performed on the Contract. If Board does not within the time allowed notify the Contractor of Work yet to be performed to fulfill contractual obligations, the interest provided by this subsection shall commence to run 30 days after the end of the 15-day period.
- 8.19.6. In accordance with the provisions of ORS 279C.560, Board shall reduce the amount of the retainage if the Contractor notifies the Board that the Contractor has deposited in a bank or trust company, in a manner authorized by the Board, bonds and securities of equal value of a kind approved by the Board.
- 8.20. Contractor and its Subcontractors, if any, are subject to Oregon Workers' Compensation Law, which requires all employers that employ subject workers who work under this Contract in the State of Oregon to comply with ORS 656.017 and provide the required workers' compensation coverage, unless such employers are exempt under ORS 656.126.
- 8.21. Requirements for doing electrical work on new or existing Board facilities.
- 8.21.1. All contractors performing electrical work on Board facilities must comply with all applicable requirements of the NFPA 70E Standards.
- 8.21.2. Unless the Board determines in its sole discretion that a Contractor's attendance is not necessary, Contractors will be required to attend a Pre-Task Meeting with the Project Manager and Electrical Signing Supervisor or designee to discuss the hazards and safe work procedures for all electrical work to be performed on existing or new Board facilities.
- 8.21.3. If the work performed changes or alters the Arc Flash Analysis, contractor is required to provide an updated Arc Flash Analysis and any required labeling to the Operations Manager and the Department occupying the facility where the work was performed.
- 8.21.4. In addition to the above, Contractors performing electrical Work must:

- A) Hold an electrical contractor license. This is a specialized license allowing a company to perform electrical Work. Oregon's Building Codes Division issues the electrical license.
 - B) Hold a valid General Contractor's license or a Specialty Contractors License from the State of Oregon Construction Contractors Board.
 - C) The person(s) actually installing or modifying any electrical system in accordance with the Work must possess a valid General Journeyman Electrical license issued by the State of Oregon.
- 8.22. During the performance of this Contract, Contractor shall comply with all federal, state and local laws, codes, regulations and ordinances applicable to the Work including but not limited to obtaining an applicable Business License. Failure to comply with such requirements shall constitute a breach of Contract and shall be grounds for Contract termination. Damages or costs resulting from noncompliance shall be the responsibility of Contractor. Contractor shall comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.

9. INDEPENDENT CONTRACTOR.

- 9.1. Contractor shall perform the work required by this contract as an "Independent Contractor." Although Board reserves the right to determine the delivery schedule for the work to be performed and to evaluate the quality of the completed performance, the Board cannot and will not control the means or manner of the Contractor's performance. The Contractor shall comply promptly with any requests by Board relating to the emphasis or relative emphasis to be placed on various aspects of the work or to such other matters pertaining to the work under this contract. Contractor is responsible for determining the appropriate means and manner of performing the work.
- 9.2. Contractor represents and warrants that Contractor is not an employee of the Board, is not currently employed by the Federal Government, meets the specific independent Contractor standards of ORS 670.600, and is not an "officer", "employee", or "agent" of the Board, as those terms are used in ORS 30.260 et. seq.
- 9.3. Contractor shall be responsible for all federal or state taxes applicable to any compensation or payments paid to Contractor under this contract. Contractor is not eligible for any federal Social Security, unemployment insurance, or workers' compensation benefits from compensation or payments paid to Contractor under this contract.
- 9.4. Contractor agrees to immediately provide Board notice of any claim made against Contractor by any third party. Contractor also agrees not to assign to any third party, without Board's written consent, any obligation of Board to indemnify Contractor for any actions under this contract.

10. NONDISCRIMINATION.

No person shall be denied or subjected to discrimination in receipt of the benefits of any services or activities made possible by or resulting from this contract on the grounds of race, color, religion, gender, sexual orientation, national origin, disability, age, or marital status. Any violation of this provision shall be considered a material defect and shall be grounds for cancellation, termination or suspension in whole or in part by the Board.

11. NON-APPROPRIATION OF FUNDS.

The continuance of this Contract is contingent upon the appropriation of funds by the Board's Board of Commissioners to fulfill the requirements of the Contract. If the Board's Board of Commissioners fails to appropriate sufficient monies to provide for the continuance of the Contract, or if such appropriation is reduced to prevent the total appropriation for the year from exceeding revenues for that year, or for any other lawful purpose, the effect of such reduction would provide insufficient monies for the continuation of the Contract, the Contract shall terminate on the date of the beginning of the first fiscal year for which the funds are not appropriated.

12. PRELIMINARY MATTERS.

12.1. Evidence of Insurance.

12.1.1. Evidence of Contractor's Insurance: When Contractor delivers the signed counterparts of the Contract to Owner, Contractor shall also deliver to Owner, with copies to each additional insured (as identified in the Contract), the certificates, endorsements, and other evidence of insurance required to be provided by Contractor in accordance with the Contract.

12.1.2. Evidence of Owner's Insurance: After receipt of the signed counterparts of the Agreement, and all required bonds and insurance documentation, as applicable, Owner shall promptly deliver to Contractor, with copies to each additional insured (as identified in the Contract), the certificates and other evidence of insurance required to be provided by Owner under the terms of the Contract.

12.2. The Contractor hereby certifies that the Contractor is licensed with the Construction Contractors Board in accordance with ORS 701.035 to 701.055 and, further, that all Subcontractors performing work as described in ORS 701.025(2) (i.e., construction work) will be licensed with the Construction Contractors Board in accordance with ORS 701.035 to 701.055 before the Subcontractors commence Work under the Contract.

12.3. Copies of Documents.

12.3.1. Owner shall furnish to Contractor an electronic copy of the fully executed Contract Documents.

12.3.2. Owner shall maintain and safeguard the Contract, including Drawings and Specifications signed and sealed by a design professional, if applicable. Owner shall make such record of the Contract available to Contractor for review.

12.4. Before Starting Construction.

12.4.1. Preliminary Schedules: Within 10 days after the Effective Date of the Contract (or as otherwise required by the Contract Documents), Contractor shall submit to Owner for timely review:

- A) a preliminary Progress Schedule indicating the times (numbers of days or dates) for starting and completing the various stages of the applicable Work, including any Milestones specified in the Contract
- B) a preliminary Schedule of Submittals; and
- C) a preliminary Schedule of Values for all of the Work to be performed pursuant to the Contract, 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.

12.5. Electronic Transmittals

Electronic Documents Protocol: The parties shall conform to the following provisions referred to as the Electronic Documents Protocol (“EDP” or “Protocol”) for exchange of electronic transmittals.

1. Basic Requirements

- a. To the fullest extent practical, the parties agree to and will transmit and accept Electronic Documents in an electronic or digital format using the procedures described in this Protocol. Use of the Electronic Documents and any information contained therein is subject to the requirements of this Protocol and other provisions of the Contract.
- b. The contents of the information in any Electronic Document will be the responsibility of the transmitting party.
- c. Electronic Documents as exchanged by this Protocol may be used in the same manner as the printed versions of the same documents that are exchanged using non-electronic format and methods, subject to the same governing requirements, limitations, and restrictions, set forth in the Contract Documents.
- d. Except as otherwise explicitly stated herein, the terms of this Protocol will be incorporated into any other agreement or subcontract between a party and any third party for any portion of the Work on the Project, or any Project-related services, where that third party is, either directly or indirectly, required to exchange Electronic Documents with a party or with Engineer. Nothing herein will modify the requirements of the Contract regarding communications between and among the parties and their subcontractors and consultants.

- e. When transmitting Electronic Documents, the transmitting party makes no representations as to long term compatibility, usability, or readability of the items resulting from the receiving party's use of software application packages, operating systems, or computer hardware differing from those established in this Protocol.
 - f. Nothing herein negates any obligation 1) in the Contract to create, provide, or maintain an original printed record version of Drawings and Specifications, signed and sealed according to applicable Laws and Regulations; 2) to comply with any applicable Law or Regulation governing the signing and sealing of design documents or the signing and electronic transmission of any other documents; or 3) to comply with the notice requirements of this Contract.
2. System Infrastructure for Electronic Document Exchange
- a. Each party will provide hardware, operating system(s) software, internet, e-mail, and large file transfer functions ("System Infrastructure") at its own cost and sufficient for complying with the EDP requirements. With the exception of minimum standards set forth in this EDP, and any explicit system requirements specified by attachment to this EDP, it is the obligation of each party to determine, for itself, its own System Infrastructure.
 - 1) The maximum size of an email attachment for exchange of Electronic Documents under this EDP is 5 MB. Attachments larger than that may be exchanged using large file transfer functions or physical media.
 - 2) Each Party assumes full and complete responsibility for any and all of its own costs, delays, deficiencies, and errors associated with converting, translating, updating, verifying, licensing, or otherwise enabling its System Infrastructure, including operating systems and software, for use with respect to this EDP.
 - b. Each party is responsible for its own system operations, security, back-up, archiving, audits, printing resources, and other Information Technology ("IT") for maintaining operations of its System Infrastructure during the Project, including coordination with the party's individual(s) or entity responsible for managing its System Infrastructure and capable of addressing routine communications and other IT issues affecting the exchange of Electronic Documents.
 - c. Each party will operate and maintain industry-standard, industry-accepted, ISO-standard, commercial-grade security software and systems that are intended to protect the other party from: software viruses and other malicious software like worms, trojans, adware; data breaches; loss of confidentiality; and other threats in the transmission to or storage of information from the other parties, including transmission of Electronic Documents by physical media such as CD/DVD/flash drive/hard drive. To the extent that a party maintains and

operates such security software and systems, it shall not be liable to the other party for any breach of system security.

- d. In the case of disputes, conflicts, or modifications to the EDP required to address issues affecting System Infrastructure, the parties shall cooperatively resolve the issues; but, failing resolution, the Owner is authorized to make and require reasonable and necessary changes to the EDP to effectuate its original intent. If the changes cause additional cost or time to Contractor, not reasonably anticipated under the original EDP, Contractor may seek an adjustment in price or time under the appropriate process in the Contract.
- e. Each party is responsible for its own back-up and archive of documents sent and received during the term of the contract under this EDP, unless this EDP establishes a Project document archive, either as part of a mandatory Project website or other communications protocol, upon which the parties may rely for document archiving during the specified term of operation of such Project document archive. Further, each party remains solely responsible for its own post-Project back-up and archive of Project documents after the term of the Contract, or after termination of the Project document archive, if one is established, for as long as required by the Contract and as each party deems necessary for its own purposes.
- f. If a receiving party receives an obviously corrupted, damaged, or unreadable Electronic Document, the receiving party will advise the sending party of the incomplete transmission.
- g. The parties will bring any non-conforming Electronic Documents into compliance with the EDP. The parties will attempt to complete a successful transmission of the Electronic Document or use an alternative delivery method to complete the communication.
- h. The Owner will operate a Project information management system (also referred to in this EDP as "Project Website") for use of Owner, Engineer and Contractor during the Project for exchange and storage of Project-related communications and information. Except as otherwise provided in this EDP or the General Conditions, use of the Project Website by the parties as described in this Paragraph will be mandatory for exchange of Project documents, communications, submittals, and other Project-related information. The following conditions and standards will govern use of the Project Website:
 - 1) Describe the period of time during which the Project Website will be operated and be available for reliance by the parties;
 - 2) Provide any minimum system infrastructure, software licensing and security standards for access to and use of the Project Website;

- 3) Describe the types and extent of services to be provided at the Project Website (such as large file transfer, email, communication and document archives, etc.); and
- 4) Include any other Project Website attributes that may be pertinent to Contractor's use of the facility and pricing of such use.

C. Software Requirements for Electronic Document Exchange; Limitations

1. Each party will acquire the software and software licenses necessary to create and transmit Electronic Documents and to read and to use any Electronic Documents received from the other party (and if relevant from third parties), using the software formats required in this section of the EDP.
 - a. Prior to using any updated version of the software required in this section for sending Electronic Documents to the other party, the originating party will first notify and receive concurrence from the other party for use of the updated version or adjust its transmission to comply with this EDP.
2. The parties agree not to intentionally edit, reverse engineer, decrypt, remove security or encryption features, or convert to another format for modification purposes any Electronic Document or information contained therein that was transmitted in a software data format, including Portable Document Format (PDF), intended by sender not to be modified, unless the receiving party obtains the permission of the sending party or is citing or quoting excerpts of the Electronic Document for Project purposes.
3. Software and data formats for exchange of Electronic Documents will conform to the requirements set forth in Exhibit A to this EDP, including software versions, if listed.

12.6. Requests by Contractor for Electronic Documents in Other Formats

1. Release of any Electronic Document versions of the Project documents in formats other than those identified in the Electronic Documents Protocol (if any) or elsewhere in the Contract will be at the sole discretion of the Owner.
2. To extent determined by Owner, in its sole discretion, to be prudent and necessary, release of Electronic Documents versions of Project documents and other Project information requested by Contractor ("Request") in formats other than those identified in the Electronic Documents Protocol (if any) or elsewhere in the Contract will be subject to the provisions of the Owner's response to the Request, and to the following conditions to which Contractor agrees:
 - a. The content included in the Electronic Documents created by Engineer and covered by the Request was prepared by Engineer as an internal working document for Engineer's purposes solely, and is being provided to Contractor on an "AS IS" basis without any warranties of any kind, including, but not limited to any implied warranties of fitness for any purpose. As such, Contractor is

advised and acknowledges that the content may not be suitable for Contractor's application or may require substantial modification and independent verification by Contractor. The content may include limited resolution of models, not-to-scale schematic representations and symbols, use of notes to convey design concepts in lieu of accurate graphics, approximations, graphical simplifications, undocumented intermediate revisions, and other devices that may affect subsequent reuse.

- b. Electronic Documents containing text, graphics, metadata, or other types of data that are provided by Engineer to Contractor under the request are only for convenience of Contractor. Any conclusion or information obtained or derived from such data will be at the Contractor's sole risk and the Contractor waives any claims against Engineer or Owner arising from use of data in Electronic Documents covered by the Request.
 - c. Contractor shall indemnify and hold harmless Owner and Engineer and their subconsultants from all claims, damages, losses, and expenses, including attorneys' fees and defense costs arising out of or resulting from Contractor's use, adaptation, or distribution of any Electronic Documents provided under the Request.
 - d. Contractor agrees not to sell, copy, transfer, forward, give away or otherwise distribute this information (in source or modified file format) to any third party without the direct written authorization of Engineer, unless such distribution is specifically identified in the Request and is limited to Contractor's subcontractors. Contractor warrants that subsequent use by Contractor's subcontractors complies with all terms of the Contract Documents and Owner's response to Request.
3. In the event that Owner elects to provide or directs the Engineer to provide to Contractor any Contractor-requested Electronic Document versions of Project information that is not explicitly identified in the Contract Documents as being available to Contractor, the Owner shall be reimbursed by Contractor on an hourly basis (at \$268 per hour) for all engineering costs necessary to create or otherwise prepare the data in a manner deemed appropriate by Engineer.

13. COMMENCEMENT AND PROGRESS OF THE WORK.

- 13.1. Commencement of Contract Times; Notice to Proceed. The Contract Times will commence to run on the Start Date indicated in the Contract or, if a Notice to Proceed is given, on the day indicated in the Notice to Proceed.
- 13.2. Starting the Work. Contractor shall start to perform the Work on the date when the Contract Times commence to run. No Work provided in the Contract may be done at the Site prior to such date.
- 13.3. Reference Points. Owner shall provide engineering surveys to establish reference points for construction which in Owner'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 Board 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.

14. PROGRESS SCHEDULE.

14.1.1. Contractor shall adhere to the Progress Schedule established in accordance with Paragraph 12.4 as it may be adjusted from time to time as provided below.

- a) Contractor shall submit to Owner for acceptance (to the extent indicated in Paragraph 12.4) proposed adjustments in the Progress Schedule that will not result in changing the Contract Times.
- b) Proposed adjustments in the Progress Schedule that will change the Contract Times must be submitted in accordance with the requirements of Section 8 of the Contract.

14.1.2. Contractor shall carry on the Work and adhere to the Progress Schedule during all disputes or disagreements with Owner, unless otherwise expressly provided or directed by Owner. No Work will be delayed or postponed pending resolution of any disputes or disagreements, or during any appeal process, or as Owner and Contractor may otherwise agree in writing.

14.2. Delays in Contractor's Progress

14.2.1. If Owner, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress of the Work, then Contractor shall be entitled to an equitable adjustment in Contract Price or Contract Times.

14.2.2. 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.

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

- a) Severe and unavoidable natural catastrophes such as fires, floods, epidemics, and earthquakes;
- b) Abnormal weather conditions;
- c) Acts or failures to act of third-party utility owners or other third-party entities (other than those third-party utility owners or other third-party entities performing other work at or adjacent to the Site as arranged by or under contract with Owner, as contemplated in Section 8 of the Contract); and
- d) Acts of war or terrorism.

14.2.4. Contractor's entitlement to an adjustment of Contract Times or Contract Price is limited as follows:

- a) Contractor's entitlement to an adjustment of the Contract Times is conditioned on the delay, disruption, or interference adversely affecting an activity on the critical path to completion of the Work, as of the time of the delay, disruption, or interference.
- b) Contractor shall not be entitled to an adjustment in Contract Price for any delay, disruption, or interference if such delay is concurrent with a delay, disruption, or interference caused by or within the control of Contractor. Such a concurrent delay by Contractor shall not preclude an adjustment of Contract Times to which Contractor is otherwise entitled.
- c) The number of allowable abnormal weather days is 5 days. The existence of abnormal weather conditions will not relieve Contractor of the obligation to demonstrate and document that delays caused by abnormal weather are specific to the planned work activities or that such activities were on Contractor's then current Progress Schedule's critical path for the Project.
- d) Adjustments of Contract Times or Contract Price are subject to the provisions of Article 18.

14.2.5. Each Contractor request or Change Proposal seeking an increase in Contract Times or Contract Price must be supplemented by supporting data that sets forth in detail the following:

- a) The circumstances that form the basis for the requested adjustment;
- b) The date upon which each cause of delay, disruption, or interference began to affect the progress of the Work;
- c) The date upon which each cause of delay, disruption, or interference ceased to affect the progress of the Work;
- d) The number of days' increase in Contract Times claimed as a consequence of each such cause of delay, disruption, or interference; and

e) The impact on Contract Price.

f) Contractor shall also furnish such additional supporting documentation as Owner may require including, where appropriate, a revised Progress Schedule indicating all the activities affected by the delay, disruption, or interference, and an explanation of the effect of the delay, disruption, or interference on the critical path to completion of the Work.

14.2.6. 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 14, together with the provisions of Paragraphs 13.5.4 and 13.5.5.

14.2.7. Paragraph 16 addresses delays, disruption, and interference to the performance or progress of the Work resulting from the performance of certain other work at or adjacent to the Site.

15. SITE; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS

15.1. Availability of Lands.

15.1.1. Owner shall furnish the Site. Owner shall notify Contractor in writing of any encumbrances or restrictions not of general application but specifically related to use of the Site with which Contractor must comply in performing the Work.

15.1.2. 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.

15.1.3. Contractor shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

15.2. Use of Site and Other Areas

15.2.1. Limitation on Use of Site and Other Areas

A) Contractor shall confine construction equipment, temporary construction facilities, the storage of materials and equipment, and the operations of workers to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and such other adjacent areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility for (a) damage to the Site; (b) damage to any such other adjacent areas used for Contractor's operations; (c) damage to any other adjacent land or areas, or to improvements, structures,

utilities, or similar facilities located at such adjacent lands or areas; and (d) for injuries and losses sustained by the owners or occupants of any such land or areas; provided that such damage or injuries result from the performance of the Work or from other actions or conduct of the Contractor or those for which Contractor is responsible.

- B) 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 15.12, 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 in a court of competent jurisdiction; and (c) to the fullest extent permitted by Laws and Regulations, indemnify, defend, and hold harmless Owner, and the officers, directors, members, partners, employees, agents, consultants, elected and appointed officials, 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 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.

15.2.2. Removal of Debris During Performance of the Work: During the progress of the Work the Contractor shall keep the Site and other adjacent areas free from accumulations of waste materials, rubbish, and other debris. Removal and disposal of such waste materials, rubbish, and other debris will conform to applicable Laws and Regulations.

15.2.3. 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.

15.2.4. 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.

15.3. Subsurface and Physical Conditions

15.3.1. Reports and Drawings: The Contract shall identify:

- A) Those reports of explorations and tests of subsurface conditions at or adjacent to the Site that contain Technical Data;
 - B) Those drawings of existing physical conditions at or adjacent to the Site, including those drawings depicting existing surface or subsurface structures at or adjacent to the Site (except Underground Facilities), that contain Technical Data; and
 - C) Technical Data contained in such reports and drawings.
- 15.3.2. Underground Facilities: Underground Facilities are shown or indicated on the Drawings, pursuant to Paragraph 14.5, and not in the drawings referred to in Paragraph 14.3.1. Information and data regarding the presence or location of Underground Facilities are not intended to be categorized, identified, or defined as Technical Data.
- 15.3.3. Reliance by Contractor on Technical Data: Contractor may rely upon the accuracy of the technical data expressly identified in such reports and drawings, but such reports and drawings are not Contract Documents.
- 15.3.4. Limitations of Other Data and Documents: Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner, or any of their officers, directors, members, partners, employees, agents, consultants, or Subcontractors, with respect to:
- A) 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;
 - B) other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings;
 - C) the contents of other Site-related documents made available to Contractor, such as record drawings from other projects at or adjacent to the Site, or Owner's archival documents concerning the Site; or
 - D) any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions, or information.
- 15.4. Differing Subsurface or Physical Conditions
- 15.4.1. Notice by Contractor: If Contractor believes that any subsurface or physical condition that is uncovered or revealed at the Site:
- A) is of such a nature as to establish that any Technical Data on which Contractor is entitled to rely as provided in Paragraph 14.3 is materially inaccurate;
 - B) is of such a nature as to require a change in the Drawings or Specifications;
 - C) differs materially from that shown or indicated in the Contract Documents; or

- D) 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 15.14), notify Owner 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.

- 15.4.2. Owner's Review: After receipt of written notice as required by the preceding paragraph, Owner will promptly review the subsurface or physical condition in question; determine whether it is necessary for Owner to obtain additional exploration or tests with respect to the condition; conclude whether the condition falls within any one or more of the differing Site condition categories in Paragraph 14.4.1; 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.
- 15.4.3. Owner's Statement to Contractor Regarding Site Condition: After such written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor 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 the written findings, conclusions, and recommendations, in whole or in part.
- 15.4.4. Early Resumption of Work: If at any time Owner determines that Work in connection with the subsurface or physical condition in question may resume prior to Owner's issuance of its statement to Contractor, because the condition in question has been adequately documented, and analyzed on a preliminary basis, then the Owner may at its discretion instruct Contractor to resume such Work.
- 15.4.5. Possible Price and Times Adjustments:
- A) Contractor shall be entitled to an equitable adjustment in Contract Price or Contract Times, to the extent that the existence of a differing subsurface or physical condition, or any related delay, disruption, or interference, causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:
1. Such condition must fall within any one or more of the categories described in Paragraph 14.4.1;

2. 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 19.3; and,
 3. Contractor's entitlement to an adjustment of the Contract Times is subject to the provisions of Paragraphs 13.5.1 and 13.5.2.
- B) Contractor shall not be entitled to any adjustment in the Contract Price or Contract Times with respect to a subsurface or physical condition if:
- 1) 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;
 - 2) 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
 - 3) Contractor failed to give the written notice required by Paragraph 14.4.1.
- C) If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Price or Contract Times, then any such adjustment will be set forth in a Change Order.
- D) Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Price or Contract Times, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the subsurface or physical condition in question.
- 15.4.6. Underground Facilities; Hazardous Environmental Conditions: Paragraph 14.5 governs rights and responsibilities regarding the presence or location of Underground Facilities. Paragraph 14.06 governs rights and responsibilities regarding Hazardous Environmental Conditions. The provisions of Paragraphs 14.3 and 14.4 are not applicable to the presence or location of Underground Facilities, or to Hazardous Environmental Conditions.

15.5. Underground Facilities

- 15.5.1. Contractor's Responsibilities: Unless it is otherwise expressly provided in the Contract, the cost of all of the following shall 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) complying with applicable state and local utility damage prevention Laws and Regulations;

- C) verifying the actual location of those Underground Facilities shown or indicated in the Contract Documents as being within the area affected by the Work, by exposing such Underground Facilities during the course of construction;
 - D) coordination of the Work with the owners (including Owner) of such Underground Facilities, during construction; and
 - E) the safety and protection of all existing Underground Facilities at the Site, and repairing any damage thereto resulting from the Work.
- 15.5.2. Notice by Contractor: If Contractor believes that an Underground Facility that is uncovered or revealed at the Site was not shown or indicated on the Drawings, or was not shown or indicated on the Drawings with reasonable accuracy, then Contractor shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by Paragraph 15.14), notify Owner in writing regarding such Underground Facility.
- 15.5.3. Owner's Review: Owner will:
- A) promptly review the Underground Facility and conclude whether such Underground Facility was not shown or indicated on the Drawings, or was not shown or indicated with reasonable accuracy;
 - B) identify and communicate with the owner of the Underground Facility; prepare recommendations to Owner (and if necessary issue any preliminary instructions to Contractor) regarding the Contractor's resumption of Work in connection with the Underground Facility in question;
 - C) obtain any pertinent cost or schedule information from Contractor; determine the extent, if any, to which a change is required in the Drawings or Specifications to reflect and document the consequences of the existence or location of the Underground Facility.

During such time, Contractor shall be responsible for the safety and protection of such Underground Facility.

- 15.5.4. Owner's Statement to Contractor Regarding Underground Facility: After producing written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor 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 the written findings, conclusions, and recommendations in whole or in part.
- 15.5.5. Early Resumption of Work: If at any time Owner determines that Work in connection with the Underground Facility may resume prior to Owner's issuance of its statement to Contractor, because the Underground Facility in

question and conditions affected by its presence have been adequately documented, and analyzed on a preliminary basis, then the Owner may at its discretion instruct Contractor to resume such Work.

15.5.6. Possible Price and Times Adjustments:

- A) Contractor shall be entitled to an equitable adjustment in the Contract Price or Contract Times, to the extent that any existing Underground Facility at the Site that was not shown or indicated on the Drawings, or was not shown or indicated with reasonable accuracy, or any related delay, disruption, or interference, causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:
- 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 19.3;
- C) Contractor's entitlement to an adjustment of the Contract Times is subject to the provisions of Paragraphs 13.5.4 and 13.5.5; and
- D) Contractor gave the notice required in Paragraph 14.5.2.

15.5.7. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Price or Contract Times, then any such adjustment will be set forth in a Change Order.

15.5.8. Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Price or Contract Times, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the Underground Facility in question.

15.5.9. The information and data shown or indicated on the Drawings with respect to existing Underground Facilities at the Site is based on information and data (a) furnished by the owners of such Underground Facilities, or by others, (b) obtained from available records, or (c) gathered in an investigation conducted in accordance with the current edition of ASCE 38, Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data, by the American Society of Civil Engineers. If such information or data is incorrect or incomplete, Contractor's remedies are limited to those set forth in this Paragraph 14.5.6.

15.6. Hazardous Environmental Conditions at Site

15.6.1. Reports and Drawings: The Contract shall identify:

- A) those reports known to Owner relating to Hazardous Environmental Conditions that have been identified at or adjacent to the Site;
- B) drawings known to Owner relating to Hazardous Environmental Conditions that have been identified at or adjacent to the Site; and
- C) Technical Data contained in such reports and drawings.

- 15.6.2. Reliance by Contractor on Technical Data Authorized: Contractor may rely upon the accuracy of the technical data expressly identified in such reports and drawings, but such reports and drawings are not Contract Documents. Except for such reliance on technical data, Contractor may not rely upon or make any claim against Owner, or any of their officers, directors, members, partners, employees, agents, consultants, or Subcontractors, with respect to:
- A) 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;
 - B) other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or
 - C) any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions or information.
- 15.6.3. 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.
- 15.6.4. 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.
- 15.6.5. 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 15.14); and (3) notify Owner (and promptly thereafter confirm such notice in writing). 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 14.6.6. 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.
- 15.6.6. 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.

15.6.7. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, as a result of such Work stoppage, such special conditions under which Work is agreed to be resumed by Contractor, or any costs or expenses incurred in response to the Hazardous Environmental Condition, then within 30 days of Owner's written notice regarding the resumption of Work, Contractor may submit a Change Proposal, or Owner may impose a set-off. Entitlement to any such adjustment is subject to the provisions of Paragraphs 13.5.4, 13.5.5, 18.7, and 18.8.

15.6.8. 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 18. Owner may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Article 16.

15.6.9. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify, defend, and hold harmless Owner, and the officers, directors, members, partners, employees, agents, consultants, elected and appointed officials, 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 14.6.9 obligates Contractor to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

15.6.10. The provisions of Paragraphs 14.3, 14.4, and 14.5 do not apply to the presence of Constituents of Concern or to a Hazardous Environmental Condition uncovered or revealed at the Site.

16. CONTRACTOR'S RESPONSIBILITIES.

16.1. Contractor's Means and Methods of Construction

16.1.1. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction.

16.1.2. If the Contract Documents note, or Contractor determines, that professional engineering or other design services are needed to carry out Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures, or for Site safety, then Contractor shall cause such services to be provided by a properly licensed design professional, at Contractor's expense. Such services are not Owner-delegated professional design services under this Contract, and Owner has no responsibility with respect to (1) Contractor's determination of the need for such services, (2) the qualifications or licensing of the design professionals retained or employed by Contractor, (3) the performance of such services, or (4) any errors, omissions, or defects in such services.

16.2. Supervision and Superintendence

16.2.1. 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.

16.2.2. At all times during the progress of the Work, Contractor shall assign a competent resident superintendent who will not be replaced without written notice to Owner except under extraordinary circumstances.

16.3. Labor; Working Hours

16.3.1. Contractor shall provide competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. Contractor shall maintain good discipline and order at the Site.

16.3.2. Contractor shall be fully responsible to Owner for all acts and omissions of Contractor's employees; of Suppliers and Subcontractors, and their employees; and of any other individuals or entities performing or furnishing any of the Work, just as Contractor is responsible for Contractor's own acts and omissions.

16.3.3. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site will be performed during regular working hours, 7:00 a.m. to 5:00 p.m., 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. The South Fork Water Board observes the following twelve (12) holidays: New Year's Day, Martin Luther King Jr Holiday, Presidents' Day, Memorial Day, Juneteenth, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, the Friday after Thanksgiving, Christmas Eve Day, and Christmas Day.

16.4. Services, Materials, and Equipment

16.4.1. 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.

16.4.2. All materials and equipment incorporated into the Work must be new and of good quality, except as otherwise provided in the Contract Documents. All special warranties and guarantees required by the Specifications will expressly run to the benefit of Owner.

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

16.5. "Or Equals"

16.5.1. Contractor's Request; Governing Criteria: Whenever an item of equipment or material is specified or described in the Contract Documents by using the names of one or more proprietary items or specific Suppliers, the Contract Price has been based upon Contractor furnishing such item as specified. The specification or description of such an item is intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or is followed by words reading that no like, equivalent, or "or equal" item is permitted, Contractor may request that Owner authorize the use of other items of equipment or material, or items from other proposed Suppliers, under the circumstances described below.

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

- 1) in the exercise of reasonable judgment Owner determines that the proposed item:
 - a. is at least equal in materials of construction, quality, durability, appearance, strength, and design characteristics;
 - b. will reliably perform at least equally well the function and achieve the results imposed by the design concept of the completed Work as a functioning whole;
 - c. has a proven record of performance and availability of responsive service; and
 - d. is not objectionable to Owner.

2) Contractor certifies that, if the proposed item is approved and incorporated into the Work:

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

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

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

16.5.4. Effect of Owner's Determination: Neither approval nor denial of an "or-equal" request will result in any change in Contract Price. The Owner's denial of an "or-equal" request will be final and binding, and may not be reversed through an appeal under any provision of the Contract Documents.

16.5.5. Treatment as a Substitution Request: If Owner determines that an item of equipment or material proposed by Contractor does not qualify as an "or-equal" item, Contractor may request that Owner consider the item a proposed substitute pursuant to Paragraph 15.6.

16.6. Substitutes

16.6.1. Contractor's Request; Governing Criteria: Unless the specification or description of an item of equipment or material required to be furnished under the Contract Documents contains or is followed by words reading that no substitution is permitted, Contractor may request that Owner authorize the use of other items of equipment or material under the circumstances described below. To the extent possible such requests must be made before commencement of related construction at the Site.

- A) Contractor shall submit sufficient information as provided below to allow Owner to determine if the item of material or equipment proposed is functionally equivalent to that named and an acceptable substitute therefor. Owner will not accept requests for review of proposed substitute items of equipment or material from anyone other than Contractor.

- B) The requirements for review by Owner will be as set forth in Paragraph 15.6.1, as supplemented by the Specifications, and as Owner may decide is appropriate under the circumstances.
- C) Contractor shall make written application to Owner for review of a proposed substitute item of equipment or material that Contractor seeks to furnish or use. The application:
 - 1) will certify that the proposed substitute item will:
 - a. perform adequately the functions and achieve the results called for by the general design;
 - b. be similar in substance to the item specified; and
 - c. be suited to the same use as the item specified.
 - 2) will state:
 - a. the extent, if any, to which the use of the proposed substitute item will necessitate a change in Contract Times;
 - b. 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 Work) to adapt the design to the proposed substitute item; and
 - c. whether incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty.
 - 3) will identify:
 - a. all variations of the proposed substitute item from the item specified; and
 - b. available engineering, sales, maintenance, repair, and replacement services.
 - 4) will contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including but not limited to changes in Contract Price, shared savings, costs of redesign, and claims of other contractors affected by any resulting change.

16.6.2. Owner's Evaluation and Determination: Owner will be allowed a reasonable time to evaluate each substitute request, and to obtain comments and direction from Contractor. Owner may require Contractor to furnish additional data about the proposed substitute item. Owner will be the sole judge of acceptability. No substitute will be ordered, furnished, installed, or utilized until Owner's review is complete and Owner determines that the proposed item is an acceptable substitute. Owner'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. Owner will advise Contractor in writing of any negative determination.

16.6.3. Special Guarantee: Owner may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute.

16.6.4. Reimbursement of Owner's Cost: Owner will record Owner's costs in evaluating a substitute proposed or submitted by Contractor. Whether or not Owner approves a substitute so proposed or submitted by Contractor, Contractor shall reimburse Owner for the reasonable charges of Owner for evaluating each such proposed substitute. Contractor shall also reimburse Owner for the reasonable charges of Owner 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.

16.6.5. Contractor's Expense: Contractor shall provide all data in support of any proposed substitute at Contractor's expense.

16.6.6. Effect of Owner's Determination: If Owner approves the substitution request, Contractor shall execute the proposed Change Order and proceed with the substitution. The Owner's denial of a substitution request will be final and binding, and may not be reversed through an appeal under any provision of the Contract. Contractor may challenge the scope of reimbursement costs imposed under Paragraph 15.6.4, by timely submittal of a Change Proposal.

16.7. Concerning Subcontractors and Suppliers

16.7.1. Contractor may retain Subcontractors and Suppliers for the performance of parts of the Work. Such Subcontractors and Suppliers must be acceptable to Owner. The Contractor's retention of a Subcontractor or Supplier for the performance of parts of the Work will not relieve Contractor's obligation to Owner to perform and complete the Work in accordance with the Contract Documents.

16.7.2. Contractor shall retain specific Subcontractors and Suppliers for the performance of designated parts of the Work if required by the Contract to do so.

16.7.3. Subsequent to the submittal of Contractor's Bid or final negotiation of the terms of the Contract, Owner may not require Contractor to retain any Subcontractor or Supplier to furnish or perform any of the Work against which Contractor has reasonable objection.

16.7.4. Prior to entry into any binding subcontract or purchase order, Contractor shall submit to Owner the identity of the proposed Subcontractor or Supplier (unless Owner has already deemed such proposed Subcontractor or Supplier acceptable during the bidding process or otherwise). Such proposed Subcontractor or Supplier shall be deemed acceptable to Owner unless Owner raises a substantive, reasonable objection within 5 days.

16.7.5.

- A) Contractor shall not assign, sell, dispose of, or transfer rights, or delegate duties under the Contract, either in whole or in part, without the Board's prior written consent. Unless otherwise agreed by the Board in writing, such consent shall not relieve the Contractor of any obligations under the Contract. Any assignee or transferee shall be considered the agent of the Contractor and be bound to abide by all provisions of the Contract. If the Board consents in writing to an assignment, sale, disposal or transfer of the Contractor's rights or delegation of Contractor's duties, the Contractor and its surety, if any, shall remain liable to the Board for complete performance of the Contract as if no such assignment, sale, disposal, transfer or delegation had occurred unless the Board otherwise agrees in writing.
- B) Owner may require the replacement of any Subcontractor or Supplier. Owner also may require Contractor to retain specific replacements; provided, however, that Owner may not require a replacement to which Contractor has a reasonable objection. If Contractor has submitted the identity of certain Subcontractors or Suppliers for acceptance by Owner, and Owner has accepted it (either in writing or by failing to make written objection thereto), then Owner may subsequently revoke the acceptance of any such Subcontractor or Supplier so identified solely on the basis of substantive, reasonable objection after due investigation. Contractor shall submit an acceptable replacement for the rejected Subcontractor or Supplier.

16.7.6. If Owner requires the replacement of any Subcontractor or Supplier retained by Contractor to perform any part of the Work, then Contractor shall be entitled to an adjustment in Contract Price or Contract Times, with respect to the replacement; and Contractor shall initiate a Change Proposal for such adjustment within 30 days of Owner's requirement of replacement.

16.7.7. No acceptance by Owner of any such Subcontractor or Supplier, whether initially or as a replacement, will constitute a waiver of the right of Owner to the completion of the Work in accordance with the Contract Documents.

16.7.8. On a monthly basis, Contractor shall submit to Owner 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.

16.7.9. Contractor shall be solely responsible for scheduling and coordinating the work of Subcontractors and Suppliers.

16.7.10. The divisions and sections of the Specifications and the identifications of any Drawings do not control Contractor in dividing the Work among Subcontractors or Suppliers, or in delineating the Work to be performed by any specific trade.

16.7.11.

- A) Contractor further agrees that if Subcontractors are employed in the performance of this contract, the Contractor and its Subcontractors are subject to the requirements and sanction of ORS Chapter 656, Workers' Compensation.
 - B) All Work performed for Contractor by a Subcontractor or Supplier must be pursuant to an appropriate contractual agreement that specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract for the benefit of Owner.
- 16.7.12. Owner may furnish to any Subcontractor or Supplier, to the extent practicable, information about amounts paid to Contractor for Work performed for Contractor by the Subcontractor or Supplier.
- 16.7.13. Contractor shall restrict all Subcontractors and Suppliers from communicating with Owner, except through Contractor or in case of an emergency, or as otherwise expressly allowed in these Contract Documents.
- 16.8. Patent Fees and Royalties
- 16.8.1. Contractor shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product, or device which is the subject of patent rights or copyrights held by others. If an invention, design, process, product, or device is specified in the Contract Documents for use in the performance of the Work and if, to the actual knowledge of Owner, its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights will be disclosed in the Contract Documents.
- 16.8.2. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify, defend, and hold harmless Owner, and the officers, directors, members, partners, employees, agents, consultants, elected and appointed officials, 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.
- 16.9. Permits: Unless otherwise provided in the Contract Documents, Contractor shall obtain and pay for all construction permits, licenses, and certificates of occupancy. Owner shall assist Contractor, when necessary, in obtaining such permits and licenses. Contractor shall pay all governmental charges and inspection fees necessary for the prosecution of the Work which are applicable at the time of the submission of Contractor's Bid (or when Contractor became bound under a negotiated contract). Owner shall pay all charges of utility owners for connections for providing permanent service to the Work.

16.10. Taxes: 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 Work which are applicable during the performance of the Work

16.11. Laws and Regulations

16.11.1. Contractor shall give all notices required by and shall comply with all Laws and Regulations applicable to the performance of the Work. Owner shall not be responsible for monitoring Contractor's compliance with any Laws or Regulations.

16.11.2. 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, defend, and hold harmless Owner, and its officers, directors, members, partners, employees, agents, consultants, elected and appointed officials, 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 such Work or other action. It is not Contractor's responsibility to make certain that the Work described in the Contract Documents is in accordance with Laws and Regulations, but this does not relieve Contractor of its obligations under the Contract Documents.

16.11.3. Owner or Contractor may give written notice to the other party of any changes after the submission of Contractor's Bid (or after the date when Contractor became bound under a negotiated contract) in Laws or Regulations having an effect on the cost or time of performance of the Work, including but not limited to changes in Laws or Regulations having an effect on procuring permits and on sales, use, value-added, consumption, and other similar taxes. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times resulting from such changes, then within 30 days of such written notice Contractor may submit a Change Proposal.

16.12. Safety and Protection

16.12.1. 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.

16.12.2. Contractor shall designate a qualified and experienced safety representative whose duties and responsibilities are the prevention of Work-related accidents and the maintenance and supervision of safety precautions and programs.

- 16.12.3. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to:
- A) all persons on the Site or who may be affected by the Work;
 - B) all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and
 - C) 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.
- 16.12.4. All damage, injury, or loss to any property referred to in Paragraph 15.12.2 or 15.12.3 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 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).
- 16.12.5. 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.
- 16.12.6. Contractor shall notify Owner; the owners of adjacent property; the owners of Underground Facilities and other utilities (if the identity of such owners is known to Contractor); and other contractors and utility owners performing work at or adjacent to the Site, in writing, when Contractor knows that prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property or work in progress.
- 16.12.7. Contractor shall comply with the applicable requirements of Owner's safety programs, if any. Any Owner's safety programs that are applicable to the Work are identified or included in the Supplementary Conditions or Specifications.
- 16.12.8. Contractor shall inform Owner of the specific requirements of Contractor's safety program with which Owner's employees and representatives must comply while at the Site.
- 16.12.9. Contractor's duties and responsibilities for safety and protection will continue until all the Work is completed, Owner has issued a written notice to Contractor in accordance with Paragraph 21.6.C that the Work is acceptable, and Contractor

has left the Site (except as otherwise expressly provided in connection with Substantial Completion).

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

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

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

16.15. Submittals

16.15.1. Shop Drawing and Sample Requirements

A) Before submitting a Shop Drawing or Sample, Contractor shall:

- 1) review and coordinate the Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents;
- 2) determine and verify:
 - a. all field measurements, quantities, dimensions, specified performance and design criteria, installation requirements, materials, catalog numbers, and similar information with respect to the Submittal;
 - b. 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
 - c. all information relative to Contractor's responsibilities for means, methods, techniques, sequences, and procedures of construction, and safety precautions and programs incident thereto;
- 3) confirm that the Submittal is complete with respect to all related data included in the Submittal.

- B) Each Shop Drawing or Sample must bear a stamp or specific written certification that Contractor has satisfied Contractor's obligations under the Contract Documents with respect to Contractor's review of that Submittal, and that Contractor approves the Submittal.
 - C) With each Shop Drawing or Sample, Contractor shall give Owner specific written notice of any variations that the Submittal may have from the requirements of the Contract Documents. This notice must be set forth in a written communication separate from the Submittal; and, in addition, in the case of a Shop Drawing by a specific notation made on the Shop Drawing itself.
- 16.15.2. Submittal Procedures for Shop Drawings and Samples: Contractor shall label and submit Shop Drawings and Samples to Owner for review and approval in accordance with the accepted Schedule of Submittals.
- A) Shop Drawings
 - 1) Contractor shall submit the number of copies required in the Specifications.
 - 2) Data shown on the Shop Drawings must be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show Owner the services, materials, and equipment Contractor proposes to provide, and to enable Owner to review the information for the limited purposes required by Paragraph 15.15.C.
 - B) Samples
 - 1) Contractor shall submit the number of Samples required in the Specifications.
 - 2) 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 Owner may require to enable Owner to review the Submittal for the limited purposes required by Paragraph 15.15.C.
 - C) Where a Shop Drawing or Sample is required by the Contract Documents or the Schedule of Submittals, any related Work performed prior to Owner's review and approval of the pertinent Submittal will be at the sole expense and responsibility of Contractor.

16.15.3. Owner's Review of Shop Drawings and Samples

- A) Owner will provide timely review of Shop Drawings and Samples in accordance with the accepted Schedule of Submittals. Owner's review and approval will be only to determine if the items covered by the Submittals will, after installation or incorporation in the Work, comply with the requirements of the Contract Documents, and be compatible with the design concept of the completed Work as a functioning whole as indicated by the Contract Documents.

- B) Owner's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction, or to safety precautions or programs incident thereto.
- C) Owner's review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.
- D) Owner's review and approval of a Shop Drawing or Sample will not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirements of Paragraph 15.15.1.C and Owner has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample. Owner will document any such approved variation from the requirements of the Contract Documents in a Field Order or other appropriate Contract modification.
- E) Owner's review and approval of a Shop Drawing or Sample will not relieve Contractor from responsibility for complying with the requirements of Paragraphs 15.15.1 and 15.15.2.
- F) Owner's review and approval of a Shop Drawing or Sample, or of a variation from the requirements of the Contract Documents, will not, under any circumstances, change the Contract Times or Contract Price, unless such changes are included in a Change Order.
- G) Neither Owner's receipt, review, acceptance, or approval of a Shop Drawing or Sample will result in such item becoming a Contract Document.
- H) 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 15.15.3.D.

16.15.4. Resubmittal Procedures for Shop Drawings and Samples

- A) Contractor shall make corrections required by Owner 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 Owner on previous Submittals.
- B) Contractor shall furnish required Shop Drawing and Sample Submittals with sufficient information and accuracy to obtain required approval of an item with no more than two resubmittals. Owner will record Owner's time for reviewing a third or subsequent resubmittal of a Shop Drawing or Sample, and Contractor shall be responsible for Owner's charges to Owner for such time. Owner may impose a set-off against payments due Contractor to secure reimbursement for such charges.

- C) If Contractor requests a change of a previously approved Shop Drawing or Sample, Contractor shall be responsible for Owner's charges to Owner for its review time, and Owner may impose a set-off against payments due Contractor to secure reimbursement for such charges, unless the need for such change is beyond the control of Contractor.

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

- A) The following provisions apply to all Submittals other than Shop Drawings, Samples, and Owner-delegated designs:
 - 1) Contractor shall submit all such Submittals to the Owner in accordance with the Schedule of Submittals and pursuant to the applicable terms of the Contract Documents.
 - 2) Owner will provide timely review of all such Submittals in accordance with the Schedule of Submittals and return such Submittals with a notation of either Accepted or Not Accepted. Any such Submittal that is not returned within the time established in the Schedule of Submittals will be deemed accepted.
 - 3) Owner's review will be only to determine if the Submittal is acceptable under the requirements of the Contract Documents as to general form and content of the Submittal.
 - 4) If any such Submittal is not accepted, Contractor shall confer with Owner regarding the reason for the non-acceptance, and resubmit an acceptable document.
- B) Procedures for the submittal and acceptance of the Progress Schedule, the Schedule of Submittals, and the Schedule of Values are set forth in Paragraph 12.4.

16.16. Contractor's General Warranty and Guarantee

16.16.1. Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective in materials and workmanship and shall in all material respects comply with the terms of the Contract Documents.

16.16.2. Owner's rights under this warranty and guarantee are in addition to, and are not limited by, Owner's rights under the correction period provisions of Paragraph 21.8. The time in which Owner may enforce its warranty and guarantee rights under Articles 20 and 21 is limited only by applicable Laws and Regulations restricting actions to enforce such rights; provided, however, that after the end of the correction period under Paragraph 21.8, Owner shall give Contractor written notice of any defective Work within 60 days of the discovery that such Work is defective.

16.16.3. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:

- A) abuse, or improper modification, maintenance, or operation, by persons other than Contractor, Subcontractors, Suppliers, or any other individual or entity for whom Contractor is responsible; or
 - B) normal wear and tear under normal usage.
- 16.16.4. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents is absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents, a release of Contractor's obligation to perform the Work in accordance with the Contract Documents, or a release of Owner's warranty and guarantee rights under Articles 20 and 21:
- A) Observations by Owner;
 - B) Recommendation by Owner or payment by Owner of any progress or final payment;
 - C) The issuance of a certificate of Substantial Completion by Owner or any payment related thereto by Owner;
 - D) Use or occupancy of the Work or any part thereof by Owner;
 - E) Any review and approval of a Shop Drawing or Sample Submittal;
 - F) The issuance of a notice of acceptability by Owner;
 - G) The end of the correction period established in Paragraph 21.8;
 - H) Any inspection, test, or approval by others; or
 - I) Any correction of defective Work by Owner.
- 16.16.5. If the Contract requires the Contractor to accept the assignment of a contract entered into by Owner, then the specific warranties, guarantees, and correction obligations contained in the assigned contract will govern with respect to Contractor's performance obligations to Owner for the Work described in the assigned contract.

17. OTHER WORK AT SITE.

17.1. Other Work

- 17.1.1. 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.
- 17.1.2. If Owner performs other work at or adjacent to the Site with Owner's employees, or through contracts for such other work, then Owner shall give Contractor written notice thereof prior to starting any such other work. If Owner has advance information regarding the start of any third-party utility work that Owner has

arranged to take place at or adjacent to the Site, Owner shall provide such information to Contractor.

- 17.1.3. Contractor shall afford proper and safe access to the Site to each contractor that performs such other work, each utility owner performing other work, and Owner, if Owner is performing other work with Owner's employees, and provide a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work.
- 17.1.4. 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 Owner and the others whose work will be affected.
- 17.1.5. If the proper execution or results of any part of Contractor's Work depends upon work performed by others, Contractor shall inspect such other work and promptly report to Owner 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.
- 17.1.6. The provisions of this article are not applicable to work that is performed by third-party utilities or other third-party entities without a contract with Owner, or that is performed without having been arranged by Owner. If such work occurs, then any related delay, disruption, or interference incurred by Contractor is governed by the provisions of Paragraph 13.5.3.C.

17.2. Legal Relationships

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

assigning to Owner all Contractor's rights against such other contractor or utility owner with respect to the damage, delay, disruption, or interference that is the subject of the adjustment. Contractor's entitlement to an adjustment of the Contract Times or Contract Price is subject to the provisions of Paragraphs 13.5.4 and 13.5.5.

17.2.2. 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.

A) If Contractor fails to take such measures and as a result damages, delays, disrupts, or interferes with the work of any such other contractor or utility owner, then Owner may impose a set-off against payments due Contractor, and assign to such other contractor or utility owner the Owner's contractual rights against Contractor with respect to the breach of the obligations set forth in this Paragraph 16.2.2.

B) When Owner is performing other work at or adjacent to the Site with Owner's employees, Contractor shall be liable to Owner for damage to such other work, and for the reasonable direct delay, disruption, and interference costs incurred by Owner as a result of Contractor's failure to take reasonable and customary measures with respect to Owner's other work. In response to such damage, delay, disruption, or interference, Owner may impose a set-off against payments due Contractor.

17.2.3. If Contractor damages, delays, disrupts, or interferes with the work of any other contractor, or any utility owner performing other work at or adjacent to the Site, through Contractor's failure to take reasonable and customary measures to avoid such impacts, or if any claim arising out of Contractor's actions, inactions, or negligence in performance of the Work at or adjacent to the Site is made by any such other contractor or utility owner against Contractor, or Owner, 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, defend, and hold harmless Owner, and the officers, directors, members, partners, employees, agents, consultants, elected and appointed officials, 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.

18. OWNER'S RESPONSIBILITIES.

18.1. Furnish Data. Owner shall promptly furnish the data required of Owner under the Contract Documents.

18.2. Pay When Due. Owner shall make payments to Contractor when they are due as provided the Contract Documents.

18.3. Lands and Easements; Reports, Tests, and Drawings

18.3.1. Owner's duties with respect to providing lands and easements are set forth in Paragraph 14.1.

18.3.2. Owner's duties with respect to providing engineering surveys to establish reference points are set forth in Paragraph 13.3.

18.3.3. Article 14 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.

18.4. Insurance. Owner's responsibilities, if any, with respect to purchasing and maintaining liability and property insurance are set forth in Article 29.

18.5. Change Orders. Owner's responsibilities with respect to Change Orders are set forth in Article 18.

18.6. Inspections, Tests, and Approvals. Owner's responsibility with respect to certain inspections, tests, and approvals is set forth in Paragraph 20.2.3.

18.7. Limitations on Owner's Responsibilities. 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.

18.8. Undisclosed Hazardous Environmental Condition. Owner's responsibility in respect to an undisclosed Hazardous Environmental Condition is set forth in Paragraph 14.6.

19. CHANGES TO THE CONTRACT.

19.1. Amending and Supplementing the Contract

19.1.1. The Contract may be amended or supplemented by a Change Order, a Work Change Directive, or a Field Order.

19.1.2. If an amendment or supplement to the Contract includes a change in the Contract Price or the Contract Times, such amendment or supplement must be set forth in a Change Order.

19.1.3. All changes to the Contract that involve (1) the performance or acceptability of the Work, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, must be supported by Owner's recommendation. Owner and Contractor may amend other terms and conditions of the Contract without the recommendation of the Owner.

19.2. Change Orders

19.2.1. Owner and Contractor shall execute appropriate Change Orders covering:

- A) Changes in Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive;
- B) Changes in Contract Price resulting from an Owner set-off, unless Contractor has duly contested such set-off;
- C) Changes in the Work which are: (a) ordered by Owner pursuant to Paragraph 18.5, (b) required because of Owner's acceptance of defective Work under Paragraph 20.4 or Owner's correction of defective Work under Paragraph 20.7, or (c) agreed to by the parties, subject to the need for Owner'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
- D) Changes that embody the substance of any final and binding results under: Paragraph 18.3.2, resolving the impact of a Work Change Directive; Paragraph 18.9, concerning Change Proposals; Paragraph 19.2.4, final adjustments resulting from allowances; Paragraph 19.3.4, final adjustments relating to determination of quantities for Unit Price Work; and similar provisions.

19.2.2. If Owner or Contractor refuses to execute a Change Order that is required to be executed under the terms of Paragraph 18.2.1, it will be deemed to be of full force and effect, as if fully executed.

19.3. Work Change Directives

19.3.1. 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 18.7 regarding change of Contract Price.

19.3.2. If Owner has issued a Work Change Directive and:

- A) Contractor believes that an adjustment in Contract Times or Contract Price is necessary, then Contractor shall submit any Change Proposal seeking such an adjustment no later than 30 days after the completion of the Work set out in the Work Change Directive.
- B) Owner believes that an adjustment in Contract Times or Contract Price is necessary, then Owner shall submit any claim seeking such an adjustment no later than 60 days after issuance of the Work Change Directive.

19.4. Field Orders

19.4.1. Owner 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 Work 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.

19.4.2. If Contractor believes that a Field Order justifies an adjustment in the Contract Price or Contract Times, then before proceeding with the Work at issue, Contractor shall submit a Change Proposal as provided herein.

19.5. Owner-Authorized Changes in the Work

19.5.1. Without invalidating the Contract, and without notice to any surety, Owner may, at any time or from time to time, order additions, deletions, or revisions in the Work. Changes involving the design (as set forth in the Drawings, Specifications, or otherwise) or other engineering or technical matters will be supported by Owner's recommendation.

19.5.2. Such changes in the Work may be accomplished by a Change Order, if Owner and Contractor have agreed as to the effect, if any, of the changes on Contract Times or Contract Price; or by a Work Change Directive. Upon receipt of any such document, Contractor shall promptly proceed with the Work involved; or, in the case of a deletion in the Work, promptly cease construction activities with respect to such deleted Work. Added or revised Work must be performed under the applicable conditions of the Contract Documents.

19.5.3. Nothing in this Paragraph 18.5 obligates Contractor to undertake work that Contractor reasonably concludes cannot be performed in a manner consistent with Contractor's safety obligations under the Contract Documents or Laws and Regulations.

19.6. Unauthorized Changes in the Work: 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 15.14 or in the case of uncovering Work as provided in Paragraph 20.5.3.B.

19.7. Change of Contract Price

19.7.1. The Contract Price may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Price must comply with the provisions of Paragraph 18.9.

19.7.2. An adjustment in the Contract Price will be determined as follows:

- A) 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 19.3);
 - B) 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 18.7.3.B); or
 - C) 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 19.1) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 18.7.3).
- 19.7.3. Contractor's Fee: When applicable, the Contractor's fee for overhead and profit will be determined as follows:
- A) A mutually acceptable fixed fee; or
 - B) 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:
 - 1) For costs incurred under Paragraphs 19.1.2.A and 19.1.2.B, the Contractor's fee will be 15 percent;
 - 2) For costs incurred under Paragraph 19.1.2.C, the Contractor's fee will be 5 percent;
 - 3) 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 18.7.3.B.1 and 18.7.3.B.2 is that the Contractor's fee will be based on: (1) a fee of 15 percent of the costs incurred under Paragraphs 19.1.2.A and 13.1.2.B by the Subcontractor that actually performs the Work, at whatever tier, and (2) with respect to Contractor itself and to any Subcontractors of a tier higher than that of the Subcontractor that actually performs the Work, a fee of 5 percent of the amount (fee plus underlying costs incurred) attributable to the next lower tier Subcontractor; provided, however, that for any such subcontracted Work the maximum total fee to be paid by Owner will be no greater than 27 percent of the costs incurred by the Subcontractor that actually performs the Work;
 - 4) No fee will be payable on the basis of costs itemized under Paragraphs 19.1.2.D, 19.1.2.E, and 19.1.3;
 - 5) The amount of credit to be allowed by Contractor to Owner for any change which results in a net decrease in Cost of the Work will be the amount of the actual net decrease in Cost of the Work and a deduction of an additional

amount equal to 5 percent of such actual net decrease in Cost of the Work;
and

- 6) When both additions and credits are involved in any one change or Change Proposal, the adjustment in Contractor's fee will be computed by determining the sum of the costs in each of the cost categories in Paragraph 19.1.2 (specifically, payroll costs, Paragraph 19.1.2.A; incorporated materials and equipment costs, Paragraph 19.1.2.B; Subcontract costs, Paragraph 19.1.2.C; special consultants costs, Paragraph 19.1.2.D; and other costs, Paragraph 19.1.2.E) and applying to each such cost category sum the appropriate fee from Paragraphs 18.7.3.B.1 through 18.7.3.B.6, inclusive.

19.8. Change of Contract Times

19.8.1. The Contract Times may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Times must comply with the provisions of Paragraph 18.9.

19.8.2. Delay, disruption, and interference in the Work, and any related changes in Contract Times, are addressed in and governed by Paragraph 13.5.

19.9. Change Proposals

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

19.9.2. Change Proposal Procedures

- A) Submittal: Contractor shall submit each Change Proposal to Owner within 30 days after the start of the event giving rise thereto, or after such initial decision.
- B) Supporting Data: The Contractor shall submit supporting data, including the proposed change in Contract Price or Contract Time (if any), to the Owner and Owner within 15 days after the submittal of the Change Proposal.
 - 1) Change Proposals based on or related to delay, interruption, or interference must comply with the provisions of Paragraphs 13.5.4 and 13.5.5.
 - 2) Change Proposals related to a change of Contract Price must include full and detailed accounts of materials incorporated into the Work and labor and equipment used for the subject Work.

The supporting data must be accompanied by a written statement that the

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

- C) Owner's Initial Review: If in its discretion Owner concludes that additional supporting data is needed before conducting a full review and making a decision regarding the Change Proposal, then Owner may request that Contractor submit such additional supporting data by a date specified by Owner, prior to Owner beginning its full review of the Change Proposal.
- D) Owner's Full Review and Action on the Change Proposal: Upon receipt of Contractor's supporting data (including any additional data requested by Owner), Owner will conduct a full review of each Change Proposal and, within 30 days after such receipt of the Contractor's supporting data, either approve the Change Proposal in whole, deny it in whole, or approve it in part and deny it in part. Such actions must be in writing, with a copy provided to Contractor. If Owner 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 Owner's inaction the Change Proposal is deemed denied.

19.9.3. 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 Owner will notify the parties in writing that the Owner is unable to resolve the Change Proposal.

19.9.4. Post-Completion: Contractor shall not submit any Change Proposals after Owner issues a written recommendation of final payment pursuant to Paragraph 21.6.2.

19.10. Notification to Surety. 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.

20. COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK.

20.1. Cost of the Work

20.1.1. 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 in the Contract, as further defined below. The provisions of this Paragraph 19.1 are used for two distinct purposes:

- A) 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

- B) When needed to determine the value of a Change Order, Change Proposal, claim, set-off, or other adjustment in Contract Price. When the value of any such adjustment is determined on the basis of Cost of the Work, Contractor is entitled only to those additional or incremental costs required because of the change in the Work or because of the event giving rise to the adjustment.

20.1.2. Costs Included: Except as otherwise may be agreed to in writing by Owner, costs included in the Cost of the Work will be in amounts no higher than those commonly incurred in the locality of the Work, will not include any of the costs itemized in Paragraph 19.1.3, and will include only the following items:

- A) Payroll costs for employees in the direct employ of Contractor in the performance of the Work under schedules of job classifications agreed upon by Owner and Contractor in advance of the subject Work. Such employees include, without limitation, superintendents, foremen, safety managers, safety representatives, and other personnel employed full time on the Work. Payroll costs for employees not employed full time on the Work will be apportioned on the basis of their time spent on the Work. Payroll costs include, but are not limited to, salaries and wages plus the cost of fringe benefits, which include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, sick leave, and vacation and holiday pay applicable thereto. The expenses of performing Work outside of regular working hours, on Saturday, Sunday, or legal holidays, will be included in the above to the extent authorized by Owner.
- B) Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts accrue to Contractor unless Owner deposits funds with Contractor with which to make payments, in which case the cash discounts will accrue to Owner. All trade discounts, rebates, and refunds and returns from sale of surplus materials and equipment will accrue to Owner, and Contractor shall make provisions so that they may be obtained.
- C) Payments made by Contractor to Subcontractors for Work performed by Subcontractors. If required by Owner, Contractor shall obtain competitive Bids from Subcontractors acceptable to Owner and Contractor and shall deliver such Bids to Owner, which will then determine which Bids, if any, will be acceptable. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work plus a fee, the Subcontractor's Cost of the Work and fee will be determined in the same manner as Contractor's Cost of the Work and fee as provided in this Paragraph 19.1.
- D) Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed or retained for services specifically related to the Work.
- E) Other costs consisting of the following:

- 1) The proportion of necessary transportation, travel, and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.
- 2) Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office, and temporary facilities at the Site, which are consumed in the performance of the Work, and cost, less market value, of such items used but not consumed which remain the property of Contractor. In establishing included costs for materials such as scaffolding, plating, or sheeting, consideration will be given to the actual or the estimated life of the material for use on other projects; or rental rates may be established on the basis of purchase or salvage value of such items, whichever is less. Contractor will not be eligible for compensation for such items in an amount that exceeds the purchase cost of such item.
- 3) Construction Equipment Rental
 - a. Rentals of all construction equipment and machinery, and the parts thereof, in accordance with rental agreements approved by Owner as to price (including any surcharge or special rates applicable to overtime use of the construction equipment or machinery), and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs will be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts must cease when the use thereof is no longer necessary for the Work.
 - b. Costs for equipment and machinery owned by Contractor or a Contractor-related entity will be paid at a rate shown for such equipment in the equipment rental rate book specified in the Supplementary Conditions. An hourly rate will be computed by dividing the monthly rates by 176. These computed rates will include all operating costs.
 - c. With respect to Work that is the result of a Change Order, Change Proposal, claim, set-off, or other adjustment in Contract Price ("changed Work"), included costs will be based on the time the equipment or machinery is in use on the changed Work and the costs of transportation, loading, unloading, assembly, dismantling, and removal when directly attributable to the changed Work. The cost of any such equipment or machinery, or parts thereof, must cease to accrue when the use thereof is no longer necessary for the changed Work.
- 4) 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.

- 5) Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by Contractor in connection with the performance of the Work (except losses and damages within the deductible amounts of builder's risk or other property insurance established in accordance with Article 29), provided such losses and damages have resulted from causes other than the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses include settlements made with the written consent and approval of Owner. No such losses, damages, and expenses will be included in the Cost of the Work for the purpose of determining Contractor's fee.
- 6) The cost of utilities, fuel, and sanitary facilities at the Site.
- 7) Minor expenses such as communication service at the Site, express and courier services, and similar petty cash items in connection with the Work.

20.1.3. Costs Excluded: The term Cost of the Work does not include any of the following items:

- A) Payroll costs and other compensation of Contractor's officers, executives, principals, general managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks, and other personnel employed by Contractor, whether at the Site or in Contractor's principal or branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 19.1.2.A or specifically covered by Paragraph 19.1.2.D. The payroll costs and other compensation excluded here are to be considered administrative costs covered by the Contractor's fee.
- B) The cost of purchasing, renting, or furnishing small tools and hand tools.
- C) Expenses of Contractor's principal and branch offices other than Contractor's office at the Site.
- D) Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.
- E) 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.
- F) Expenses incurred in preparing and advancing claims.
- G) Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraph 19.1.2.

20.1.4. Contractor's Fee

- A) When the Work as a whole is performed on the basis of cost-plus-a-fee, then:
 - 1) Contractor's fee for the Work set forth in the Contract Documents as of the Effective Date of the Contract.
 - 2) for any Work covered by a Change Order, Change Proposal, claim, set-off, or other adjustment in Contract Price on the basis of Cost of the Work, Contractor's fee will be determined as follows:
 - a. When the fee for the Work as a whole is a percentage of the Cost of the Work, the fee will automatically adjust as the Cost of the Work changes.
 - b. When the fee for the Work as a whole is a fixed fee, the fee for any additions or deletions will be determined in accordance with Paragraph 18.7.3.B.
- B) When the Work as a whole is performed on the basis of a stipulated sum, or any other basis other than cost-plus-a-fee, then Contractor's fee for any Work covered by a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price on the basis of Cost of the Work will be determined in accordance with Paragraph 18.7.3.B.

20.1.5. Documentation and Audit: Whenever the Cost of the Work for any purpose is to be determined pursuant to this Article 19, Contractor and pertinent Subcontractors will establish and maintain records of the costs in accordance with generally accepted accounting practices. Subject to prior written notice, Owner will be afforded reasonable access, during normal business hours, to all Contractor's accounts, records, books, correspondence, instructions, drawings, receipts, vouchers, memoranda, and similar data relating to the Cost of the Work and Contractor's fee. Contractor shall preserve all such documents for a period of three years after the final payment by Owner. Pertinent Subcontractors will afford such access to Owner, and preserve such documents, to the same extent required of Contractor.

20.2. Allowances

20.2.1. 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.

20.2.2. Cash Allowances: Contractor agrees that:

- A) 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

- B) Contractor's costs for unloading and handling on the Site, labor, installation, overhead, profit, and other expenses contemplated for the cash allowances have been included in the Contract Price and not in the allowances, and no demand for additional payment for any of the foregoing will be valid.

20.2.3. Owner's Contingency Allowance: Contractor agrees that an Owner's contingency allowance, if any, is for the sole use of Owner to cover unanticipated costs.

20.2.4. Prior to final payment, an appropriate Change Order will be issued as recommended by Owner to reflect actual amounts due Contractor for Work covered by allowances, and the Contract Price will be correspondingly adjusted.

20.3. Unit Price Work

20.3.1. 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 Contract.

20.3.2. 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.

20.3.3. 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.

20.3.4. Owner will determine the actual quantities and classifications of Unit Price Work performed by Contractor. Owner will review with Contractor the Owner's preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise). Owner's written decision thereon will be final and binding (except as modified by Owner to reflect changed factual conditions or more accurate data) upon Owner and Contractor, and the final adjustment of Contract Price will be set forth in a Change Order.

21. TESTS AND INSPECTIONS; CORRECTION, REMOVAL, OR ACCEPTANCE OF DEFECTIVE WORK.

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

21.2. Tests, Inspections, and Approvals

- 21.2.1. Contractor shall give Owner 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.
- 21.2.2. Contractor shall retain and pay for the services of an independent inspector, testing laboratory, or other qualified individual or entity to perform all inspection and tests expressly required by the Contract Documents as identified in Paragraph 20.2.4.
- 21.2.3. 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 Owner the required certificates of inspection or approval.
- 21.2.4. Contractor shall be responsible for arranging, obtaining, and paying for all inspections and tests required:
- A) by the Contract Documents, unless the Contract Documents expressly allocate responsibility for a specific inspection or test to Owner;
 - B) to attain Owner's acceptance of materials or equipment to be incorporated in the Work;
 - C) by manufacturers of equipment furnished under the Contract Documents;
 - D) for testing, adjusting, and balancing of mechanical, electrical, and other equipment to be incorporated into the Work; and
 - E) for acceptance of materials, mix designs, or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work.

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

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

21.3. Defective Work

- 21.3.1. Contractor's Obligation: It is Contractor's obligation to assure that the Work is not defective in materials or workmanship, and otherwise complies with all requirements of the Contract Documents.
- 21.3.2. Owner's Authority: Owner has the authority to determine whether Work is defective, and to reject defective Work.
- 21.3.3. Notice of Defects: Prompt written notice of all defective Work of which Owner has actual knowledge will be given to Contractor.
- 21.3.4. 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 Owner has rejected the defective Work, remove it from the project and replace it with Work that is not defective.
- 21.3.5. 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.
- 21.3.6. 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 21.
- 21.4. Acceptance of Defective Work: 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 Owner'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 Owner as to reasonableness), and for the diminished value of the Work to the extent not otherwise paid by Contractor. If any such acceptance occurs prior to final payment, the necessary revisions in the Contract Documents with respect to the Work will be incorporated in a Change Order. If the parties are unable to agree as to the decrease in the Contract Price, reflecting the diminished value of Work so accepted, then Owner may impose a reasonable set-off against payments due under Article 21. If the acceptance of defective Work occurs after final payment, Contractor shall pay an appropriate amount to Owner.
- 21.5. Uncovering Work

21.5.1. Owner has the authority to require additional inspection or testing of the Work, whether or not the Work is fabricated, installed, or completed.

21.5.2. If any Work is covered contrary to the written request of Owner, then Contractor shall, if requested by Owner, uncover such Work for Owner's observation, and then replace the covering, all at Contractor's expense.

21.5.3. If Owner considers it necessary or advisable that covered Work be observed by Owner or inspected or tested by others, then Contractor, at Owner's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as Owner may require, that portion of the Work in question, and provide all necessary labor, material, and equipment.

A) 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 21.

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

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

21.7. Owner May Correct Defective Work

21.7.1. If Contractor fails within a reasonable time after written notice from Owner to correct defective Work, or to remove and replace defective Work as required by Owner, then Owner may, after 7 days' written notice to Contractor, correct or remedy any such deficiency.

21.7.2. In exercising the rights and remedies under this Paragraph 20.7, 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 Owner and Owner's consultants access to the Site to enable Owner to exercise the rights and remedies under this paragraph.

21.7.3. All claims, costs, losses, and damages incurred or sustained by Owner in exercising the rights and remedies under this Paragraph 20.7 will be charged against Contractor as set-offs against payments due under Article 21. 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.

21.7.4. 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 20.7.

22. PAYMENTS TO CONTRACTOR; SET-OFFS; COMPLETION; CORRECTION PERIOD.

22.1. Progress Payments

22.1.1. Basis for Progress Payments: The Schedule of Values established as provided in Article 12 will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to Owner. Progress payments for Unit Price Work will be based on the number of units completed during the pay period, as determined under the provisions of Paragraph 19.3. Progress payments for cost-based Work will be based on Cost of the Work completed by Contractor during the pay period.

22.1.2. Applications for Payments

- A) At least 20 days before the date established in the Contract for each progress payment (but not more often than once a month), Contractor shall submit to Owner 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.
- B) If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment must also be accompanied by:
 - (a) a bill of sale, invoice, copies of subcontract or purchase order payments, or other documentation establishing full payment by Contractor for the materials and equipment; (b) at Owner's request, documentation warranting that Owner has received the materials and equipment free and clear of all Liens; and (c) evidence that the materials and equipment are covered by appropriate property insurance, a warehouse bond, or other arrangements to protect Owner's interest therein, all of which must be satisfactory to Owner.

- C) Beginning with the second Application for Payment, each Application must include an affidavit of Contractor stating that all previous progress payments received by Contractor have been applied to discharge Contractor's legitimate obligations associated with prior Applications for Payment.
- D) The amount of retainage with respect to progress payments will be as stipulated in the Contract.

22.1.3. Review of Applications

- A) Owner will, within 10 days after receipt of each Application for Payment, including each resubmittal, either indicate in writing a recommendation of payment, or return the Application to Contractor indicating in writing Owner's reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.
- B) Owner will recommend reductions in payment (set-offs) necessary its opinion to protect Owner from loss because:
 - 1) the Work is defective, requiring correction or replacement;
 - 2) the Contract Price has been reduced by Change Orders;
 - 3) Owner has been required to correct defective Work in accordance with Paragraph 20.7, or has accepted defective Work pursuant to Paragraph 20.4;
 - 4) Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible; or
 - 5) Owner 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.

22.1.4. Payment Becomes Due: Thirty days after presentation of the Application for Payment to Owner, the amount recommended (subject to any Owner set-offs) will become due, and when due will be paid by Owner to Contractor.

22.1.5. Reductions in Payment by Owner

- A) In addition to any reductions in payment (set-offs) recommended by Owner, Owner is entitled to impose a set-off against payment based on any of the following:
 - 1) Claims have been made against Owner based on Contractor's conduct in the performance or furnishing of the Work, or Owner has incurred costs, losses, or damages resulting from Contractor's conduct in the performance or furnishing of the Work, including but not limited to claims, costs, losses, or damages from workplace injuries, adjacent property damage, non-compliance with Laws and Regulations, and patent infringement;

- 2) Contractor has failed to take reasonable and customary measures to avoid damage, delay, disruption, and interference with other work at or adjacent to the project Site;
 - 3) Contractor has failed to provide and maintain required bonds or insurance;
 - 4) Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible;
 - 5) 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;
 - 6) The Work is defective, requiring correction or replacement;
 - 7) Owner has been required to correct defective Work in accordance with Paragraph 20.7, or has accepted defective Work pursuant to Paragraph 20.4;
 - 8) The Contract Price has been reduced by Change Orders;
 - 9) An event has occurred that would constitute a default by Contractor and therefore justify a termination for cause;
 - 10) Liquidated or other damages have accrued as a result of Contractor's failure to achieve Milestones, Substantial Completion, or final completion of the Work;
 - 11) Liens have been filed in connection with the Work, except where Contractor has delivered a specific bond satisfactory to Owner to secure the satisfaction and discharge of such Liens; or
 - 12) Other items entitle Owner to a set-off against the amount recommended.
- B) If Owner imposes any set-off against payment, whether based on its own knowledge, Owner will give Contractor immediate written notice stating the reasons for such action and the specific amount of the reduction, and promptly pay Contractor any amount remaining after deduction of the amount so withheld. Owner shall promptly pay Contractor the amount so withheld, or any adjustment thereto agreed to by Owner and Contractor, if Contractor remedies the reasons for such action. The reduction imposed will be binding on Contractor unless it duly submits a Change Proposal contesting the reduction.
- C) Upon a subsequent determination that Owner's refusal of payment was not justified, the amount wrongfully withheld will be treated as an amount due as determined by Paragraph 21.1.4.A and subject to interest as provided in the Contract.

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

22.3. Substantial Completion

- 22.3.1. When Contractor considers the entire Work provided for pursuant to the Contract is ready for its intended use, Contractor shall notify Owner in writing that such entire Work is substantially complete and request that Owner issue a certificate of Substantial Completion. Contractor shall at the same time submit to Owner an initial draft of punch list items to be completed or corrected before final payment.
- 22.3.2. Promptly after Contractor's notification, Owner and Contractor shall make an inspection of the Work to determine the status of completion. If Owner does not consider the Work substantially complete, Owner will notify Contractor in writing giving the reasons therefor.
- 22.3.3. If Owner considers the Work substantially complete, Owner will deliver to Contractor a preliminary certificate of Substantial Completion which will fix the date of Substantial Completion. Owner shall attach to the certificate a punch list of items to be completed or corrected before final payment. If Owner concludes that the Work is not substantially complete, Owner will 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, then Owner will execute and deliver to 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 Owner believes justified.
- 22.3.4. 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.
- 22.3.5. 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.
- 22.3.6. 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.

22.4. Partial Use or Occupancy

Prior to Substantial Completion of the Work pursuant to the Contract, Owner may use or occupy any substantially completed part of the Work which has specifically been

identified in the Contract Documents, or which Owner 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:

22.4.1. 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 and Owner will follow the procedures of Paragraph 21.3.A through 21.3.E for that part of the Work.

22.4.2. At any time, Contractor may notify Owner in writing that Contractor considers any such part of the Work substantially complete and shall issue a certificate of Substantial Completion for that part of the Work.

22.4.3. Within a reasonable time after either such request, Owner and Contractor shall make an inspection of that part of the Work to determine its status of completion. If Owner does not consider that part of the Work to be substantially complete, Owner will notify Contractor in writing giving the reasons therefor. If Owner considers that part of the Work to be substantially complete, the provisions of Paragraph 21.3 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.

22.4.4. No use or occupancy or separate operation of part of the Work may occur prior to compliance with the requirements of Article 29 regarding liability or other property insurance.

22.5. Final Inspection. Upon written notice from Contractor that the entire Work or an agreed portion thereof is complete, Owner will promptly make a final inspection with 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.

22.6. Final Payment

22.6.1. Application for Payment

- A) After Contractor has, in the opinion of Owner, 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 15.11), and other documents, Contractor may make application for final payment.
- B) The final Application for Payment must be accompanied (except as previously delivered) by:

- 1) all documentation called for in the Contract Documents;
- 2) consent of the surety, if any, to final payment;
- 3) 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;
- 4) a list of all duly pending Change Proposals and claims; and
- 5) 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.

C) In lieu of the releases or waivers of Liens specified in Paragraph 21.6.1.B 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.

22.6.2. Completion of Work: The Work, or applicable portion thereof, is complete (subject to surviving obligations) when it is ready for final payment as established by the Owner's final inspection and issuance of notice of the acceptability of the Work.

22.6.3. Final Payment Becomes Due: Upon final inspection and issuance of notice of the acceptability of the Work, Owner shall set off against the amount recommended by Owner for final payment any further sum to which Owner is entitled, including but not limited to set-offs for liquidated damages and set-offs allowed under the provisions of this Contract with respect to progress payments. Owner shall pay the resulting balance due to Contractor within 30 days of Owner's final inspection and issuance of notice of the acceptability of the Work.

22.7. Waiver of Claims

22.7.1. By making final payment, Owner waives its claim or right to liquidated damages or other damages for late completion by Contractor, set-off, or express reservation of rights by Owner. Owner reserves all other claims or rights after final payment.

22.7.2. The acceptance of final payment by Contractor will constitute a waiver by Contractor of all claims and rights against Owner other than those pending matters that have been duly submitted as a claim.

22.8. Correction Period

22.8.1. If within one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the Supplementary Conditions or the terms of any applicable special guarantee required by the Contract Documents), Owner gives Contractor written notice that any Work has been found to be defective, or that Contractor's repair of any damages to the Site or adjacent areas has been found to be defective, then after receipt of such notice of defect Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:

- A) correct the defective repairs to the Site or such adjacent areas;
- B) correct such defective Work;
- C) remove the defective Work from the project and replace it with Work that is not defective, if the defective Work has been rejected by Owner, and
- D) satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others, or to other land or areas resulting from the corrective measures.

22.8.2. Owner shall give any such notice of defect within 60 days of the discovery that such Work or repairs is defective. If such notice is given within such 60 days but after the end of the correction period, the notice will be deemed a notice of defective Work under Paragraph 15.16.2.

22.8.3. If, after receipt of a notice of defect within 60 days and within the correction period, Contractor does not promptly comply with the terms of Owner's written instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. Contractor shall pay all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others).

22.8.4. 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.

22.8.5. 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.

22.8.6. Contractor's obligations under this paragraph are in addition to all other obligations and warranties. The provisions of this paragraph are not to be construed

as a substitute for, or a waiver of, the provisions of any applicable statute of limitation or repose.

23. TERMINATION OR SUSPENSION.

23.1. Contractor may Suspend Work. 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. 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 directly attributable to any such suspension. Any Change Proposal seeking such adjustments must be submitted no later than 30 days after the date fixed for resumption of Work.

23.2. Termination of Contract. This Contract may be terminated under the following conditions:

23.2.1. By mutual consent of both parties.

23.2.2. Contractor may terminate this Contract upon a material default of Board; however, Contractor must provide written notice to the Board Contract Administrator and provide Board with thirty (30) days to cure the default.

23.2.3. Board may at any time terminate, the whole or any part of, this Contract for default if Contractor fails to perform any of the provisions of this contract, or so fails to pursue the work as to endanger performance of this contract in accordance with its terms, and after receipt of written notice from the Board, fails to correct such failures within seven calendar days or such other period as the Board may authorize or require.

23.3. Termination of the Contract. The Contract may be terminated under the following conditions:

23.3.1. By mutual consent of both parties.

23.3.2. Contractor may terminate the Contract upon a material default of Board; however, Contractor must provide written notice to the Board Contract Administrator and provide Board with thirty (30) days to cure the default.

23.3.3. Board may at any time terminate, the whole or any part of, the Contract for default if Contractor fails to perform any of the provisions of the Contract, or so fails to pursue the work as to endanger performance of the Contract in accordance with its terms, and after receipt of written notice from the Board, fails to correct such failures within seven calendar days or such other period as the Board may authorize or require.

23.4. Upon receiving a notice of termination issued by Board, Contractor shall immediately cease all activities under this Contract, as applicable, unless expressly directed otherwise

by Board in the notice of termination. Board will pay Contractor for the services rendered. Such payment will be based on the rates outlined in the Contract, or where the Contract cannot be applied, payment will be based on a reasonable estimate as mutually agreed, but in no case, will anticipated profit be paid for Work not performed.

23.5. Board has sufficient funds currently available and authorized for expenditure to finance the costs of this Contract, during the current fiscal year. Contractor recognizes that the funding of services pursuant to this Contract is subject to annual appropriation by the Board as required by the Oregon Local Budget Law, ORS 294.323 and related provisions, which appropriation may not be made in subsequent fiscal years. As such, the Board may terminate this agreement at any time based on the Board's non-appropriation of funds required to perform its obligations under this Contract.

23.6. In addition to its other rights to terminate, the Board may terminate this Contract in whole or in part upon thirty days' notice to Contractor when it is determined to be in the best interests of the Board. During this thirty-day period, Contractor shall wind down and cease its Contract related operations as quickly and efficiently as possible, without performing unnecessary services or activities and by minimizing negative effects on the Board from such winding down and cessation of services.

23.7. The rights and remedies of the Board provided in this section, are not exclusive and are in addition to any other rights and remedies provided by law or under this contract.

23.8. If this Contract is terminated under subsections Article 11, Board shall be liable only for payment in accordance with the terms of this contract for services satisfactorily rendered prior to the effective date of termination.

23.9. Upon termination, Contractor shall deliver to Board all Contract Documents, information, works-in-progress, and other property that are or would be deliverables had the contract been completed.

24. TIME IS OF THE ESSENCE.

Contractor and Owner recognize that time is of the essence of this Agreement and that Owner will suffer financial loss if the Work is not completed within the times specified in in this Contract, plus any extensions that Owner permits in accordance with the General Conditions. The parties also recognize the delays, expense and difficulties involved in proving the precise, actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, the parties have negotiated and ultimately agree that as liquidated damages for delay, but not as a penalty, Contractor will pay Owner, or Owner may withhold from any sums due Contractor, \$1,000.00 for each day that expires after the Substantial Completion date set forth in this contract until the Work is substantially complete. After Substantial Completion, if Contractor neglects, refuses or fails to complete the remaining Work within the Contract Time or any extensions thereof permitted by Owner, Contractor will pay Owner, or Owner may withhold from any sums due Contractor, an additional \$1,000.00 for each day that expires after the final completion date set forth in this contract and readiness for final payment until the Work is completed and ready for final payment.

25. FORCE MAJEURE.

Neither Board nor Contractor shall be held responsible for delay or damages due to unforeseeable causes beyond their reasonable control, including by fire, pandemics, riot, acts of God, or war. Contractor shall make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this contract. Each party shall notify the other immediately upon discovering any event that the notifying party believes will result in such a delay.

26. USE OF BOARD FACILITIES.

Contractor and its employees, Subcontractors, or agents shall have the right to use only those facilities of the Board that are necessary to perform the Work under this Contract and shall have no right of access to any facility of the Board without prior approval of Board Contract Administrator. The Board shall have no responsibility for the loss, theft, mysterious disappearance of or damage to equipment, tools, materials, supplies, and other personal property of Contractor or its employees, Subcontractors or agents which may be stored on Board premises.

27. PUBLICITY.

Contractor shall not use in its external advertising, marketing programs or other promotional efforts, any data, pictures, or other representations of the Board except on prior specific written authorization from the Board Contract Administrator.

28. RECORDS.

Contractor shall maintain all fiscal records relating to this contract in accordance with generally accepted accounting principles. In addition, Contractor shall maintain any other records pertinent to this contract in such a manner as to clearly document Contractor's performance hereunder. Contractor acknowledges and agrees that the Board and its duly authorized representatives shall have access to such fiscal records and all other books, documents, papers, plans, and writings of the Contractor that are pertinent to this contract. All such fiscal records, books, documents, papers, plans, and writing shall be retained by Contractor and kept accessible for a minimum of three (3) years, except as required longer by law, following final payment and termination of this contract, or until the conclusion of any audit, controversy, or litigation arising out of or related to this contract, whichever date is later. All subcontracts shall also comply with these provisions.

29. WORK PRODUCT.

All work products of the Contractor which result from this contract ("the work products"), except material previously and mutually identified as confidential or proprietary, shall be provided to Board upon request and shall be considered the exclusive property of the Board. In addition, if any of the work products contain intellectual property of the Contractor that is or could be protected by federal copyright, patent, or trademark laws, or state trade secret laws, Contractor hereby grants the Board a perpetual, royalty-free, fully paid-up, nonexclusive and irrevocable license to copy, reproduce, perform, dispose of, use and re-use, in whole or in part, and to authorize others to do so. Such work products include, but are not

limited to: databases, templates, file formats, scripts, links, procedures, materials, training manuals and other training materials, specially created key commands, and any other information, designs, plans, or works provided or delivered to the Board or produced by Contractor under this contract. Use of any work product of the Contractor by the Board for any purpose other than the use intended by this Contract is at the risk of the Board.

30. INSURANCE.

Contractor shall obtain prior to beginning any work under this Contract and shall maintain in full force and effect for the term of this Contract, at Contractor's expense:

- comprehensive general liability to include bodily injury and property damage for at least \$2,000,000 per occurrence and at least \$3,000,000 aggregate per project
- \$1,000,000 Professional Liability for engineering design services required by the Contract.
- Automobile liability with a combined single limit coverage of not less than \$1,000,000 to include bodily injury and property damage and shall include coverage for owned, hired and non-owned vehicles, as applicable, for the protection of the Contractor and the Board.

Contractor shall name the Board, its elected and appointed officials, officers, agents, employees and volunteers as additional insureds. The policies shall be primary to and non-contributory with any insurance or self-insurance carried by the Board, issued by a company authorized to do business in the State of Oregon. The Contractor shall provide the Board written notice within thirty (30) days of cancellation or material modification of the insurance contract at the address listed above. Contractor shall provide certificates of insurance and additional insured policy endorsement to Board prior to commencement of any work under this Contract. If requested, complete copies of insurance policies shall be provided to Board. Contractor shall be financially responsible for all pertinent deductibles, self-insured retentions and/or self-insurance used to satisfy these requirements.

Workers' Compensation and Employers' Liability Insurance (If Applicable). Contractor and its Subcontractors, if any, are subject to Oregon Workers' Compensation Law, which requires all employers that employ subject workers who work under this Contract in the State of Oregon to comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. Contractor shall ensure that each of its Subcontractors, if any, complies with these requirements (ORS 279B.230(2)). Unless otherwise exempt, Contractor shall provide the Board with certification of Workers' Compensation Insurance and shall maintain Employers' Liability Insurance with limits not less than \$1,000,000 for each accident, \$1,000,000 for disease each employee and \$1,000,000 each policy limit.

31. INDEMNIFICATION.

Contractor shall indemnify, defend, save and hold harmless the Board, its elected and appointed officials, officers, agents, employees and volunteers against all liability, claims,

suits or actions of whatsoever nature, loss or expenses, including attorney fees, and against all claims, actions, judgments based upon or arising out of an act or omission by the Contractor or any of Contractor's Subcontractors, agents, or employees, in connection with, or incidental to, this Contract or the Work to be performed hereunder; provided, however, that nothing herewith shall be construed to require indemnification of Board attributable to its own negligence. In addition, Contractor expressly agrees to defend, indemnify and hold the Board, its elected and appointed officials, officers, agents, employees and volunteers against all liability, claims, suits, actions, loss or expenses, including attorney fees, arising out of or related to any claims that the Work, the Work Product, or any other tangible or intangible items delivered to Board by Contractor may be the subject of protection under any state or federal intellectual property law or doctrine, or the Board's use thereof, infringes any patent, copyright, trade secret, trademark, trade dress, mask work, utility design or other proprietary right of any third party. Contractor shall obtain similar indemnification for anyone acting on Contractor's behalf in connection with, or incidental to, this Contract for the Work to be performed hereunder for that person or entity's negligence.

32. PRICE ESCALATION.

A request for escalation of Contract pricing may be made under the following conditions:

32.1. Offered prices must be firm for a least one (1) consecutive year after execution of the Contract.

32.2. The Contractor shall provide written notice to the Board of any requested price increases and all requests for price increases shall be accompanied by:

32.2.1. A letter from the Contractor's Supplier certifying the price increase to the Contractor; or

32.2.2. Evidence of verifiable market conditions resulting in increased costs such as mandated labor rate increases and significant fuel or energy cost increases.

32.3. All revisions to Contract pricing shall become effective when they have been received and approved by the Board and executed by both parties as an amendment to the Contract.

32.4. The Board reserves the right to cancel a Contract if a requested price escalation is unacceptable to the Board.

32.5. All approved price changes resulting from this escalation clause shall be firm for a period of one (1) calendar year after approval of the escalation by the Board and execution of an amendment.

32.6. Contractors are obligated to treat price decreases as equally as price increases during the term of the Contract. Contractor shall notify the Board within ten (10) working days of subsequent price de-escalations from its Supplier or cost reductions in areas where pricing increases were previously implemented. The Contractor will reduce its pricing to the Board immediately to pass on such de-escalations and reductions unless otherwise agreed by the parties.

- 32.7. The Board reserves the right to approve pricing increases requested by the Contractor other than those described in this subsection, if in the best interest of the Board.
- 32.8. All approvals required by this subsection must be in writing by the Board Contract Administrator.

SECTION 00 61 13.13 - PERFORMANCE BOND

Contractor Name: Address <i>(principal place of business)</i> :	Surety Name: Address <i>(principal place of business)</i> :
Owner Name: South Fork Water Board Mailing address <i>(principal place of business)</i> : 15962 Hunter Ave, Oregon City, OR 97045	Contract Water Quality Systems Building, CP-01 15962 Hunter Ave, Oregon City, OR 97045 Contract Price: Effective Date of Contract:
Bond Bond Amount: Date of Bond: <i>(Date of Bond cannot be earlier than Effective Date of Contract)</i> Modifications to this Bond form: ☐ None ☐ See Paragraph 16	
Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth in this Performance Bond, do each cause this Performance Bond to be duly executed by an authorized officer, agent, or representative.	
Contractor as Principal	Surety
<i>(Full formal name of Contractor)</i>	<i>(Full formal name of Surety) (corporate seal)</i>
By: <i>(Signature)</i>	By: <i>(Signature)(Attach Power of Attorney)</i>
Name: <i>(Printed or typed)</i>	Name: <i>(Printed or typed)</i>
Title:	Title:
Attest: <i>(Signature)</i>	Attest: <i>(Signature)</i>
Name: <i>(Printed or typed)</i>	Name: <i>(Printed or typed)</i>
	Title:
Title:	
Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner, or other party is considered plural where applicable.	

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

2. If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except when applicable to participate in a conference as provided in Paragraph 3.
3. If there is no Owner Default under the Construction Contract, the Surety's obligation under this Bond will arise after:
 - 3.1. The Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice may indicate whether the Owner is requesting a conference among the Owner, Contractor, and Surety to discuss the Contractor's performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Paragraph 3.1 will be held within ten (10) business days of the Surety's receipt of the Owner's notice. If the Owner, the Contractor, and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement does not waive the Owner's right, if any, subsequently to declare a Contractor Default;
 - 3.2. The Owner declares a Contractor Default, terminates the Construction Contract, and notifies the Surety; and
 - 3.3. The Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a Contractor selected to perform the Construction Contract.
4. Failure on the part of the Owner to comply with the notice requirement in Paragraph 3.1 does not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.
5. When the Owner has satisfied the conditions of Paragraph 3, the Surety shall promptly and at the Surety's expense take one of the following actions:
 - 5.1. Arrange for the Contractor, with the consent of the Owner, to perform and complete the Construction Contract;
 - 5.2. Undertake to perform and complete the Construction Contract itself, through its agents or independent Contractors;
 - 5.3. Obtain bids or negotiated proposals from qualified Contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and a Contractor selected with the Owners concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Paragraph 7 in excess of the Balance of the Contract Price incurred by the Owner as a result of the Contractor Default; or
 - 5.4. Waive its right to perform and complete, arrange for completion, or obtain a new Contractor, and with reasonable promptness under the circumstances:
 - 5.4.1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, make payment to the Owner; or

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

6. If the Surety does not proceed as provided in Paragraph 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Paragraph 5.4, and the Owner refuses the payment, or the Surety has denied liability, in whole or in part, without further notice, the Owner shall be entitled to enforce any remedy available to the Owner.
7. If the Surety elects to act under Paragraph 5.1, 5.2, or 5.3, then the responsibilities of the Surety to the Owner will not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety will not be greater than those of the Owner under the Construction Contract. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication for:
 - 7.1. the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;
 - 7.2. additional legal, design professional, and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Paragraph 5; and
 - 7.3. liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.
8. If the Surety elects to act under Paragraph 5.1, 5.3, or 5.4, the Surety's liability is limited to the amount of this Bond.
9. The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price will not be reduced or set off on account of any such unrelated obligations. No right of action will accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, successors, and assigns.
10. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders, and other obligations.
11. Any proceeding, legal or equitable, under this Bond must be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and must be instituted within two years after a declaration of Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this paragraph are void or prohibited by law, the minimum periods of limitations available to sureties as a defense in the jurisdiction of the suit will be applicable.
12. Notice to the Surety, the Owner, or the Contractor must be mailed or delivered to the address shown on the page on which their signature appears.
13. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement will be deemed deleted therefrom and provisions conforming to such statutory or other legal requirement will be deemed incorporated herein. When so furnished, the intent is that this Bond will be construed as a statutory bond and not as a common law bond.

14. Definitions

- 14.1. *Balance of the Contract Price*—The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made including allowance for the Contractor for any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.
 - 14.2. *Construction Contract*—The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and changes made to the agreement and the Contract Documents.
 - 14.3. *Contractor Default*—Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with a material term of the Construction Contract.
 - 14.4. *Owner Default*—Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.
 - 14.5. *Contract Documents*—All the documents that comprise the agreement between the Owner and Contractor.
15. If this Bond is issued for an agreement between a Contractor and subcontractor, the term Contractor in this Bond will be deemed to be Subcontractor and the term Owner will be deemed to be Contractor.
16. Modifications to this Bond are as follows: _____

END OF SECTION

SECTION 00 61 13.16 - PAYMENT BOND

Contractor Name: _____ Address (<i>principal place of business</i>): _____	Surety Name: _____ Address (<i>principal place of business</i>): _____
Owner Name: South Fork Water Board Mailing address (<i>principal place of business</i>): 15962 Hunter Ave, Oregon City, OR 97045	Contract Water Quality Systems Building, CP-01 15962 Hunter Ave, Oregon City, OR 97045 Contract Price: _____ Effective Date of Contract: _____
Bond Bond Amount: _____ Date of Bond: _____ (<i>Date of Bond cannot be earlier than Effective Date of Contract</i>) Modifications to this Bond form: ☐ None ☐ See Paragraph 18	
Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth in this Payment Bond, do each cause this Payment Bond to be duly executed by an authorized officer, agent, or representative.	
Contractor as Principal	Surety
<i>(Full formal name of Contractor)</i>	<i>(Full formal name of Surety) (corporate seal)</i>
By: _____ <i>(Signature)</i>	By: _____ <i>(Signature)(Attach Power of Attorney)</i>
Name: _____ <i>(Printed or typed)</i>	Name: _____ <i>(Printed or typed)</i>
Title: _____	Title: _____
Attest: _____ <i>(Signature)</i>	Attest: _____ <i>(Signature)</i>
Name: _____ <i>(Printed or typed)</i>	Name: _____ <i>(Printed or typed)</i>
Title: _____	Title: _____
<i>Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner, or other party is considered plural where applicable.</i>	

1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner to pay for labor, materials, and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference, subject to the following terms.
2. If the Contractor promptly makes payment of all sums due to Claimants, and defends, indemnifies, and holds harmless the Owner from claims, demands, liens, or suits by any person or entity seeking payment for labor, materials, or equipment furnished for use in the performance of the Construction Contract, then the Surety and the Contractor shall have no obligation under this Bond.
3. If there is no Owner Default under the Construction Contract, the Surety's obligation to the Owner under this Bond will arise after the Owner has promptly notified the Contractor and the Surety (at the address described in Paragraph 13) of claims, demands, liens, or suits against the Owner or the Owner's property by any person or entity seeking payment for labor, materials, or equipment furnished for use in the performance of the Construction Contract, and tendered defense of such claims, demands, liens, or suits to the Contractor and the Surety.
4. When the Owner has satisfied the conditions in Paragraph 3, the Surety shall promptly and at the Surety's expense defend, indemnify, and hold harmless the Owner against a duly tendered claim, demand, lien, or suit.
5. The Surety's obligations to a Claimant under this Bond will arise after the following:
 - 5.1. Claimants who do not have a direct contract with the Contractor
 - 5.1.1. have furnished a written notice of non-payment to the Contractor, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were, or equipment was, furnished or supplied or for whom the labor was done or performed, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the Claim; and
 - 5.1.2. have sent a Claim to the Surety (at the address described in Paragraph 13).
 - 5.2. Claimants who are employed by or have a direct contract with the Contractor have sent a Claim to the Surety (at the address described in Paragraph 13).
6. If a notice of non-payment required by Paragraph 5.1.1 is given by the Owner to the Contractor, that is sufficient to satisfy a Claimant's obligation to furnish a written notice of non-payment under Paragraph 5.1.1.
7. When a Claimant has satisfied the conditions of Paragraph 5.1 or 5.2, whichever is applicable, the Surety shall promptly and at the Surety's expense take the following actions:
 - 7.1. Send an answer to the Claimant, with a copy to the Owner, within sixty (60) days after receipt of the Claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed; and
 - 7.2. Pay or arrange for payment of any undisputed amounts.
 - 7.3. The Surety's failure to discharge its obligations under Paragraph 7.1 or 7.2 will not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a Claim,

except as to undisputed amounts for which the Surety and Claimant have reached agreement. If, however, the Surety fails to discharge its obligations under Paragraph 7.1 or 7.2, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs thereafter to recover any sums found to be due and owing to the Claimant.

8. The Surety's total obligation will not exceed the amount of this Bond, plus the amount of reasonable attorney's fees provided under Paragraph 7.3, and the amount of this Bond will be credited for any payments made in good faith by the Surety.
9. Amounts owed by the Owner to the Contractor under the Construction Contract will be used for the performance of the Construction Contract and to satisfy claims, if any, under any construction performance bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfying obligations of the Contractor and Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.
10. The Surety shall not be liable to the Owner, Claimants, or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for the payment of any costs or expenses of any Claimant under this Bond and shall have under this Bond no obligation to make payments to or give notice on behalf of Claimants, or otherwise have any obligations to Claimants under this Bond.
11. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders, and other obligations.
12. No suit or action will be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the state in which the project that is the subject of the Construction Contract is located or after the expiration of one year from the date (1) on which the Claimant sent a Claim to the Surety pursuant to Paragraph 5.1.2 or 5.2, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit will be applicable.
13. Notice and Claims to the Surety, the Owner, or the Contractor must be mailed or delivered to the address shown on the page on which their signature appears. Actual receipt of notice or Claims, however accomplished, will be sufficient compliance as of the date received.
14. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement will be deemed deleted here from and provisions conforming to such statutory or other legal requirement will be deemed incorporated herein. When so furnished, the intent is that this Bond will be construed as a statutory bond and not as a common law bond.
15. Upon requests by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor and Owner shall promptly furnish a copy of this Bond or shall permit a copy to be made.
16. Definitions

16.1. Claim—A written statement by the Claimant including at a minimum:

- 16.1.1. The name of the Claimant;
 - 16.1.2. The name of the person for whom the labor was done, or materials or equipment furnished;
 - 16.1.3. A copy of the agreement or purchase order pursuant to which labor, materials, or equipment was furnished for use in the performance of the Construction Contract;
 - 16.1.4. A brief description of the labor, materials, or equipment furnished;
 - 16.1.5. The date on which the Claimant last performed labor or last furnished materials or equipment for use in the performance of the Construction Contract;
 - 16.1.6. The total amount earned by the Claimant for labor, materials, or equipment furnished as of the date of the Claim;
 - 16.1.7. The total amount of previous payments received by the Claimant; and
 - 16.1.8. The total amount due and unpaid to the Claimant for labor, materials, or equipment furnished as of the date of the Claim.
- 16.2. Claimant—An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials, or equipment for use in the performance of the Construction Contract. The term Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic’s lien or similar statute against the real property upon which the Project is located. The intent of this Bond is to include without limitation in the terms of “labor, materials, or equipment” that part of the water, gas, power, light, heat, oil, gasoline, telephone service, or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor’s subcontractors, and all other items for which a mechanic’s lien may be asserted in the jurisdiction where the labor, materials, or equipment were furnished.
- 16.3. Construction Contract—The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and all changes made to the agreement and the Contract Documents.
- 16.4. Owner Default—Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.
- 16.5. Contract Documents—All the documents that comprise the agreement between the Owner and Contractor.
17. If this Bond is issued for an agreement between a Contractor and subcontractor, the term Contractor in this Bond will be deemed to be subcontractor and the term Owner will be deemed to be Contractor.
18. Modifications to this Bond are as follows: _____

END OF SECTION

Section 00 62 76 - Contractor's Application for Payment

Owner: _____ Engineer: _____ Contractor: _____ Project: _____ Contract: _____	Owner's Project No.: _____ Engineer's Project No.: _____ Contractor's Project No.: _____
Application No.: _____ Application Date: _____ Application Period: From _____ to _____	

1. Original Contract Price	\$	-
2. Net change by Change Orders	\$	-
3. Current Contract Price (Line 1 + Line 2)	\$	-
4. Total Work completed and materials stored to date (Sum of Column G Lump Sum Total and Column J Unit Price Total)	\$	-
5. Retainage		
a. _____ X \$ _____ Work Completed	\$	-
b. _____ X \$ _____ Stored Materials	\$	-
c. Total Retainage (Line 5.a + Line 5.b)	\$	-
6. Amount eligible to date (Line 4 - Line 5.c)	\$	-
7. Less previous payments (Line 6 from prior application)		
8. Amount due this application	\$	-
9. Balance to finish, including retainage (Line 3 - Line 4)	\$	-

Contractor's Certification
 The undersigned Contractor certifies, to the best of its knowledge, the following:
 (1) All previous progress payments received from Owner on account of Work done under the Contract have been applied on account to discharge Contractor's legitimate obligations incurred in connection with the Work covered by prior Applications for Payment;
 (2) Title to all Work, materials and equipment incorporated in said Work, or otherwise listed in or covered by this Application for Payment, will pass to Owner at time of payment free and clear of all liens, security interests, and encumbrances (except such as are covered by a bond acceptable to Owner indemnifying Owner against any such liens, security interest, or encumbrances); and
 (3) All the Work covered by this Application for Payment is in accordance with the Contract Documents and is not defective.

Contractor: _____ Signature: _____	Date: _____
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Recommended by Engineer By: _____ Title: _____ Date: _____ Approved by Funding Agency By: _____ Title: _____ Date: _____	Approved by Owner By: _____ Title: _____ Date: _____ By: _____ Title: _____ Date: _____
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Progress Estimate - Lump Sum Work

Contractor's Application for Payment

Owner:		Owner's Project No.:	
Engineer:		Engineer's Project No.:	
Contractor:		Contractor's Project No.:	
Project:			
Contract:			

Application No.: _____ **Application Period:** From _____ to _____ **Application Date:** _____

A	B	C	D	E	F	G	H	I
Item No.	Description	Scheduled Value (\$)	Work Completed		Materials Currently Stored (not in D or E) (\$)	Work Completed and Materials Stored to Date (D + E + F) (\$)	% of Scheduled Value (G / C) (%)	Balance to Finish (C - G) (\$)
			(D + E) From Previous Application (\$)	This Period (\$)				
Original Contract								
			-			-		-
						-		-
						-		-
						-		-
						-		-
						-		-
						-		-
						-		-
						-		-
						-		-
						-		-
						-		-
						-		-
						-		-
						-		-
						-		-
						-		-
						-		-
Original Contract Totals		\$ -	\$ -	\$ -	\$ -	\$ -		\$ -

Progress Estimate - Lump Sum Work

Contractor's Application for Payment

Owner: _____ Engineer: _____ Contractor: _____ Project: _____ Contract: _____						Owner's Project No.: _____ Engineer's Project No.: _____ Contractor's Project No.: _____		
Application No.: _____		Application Period: From _____ to _____		Application Date: _____				
A	B	C	D	E	F	G	H	I
Item No.	Description	Scheduled Value (\$)	Work Completed		Materials Currently Stored (not in D or E) (\$)	Work Completed and Materials Stored to Date (D + E + F) (\$)	% of Scheduled Value (G / C) (%)	Balance to Finish (C - G) (\$)
			(D + E) From Previous Application (\$)	This Period (\$)				
Change Orders								
						-		-
						-		-
						-		-
						-		-
						-		-
						-		-
						-		-
						-		-
						-		-
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						-		-
						-		-
						-		-
						-		-
						-		-
						-		-
						-		-
Change Order Totals		\$ -	\$ -	\$ -	\$ -	\$ -		\$ -
Original Contract and Change Orders								
Project Totals		\$ -	\$ -	\$ -	\$ -	\$ -		\$ -

Progress Estimate - Unit Price Work

Contractor's Application for Payment

Owner: _____

Engineer: _____

Contractor: _____

Project: _____

Contract: _____

Owner's Project No.: _____

Engineer's Project No.: _____

Contractor's Project No.: _____

Application No.: _____		Application Period: From _____ to _____		Application Date: _____							
A	B	C	D	E	F	G	H	I	J	K	L
Bid Item No.	Description	Contract Information				Work Completed		Materials Currently Stored (not in G) (\$)	Work Completed and Materials Stored to Date (H + I) (\$)	% of Value of Item (J / F) (%)	Balance to Finish (F - J) (\$)
		Item Quantity	Units	Unit Price (\$)	Value of Bid Item (C X E) (\$)	Estimated Quantity Incorporated in the Work	Value of Work Completed to Date (E X G) (\$)				
Original Contract											
					-		-		-		-
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Original Contract Totals					\$ -		\$ -	\$ -	\$ -		\$ -

Progress Estimate - Unit Price Work
Contractor's Application for Payment

Owner: _____ Engineer: _____ Contractor: _____ Project: _____ Contract: _____												Owner's Project No.: _____ Engineer's Project No.: _____ Contractor's Project No.: _____	
Application No.: _____ Application Period: From _____ to _____ Application Date: _____													
A	B	C	D	E	F	G	H	I	J	K	L		
Bid Item No.	Description	Contract Information				Work Completed		Materials Currently Stored (not in G) (\$)	Work Completed and Materials Stored to Date (H + I) (\$)	% of Value of Item (J / F) (%)	Balance to Finish (F - J) (\$)		
		Item Quantity	Units	Unit Price (\$)	Value of Bid Item (C X E) (\$)	Estimated Quantity Incorporated in the Work	Value of Work Completed to Date (E X G) (\$)						
Change Orders													
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Change Order Totals					\$	-		\$	-	\$	-	\$	-
Original Contract and Change Orders													
Project Totals					\$	-		\$	-	\$	-	\$	-

Contractor's Application for Payment

Application for Payment
00 62 76 - 6

SECTION 00 65 16 – CERTIFICATE OF SUBSTANTIAL COMPLETION

Owner:	<u>South Fork Water Board</u>	Owner's Project No.:	<u>CP-01</u>
Engineer:	<u>Conzor, N.A.</u>	Engineer's Project No.:	<u>W253326OR.00</u>
Contractor:	<u></u>	Contractor's Project No.:	<u></u>
Project:	<u>Water Quality Systems Building</u>		
Contract Name:	<u>South Fork Water Board Water Quality Systems Building</u>		

This ☐ Preliminary ☐ Final Certificate of Substantial Completion applies to:

☐ All Work ☐ The following specified portions of the Work:

Date of Substantial Completion:

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

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

Amendments of contractual responsibilities recorded in this Certificate should be the product of mutual agreement of Owner and Contractor; see Paragraph 15.03.D of the General Conditions.

The responsibilities between Owner and Contractor for security, operation, safety, maintenance, heat, utilities, insurance, and warranties upon Owner's use or occupancy of the Work must be as provided in the Contract, except as amended as follows:

Amendments to Owner's Responsibilities: ☐ None ☐ As follows:

Amendments to Contractor's Responsibilities: ☐ None ☐ As follows:

The following documents are attached to and made a part of this Certificate:

This Certificate does not constitute an acceptance of Work not in accordance with the Contract Documents, nor is it a release of Contractor's obligation to complete the Work in accordance with the Contract Documents.

Engineer

By (*signature*):

Name (*printed*):

Title:

END OF SECTION

SECTION 00 65 20 – NOTICE OF ACCEPTABILITY OF WORK

Owner:	<u>South Fork Water Board</u>	Owner's Project No.:	<u>CP-01</u>
Engineer:	<u>Conzor N.A.</u>	Engineer's Project No.:	<u>W253326OR.00</u>
Contractor:	<u></u>	Contractor's Project No.:	<u></u>
Project:	<u>Water Quality Systems Building</u>		
Contract Name:	<u>South Fork Water Board – Water Quality System Building.</u>		
Notice Date:	<u></u>	Effective Date of the Construction Contract:	<u></u>

The Engineer hereby gives notice to the Owner and Contractor that Engineer recommends final payment to Contractor, and that the Work furnished and performed by Contractor under the Construction Contract is acceptable, expressly subject to the provisions of the Construction Contract's Contract Documents ("Contract Documents") and of the Agreement between Owner and Engineer for Professional Services dated _____ ("Owner-Engineer Agreement"). This Notice of Acceptability of Work (Notice) is made expressly subject to the following terms and conditions to which all who receive and rely on said Notice agree:

1. This Notice has been prepared with the skill and care ordinarily used by members of the engineering profession practicing under similar conditions at the same time and in the same locality.
2. This Notice reflects and is an expression of the Engineer's professional opinion.
3. This Notice has been prepared to the best of Engineer's knowledge, information, and belief as of the Notice Date.
4. This Notice is based entirely on and expressly limited by the scope of services Engineer has been employed by Owner to perform or furnish during construction of the Project (including observation of the Contractor's Work) under the Owner-Engineer Agreement, and applies only to facts that are within Engineer's knowledge or could reasonably have been ascertained by Engineer as a result of carrying out the responsibilities specifically assigned to Engineer under such Owner-Engineer Agreement.
5. This Notice is not a guarantee or warranty of Contractor's performance under the Construction Contract, an acceptance of Work that is not in accordance with the Contract Documents, including but not limited to defective Work discovered after final inspection, nor an assumption of responsibility for any failure of Contractor to furnish and perform the Work thereunder in accordance with the Contract Documents, or to otherwise comply with the Contract Documents or the terms of any special guarantees specified therein.
6. This Notice does not relieve Contractor of any surviving obligations under the Construction Contract and is subject to Owner's reservations of rights with respect to completion and final payment.

Engineer

By *(signature)*: _____

Name *(printed)*: _____

Title: _____

END OF SECTION

SECTION 00 73 43
OREGON PREVAILING WAGE RATE FLYSHEET

This is a public works project and is subject to both state and federal prevailing wage rate laws. The Contractor and Subcontractors shall pay the higher of either the state or federal prevailing wage rates for the type of work being performed.

The applicable Oregon prevailing wage rates are contained in the publications *Definitions of Covered Occupations for Public Work Contracts in Oregon Effective October 5, 2024* and *Prevailing Wage Rate Book Effective July 5, 2026*, including the Amendment effective on date this Contract was advertised for bid, and are incorporated herein as though fully set forth as of the date the Bidding Documents are first advertised.

(See Oregon Bureau of Labor and Industries website links at:

<http://www.oregon.gov/BOLI>)

[BOLI : Prevailing Wage : For Employers : State of Oregon](#)

[BOLI : Prevailing Wage Rates : For Employers : State of Oregon](#))

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SECTION 00 73 44
DAVIS-BACON WAGE RATE FLYSHEET

This is a public works project and is subject to both state and federal prevailing wage rate laws. The Contractor and Subcontractors shall pay the higher of either the state or federal prevailing wage rates for the type of work being performed.

The applicable Davis-Bacon requirements are contained in the following Section 00 73 45, WIFIA Requirements of these Contract Documents, and are incorporated herein as fully set forth in the Bidding Documents.

The Davis-Bacon prevailing wages applicable to the project will be those in effect at the time of Contract Award.

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SECTION 00 73 45 - WIFIA REQUIREMENTS

This project is expected to be partially funded through federal funds under the Water Infrastructure Finance and Innovation Act (WIFIA). As such, attention is drawn to the following federal laws which will apply to this contract. All references to the Owner shall be synonymous with the South Fork Water Board or any of its delegates.

ITEM 1 AMERICAN IRON AND STEEL (AIS) REQUIREMENT

The goods and services under this Agreement are being funded with monies made available by the Water Infrastructure Finance and Innovation Act program of the EPA that has statutory requirements commonly known as “American Iron and Steel” that requires all of the iron and steel products used in the project to be produced in the United States (“American Iron and Steel Requirement”) including iron and steel products provided by the Contactor pursuant to this Agreement.

All of the iron and steel products used in the project will be and/or have been produced in the United States in a manner that complies with the American Iron and Steel Requirement, unless a waiver of the requirement is approved, and the Contractor will provide any further verified information, certification or assurance of compliance with this paragraph, or information necessary to support a waiver of the American Iron and Steel Requirement, as may be requested by the Purchaser or the EPA.

The Contractor shall adhere to all requirements stated within the Specifications and other WIFIA requirements and provide documentation that every iron and steel item used on this project meets AIS requirements.

Notwithstanding any other provision of this Agreement, any failure to comply with this paragraph by the Contractor shall permit the Purchaser or the EPA to recover as damages against the Contractor any loss, expense, or cost (including without limitation attorney’s fees) incurred by the Purchaser or the EPA resulting from any such failure (including without limitation any impairment or loss of funding, whether in whole or in part, from the EPA or any damages owed to the EPA by the Purchaser). While the Contractor has no direct contractual privity with the EPA, as a lender to the Purchaser for the funding of its project, the Purchaser and the Contractor agree that the EPA is a third- party beneficiary and neither this paragraph (nor any other provision of this Agreement necessary to give this paragraph force or effect) shall be amended or waived without the prior written consent of the EPA.

ITEM 2: LABOR LAWS AND STANDARDS

a) *Required contract clauses.*

(1) *Minimum wages —*

- (i) *Wage rates and fringe benefits.* All laborers and mechanics employed or working upon the site of the work (or otherwise working in construction or development of the project under a development statute), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of basic hourly wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be

alleged to exist between the contractor and such laborers and mechanics. As provided in paragraphs (d) and (e) of this section, the appropriate wage determinations are effective by operation of law even if they have not been attached to the contract. Contributions made or costs reasonably anticipated for bona fide fringe benefits under the Davis-Bacon Act (40 U.S.C. 3141(2)(B)) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(v) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics must be paid the appropriate wage rate and fringe benefits on the wage determination for the classification(s) of work actually performed, without regard to skill, except as provided in paragraph (a)(4) of this section. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided*, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph (a)(1)(iii) of this section) and the Davis-Bacon poster (WH-1321) must be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii) Frequently recurring classifications.

(A) In addition to wage and fringe benefit rates that have been determined to be prevailing under the procedures set forth in 29 CFR part 1, a wage determination may contain, pursuant to § 1.3(f), wage and fringe benefit rates for classifications of laborers and mechanics for which conformance requests are regularly submitted pursuant to paragraph (a)(1)(iii) of this section, provided that:

- (1) The work performed by the classification is not performed by a classification in the wage determination for which a prevailing wage rate has been determined;
- (2) The classification is used in the area by the construction industry; and
- (3) The wage rate for the classification bears a reasonable relationship to the prevailing wage rates contained in the wage determination.

(B) The Administrator will establish wage rates for such classifications in accordance with paragraph (a)(1)(iii)(A)(3) of this section. Work performed in such a classification must be paid at no less than the wage and fringe benefit rate listed on the wage determination for such classification.

(iii) Conformance.

(A) The contracting officer must require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract be classified in conformance with the wage determination. Conformance of an additional classification and wage rate and fringe benefits is appropriate only when the following criteria have been met:

- (1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
 - (2) The classification is used in the area by the construction industry; and
 - (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
- (B) The conformance process may not be used to split, subdivide, or otherwise avoid application of classifications listed in the wage determination.
- (C) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken will be sent by the contracting officer by email to DBAconformance@dol.gov. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
- (D) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer will, by email to DBAconformance@dol.gov, refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
- (E) The contracting officer must promptly notify the contractor of the action taken by the Wage and Hour Division under paragraphs (a)(1)(iii)(C) and (D) of this section. The contractor must furnish a written copy of such determination to each affected worker or it must be posted as a part of the wage determination. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraph (a)(1)(iii)(C) or (D) of this section must be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.
- (iv) *Fringe benefits not expressed as an hourly rate.* Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor may either pay the benefit as stated in the wage determination or may pay another bona fide fringe benefit or an hourly cash equivalent thereof.
- (v) *Unfunded plans.* If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided*, That the Secretary of Labor has found, upon the written request of the contractor, in accordance with the criteria set forth in § 5.28, that the applicable

standards of the Davis- Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

- (vi) *Interest.* In the event of a failure to pay all or part of the wages required by the contract, the contractor will be required to pay interest on any underpayment of wages.

(2) *Withholding* —

- (i) *Withholding requirements.* The [write in name of Federal agency or the recipient of Federal assistance] may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for the full amount of wages and monetary relief, including interest, required by the clauses set forth in paragraph (a) of this section for violations of this contract, or to satisfy any such liabilities required by any other Federal contract, or federally assisted contract subject to Davis-Bacon labor standards, that is held by the same prime contractor (as defined in § 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to Davis-Bacon labor standards requirements and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld. In the event of a contractor's failure to pay any laborer or mechanic, including any apprentice or helper working on the site of the work (or otherwise working in construction or development of the project under a development statute) all or part of the wages required by the contract, or upon the contractor's failure to submit the required records as discussed in paragraph (a)(3)(iv) of this section, the [Agency] may on its own initiative and after written notice to the contractor, sponsor, applicant, owner, or other entity, as the case may be, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.
- (ii) *Priority to withheld funds.* The Department has priority to funds withheld or to be withheld in accordance with paragraph (a)(2)(i) or (b)(3)(i) of this section, or both, over claims to those funds by:
 - (A) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;
 - (B) A contracting agency for its procurement costs;
 - (C) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;
 - (D) A contractor's assignee(s);
 - (E) A contractor's successor(s); or
 - (F) A claim asserted under the Prompt Payment Act, 31 U.S.C. 3901-3907.

(3) *Records and certified payrolls —*

(i) *Basic record requirements —*

- (A) *Length of record retention.* All regular payrolls and other basic records must be maintained by the contractor and any subcontractor during the course of the work and preserved for all laborers and mechanics working at the site of the work (or otherwise working in construction or development of the project under a development statute) for a period of at least 3 years after all the work on the prime contract is completed.
- (B) *Information required.* Such records must contain the name; Social Security number; last known address, telephone number, and email address of each such worker; each worker's correct classification(s) of work actually performed; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in 40 U.S.C. 3141(2)(B) of the Davis-Bacon Act); daily and weekly number of hours actually worked in total and on each covered contract; deductions made; and actual wages paid.
- (C) *Additional records relating to fringe benefits.* Whenever the Secretary of Labor has found under paragraph (a)(1)(v) of this section that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in 40 U.S.C. 3141(2)(B) of the Davis-Bacon Act, the contractor must maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits.
- (D) *Additional records relating to apprenticeship.* Contractors with apprentices working under approved programs must maintain written evidence of the registration of apprenticeship programs, the registration of the apprentices, and the ratios and wage rates prescribed in the applicable programs.

(ii) *Certified payroll requirements —*

- (A) *Frequency and method of submission.* The contractor or subcontractor must submit weekly, for each week in which any DBA- or Related Acts-covered work is performed, certified payrolls to the Environmental Protection Agency, if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the certified payrolls to the applicant, sponsor, owner, or other entity, as the case may be, that maintains such records, for transmission to the Environmental Protection Agency. The prime contractor is responsible for the submission of all certified payrolls by all subcontractors. A contracting agency or prime contractor may permit or require contractors to submit certified payrolls through an electronic system, as long as the electronic system requires a legally valid electronic signature; the system allows the contractor, the contracting agency, and the Department of Labor to access the certified payrolls upon request for at least 3 years after the work on the prime contract has been completed; and the contracting agency or prime contractor permits other methods of submission in situations where the contractor is unable or limited in its ability to use or access the electronic system.

- (B) *Information required.* The certified payrolls submitted must set out accurately and completely all of the information required to be maintained under paragraph (a)(3)(i)(B) of this section, except that full Social Security numbers and last known addresses, telephone numbers, and email addresses must not be included on weekly transmittals. Instead, the certified payrolls need only include an individually identifying number for each worker (e.g., the last four digits of the worker's Social Security number). The required weekly certified payroll information may be submitted using Optional Form WH-347 or in any other format desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division website at <https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/wh347/.pdf> or its successor website. It is not a violation of this section for a prime contractor to require a subcontractor to provide full Social Security numbers and last known addresses, telephone numbers, and email addresses to the prime contractor for its own records, without weekly submission by the subcontractor to the sponsoring government agency (or the applicant, sponsor, owner, or other entity, as the case may be, that maintains such records).
- (C) *Statement of Compliance.* Each certified payroll submitted must be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor, or the contractor's or subcontractor's agent who pays or supervises the payment of the persons working on the contract, and must certify the following:
- (1) That the certified payroll for the payroll period contains the information required to be provided under paragraph (a)(3)(ii) of this section, the appropriate information and basic records are being maintained under paragraph (a)(3)(i) of this section, and such information and records are correct and complete;
 - (2) That each laborer or mechanic (including each helper and apprentice) working on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR part 3; and
 - (3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification(s) of work actually performed, as specified in the applicable wage determination incorporated into the contract.
- (D) *Use of Optional Form WH-347.* The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 will satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(C) of this section.
- (E) *Signature.* The signature by the contractor, subcontractor, or the contractor's or subcontractor's agent must be an original handwritten signature or a legally valid electronic signature.
- (F) *Falsification.* The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under 18 U.S.C. 1001 and 31 U.S.C. 3729.

(G) *Length of certified payroll retention.* The contractor or subcontractor must preserve all certified payrolls during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

(iii) *Contracts, subcontracts, and related documents.* The contractor or subcontractor must maintain this contract or subcontract and related documents including, without limitation, bids, proposals, amendments, modifications, and extensions. The contractor or subcontractor must preserve these contracts, subcontracts, and related documents during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

(iv) *Required disclosures and access —*

(A) *Required record disclosures and access to workers.* The contractor or subcontractor must make the records required under paragraphs (a)(3)(i) through

(iii) of this section, and any other documents that the [write the name of the agency] or the Department of Labor deems necessary to determine compliance with the labor standards provisions of any of the applicable statutes referenced by § 5.1, available for inspection, copying, or transcription by authorized representatives of the [write the name of the agency] or the Department of Labor, and must permit such representatives to interview workers during working hours on the job.

(B) *Sanctions for non-compliance with records and worker access requirements.* If the contractor or subcontractor fails to submit the required records or to make them available, or refuses to permit worker interviews during working hours on the job, the Federal agency may, after written notice to the contractor, sponsor, applicant, owner, or other entity, as the case may be, that maintains such records or that employs such workers, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available, or to permit worker interviews during working hours on the job, may be grounds for debarment action pursuant to § 5.12. In addition, any contractor or other person that fails to submit the required records or make those records available to WHD within the time WHD requests that the records be produced will be precluded from introducing as evidence in an administrative proceeding under 29 CFR part 6 any of the required records that were not provided or made available to WHD. WHD will take into consideration a reasonable request from the contractor or person for an extension of the time for submission of records. WHD will determine the reasonableness of the request and may consider, among other things, the location of the records and the volume of production.

(C) *Required information disclosures.* Contractors and subcontractors must maintain the full Social Security number and last known address, telephone number, and email address of each covered worker, and must provide them upon request to the [write in name of appropriate Federal agency] if the agency is a party to the contract, or to the Wage and Hour Division of the Department of Labor. If the Federal agency is not such a party to the contract, the contractor, subcontractor, or both, must, upon request, provide the full Social Security number and last known address, telephone

number, and email address of each covered worker to the applicant, sponsor, owner, or other entity, as the case may be, that maintains such records, for transmission to the [write in name of agency], the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or other compliance action.

(4) *Apprentices and equal employment opportunity* —

(i) *Apprentices* —

- (A) *Rate of pay.* Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship (OA), or with a State Apprenticeship Agency recognized by the OA. A person who is not individually registered in the program, but who has been certified by the OA or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice, will be permitted to work at less than the predetermined rate for the work they perform in the first 90 days of probationary employment as an apprentice in such a program. In the event the OA or a State Apprenticeship Agency recognized by the OA withdraws approval of an apprenticeship program, the contractor will no longer be permitted to use apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.
- (B) *Fringe benefits.* Apprentices must be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringe benefits must be paid in accordance with that determination.
- (C) *Apprenticeship ratio.* The allowable ratio of apprentices to journeymen on the job site in any craft classification must not be greater than the ratio permitted to the contractor as to the entire work force under the registered program or the ratio applicable to the locality of the project pursuant to paragraph (a)(4)(i)(D) of this section. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in paragraph (a)(4)(i)(A) of this section, must be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under this section must be paid not less than the applicable wage rate on the wage determination for the work actually performed.
- (D) *Reciprocity of ratios and wage rates.* Where a contractor is performing construction on a project in a locality other than the locality in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyworker's hourly rate) applicable within the locality in which the construction is being performed must be observed. If there is no applicable ratio or wage rate for the locality of the project, the ratio and wage rate specified in the contractor's registered program must be observed.

- (ii) *Equal employment opportunity.* The use of apprentices and journeyworkers under this part must be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.
- (5) *Compliance with Copeland Act requirements.* The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.
- (6) *Subcontracts.* The contractor or subcontractor must insert in any subcontracts the clauses contained in paragraphs (a)(1) through (11) of this section, along with the applicable wage determination(s) and such other clauses or contract modifications as the [write in the name of the Federal agency] may by appropriate instructions require, and a clause requiring the subcontractors to include these clauses and wage determination(s) in any lower tier subcontracts. The prime contractor is responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this section. In the event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and may be subject to debarment, as appropriate.
- (7) *Contract termination: debarment.* A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.
- (8) *Compliance with Davis-Bacon and Related Act requirements.* All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.
- (9) *Disputes concerning labor standards.* Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.
- (10) *Certification of eligibility.*
- (i) By entering into this contract, the contractor certifies that neither it nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of 40 U.S.C. 3144(b) or § 5.12(a).
- (ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of 40 U.S.C. 3144(b) or § 5.12(a).
- (iii) The penalty for making false statements is prescribed in the U.S. Code, Title 18 Crimes and Criminal Procedure, 18 U.S.C. 1001.
- (11) *Anti-retaliation.* It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any

person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

- (i) Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the DBA, Related Acts, this part, or 29 CFR part 1 or 3;
 - (ii) Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under the DBA, Related Acts, this part, or 29 CFR part 1 or 3;
 - (iii) Cooperating in any investigation or other compliance action, or testifying in any proceeding under the DBA, Related Acts, this part, or 29 CFR part 1 or 3; or
 - (iv) Informing any other person about their rights under the DBA, Related Acts, this part, or 29 CFR part 1 or 3.
- b) *Contract Work Hours and Safety Standards Act (CWHSSA)*. The Agency Head must cause or require the contracting officer to insert the following clauses set forth in paragraphs (b)(1) through (5) of this section in full, or (for contracts covered by the Federal Acquisition Regulation) by reference, in any contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses must be inserted in addition to the clauses required by paragraph (a) of this section or 29 CFR 4.6. As used in this paragraph (b), the terms “laborers and mechanics” include watchpersons and guards.
- (1) *Overtime requirements*. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
 - (2) *Violation; liability for unpaid wages; liquidated damages*. In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages and interest from the date of the underpayment. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchpersons and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of \$32 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1).
 - (3) *Withholding for unpaid wages and liquidated damages* —
 - (i) *Withholding process*. The [write in the name of the Federal agency or the recipient of Federal assistance] may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for any

unpaid wages; monetary relief, including interest; and liquidated damages required by the clauses set forth in this paragraph (b) on this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract subject to the Contract Work Hours and Safety Standards Act that is held by the same prime contractor (as defined in § 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to the Contract Work Hours and Safety Standards Act and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld. *Priority to withheld funds.* The Department has priority to funds withheld or to be withheld in accordance with paragraph (a)(2)(i) or (b)(3)(i) of this section, or both, over claims to those funds by:

- (A) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;
 - (B) A contracting agency for its procurement costs;
 - (C) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;
 - (D) A contractor's assignee(s);
 - (E) A contractor's successor(s); or
 - (F) A claim asserted under the Prompt Payment Act, 31 U.S.C. 3901-3907.
- (4) *Subcontracts.* The contractor or subcontractor must insert in any subcontracts the clauses set forth in paragraphs (b)(1) through (5) of this section and a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor is responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (5). In the event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and associated liquidated damages and may be subject to debarment, as appropriate.
- (5) *Anti-retaliation.*
- (i) It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for: Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the Contract Work Hours and Safety Standards Act (CWHSSA) or its implementing regulations in this part;
 - (ii) Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under CWHSSA or this part;

(iii) Cooperating in any investigation or other compliance action, or testifying in any proceeding under CWHSSA or this part; or

(iv) Informing any other person about their rights under CWHSSA or this part.

c) *CWHSSA required records clause.* In addition to the clauses contained in paragraph (b) of this section, in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other laws referenced by § 5.1, the Agency Head must cause or require the contracting officer to insert a clause requiring that the contractor or subcontractor must maintain regular payrolls and other basic records during the course of the work and must preserve them for a period of 3 years after all the work on the prime contract is completed for all laborers and mechanics, including guards and watchpersons, working on the contract. Such records must contain the name; last known address, telephone number, and email address; and social security number of each such worker; each worker's correct classification(s) of work actually performed; hourly rates of wages paid; daily and weekly number of hours actually worked; deductions made; and actual wages paid. Further, the Agency Head must cause or require the contracting officer to insert in any such contract a clause providing that the records to be maintained under this paragraph must be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the (write the name of agency) and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview workers during working hours on the job.

d) *Incorporation of contract clauses and wage determinations by reference.* Although agencies are required to insert the contract clauses set forth in this section, along with appropriate wage determinations, in full into covered contracts, and contractors and subcontractors are required to insert them in any lower-tier subcontracts, the incorporation by reference of the required contract clauses and appropriate wage determinations will be given the same force and effect as if they were inserted in full text.

e) *Incorporation by operation of law.* The contract clauses set forth in this section (or their equivalent under the Federal Acquisition Regulation), along with the correct wage determinations, will be considered to be a part of every prime contract required by the applicable statutes referenced by § 5.1 to include such clauses, and will be effective by operation of law, whether or not they are included or incorporated by reference into such contract, unless the Administrator grants a variance, tolerance, or exemption from the application of this paragraph. Where the clauses and applicable wage determinations are effective by operation of law under this paragraph, the prime contractor must be compensated for any resulting increase in wages in accordance with applicable law.

ITEM 3: PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT (EFFECTIVE AUGUST 13, 2020)

The John S. McCain National Defense Authorization Act for Fiscal Year 2019 (P.L. 115- 232), at Section 889, prohibits EPA financial assistance recipients, including WIFIA borrowers, from expending loan funds to procure or obtain; extend or renew a contract to procure or obtain; or enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that use covered telecommunications equipment or services as a substantial or essential component of any system, or as

critical technology as part of any system. As described in the Act, “covered telecommunications equipment or services” means:

- a) Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
- b) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
- c) Telecommunications or video surveillance services provided by such entities or using such equipment.
- d) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.
- e) The Act does not prohibit:
- f) Procuring with an entity to provide a service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements.
- g) Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.

ITEM 4: DEBARMENT AND SUSPENSION AND PROHIBITIONS RELATING TO VIOLATIONS OF CWA AND CAA WITH RESPECT TO FEDERAL CONTRACTS, GRANTS, OR LOANS

Debarment and Suspension. Contractor certifies that it will not knowingly enter into a contract with anyone who is ineligible under the 2 CFR part 180 and part 1532 (per Executive Order 12549, 51 FR 6370, February 21, 1986) or who is prohibited under Section 306 of the Clean Air Act or Section 508 of the Clean Water Act to participate in the [Project]. Suspension and debarment information can be accessed at <http://www.sam.gov>. Contractor represents and warrants that it has or will include a term or conditions requiring compliance with this provision in all of its subcontracts under this Agreement.

ITEM 5 FEDERAL LOBBYING RESTRICTIONS (31 U.S.C 1352)

Recipients of federal financial assistance may not pay any person for influencing or attempting to influence any officer or employee of a federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress with respect to the award, continuation, renewal, amendment, or modification of a federal grant, loan, or contract. These requirements are implemented for USEPA in 40 CFR Part 34, which also describes types of activities, such as legislative liaison activities and professional and technical services, which are not subject to this prohibition. Upon award of this contract, Contractor shall complete and submit to the Owner the certification and disclosure forms in Appendix A and Appendix B to 40 CFR Part 34. Contractor shall also require all subcontractors and suppliers of any tier awarded a subcontract over \$100,000 to similarly complete and submit the certification and disclosure forms pursuant to the process set forth in 40 CFR 34.110.

ITEM 6 AGE DISCRIMINATION ACT, SECTION 504 OF THE REHABILITATION ACT, TITLE VI OF THE CIVIL RIGHTS ACT OF 1964, AND SECTION 13 OF THE CLEAN WATER ACT

CIVIL RIGHTS OBLIGATIONS. Contractor shall comply with the following federal non-discrimination requirements:

- Title VI of the Civil Rights Act of 1964, which prohibits discrimination based on race, color, and national origin, including limited English proficiency (LEP). (42 U.S.C 2000D, *et. seq*)
- Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination against persons with disabilities. (29 U.S.C. 794, supplemented by EO 11914, 41 FR
- 17871, April 29, 1976 and EO 11250, 30 FR 13003, October 13, 1965)
- The Age Discrimination Act of 1975, which prohibits age discrimination. (42 U.S.C 6101 *et. seq*)
- Section 13 of the Federal Water Pollution Control Act Amendments of 1972, which prohibits discrimination on the basis of sex.
- 40 CFR Part 7, as it relates to the foregoing.

ITEM 7 EQUAL EMPLOYMENT OPPORTUNITY

Equal Employment Opportunity (EEO). The Contractor shall comply with Executive Order 11246, entitled 'Equal Employment Opportunity,' as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60). (EO 11246, 30 FR 12319, September 28, 1965)

Contractor's compliance with Executive order 11246 shall be based on implementation of the Equal Opportunity Clause, and specific affirmative active obligations required by the Standard Federal Equal Employment Opportunity Construction Contract Specifications, as set forth in 41 CFR Part 60-4.

During the performance of this contract, the contractor agrees as follows:

1. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
2. The contractor will, in all solicitations or advancements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
3. The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed,

or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

4. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
5. The contractor will comply with all provisions of Executive Order No. 11246 of Sept. 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
6. The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
7. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of Sept. 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
8. The contractor will include the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States. [Sec. 202 amended by EO 11375 of Oct. 13, 1967, 32 FR 14303, 3 CFR, 1966-1970 Comp., p. 684, EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230, EO 13665 of April 8, 2014, 79 FR 20749, EO 13672 of July 21, 2014, 79 FR 42971]

2) As used in these specifications:

- f) "Covered area" means the geographical area described in the solicitation from which this contract resulted;

- g) "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;
 - h) "Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.
 - i) "Minority" includes:
 - i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
 - ii) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);
 - iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
 - iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).
- 2) Whenever the Contractor, or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.
- 3) If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or Subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors or Subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or Subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.
- 4) The Contractor shall implement the specific affirmative action standards provided in paragraphs 7 a through p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered Construction contractors performing construction work in geographical areas where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the Federal Register in notice form, and such notices may be obtained from any Office of Federal Contract Compliance

Programs office or from Federal procurement contracting officers. The Contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

- 5) Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.
- 6) In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.
- 7) The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:
 - a) Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.
 - b) Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.
 - c) Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefor, along with whatever additional actions the Contractor may have taken.
 - d) Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.
 - e) Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs,

especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 7b above.

- f) Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
- g) Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with onsite supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
- h) Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.
- i) Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.
- j) Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a Contractor's work force.
- k) Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR part 60-3.
- l) Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
- m) Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.

- n) Ensure that all facilities and company activities are non-segregated except that separate or single- user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
 - o) Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.
 - p) Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.
- 8) Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (7a through p). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7a through p of these Specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.
- 9) A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).
- 10) The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, sexual orientation, gender identity, or national origin.
- 11) The Contractor shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.
- 12) The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.
- 13) The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the

implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.

- 14) The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.
- 15) Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

Segregated Facilities. (41 CFR 60-1.8) The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensuring that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. This obligation extends to all contracts containing the equal opportunity clause regardless of the amount of the contract. The term "facilities," as used in this section, means waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, wash rooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees; Provided, That separate or single-user restrooms and necessary dressing or sleeping areas shall be provided to assure privacy between the sexes.

END OF SECTION

SECTION 01 20 20 - MEASUREMENT AND PAYMENT

PART 1 GENERAL

Measurement and payment will be on a unit price basis in accordance with the prices set forth in the proposal for individual work items. Where work is required but does not appear as a separate item in the proposal, the cost for that work shall be included and absorbed in the unit prices named in the proposal. Contractor shall make a careful assessment when preparing the bid. Payment for Lump Sum (LS) items shall be based on percentage complete.

Common Items

1. Mobilization, Bonds, Insurance, and Demobilization: Payment for mobilization, bonds, insurance, and demobilization will be on a lump sum basis. The amounts paid for mobilization in the contract progress payment will be based on the percent of the original contract amount that is earned from other contract items, as follows:
 - a. When 5 percent is earned, either 100 percent of the amount for mobilization or 5 percent of the original contract amount, whichever is the least.
 - b. When all work is completed, amount of mobilization exceeding 5 percent of the original contract amount.

This schedule of mobilization progress payments will not limit or preclude progress payments otherwise provided by the contract.

2. Traffic control: Payment for traffic maintenance and protection, flagging, temporary fencing, and safety barricades, including all coordination, materials, and equipment, as required, will be on a lump sum basis.
3. Erosion control: Payment for installation of approved erosion control devices (silt fencing, straw bales, and other items), as required, including all labor, materials, and equipment, as required, will be on a lump sum basis.
4. Construction survey and staking: Payment for construction survey and staking, including all coordination, materials, labor, and equipment, as required, will be on a lump sum basis.
5. Extra work as authorized: Payment for extra work as authorized by the Engineer in writing, including all coordination, materials, labor, and equipment, as required, will be on a lump sum basis.

Site Work

6. Demolition of Existing Facilities: Measurement and payment for demolition and removal of existing structures will be made on a single lump sum basis.
7. Shop drawings and approvals: Measurement and payment for shop drawings and approvals will be on a lump sum basis.
8. Tree protection and removal, clearing, and grubbing: Measurement and payment for tree protection and removal, clearing, and grubbing shall be paid on a lump sum basis and includes all materials, labor, and equipment to install protective devices around trees to remain, remove trees

and stumps (or grind stumps as approved) for trees noted to be removed where indicated in the Drawings, including loading and removal of trees and waste materials from site. If stumps are ground, stumps shall be ground to 8 inches below ground surface. Item also includes clearing and grubbing within the project disturbance limits as indicated on the Drawings.

9. Dewatering: Payment for dewatering, including all coordination, materials, labor, and equipment, as required, will be on a lump sum basis.
10. Clearing and Grubbing: Payment for clearing and grubbing shall be paid on a lump sum basis and includes all required general site preparation for construction, materials, labor, and equipment within the project disturbance limits as indicated on the Drawings.
11. Backfill with imported material: Measurement and payment for backfill with imported material shall be paid on a per cubic yard basis and shall include all imported crushed granular material rock, complete, as shown on the Drawings and specified in Section 32 11 23, Aggregate Base Courses.
12. Excavation: Payment for excavation shall include all required excavation, grading, and hauling of site soils as required for construction of site facilities and establishment of finished grades, complete, shall be paid on a lump sum basis.
13. Sawcutting: Measurement and payment for sawcutting shall include the initial trench width cuts and subsequent tee-cuts as shown on the standard trench detail as well as all other cuts required for onsite or improvements within the right of way. Payment for sawcutting existing surfacing, which includes AC and concrete surfaces, for cuts up to 3 inches in depth and for each 1-inch depth beyond 3-inch thickness will be on a per linear foot basis.
14. Subgrade Stabilization: Payment for subgrade stabilization will only be considered as approved by the Engineer in writing. When such pre-approval is obtained, payment will be made on a per square yard basis.
15. Cold Plane Pavement Removal, 2 inches: Payment for the 2-inch-thick grinding of existing AC pavement will be on a per square yard basis. Payment shall include cold plane pavement removal and disposal, as specified in the Oregon Department of Transportation, Standard Specifications for Highway Construction. Payment shall include all work and materials, hauling, and disposal. Measurement shall be based on the quantity of AC removed and shall not include excavated area. Saw cuts for cold plan pavement removal shall be considered incidental.
16. Asphalt Concrete Paving (ACP) – Swan Avenue: Payment for the Asphalt Concrete Paving (ACP) on Swan Avenue shall be as follows:
 - a. Level 2, ½-Inch ACP, 4-inch depth: Payment for HMAC trench resurfacing or inlay work shall be on a per ton basis. Payment for HMAC resurfacing shall include furnishing and installing the compacted aggregate base materials, tack coat, asphaltic concrete, compaction, process control, acceptance testing, and other incidental work required to provide permanent HMAC pavement as shown on the Drawings and specified in Section 32 12 16, Asphaltic Concrete Pavement.
 - b. Grind and Inlay, 2-Inch ACP: Payment for 2-inch grind and AC pavement overlay in the right-of-way required for pipe installation will be made on a per square yard basis. The unit price bid per square yard shall constitute full compensation for all labor, materials, tools, and equipment necessary to grind and overlay pavement to the limits shown on the Drawings, complete, in

place, tested and ready for use. The unit price shall include, but not be limited to, grinding, removal and disposal of existing asphalt; furnishing, placing, and compacting HMAC, Class ½-inch, dense graded, performance grade 58-H-22 to a compacted depth of 2 inches; tack-oil; testing of asphalt concrete pavement; restoration of disturbed pavement markings and striping; and adjustment of utilities to grade.

- c. Crushed Aggregate 3/4-Inch (leveling course) – Swan Avenue Roadway: Payment for furnishing and installing crushed aggregate 3/4-inch, as shown on the drawings and standard details, will be on a cubic yard basis.
 - d. Crushed Aggregate 1/2-Inch (base) – Swan Avenue Roadway: Payment for furnishing and installing crushed aggregate 1/2-inch, as shown on the drawings and standard details, will be on a cubic yard basis.
 - e. Geotextile Fabric, Woven: Payment for furnishing and installing geotextile fabric, as shown on the Drawings and standard details, shall be on a square yard basis.
17. Concrete Curb and Gutter – Swan Avenue: Payment for the concrete curb and gutter on Swan Avenue shall be as follows:
- a. Concrete Curb and Gutter – Swan Avenue: Payment for furnishing and installing new concrete curb and gutter, for the dimensions and thicknesses to match the existing curb in the field, will be on a per linear foot basis.
 - b. Crushed Aggregate 3/4-Inch – Swan Avenue Curb and Gutter: Payment for furnishing and installing crushed aggregate 3/4-inch, as shown on the drawings and standard details, will be on a cubic yard basis.
18. Concrete Sidewalk – Swan Avenue: Payment for the concrete sidewalk on Swan Avenue shall be as follows:
- a. Concrete Sidewalk – Swan Avenue: Payment for furnishing and installing concrete sidewalk, for the dimensions and thicknesses to match the existing sidewalk in the field, will be on a per square foot basis.
 - b. Crushed Aggregate 3/4-Inch – Concrete Sidewalk – Swan Avenue: Payment for furnishing and installing crushed aggregate 3/4-inch, as shown on the drawings and standard details, will be on a cubic yard basis.
 - c. Extra Curb Ramps: Payment for furnishing and installing will be made on a per each basis. Payment shall include all labor, tools, materials, and equipment necessary to complete concrete curb ramps to meet ADA standards as shown on the Drawings and standard details, including detectable warning surfaces. Payment includes all labor and material for any rework required to meet ADA standards.
19. Concrete Driveway – Swan Avenue: Payment for the concrete driveway on Swan Avenue shall be as follows:
- a. Concrete Driveway – Swan Avenue: Payment for concrete driveway will be made on a square foot basis. Payment shall include all labor, tools, materials and equipment necessary to complete work, where shown on the Drawings, and in accordance with standard details.

Payment shall include furnishing and installing reinforcement and replacement concrete to the dimensions and thicknesses.

- b. Crushed Aggregate 3/4-Inch – Concrete Driveway – Swan Avenue: Payment for furnishing and installing crushed aggregate 3/4-inch, as shown on the drawings and standard details, will be on a cubic yard basis.

20. Asphalt Concrete Paving (ACP) – On Site: Payment for the Asphalt Concrete Paving (ACP) on site shall be as follows:

- a. Level 2, 1/2-Inch ACP, 4-inch depth: Payment for HMAC trench resurfacing or inlay work shall be on a per ton basis. Payment for HMAC resurfacing shall include furnishing and installing the compacted aggregate base materials, tack coat, asphaltic concrete, compaction, process control, acceptance testing, and other incidental work required to provide permanent HMAC pavement as shown on the Drawings and specified in Section 32 12 16, Asphaltic Concrete Pavement.
- b. Crushed Aggregate 3/4-Inch – Access Road and Parking: Payment for furnishing and installing crushed aggregate 3/4-inch, as shown on the drawings and standard details, will be on a cubic yard basis.
- c. Geotextile Fabric, Woven: Payment for furnishing and installing geotextile fabric, as shown on the Drawings and standard details, shall be on a square yard basis.

21. Concrete Curb – On Site: Payment for the concrete curb on site shall be as follows:

- a. Concrete Curb – On Site: Payment for furnishing and installing concrete curb and gutter, for the dimensions and thicknesses to match the existing curb in the field, will be on a per linear foot basis.
- b. Crushed Aggregate 3/4-Inch – On Site: Payment for furnishing and installing crushed aggregate 3/4-inch, as shown on the drawings and standard details, will be on a cubic yard basis.

22. Concrete Sidewalk – On Site: Payment for the concrete sidewalk on site shall be as follows:

- a. Concrete Sidewalk – On Site: Payment for furnishing and installing concrete sidewalk, for the dimensions and thicknesses to match the existing sidewalk in the field, will be on a per square foot basis.
- b. Crushed Aggregate 3/4-Inch – Concrete Sidewalk – On Site: Payment for furnishing and installing crushed aggregate 3/4-inch, as shown on the drawings and standard details, will be on a cubic yard basis.

23. Chemical Containment Pad – On Site: Payment for the chemical containment pad on site shall be as follows:

- a. Concrete Driveway – On Site: Payment for concrete driveway will be made on a square foot basis. Payment shall include all labor, tools, materials and equipment necessary to complete work, where shown on the Drawings, and in accordance with standard details. Payment shall include furnishing and installing reinforcement and replacement concrete to the dimensions and thicknesses.

- b. Crushed Aggregate 3/4-Inch – Concrete Sidewalk – On Site: Payment for furnishing and installing crushed aggregate 3/4-inch, as shown on the drawings and standard details, will be on a cubic yard basis.
- 24. Furnish and Install chain link gate and fence, complete: Payment for furnishing and installing the site chain link access gate, shall be on a lump sum basis for furnishing and placing the fencing, and for furnishing all equipment, labor, and incidentals necessary to complete the work as specified. Payment for furnishing and installing the perimeter fencing shall be on a linear foot basis for furnishing and placing the fencing, and for furnishing all equipment, labor, and incidentals necessary to complete work as specified:
 - a. 7-foot Chain Link Fencing with Barbed Wire
 - b. Motorized Chain Link Access Gate, 20'-wide, Swing
- 25. Furnish and install Class 52, ductile iron pipe with Class B (imported granular backfill) trench backfill: Payment for furnishing and installing Class 52 ductile iron (DI) pipe with Class B trench backfill, including all work and materials and excavation, all required joint restraint systems for pipe, fittings, valves, polyethylene encasement, and appurtenances, thrust blocks (including concrete, excavation, and thrust plates), dewatering, Class D bedding and pipe zone backfill, and Class B trench backfill will be on a per linear foot basis for the pipe diameters shown. Measurement will be based on total length of piping constructed with restrained joints as indicated on the Drawings without deduction for fittings and valves. Bedding and pipe zone material is understood to be imported granular material, compacted in place as shown on the Drawings. Trench backfill material is understood to be imported granular material, compacted in place as shown. Class B and Class D fill material shall be as specified within Section 31 23 17, Trenching.
 - a. 10-inch diameter
 - b. 12-inch diameter
- 26. Furnish and install 4-inch PVC Stormwater Pipe: Payment for furnishing and installing 4-inch PVC stormwater pipe with Class B trench backfill, including all work and materials and excavation, all required joint restraint systems for pipe, fittings, valves, and appurtenances, dewatering, and Class B trench backfill will be on a per linear foot basis for the 4-inch diameter pipe. Measurement will be based on total length of piping constructed with joints as indicated on the Drawings without deduction for fittings and valves. Bedding and pipe zone material is understood to be imported granular material, compacted in place as shown on the Drawings. Trench backfill material is understood to be imported granular material, compacted in place as shown. Class B and Class D fill material shall be as specified within Section 31 23 17, Trenching.
- 27. Furnish and install 8-inch PVC pipe with Class B (imported granular material) trench backfill: Payment for furnishing and installing 8-inch PVC pipe with Class B (imported granular material) will be on a per linear foot basis and shall include all work and materials; Contractor inspection and acceptance; storage and transport of pipe; excavation to depths shown in the Drawings; all required joint restraint systems for pipe, fittings, valves, and appurtenances where shown in the Drawings; dewatering; and Class B pipe bedding, pipe zone backfill, and trench backfill materials; and general surface restoration. Pipe bedding, pipe zone, and trench backfill is understood to be imported granular material, compacted in place as shown in the Drawings. Class B fill material shall be as specified within Section 31 23 17, Trenching.
- 28. Furnish and install 10-inch PVC pipe with Class B (imported granular material) trench backfill:

Payment for furnishing and installing 10-inch PVC pipe with Class B (imported granular material) will be on a per linear foot basis and shall include all work and materials; Contractor inspection and acceptance; storage and transport of pipe; excavation to depths shown in the Drawings; all required joint restraint systems for pipe, fittings, valves, and appurtenances where shown in the Drawings; dewatering; and Class B pipe bedding, pipe zone backfill, and trench backfill materials; and general surface restoration. Pipe bedding, pipe zone, and trench backfill is understood to be imported granular material, compacted in place as shown in the Drawings. Class B fill material shall be as specified within Section 31 23 17, Trenching.

29. Furnish and install 18-inch Concrete Storm Culvert, Class V, Complete: Payment for furnishing and installing 18-inch concrete storm culvert, class V will be on a lump sum basis and shall include all work and materials; contractor inspection and acceptance; storage and transport of pipe; saw cutting, excavation to depths shown in the drawings, demolition and removal of the existing 12-inch culvert; asphalt driveway paving and general surface restoration.
30. Site stormwater system testing and start-up: Payment will be made on a lump sum basis for all work required to properly test and start-up the storm drainage portion of this project.
31. Furnish and install NW Rain Garden, Complete: Payment for all work required to construct the NW rain garden, complete, other than as provided for under separate unit prices, will be made on a lump sum basis. General work includes, but is not limited to, 3/4inch – 1/4inch graded aggregate separation layer and washed drain rock; growing medium; rip rap outfalls; 24-inch beehive; 6-inch stormwater cleanout; 6-inch PVC pipe; furnishing all equipment, labor, and incidentals necessary to complete the work as specified, and any other work shown on the drawings.
32. Furnish and install NE Rain Garden, Complete: Payment for all work required to construct the NW rain garden, complete, other than as provided for under separate unit prices, will be made on a lump sum basis. General work includes, but is not limited to, 3/4inch – 1/4inch graded aggregate separation layer and washed drain rock; growing medium; rip rap outfalls; 24-inch beehive; 6-inch stormwater cleanout; 6-inch PVC pipe; furnishing all equipment, labor, and incidentals necessary to complete the work as specified, and any other work shown on the drawings.
33. Furnish and install Stormwater Planter, Complete: Payment for all work required to construct the stormwater planter, complete, other than as provided for under separate unit prices, will be made on a lump sum basis. General work includes, but is not limited to, 3/4inch – 1/4inch graded aggregate separation layer and washed drain rock; growing medium; check dam; scupper & sediment basin; 18-inch beehive; 1-way stormwater cleanout; 2-way stormwater cleanout; 6-inch PVC pipe; furnishing all equipment, labor, and incidentals necessary to complete the work as specified, and any other work shown on the drawings.
34. Furnish and install 2-foot Wide Roadway Drainage Ditch, Complete: Payment for furnishing and installing 2-foot wide roadway drainage ditch, complete, all excavation, backfill, geotextile fabric, crushed rock, grading, and other incidental work as shown on the Drawings and described in the contract documents, shall be made on a lump sum basis.
35. Furnish and install manholes: Payment for furnishing and installing manholes shall be made at the unit price for each manhole at the depth as shown on the Drawings. The unit price shall be full

compensation for the manhole installation to include excavation and backfill, cover and frame as specified, grade rings, piping connections, and any other work shown on the Drawings, complete.

- a. 48-inch diameter Stormwater Manhole
- b. 60-inch diameter Stormwater Manhole
- c. 72-inch diameter Stormwater Manhole

- 36. Furnish and install stormwater inlets: Payment for furnishing and installing ditch inlets, curb inlets, and catch basins, complete, including concrete basin, frame and grate, excavation, backfill, adjustments for setting to final grade, and other incidental work as shown on the Drawings and described in the contract documents, shall be made on a per each basis.
- 37. Polydrain PDX H-20: Payment for furnishing and installing the polydrain PDX H-20 shall be made on a linear foot basis as shown on the Drawings. The price shall be full compensation for the installation to include fittings and apparatuses.
- 38. Existing Ditch Connection: Payment for furnishing and installing Class 50 rip rap outfalls will be on a lump sum basis. Payment will be payment in full for furnishing and placing all materials, and for furnishing all equipment, labor, and incidentals necessary to complete the work as specified. The unit price shall be full compensation for furnishing and installing the rip rap outfall including excavation and backfill, rip rap, geotextile fabric, pipe mitering, beveled end, and any other work shown on the Drawings, complete.
- 39. Furnish and install 24-inch Class 52 ductile iron pipe with Class B trench backfill: Payment for furnishing and installing Class 52 ductile iron (DI) pipe with Class B trench backfill shall include all work and materials and excavation, all required joint restraint systems for pipe, fittings, valves, polyethylene encasement, and appurtenances, thrust blocks (including concrete, excavation, and thrust plates), dewatering, Class D bedding and pipe zone backfill, and Class B trench backfill will be on a per linear foot basis for the pipe diameters shown. Connections to existing waterline and fittings shall be incidental. Measurement will be based on total length of piping constructed with restrained joints as indicated on the Drawings without deduction for fittings and valves. Bedding and pipe zone material is understood to be imported granular material, compacted in place as shown on the Drawings. Trench backfill material is understood to be imported granular material, compacted in place as shown. Class B and Class D fill material shall be as specified within Section 31 23 17, Trenching.
- 40. Common Utility Trench, complete: Measurement and payment for furnishing and installing common utility trench work will be on a lump sum basis and shall include all work, materials, and excavation required for installation of chemical feed tubing, PVC conduit casings, PVC fittings, control conduits, casing spacers, utility water, excavation, and CDF trench backfill, complete.
- 41. Hydrostatic testing, flushing, and disinfection of water mains: Payment for hydrostatic testing, flushing, and disinfection of water mains will be on a lump sum basis and shall include furnishing, installing, removal of temporary blow-off piping, including miscellaneous piping, valves, fittings, and thrust restraint. The Owner shall provide off-site laboratory analysis. Payment for any retesting shall be paid by the Contractor.
- 42. Furnish and install Fire Hydrant Assembly: Payment for furnishing and installing fire hydrant assemblies will be on a per each basis. The unit price for hydrants shall include all costs for shackles, tie rods, pier blocks, gravel, painting, and all other items for the complete installation of the hydrant

including the pipe connecting the hydrant to the main. Hydrant isolation valves and tees will be paid for at the unit contract price each under the appropriate bid items.

43. All work required to construct landscape items, complete, including all incidental work as specified and necessary: Payment for final landscaping shall include all work required to prepare for, place, and guarantee all landscaping. This will be made on a lump sum basis. The price shall be full compensation for stripping and stockpiling topsoil (with imported topsoil as necessary), furnishing and placing all plantings, hydroseeding and groundcover establishment, and establishment of all landscaping through the maintenance guarantee period, and any other work shown on the Drawings, complete, unless specified under other bid items.

Process

44. Alum Bulk Tank, HDPE, (6,000 gal): Measurement and payment for all work required to install a 6,000-gallon alum bulk tank, HDPE, complete, other than as provided for under separate unit prices, will be made on a per each basis, as specified in Section 43 41 43, Polyethylene Tanks.
45. Coagulant Polymer Aid Bulk Tank, HDPE (6,000 gal): Measurement and payment for all work required to install a 6,000-gallon coagulant polymer aid bulk tank, complete, other than as provided for under separate unit prices, will be made on a per each basis, as specified in Section 43 41 43, Polyethylene Tanks.
46. Brine Tank, FRP (7,100 gal): Measurement and payment for installing brine tank, FRP (10,000-gallons) will be on a per each basis. The price presented in the bid proposal will include installation cost of the brine tank, complete including salt level sensor, including coordination with the supplier and start-up and testing by the contractor, as specified in Section 43 40 02, Fiberglass Reinforced Plastic Tank.
47. Sodium Hypochlorite Tank, FRP (10,000 gal): Measurement and payment for installing sodium hypochlorite tank, FRP (10,000-gallons) will be on a per each basis. The price presented in the bid proposal will include installation cost of the brine tank, complete, including coordination with the supplier and start-up and testing by the contractor, as specified in Section 46 33 13, Onsite Hypochlorite Generation System.
48. Sodium hypochlorite Generator, (2) 900 PPD units & Accessories: Measurement and payment for installing sodium hypochlorite generator units will be on a lump sum basis. The price presented in the bid proposal will include all labor, equipment, and material necessary to manufacture the onsite sodium hypo generation system, and include, but not be limited to, all the elements and components needed to assembled the systems meeting the specification and performance requirements as specified in Section 46 33 13, Onsite Hypochlorite Generation System. Price shall also include shipping, spare parts, cleaning equipment, testing, factory service support, training services, start-up, installation cost of the sodium hypochlorite generator units, complete, including coordination with the supplier and start-up and testing by the contractor, and warranty. The cost for the units will be determined once the owner has selected the sodium hypochlorite generator equipment manufacturer at bid.
49. Soda Ash Batching System: Measurement and payment for installing soda ash batching system will be on a per each basis. The price presented in the bid proposal will include the installation cost of the soda ash batching system, complete, including piping, valving, and all appurtenances as

required to provide a complete and functional soda ash batching system, as specified in Section 46 36 33, Soda Ash Bulk Bag Unloader System.

50. Metering Pump Assemblies: Measurement and payment for furnishing and installing metering pump assemblies will be on a per each basis. The price presented in the bid proposal will include installation cost of the metering pump assemblies, complete, including flow meter and metering pumps for all chemicals, and coordination with the supplier and start-up and testing by the contractor.
51. Air Compressor: Measurement and payment for furnishing and installing an air compressor will be on a per each basis. The price presented in the bid proposal will include installation cost of the air compressor, complete, including air piping, valving, and all appurtenances as required to provide a complete and functional compressed air system for the chemical fill station.
52. Chemical Feed Piping: Payment for furnishing and installing chemical feed piping at the sizes listed in items (a) through (h) below and shown in the Drawings, including all work and materials, all required fittings, valves, and appurtenances, including connections in the existing facility, complete will be on a per linear foot basis.
- a. ½-Inch, PVC
 - b. 1-Inch, PVC
 - c. 2-Inch, PVC
 - d. 3-Inch, PVC
 - e. 4-Inch, PVC
 - f. 8-Inch, PVC
 - g. 3/8-Inch, Poly-Braided Tubing
 - h. 1/4-Inch, Poly-Braided Tubing
 - i. 1-Inch, Poly-Braided Tubing
 - j. 1-½-Inch, Poly-Braided Tubing
53. Valves: Payment for furnishing and installing valves at the sizes shown on the Drawings and not included in other pay items, complete will be on a per each basis.
- a. ½-Inch
 - b. ¾-Inch
 - c. 1-1/2-Inch
 - d. 2-Inch
 - e. 3-Inch
54. Utility Water Twin Booster Pumps & Accessories: Measurement and payment for furnishing and installing utility water pumps will be on a per each basis. The price presented in the bid proposal will include installation cost of the utility water centrifugal pumps, complete, including concrete pump pads, suction and discharge piping, valving, misc ductile iron piping, piping connection to Pipeline B, utility water magnetic flow meter, backflow preventers, and all appurtenances required to provide a complete and functional utility water system.
55. Hydropneumatics Tanks: Measurement and payment for furnishing and installing hydropneumatics tanks will be on a per each basis. The price presented in the bid proposal will include installation cost of the hydropneumatics tanks, complete, including piping, valving, and all appurtenances as required to provide a complete and functional utility water system.

Water Quality Systems Building

56. All work and materials required to construct the architectural facilities for water quality system building, complete, including all incidental work as specified and necessary: Payment shall be on a lump sum basis and include all work required to construct the architectural facilities of the water quality system building, complete, other than as provided, including all incidental work as specified and necessary:
- a. CMU Wall Systems, Complete
 - b. Doors and Fenestration, Complete
 - c. Architectural Roof System, Complete
 - d. Finishings, Coatings, and Paint, Complete
 - e. Furniture and Devices, Complete
57. All work and materials required to construct the structural facilities for water quality systems building, complete, including all incidental work as specified and necessary: Payment shall be on a lump sum basis and include all work required to construct the structural facilities of the water quality system building, complete, other than as provided, including all incidental work as specified and necessary:
- a. Concrete Foundations and Slab-On-Grade, Complete
 - b. Structural Roof Support and Steel, Complete
58. All work and materials required to construct the HVAC facilities for water quality systems building, complete, including all incidental work as specified: Payment shall be on a lump sum basis and include all work required to construct the HVAC facilities of the water quality system building, complete, other than as provided, including all incidental work as specified and necessary:
- a. VRF Packaged Heat Pump System, Complete
 - b. Makeup Air Handling Unit, Complete
 - c. Ducting and Conveyance Systems, Complete
59. All work and materials required to construct the plumbing facilities for water quality systems building, complete, including all incidental work as specified and necessary: Payment shall be on a lump sum basis and include all work required to construct the plumbing facilities of the water quality system building, complete, other than as provided, including all incidental work as specified and necessary:
- a. Water Service Piping and Fixtures, Complete
 - b. Sewer Collection System, Complete
 - c. Emergency Shower and Eyewash Systems, Complete
60. All work required to construct the electrical facilities for the water quality systems building, complete, including all incidental work as specified and necessary: Payment shall be on a lump sum basis and include all work required to construct the electrical and instrumentation & control facilities of the water quality system building, complete, other than as provided, including all incidental work as specified and necessary:
- a. Service & Distribution
 - b. Controls / PLC / SCADA / Comms
 - c. Lighting & Devices

- d. Equipment Connections
- e. Raceway / Wire / Installation
- f. Coordination with the Owner's SCADA Integrator

END OF SECTION