

PROJECT MANUAL

PARKING LOT 7A IMPROVEMENTS

Kent Intermediate School District
KENT COUNTY, MICHIGAN

February, 2025

1380



Vriesman
& Korhorn

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ADVERTISEMENT FOR BIDS
PARKING LOT 7A IMPROVEMENTS
KENT INTERMEDIATE SCHOOL DISTRICT
KENT COUNTY, MICHIGAN

1. RECEIPT OF BIDS

Sealed bids for the above project will be received by Kent Intermediate School District at the Kent ISD Facilities offices, Maintenance and Receiving Building, Door E1, 1655 East Beltline, NE, Grand Rapids, Michigan 49525 (see page 3 of Advertisement for Campus Map) until:

10:00 a.m. (local time) on Thursday, March 6, 2025

at which time the bids will be publicly opened and read aloud.

2. SCOPE OF PROJECT

The project consists of furnishing all material and constructing the following:

Removal of 1,750 SY of existing asphalt pavement and replacement with 2,025 SY new asphalt pavement, storm sewer, concrete curb and sidewalks, concrete dumpster pad, fencing, lighting, erosion control, restoration and appurtenant work.

3. EXAMINATION OF SPECIFICATIONS

Contract documents may be examined at the offices of:

Kent ISD Facilities Offices, 1655 East Beltline, NE, Grand Rapids, MI 49525

VK Civil, 7885 Byron Center Avenue SW, Suite A, Byron Center, MI, 49315

Builders Exchange, 678 Front Ave NW Suite 330, Grand Rapids, MI 49504

Construction Association of MI, 43636 Woodward Ave., Bloomfield Hills, MI 48302

4. FEE FOR DRAWINGS AND PROJECT MANUAL

Drawings, bidding Project Manuals, and Addendums will be issued only to Bidders who have been pre-qualified by Byron Township in accordance with the Instructions to Bidders. Physical copies of the Drawings and Project Manual are available at no charge at the offices of VK Civil upon request from prequalified bidders, after 12:00 p.m., Monday, February 17, 2025.

Digital copies of the Drawings and Project Manual will be provided via email to prequalified bidders at no charge. Any conclusions or information obtained or

derived from electronic media will be at the user's sole risk. VK Civil's responsibility is limited to only the printed copies (also known as hard copies) that are delivered pursuant to the service under the contract with the client.

5. FUNDING

The work to be performed under these contracts will be financed and paid for by funds received from Kent Intermediate School District, Kent County, Michigan.

6. BID SURETY

A bid bond, certified check, or cashier's check payable to Kent Intermediate School District in an amount equal to five percent (5%) of the total price shall accompany each bid. This surety shall bind the bidder for a period of sixty (60) days after the receipt of bids.

7. RIGHT TO REJECT BIDS

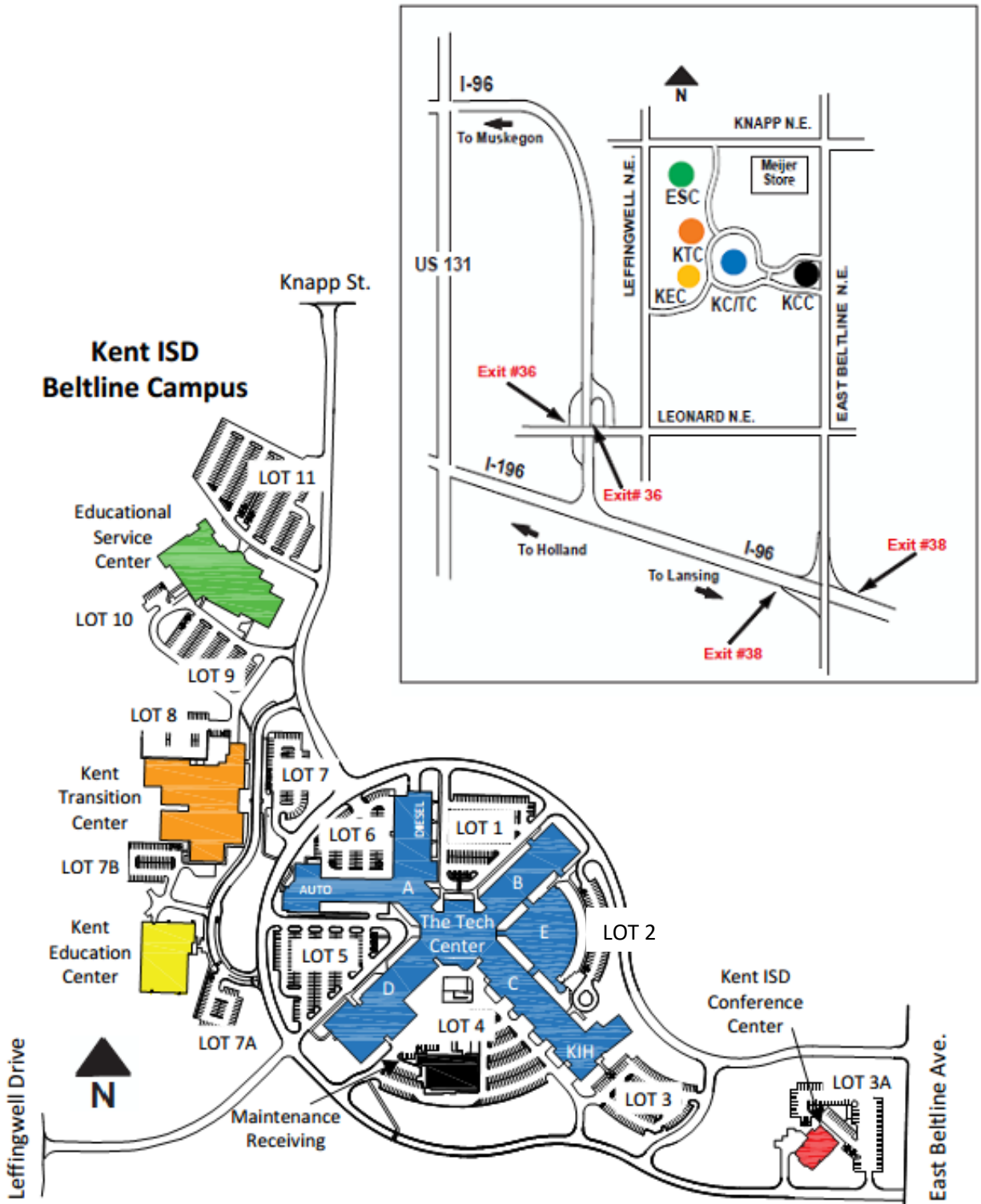
The Owner reserves the right to reject any or all bids and to waive any irregularities in bidding. No bid may be withdrawn after the scheduled closing time for receiving bids for at least sixty (60) days thereafter.

8. COMPLETION DATE

The project shall be completed by August 15, 2025.

Aaron Stockeland
Facilities Supervisor
Kent Intermediate School District
Kent County, Michigan

Location Map for The Kent ISD Campus



INSTRUCTIONS TO BIDDERS

PARKING LOT 7A IMPROVEMENTS

KENT INTERMEDIATE SCHOOL DISTRICT KENT COUNTY, MICHIGAN

1. CONTRACT DOCUMENTS

The contract documents consist of material outlined in article 9 of the Agreement. Each bidder shall carefully examine his copy of the contract documents for completeness. No claim will be allowed on the basis that the contract documents are not complete.

2. INTERPRETATION OF THE CONTRACT DOCUMENTS

It is the intent of these contract documents to be as clear, complete and consistent as possible. If any portion of the contract documents appear ambiguous, inconsistent, or appears to contain omissions, the bidder shall request the Engineer, in writing, for an official interpretation or correction of the documents. This interpretation or correction will be made a part of the contract documents as an addendum. It shall be mailed, faxed, e-mailed or delivered to each person recorded as having received a copy of the contract documents.

Only the written addenda issued by the Engineer shall be binding. Oral interpretations, information or instructions by any office or employee of the Owner or Engineer are not authorized and therefore are not binding.

Any conclusions or information obtained or derived from electronic media will be at the user's sole risk. VK Civil's responsibility is limited to only the printed copies (also known as hard copies) that are delivered pursuant to the service under the contract with the client.

3. BIDDERS INVESTIGATION

The bidder will be responsible for inspecting the site of the proposed work and to determine for himself all conditions under which he will be obligated to work. It is also expected that he will obtain first hand information concerning the available facilities for receiving, transporting, handling and storing construction equipment and materials, and concerning other local conditions that may affect his work.

4. FUNDS AVAILABLE

The work to be performed under this contract will be financed by funds received from Kent Intermediate School District, Kent County, Michigan.

5. WITHDRAWAL OF BIDS

Any bidder who has submitted a proposal to the Owner may withdraw his bid at any time prior to the scheduled time for opening bids. No bidder may withdraw his bid after the opening for a period of sixty (60) days thereafter.

6. PROPOSAL PREPARATION

A. Name, Address and Legal Status of Bidder

The name and legal status of the Bidder, Corporation, Partnership or an Individual, shall be stated in the Proposal. A Corporation bidder shall name the state in which its Articles of Incorporation are held, and must give the title of the official having authority, under the by-laws, to sign contracts. A partnership bidder shall give the full names and addresses of all partners.

Anyone signing a proposal as an agent of another must submit, with his proposal, legal evidence of his authority to do so.

The place of residence of each bidder, or the office address in the case of a firm or company, with county and state, must be given after a signature.

B. Experience and Qualifications

It is the intention of the Owner to award this contract to a bidder that will perform and complete all work in a very satisfactory manner. Bids are therefore only solicited from responsible bidders known to be skilled and regularly engaged in work of similar character and magnitude to that covered by these contract documents.

Plans, specifications, and bidding documents will be issued only to bidders who have been pre-qualified by the Owner. A bidder who has not been so pre-qualified must file an experience and financial questionnaire on a form furnished by VK Civil, 7885 Byron Center Avenue SW, Suite A, Byron Center, Michigan.

In lieu of the above financial statement and experience questionnaire, a certified copy of the Michigan Department of Transportation Pre-qualification for "Sewers and Watermains" (1000-K or larger) may be accepted. The financial statement and experience questionnaire must be filed with VK Civil five (5) days prior to the date for opening bids in order for the bidder to be considered for qualification by the Owner.

C. Bid Surety

Each proposal must be accompanied by a bid deposit in the form of a bid bond or certified check payable to the Owner in the amount of not less than 5% of the total price for the Contract. The bond shall be issued by an insurance company licensed to do business in the State of Michigan.

D. Return of Bid Deposits

If requested, the bid deposits of all except the three lowest bidders, will be returned within: (1) seven days after the opening of the bids. The bid deposits of the three lowest bidders will be returned within 48 hours after the contract shall have been awarded to the successful bidder, the signed agreement has been delivered, and the required bonds have been finally approved by the Owner, or (2) after rejection of all bids.

E. Kent Intermediate School District General Conditions

Bidders are directed to familiarize themselves with Kent Intermediate School District (KISD) General Conditions. Bidders are directed to complete Familial Affidavit and Affidavit of Compliance – Iran Sanctions Act. Bidders are required to submit original copies of both Affidavits with their sealed proposal. Bidders are responsible for reviewing all materials included in the Kent ISD General Conditions and complying with all items contained therein.

F. Proposal Form

A loose proposal package for the contracts is included in each set of contract documents. All forms in this package shall be completed by each bidder. Only the loose proposal package need be submitted with a bid. The proposal package shall include all the items as listed on the checklist.

The unit prices stated in the proposal must be plainly written in ink. Illegibility of any work or figure in the proposal may be sufficient cause for rejection of the proposal by the Owners.

Each proposal must be enclosed in a sealed envelope addressed to Kent Intermediate Scholl District, 1655 East Beltline, NE, Grand Rapids, MI, 49525, and labeled "Proposal for KISD, Kent County, Michigan, Parking Lot 7A Improvements".

G. Proposal Data

Proposals shall be carefully prepared in strict accordance with contract requirements and these instructions and shall include all pertinent information

required by the proposal form. Failure of the bidder to comply in any respect shall be grounds for rejection of the bidder's proposal.

The proposal for work is on a unit basis.

The bids will be based on the comparison of totals of the extensions of the stated unit prices. In case of an error in preparation of the bid form, the unit prices will be used.

No partial bids will be considered.

7. COMPLETION DATE

The project shall be completed by August 15, 2025.

8. COORDINATION

The Contractor shall coordinate construction with the staff of the Kent Intermediate School District and shall coordinate this project with all other construction projects on campus.

9. TIME AND LIQUIDATED DAMAGES

Bidders attention is directed to the time clause as indicated in the paragraph above and to the liquidated damage and expense clauses in the agreement.

10. BONDS AND INSURANCES

See General Conditions, Article 6 and Insurance Specifications Pg. 1-9.

11. AWARD AND EXECUTION OF THE CONTRACT

The contract shall be deemed as having been awarded when formal Notice of Award shall have been duly served by the Owner upon the bidder.

The bidder to whom the contract shall have been awarded will be required to execute an Agreement in the form attached and to furnish sureties, insurance policies and certificates all as required within fifteen (15) days after the award. In case of his refusal or failure to do so, he will be considered to have abandoned all his rights and interest in the award, and his bid deposit may be declared forfeited to the Owner and the work may be awarded to another.

12. STAKING, CONTROLS, MONUMENTS

The Owner will provide control stakes for alignment and grade of the proposed parking lot reconstruction. The Contractor shall preserve these controls and shall furnish additional intermediate controls to assure accurate line and grade.

The Contractor shall pay for replacement of destroyed controls and benchmarks or monuments.

13. PERMITS

The Contractor shall obtain all permits necessary for construction of this project not obtained by the Owner. The Contractor shall pay for any charges or bonds required by agencies for permits, inspections or similar charges to construct this project as shown on the drawings.

14. UTILITIES

The Contractor shall notify the utility companies of his schedule and obtain any necessary permits from them. Those companies include but are not limited to: Consumers Energy, AT&T, DTE Energy, Charter Cable, and Comcast Communications.

The Contractor shall pay for any charges by the utility companies for permits, inspections, or similar charges required to construct the project as shown on the drawings.

Kent Intermediate School District

REQUEST FOR PROPOSAL – Parking Lot 7A Improvements

Kent Intermediate School District (Kent ISD) is seeking bids for the Lincoln Campus Drainage Improvements Project.

Specifications are to be considered as minimums, and the general conditions, as listed, must be adhered to.

Bids are due by 10:00 am Thursday, March 6, 2025 delivered in a sealed envelope/package with the wording “Parking Lot 7A Improvements” clearly marked on the outside of the envelope/package addressed to:

Kent ISD
Attn: Aaron Stockeland
1655 E Beltline NE
Grand Rapids, MI 49525

Bids can be hand delivered to the Kent ISD Maintenance Building; 1655 East Beltline NE Grand Rapids, MI 49525, located in parking lot #4 across from the greenhouse and wind turbine. The Maintenance Building front door is labeled E-1. Kent ISD will not consider or accept a bid received after the date and time specified for bid submission. Bids will be opened publicly immediately following the close of receiving bids. Should the ISD be closed for any reason, bids will be due the next business day the ISD is open. The time bids are due will remain the same time specified herein.

It is the intention to award the bid once the Kent ISD Board approves the recommendation of award at the March 17, 2025 Board Meeting. Construction may not take place prior to June 2, 2025. Kent ISD may award this bid in part or whole.

In compliance with MCL 380.1267, all bids shall be accompanied by a sworn and notarized statement disclosing any familial relationship that exists between the owner and any employee of the bidder and any member of the board, or the superintendent of the school district. All bids shall also be accompanied by a sworn and notarized statement disclosing whether the bidder is an Iran Linked Business in compliance with PA 517 of 2012. The Board has stated that Kent ISD shall not accept a bid that does not include these sworn and notarized disclosure statements.

Kent ISD reserves the right to allow only Michigan Based Businesses to bid on this advertisement. Under 1984 PA 431, MCL 18.1268, our board has elected to enforce the PA as defined.

Kent ISD will be a place where all persons feel welcomed, have a right to be treated equitably and without prejudice, and have a responsibility to treat others the same way. Kent ISD is an equal opportunity institution. Kent ISD does not discriminate on the basis of race, creed, color, national origin, age, sex or physical/mental disability or veteran status in its educational programming, enrollment, employment or contracting.

Kent Intermediate School District

REQUEST FOR PROPOSAL – Parking Lot 7A Improvements

GENERAL CONDITIONS

- A. It shall be the bidder's responsibility to read this entire document, review all enclosures and attachments, and comply with all requirements within.
- B. For the purpose of assuring the School District of the quality of workmanship, materials, equipment, and service, the School Board will retain the right to qualify or disqualify bidders on the basis of available information covering their service and the suitability of the equipment/material bid for the project.
- C. Kent ISD reserves the right to accept or reject any or all bids; and to make awards as it considers its best interest, whether low bid or not, this excludes omitting the required affidavits. Kent ISD may award this bid in part or whole.
- D. All bid proposals must be mailed or hand-delivered a sealed envelope/package. Telephonic, E-mail, online, or fax bids will not be accepted.
- E. All proposals submitted shall remain firm for a period of ninety (90) days after date of receiving bids.
- F. The successful bidder shall, within a reasonable time after receipt of written notice, make good any defects in material or workmanship that may develop, especially during the warranty period.
- G. Kent ISD shall not be responsible for any cost or expensed incurred by the bidder during the preparation of the bid.
- H. The owner is a federally constituted government body and as such is not subject to Michigan State or Federal excise taxes.
- I. Bidder shall follow all applicable state codes and regulations. All codes and regulations set forth by the state pertaining to the specified equipment included in the scope of work take precedence over the specifications supplied by Kent ISD.
- J. Contractor must meet District's background check requirements for all employees – see General Requirements section for details.
- K. The laws of the State of Michigan shall govern the rights, obligations and remedies of the Parties under this bid and any agreement reached through this process.
- L. All information included in a bid proposal response is subject to the "Freedom of Information Act" and may be disclosed in its entirety after the formal date bids are due.

Kent Intermediate School District

REQUEST FOR PROPOSAL – Parking Lot 7A Improvements

GENERAL REQUIREMENTS

VISITING SITES

Before submitting a bid, all Contractors shall familiarize themselves with the sites and understand the expectations of the owner. No allowance shall be made on the Contractor's behalf because of an error or misunderstanding.

EXPECTATIONS FOR CONTRACTOR'S STAFF

COMPETENCY

The Contractor shall employ the quantity and quality of staff necessary for both effective and efficient management of the installation. A fully qualified work force shall be maintained throughout the period of installation.

SUPERVISION

The Contractor's supervisors shall be fully and adequately trained to manage their staff to ensure completion of the contracted scope.

LEGAL/BACKGROUND CHECK

Prior to beginning work, all employees of the Contractor assigned to jobs at the properties, including periodic assignments, must undergo background checks including, but not limited to, a criminal background check by the Michigan State Police. By Michigan law, all K-12 school employees (full time, part time, or under assignment to work regularly and continuously under contract) must have fingerprint-based criminal background checks. This covers both direct employees and contract employees. This can be found in Michigan Compiled Laws 380.1230 and its subsections. The contractor certifies that employees of the Contractor have the ability to legally work with in the United States as defined by Federal employees consistent with applicable laws.

PRESENTATION

All employees will present themselves in a neat and professional manner. A company uniform shirt is preferred, although not mandatory.

EXPECTED BEHAVIOR WHILE WORKING AT THE PROPERTY

- i) Contractor's employees must not consume alcoholic beverages or use narcotics while on duty nor be under their influence when reporting for duty.
- ii) Contractor's employees must not use tobacco products of any kind anywhere on the property as outlined by law.
- iv) Contractor's employees must not play radios or other sound equipment while on the premises.
- v) Contractor's employees must not fraternize with, nor unnecessarily disrupt students, school staff, clients, tenants, or visitors to the building.
- vi) All lost and found articles of significant value recovered by Contractor's employees must be immediately reported to the Facilities Supervisor, and direction will be given on how to proceed.

LICENSES

The bidder may be required to present any licenses or permits required before being awarded a contract.

Kent Intermediate School District

REQUEST FOR PROPOSAL – Parking Lot 7A Improvements

RESPONSIBILITY FOR DAMAGES

The Contractor shall be responsible for any damage to a building or other property caused by his/her workers, equipment or vehicles while performing the work indicated in these specifications.

COMMUNICATION WITH CONTRACTOR

The Contractor shall make him/herself available during normal business hours via email and phone for contact with the Owner.

CHANGES

There are to be no verbal modifications made to these specifications. Any changes must be made in writing in advance of receipt of the bids by the Owner.

INSURANCE REQUIREMENTS

Please see attached sheet.

BIDDERS RESPONSIBILITIES

Bids will be due by 10:00 am on March 6, 2025.

The bid proposals shall include the following documentation:

- Bid Form
- Familial Affidavit
- Confirmation of ability to meet Insurance Requirements
- Iran Economic Sanctions Affidavit
- References

Additional documentation found necessary will be posted to as an addenda(s).

Contractor shall be fully certified to install the products within this Proposal.

Kent Intermediate School District

REQUEST FOR PROPOSAL – Parking Lot 7A Improvements

FAMILIAL RELATIONSHIP DISCLOSURE STATEMENT

Important: This disclosure statement must be included with your bid - required by state law (P.A. 232 of 2004)

As required by Public Act 232 of 2004, all bids shall be accompanied by a sworn and notarized statement disclosing any familial relationship that exists between the owner or any employee of the bidder and any member of the School Board or the Superintendent of Kent ISD.

The undersigned, the owner or authorized officer of _____

(the Bidder), pursuant to the familial disclosure requirement provided in the attached invitation to bid, hereby represent and warrant, except as provided below, that no familial relationships exist between the owner(s) or any employee of the company and any member of the School Board or the Superintendent of Kent ISD. If such a relationship exists, please explain:

BIDDER: _____

By: _____

Title: _____

STATE OF MICHIGAN)
)ss.

COUNTY OF _____)

This instrument was acknowledged before me on the _____ day of _____, 2025, by

_____.

), Notary Public

 County, Michigan

My Commission Expires: _____

Acting in the County of: _____

BID PROPOSAL CHECKLIST
PARKING LOT 7A IMPROVEMENTS
KENT INTERMEDIATE SCHOOL DISTRICT
KENT COUNTY, MICHIGAN

This checklist is for the bidder's convenience and the Engineer's use. It should be reviewed thoroughly before submitting a bid.

- Bid submitted on time.
- Bid surety properly completed and enclosed.
- Addenda, if applicable, has been acknowledged and any revisions to the proposal completed.
- Bid proposal legally signed in ink.
- All unit prices are completed in ink.

PROPOSAL

PARKING LOT 7A IMPROVEMENTS

**KENT INTERMEDIATE SCHOOL DISTRICT
KENT COUNTY, MICHIGAN**

The undersigned, being familiar with the site, plans, specifications, and related documents, proposes to furnish all required labor, materials, tools and equipment to construct the project in accordance with the unit prices on the following sheets.

Date Prepared: _____

Receipt of Addenda

Receipt of Addenda _____ through _____ is hereby acknowledged.

Summary of Bids

Total Bid \$ _____

The Owner reserves the right to accept or reject any or all bids and to waive any irregularities in the bidding.

Contractor's Signature

Contractor's Name Telephone Number

Business Address City Zip Code

Signature Title Date

Printed Name of Signer

Seal (if bidder is a corporation)

PROPOSAL

KENT INTERMEDIATE SCHOOL DISTRICT - BELTLINE LOT 7A

KENT COUNTY, MICHIGAN

ITEM #	ITEM	CONTRACT QUANTITY	UNIT	UNIT PRICE	AMOUNT
1	Mobilization, Bonds, Permits, & Insurance (5% Maximum)	1	L. SUM	_____	_____
2	Traffic Control	1	L. SUM	_____	_____
3	Remove and Dispose of Pavement and Subbase	1,789	SY	_____	_____
4	Remove Existing Tree	3	EA	_____	_____
5	Remove Existing Curb and Gutter	15	LF	_____	_____
6	Remove and Dispose of Existing Concrete	10	SY	_____	_____
7	Remove Existing Light Pole and Base	1	EA	_____	_____
8	Earth Grading, Excavation and Swale Grading	1	L. SUM	_____	_____
9	Place Concrete Curb and Gutter	40	LF	_____	_____
10	Place 12" MDOT Class II Sand Subbase	275	SY	_____	_____
11	Place 8" Aggregate Base MDOT 22A	2,025	SY	_____	_____
12	Place 2" MDOT 13A Base Course Asphalt	260	TON	_____	_____
13	Place 2" MDOT 13A Top Course Asphalt over	260	TON	_____	_____
14	Place 18" MDOT Class II Sand Subbase	38	SY	_____	_____
15	Place 8" Heavy Duty Concrete	38	SY	_____	_____
16	Place 6" MDOT Class II Sand Subbase	10	SY	_____	_____
17	Place 4" Concrete	10	SY	_____	_____
18	Place Dumpster Enclosure 6' Composite Fence and Gates	1	EA	_____	_____
19	Place Black Vinyl Fence and Gates	630	LF	_____	_____
20	Place Light and Pole	1	EA	_____	_____

ITEM #	ITEM	CONTRACT QUANTITY	UNIT	UNIT PRICE	AMOUNT
21	Place 6" Underdrain SL CPP Perforated w/ Sock	775	LF	_____	_____
22	Relocate existing irrigation and heads	1	L. SUM	_____	_____
23	Place Pavement Marking, Waterborne, Blue, ADA Symbol	3	EA	_____	_____
24	Place Pavement Marking, Waterborne, 4 inch, Single Yellow & 2nd Application	1	L. SUM	_____	_____
25	Place Erosion Control Silt Sack	2	EA	_____	_____
26	Place Erosion Control Silt Fence	200	LF	_____	_____
27	Turf Restoration	1	L.SUM	_____	_____
28	Subgrade Undercutting and Replace with MDOT Class II Sand (CIP)	50	CY	_____	_____
				TOTAL ALL CONTRACT ITEMS	_____

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

THIS AGREEMENT is by and between Kent Intermediate School District, Kent County (“Owner”) and _____ (“Contractor”).

Owner and Contractor hereby agree as follows:

ARTICLE 1 – WORK

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

Removal of 1,750 SY of existing asphalt pavement and replacement with 2,025 SY new asphalt pavement, storm sewer, concrete curb and sidewalks, concrete dumpster pad, fencing, lighting, erosion control, restoration and appurtenant work.

ARTICLE 2 – THE PROJECT

2.01 The Project for which the Work under the Contract Documents may be the whole or only a part is generally described as follows:

Parking Lot 7A Improvements

ARTICLE 3 – ENGINEER

3.01 The Project has been designed by VK Civil (Engineer), which is to act as Owner’s representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

ARTICLE 4 – CONTRACT TIMES

4.01 *Time of the Essence*

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

4.02 *Dates for Substantial Completion and Final Payment*

A. The Work will be substantially completed on or before August 15, 2025, and completed and ready for final payment in accordance with Paragraph 14.07 of the General Conditions on or before August 29, 2025.

[or]

4.02 ~~Days to Achieve Substantial Completion and Final Payment~~

~~A. The Work will be substantially completed within _____ days after the date when the Contract Times commence to run as provided in Paragraph 2.03 of the General Conditions, and completed and ready for final payment in accordance with Paragraph 14.07 of the General Conditions within _____ days after the date when the Contract Times commence to run.~~

4.03 *Liquidated Damages*

A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial loss if the Work is not completed within the times specified in Paragraph 4.02 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty), Contractor shall pay Owner \$200 for each day that expires after the time specified in Paragraph 4.02 above for Substantial Completion until the Work is substantially complete. After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Time or any proper extension thereof granted by Owner, Contractor shall pay Owner \$200 for each day that expires after the time specified in Paragraph 4.02 above for completion and readiness for final payment until the Work is completed and ready for final payment.

ARTICLE 5 – CONTRACT PRICE

5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined pursuant to Paragraphs 5.01.A, 5.01.B, and 5.01.C below:

~~A. For all Work other than Unit Price Work, a lump sum of: \$ _____~~

~~All specific cash allowances are included in the above price in accordance with Paragraph 11.02 of the General Conditions.~~

B. For all Unit Price Work, an amount equal to the sum of the established unit price for each separately identified item of Unit Price Work times the actual quantity of that item:

<u>UNIT PRICE WORK</u>					
<u>Item</u>			<u>Estimated</u>	<u>Bid Unit</u>	
<u>No.</u>	<u>Description</u>	<u>Unit</u>	<u>Quantity</u>	<u>Price</u>	<u>Bid Price</u>

See Proposal

Total of all Bid Prices (Unit Price Work)

\$See Proposal

The Bid prices for Unit Price Work set forth as of the Effective Date of the Agreement are based on estimated quantities. As provided in Paragraph 11.03 of the General Conditions, estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by Engineer as provided in Paragraph 9.07 of the General Conditions.

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

ARTICLE 6 – PAYMENT PROCEDURES

6.01 Submittal and Processing of Payments

A. Contractor shall submit Applications for Payment in accordance with Article 14 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

6.02 Progress Payments; Retainage

A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment on or about the 1st day of each month during performance of the Work as provided in Paragraph 6.02.A.1 below. All such payments will be measured by the schedule of values established as provided in Paragraph 2.07.A of the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no schedule of values, as provided in the General Requirements.

1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Engineer may determine or Owner may withhold, including but not limited to liquidated damages, in accordance with Paragraph 14.02 of the General Conditions.

a. 90 percent of Work completed (with the balance being retainage). If the Work has been 50 percent completed as determined by Engineer, and if the character and progress of the Work have been satisfactory to Owner and Engineer, then as long as the character and progress of the Work remain satisfactory to Owner and Engineer, there will be no additional retainage; and

b. 0 percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).

B. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 98 percent of the Work completed, less such amounts as Engineer shall determine in accordance with Paragraph 14.02.B.5 of the General Conditions and less 100 percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the tentative list of items to be completed or corrected attached to the certificate of Substantial Completion.

6.03 *Final Payment*

- A. Upon final completion and acceptance of the Work in accordance with Paragraph 14.07 of the General Conditions, Owner shall pay the remainder of the Contract Price as recommended by Engineer as provided in said Paragraph 14.07.

ARTICLE 7 – INTEREST

- 7.01 All moneys not paid when due as provided in Article 14 of the General Conditions shall bear interest at the rate of 0 percent per annum.

ARTICLE 8 – CONTRACTOR’S REPRESENTATIONS

- 8.01 In order to induce Owner to enter into this Agreement, Contractor makes the following representations:
 - A. Contractor has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.
 - B. Contractor has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
 - C. Contractor is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work.
 - D. Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities), if any, that have been identified in Paragraph SC-4.02 of the Supplementary Conditions as containing reliable "technical data," and (2) reports and drawings of Hazardous Environmental Conditions, if any, at the Site that have been identified in Paragraph SC-4.06 of the Supplementary Conditions as containing reliable "technical data."
 - E. Contractor has considered the information known to Contractor; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Site-related reports and drawings identified in the Contract Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, including any specific means, methods, techniques, sequences, and procedures of construction expressly required by the Contract Documents; and (3) Contractor’s safety precautions and programs.
 - F. Based on the information and observations referred to in Paragraph 8.01.E above, Contractor does not consider that 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 Documents.

- G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
- H. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
- I. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

ARTICLE 9 – CONTRACT DOCUMENTS

9.01 Contents

A. The Contract Documents consist of the following:

1. *All Documents listed in the Table of Contents of the Project Manual.*

~~1. This Agreement (pages 1 to __, inclusive).~~

~~2. Performance bond (pages _____ to _____, inclusive).~~

~~3. Payment bond (pages _____ to _____, inclusive).~~

~~4. Other bonds (pages _____ to _____, inclusive).~~

~~a. _____ (pages _____ to _____, inclusive).~~

~~b. _____ (pages _____ to _____, inclusive).~~

~~c. _____ (pages _____ to _____, inclusive).~~

~~5. General Conditions (pages _____ to _____, inclusive).~~

~~6. Supplementary Conditions (pages _____ to _____, inclusive).~~

~~7. Specifications as listed in the table of contents of the Project Manual.~~

~~8. Drawings consisting of _____ sheets with each sheet bearing the following general title: _____ [or] the Drawings listed on attached sheet index.~~

9. Addenda (numbers 0 to 0, inclusive).

10. Exhibits to this Agreement (enumerated as follows):

a. Contractor's Bid (pages 1 to 4, inclusive).

b. Documentation submitted by Contractor prior to Notice of Award (pages 0 to 0, inclusive).

~~e. [List other required attachments (if any), such as documents required by funding or lending agencies].~~

11. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:

- a. Notice to Proceed (pages 1 to 1, inclusive).
 - b. Work Change Directives.
 - c. Change Orders.
- B. The documents listed in Paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 9.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in Paragraph 3.04 of the General Conditions.

ARTICLE 10 – MISCELLANEOUS

10.01 *Terms*

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

10.02 *Assignment of Contract*

- A. No assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

10.03 *Successors and Assigns*

- A. Owner and Contractor each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

10.04 *Severability*

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

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

10.05 *Contractor's Certifications*

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

~~10.06 *Other Provisions*~~

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement. Counterparts have been delivered to Owner and Contractor. All portions of the Contract Documents have been signed or have been identified by Owner and Contractor or on their behalf.

This Agreement will be effective on _____ (which is the Effective Date of the Agreement).

OWNER:

Kent Intermediate School District

By: _____

Title: _____

Attest: _____

Title: _____

Address for giving notices:

Kent Intermediate School District

1655 East Beltline NE

Grand Rapids, MI 49525

(If Owner is a corporation, attach evidence of authority to sign. If Owner is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of this Agreement.)

CONTRACTOR

By: _____

Title: _____

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

Attest: _____

Title: _____

Address for giving notices:

License No.: _____

(Where applicable)

NOTE TO USER: Use in those states or other jurisdictions where applicable or required.

Agent for service of process:

PERFORMANCE BOND

CONTRACTOR *(name and address)*:

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

OWNER *(name and address)*:

CONSTRUCTION CONTRACT

Effective Date of the Agreement:

Amount:

Description *(name and location)*:

BOND

Bond Number:

Date *(not earlier than the Effective Date of the Agreement of the Construction Contract)*:

Amount:

Modifications to this Bond Form: None See Paragraph 16

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

CONTRACTOR AS PRINCIPAL

SURETY

Contractor's Name and Corporate Seal *(seal)*

Surety's Name and Corporate Seal *(seal)*

By: _____
Signature

By: _____
Signature *(attach power of attorney)*

Print Name

Print Name

Title

Title

Attest: _____
Signature

Attest: _____
Signature

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 shall be considered plural where applicable.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8. If the Surety elects to act under Paragraph 5.1, 5.3, or 5.4, the Surety's liability is limited to the amount of this Bond.

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

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

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

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

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

14. Definitions

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

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

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

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

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

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

16. Modifications to this Bond are as follows:

PAYMENT BOND

CONTRACTOR *(name and address)*:

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

OWNER *(name and address)*:

CONSTRUCTION CONTRACT

Effective Date of the Agreement:

Amount:

Description *(name and location)*:

BOND

Bond Number:

Date *(not earlier than the Effective Date of the Agreement of the Construction Contract)*:

Amount:

Modifications to this Bond Form: None See Paragraph 18

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

CONTRACTOR AS PRINCIPAL

SURETY

Contractor's Name and Corporate Seal *(seal)*

Surety's Name and Corporate Seal *(seal)*

By: _____
Signature

By: _____
Signature *(attach power of attorney)*

Print Name

Print Name

Title

Title

Attest: _____
Signature

Attest: _____
Signature

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 shall be considered plural where applicable.

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

occurs. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

13. Notice and Claims to the Surety, the Owner, or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears. Actual receipt of notice or Claims, however accomplished, shall be sufficient compliance as of the date received.
14. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.
15. Upon requests by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor and Owner shall promptly furnish a copy of this Bond or shall permit a copy to be made.

16. Definitions

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

1. The name of the Claimant;
2. The name of the person for whom the labor was done, or materials or equipment furnished;
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;
4. A brief description of the labor, materials, or equipment furnished;
5. The date on which the Claimant last performed labor or last furnished materials or equipment for use in the performance of the Construction Contract;
6. The total amount earned by the Claimant for labor, materials, or equipment furnished as of the date of the Claim;
7. The total amount of previous payments received by the Claimant; and
8. The total amount due and unpaid to the Claimant for labor, materials, or equipment furnished as of the date of the Claim.

16.2 **Claimant:** An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials, or equipment for use in the performance of the Construction Contract. The term Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic's lien or similar statute against the real property upon which the Project is located. The intent of this Bond shall be to include without limitation in the terms of "labor, materials, or equipment" that part of the water, gas, power, light, heat, oil, gasoline, telephone

service, or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials, or equipment were furnished.

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

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

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

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

18. Modifications to this Bond are as follows:

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

STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

Prepared By



Endorsed By



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STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

ARTICLE 1—DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

- A. Wherever used in the Bidding Requirements or Contract Documents, a term printed with initial capital letters, including the term's singular and plural forms, will have the meaning indicated in the definitions below. In addition to terms specifically defined, terms with initial capital letters in the Contract Documents include references to identified articles and paragraphs, and the titles of other documents or forms.
1. *Addenda*—Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Requirements or the proposed Contract Documents.
 2. *Agreement*—The written instrument, executed by Owner and Contractor, that sets forth the Contract Price and Contract Times, identifies the parties and the Engineer, and designates the specific items that are Contract Documents.
 3. *Application for Payment*—The document prepared by Contractor, in a form acceptable to Engineer, to request progress or final payments, and which is to be accompanied by such supporting documentation as is required by the Contract Documents. ~~The Application for Payment form to be used on this Project is EJCDC No. C-620 or AIA No. G-702.~~
 4. *Bid*—The offer of a Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.
 5. *Bidder*—An individual or entity that submits a Bid to Owner.
 6. *Bidding Documents*—The Bidding Requirements, the proposed Contract Documents, and all Addenda.
 7. *Bidding Requirements*—The Advertisement or invitation to bid, Instructions to Bidders, Bid Bond or other Bid security, if any, the Bid Form, and the Bid with any attachments.
 8. *Change Order*—A document which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the Contract Times, or other revision to the Contract, issued on or after the Effective Date of the Contract. ~~The Change Order form to be used on this Project is EJCDC No. C-941.~~
 9. *Change Proposal*—A written request by Contractor, duly submitted in compliance with the procedural requirements set forth herein, seeking an adjustment in Contract Price or Contract Times; contesting an initial decision by Engineer concerning the requirements of the Contract Documents or the acceptability of Work under the Contract Documents; challenging a set-off against payments due; or seeking other relief with respect to the terms of the Contract.
 10. *Claim*
 - a. A demand or assertion by Owner directly to Contractor, duly submitted in compliance with the procedural requirements set forth herein, seeking an adjustment of Contract

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

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

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

32. *Project*—The total undertaking to be accomplished for Owner by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the Work to be performed under the Contract Documents is a part.
33. *Resident Project Representative*—The authorized representative of Engineer assigned to assist Engineer at the Site. As used herein, the term Resident Project Representative (RPR) includes any assistants or field staff of Resident Project Representative.
34. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work will be judged.
35. *Schedule of Submittals*—A schedule, prepared and maintained by Contractor, of required submittals and the time requirements for Engineer’s review of the submittals.
36. *Schedule of Values*—A schedule, prepared and maintained by Contractor, allocating portions of the Contract Price to various portions of the Work and used as the basis for reviewing Contractor’s Applications for Payment.
37. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Contract Documents.
38. *Site*—Lands or areas indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements, and such other lands or areas furnished by Owner which are designated for the use of Contractor.
39. *Specifications*—The part of the Contract that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.
40. *Subcontractor*—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work.
41. *Submittal*—A written or graphic document, prepared by or for Contractor, which the Contract Documents require Contractor to submit to Engineer, or that is indicated as a Submittal in the Schedule of Submittals accepted by Engineer. Submittals may include Shop Drawings and Samples; schedules; product data; Owner-delegated designs; sustainable design information; information on special procedures; testing plans; results of tests and evaluations, source quality-control testing and inspections, and field or Site quality-control testing and inspections; warranties and certifications; Suppliers’ instructions and reports; records of delivery of spare parts and tools; operations and maintenance data; Project photographic documentation; record documents; and other such documents required by the Contract Documents. Submittals, whether or not approved or accepted by Engineer, are not Contract Documents. Change Proposals, Change Orders, Claims, notices, Applications for Payment, and requests for interpretation or clarification are not Submittals.
42. *Substantial Completion*—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the

Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms “substantially complete” and “substantially completed” as applied to all or part of the Work refer to Substantial Completion of such Work.

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

50. *Work Change Directive*—A written directive to Contractor issued on or after the Effective Date of the Contract, signed by Owner and which may be recommended by Engineer, ordering an addition, deletion, or revision in the Work.

1.02 Terminology

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

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

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

ARTICLE 2—PRELIMINARY MATTERS

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

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

2.02 *Copies of Documents*

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

2.03 *Before Starting Construction*

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

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

2.04 *Preconstruction Conference; Designation of Authorized Representatives*

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

2.05 *Acceptance of Schedules*

- A. Upon Owner's, Engineer's or Contractor's request at least ten days before submission of the first Application for Payment a conference attended by Contractor, Owner, Engineer and others as appropriate will be held to review for acceptability to Owner as provided below the schedules submitted in accordance with paragraph 2.03.A. Contractor shall have an additional ten days to make corrections and adjustments and to complete and resubmit the schedules. Upon notice by Owner, no progress payment shall be made to Contractor until acceptable schedules are submitted and accepted by Owner.
 1. The Progress schedule provided by Contractor must strictly adhere to any sequencing requirements set forth in the Contract Documents and by submitting its Bid represents that that it has considered and will strictly follow such sequencing requirements. The Progress Schedule will be acceptable to Owner if it provides an orderly progression of the Work to completion within any specified sequencing requirements and/or Milestones and the Contract Time and if acceptable to Engineer. Such acceptance will not impose on Owner or Engineer responsibility for the Progress Schedule, for sequencing, scheduling, or progress of the Work nor interfere with or relieve Contractor from Contractor's full responsibility for compliance therewith.
 2. Contractor's Schedule of Submittals will be acceptable to Owner if acceptable to Engineer and if it provides a workable arrangement for reviewing and processing the required submittals.
 3. Contractor's Schedule of Values will be acceptable to Owner as to form and substance if it is acceptable to Engineer and if it provides a reasonable allocation of the Contract Price to component parts of the Work.
- ~~A. At least 10 days before submission of the first Application for Payment a conference, attended by Contractor, Engineer, and others as appropriate, will be held to review the schedules submitted in accordance with Paragraph 2.03.A. No progress payment will be made to Contractor until acceptable schedules are submitted to Engineer.~~

- ~~1. The Progress Schedule will be acceptable to Engineer if it provides an orderly progression of the Work to completion within the Contract Times. Such acceptance will not impose on Engineer responsibility for the Progress Schedule, for sequencing, scheduling, or progress of the Work, nor interfere with or relieve Contractor from Contractor's full responsibility therefor.~~
- ~~2. Contractor's Schedule of Submittals will be acceptable to Engineer if it provides a workable arrangement for reviewing and processing the required submittals.~~
- ~~3. Contractor's Schedule of Values will be acceptable to Engineer as to form and substance if it provides a reasonable allocation of the Contract Price to the component parts of the Work.~~
- ~~4. If a schedule is not acceptable, Contractor will have an additional 10 days to revise and resubmit the schedule.~~

2.06 *Electronic Transmittals*

- A. Except as otherwise stated elsewhere in the Contract, the Owner, Engineer, and Contractor may send, and shall accept, Electronic Documents transmitted by Electronic Means.
- B. If the Contract does not establish protocols for Electronic Means, then Owner, Engineer, and Contractor shall jointly develop such protocols.
- C. Subject to any governing protocols for Electronic Means, when transmitting Electronic Documents by Electronic Means, the transmitting party makes no representations as to long-term compatibility, usability, or readability of the Electronic Documents resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the Electronic Documents.

ARTICLE 3—CONTRACT DOCUMENTS: INTENT, REQUIREMENTS, REUSE

3.01 *Intent*

- A. The Contract Documents are complementary; what is required by one Contract Document is as binding as if required by all.
- B. It is the intent of the Contract Documents to describe a functionally complete Project (or part thereof) to be constructed in accordance with the Contract Documents.
- C. Unless otherwise stated in the Contract Documents, if there is a discrepancy between the electronic versions of the Contract Documents (including any printed copies derived from such electronic versions) and the printed record version, the printed record version will govern.
- D. The Contract constitutes the entire Agreement between Owner and Contractor and supersedes any prior negotiations, representations, and agreements, whether written or oral.
- E. Engineer will issue clarifications and interpretations of the Contract Documents as provided herein.
- F. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation will be deemed stricken, and all remaining provisions will continue to be valid and binding upon Owner and Contractor, which agree that the Contract Documents will

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

G. Nothing in the Contract Documents creates:

1. any contractual or other type of relationship between Contractor and Engineer. Contractor acknowledges that it shall have no right to make any claim or seek damages against Engineer whether based in tort or contract and expressly waives the right to make any such claim.
21. any contractual relationship between Owner or Engineer and any Subcontractor, Supplier, or other individual or entity performing or furnishing any of the Work, for the benefit of such Subcontractor, Supplier, or other individual or entity; or
32. any obligation on the part of Owner or Engineer to pay or to see to the payment of any money due any such Subcontractor, Supplier, or other individual or entity, ~~except as may otherwise be required by Laws and Regulations.~~

3.02 *Reference Standards*

A. *Standards Specifications, Codes, Laws and Regulations*

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

3.03 *Reporting and Resolving Discrepancies*

A. *Reporting Discrepancies*

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

Regulation, (b) actual field conditions, (c) any standard specification, manual, reference standard, or code, or (d) any instruction of any Supplier, then Contractor shall promptly report it to Engineer in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Paragraph 7.15) until the conflict, error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract issued pursuant to Paragraph 11.01.

3. ~~Contractor shall not be liable to Owner or Engineer for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless Contractor had actual knowledge thereof.~~

Contractor shall not be entitled to any increase in the Contract Amount or Contract Time for any conflicts, errors, ambiguities or discrepancies in the Contract Documents that were known or should have been known to Contractor, or which could have been discovered by Contractor as part of its review of the bidding requirements and Contract Documents prior to bidding or its review of the Contract Documents prior to undertaking any part of the Work.

B. *Resolving Discrepancies*

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

3.04 *Requirements of the Contract Documents*

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

other engineering or technical matters, then Engineer will promptly notify Owner and Contractor in writing that Engineer is unable to provide a decision or interpretation. If Owner and Contractor are unable to agree on resolution of such a matter in question, either party may pursue resolution as provided in Article 12.

3.05 *Reuse of Documents*

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

ARTICLE 4—COMMENCEMENT AND PROGRESS OF THE WORK

4.01 *Commencement of Contract Times; Notice to Proceed*

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

4.02 *Starting the Work*

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

4.03 *Reference Points*

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

4.04 *Progress Schedule*

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

4.05 *Delays in Contractor's Progress*

- A. If Owner, Engineer, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress of the Work, then Contractor shall be entitled to submit a Change Proposal requesting an equitable adjustment in Contract Price or Contract Times.
- B. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delay, disruption, or interference caused by or within the control of Contractor. Delay, disruption, and interference attributable to and within the control of a Subcontractor or Supplier shall be deemed to be within the control of Contractor.
- C. If Contractor's performance or progress is delayed, disrupted, or interfered with by unanticipated causes not the fault of and beyond the control of Owner, Contractor, and those for which they are responsible, then Contractor shall be entitled to an equitable adjustment in Contract Times. Such an adjustment will be Contractor's sole and exclusive remedy for the delays, disruption, and interference described in this paragraph. Causes of delay, disruption, or interference that may give rise to an adjustment in Contract Times under this paragraph include but are not limited to the following:
 - 1. Severe and unavoidable natural catastrophes such as fires, floods, epidemics, and earthquakes;
 - 2. Abnormal weather conditions;
 - 3. Acts or failures to act of third-party utility owners or other third-party entities (other than those third-party utility owners or other third-party entities performing other work at or adjacent to the Site as arranged by or under contract with Owner, as contemplated in Article 8); and
 - 4. Acts of war or terrorism.
- D. Contractor's entitlement to an adjustment of Contract Times or Contract Price is limited as follows:
 - 1. Contractor's entitlement to an adjustment of the Contract Times is conditioned on the delay, disruption, or interference adversely affecting an activity on the critical path to completion of the Work, as of the time of the delay, disruption, or interference.

2. Contractor shall not be entitled to an adjustment in Contract Price for any delay, disruption, or interference if such delay is concurrent with a delay, disruption, or interference caused by or within the control of Contractor. Such a concurrent delay by Contractor shall not preclude an adjustment of Contract Times to which Contractor is otherwise entitled.
 3. Contractor shall not be entitled to an adjustment in Contract Times or Price to the extent the claimed delay could reasonably have been mitigated by Contractor.
- ~~43.~~ Adjustments of Contract Times or Contract Price are subject to the provisions of Article 11.
- E. Each Contractor request ~~or~~for Change Proposal seeking an increase in Contract Times or Contract Price must be submitted in writing no later than three (3) days following the date when the delay first began. Failure to provide such written notice shall serve as an absolute bar to any request by Contractor for an increase in Contract Times or Contract Price. Each Contractor Change Proposal seeking an increase in Contract Times or Contract Price must be supplemented by supporting data that sets forth in detail the following:
1. The circumstances that form the basis for the requested adjustment;
 2. The date upon which each cause of delay, disruption, or interference began to affect the progress of the Work;
 3. The date upon which each cause of delay, disruption, or interference ceased to affect the progress of the Work;
 4. The number of days' increase in Contract Times claimed as a consequence of each such cause of delay, disruption, or interference; and
 5. The impact on Contract Price, in accordance with the provisions of Paragraph 11.07.
- Contractor shall also furnish such additional supporting documentation as Owner or Engineer may require including, where appropriate, a revised progress schedule indicating all the activities affected by the delay, disruption, or interference, and an explanation of the effect of the delay, disruption, or interference on the critical path to completion of the Work.
- F. Delays, disruption, and interference to the performance or progress of the Work resulting from the existence of a differing subsurface or physical condition, an Underground Facility that was not shown or indicated by the Contract Documents, or not shown or indicated with reasonable accuracy, and those resulting from Hazardous Environmental Conditions, are governed by Article 5, together with the provisions of Paragraphs 4.05.D and 4.05.E.
- G. Paragraph 8.03 addresses delays, disruption, and interference to the performance or progress of the Work resulting from the performance of certain other work at or adjacent to the Site.

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

5.01 *Availability of Lands*

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

- B. Upon reasonable written request, Owner shall furnish Contractor with a current statement of record legal title and legal description of the lands upon which permanent improvements are to be made and Owner's interest therein as necessary for giving notice of or filing a mechanic's or construction lien against such lands in accordance with applicable Laws and Regulations.
- C. Contractor shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

5.02 *Use of Site and Other Areas*

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

1. Contractor shall confine construction equipment, temporary construction facilities, the storage of materials and equipment, and the operations of workers to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and such other adjacent areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility for (a) damage to the Site; (b) damage to any such other adjacent areas used for Contractor's operations; (c) damage to any other adjacent land or areas, or to improvements, structures, utilities, or similar facilities located at such adjacent lands or areas; and (d) for injuries and losses sustained by the owners or occupants of any such land or areas; provided that such damage or injuries result from the performance of the Work or from other actions or conduct of the Contractor or those for which Contractor is responsible.
 2. If a damage or injury claim is made by the owner or occupant of any such land or area because of the performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible, Contractor shall (a) take immediate corrective or remedial action as required by Paragraph 7.13, or otherwise; (b) promptly attempt to settle the claim as to all parties through negotiations with such owner or occupant, or otherwise resolve the claim by arbitration or other dispute resolution proceeding, or in a court of competent jurisdiction; and (c) to the fullest extent permitted by Laws and Regulations, indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, from and against any such claim, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable, brought by any such owner or occupant against Owner, Engineer, or any other party indemnified hereunder to the extent caused directly or indirectly, in whole or in part by, or based upon, Contractor's performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible.
- B. *Removal of Debris During Performance of the Work:* During the progress of the Work the Contractor shall keep the Site and other adjacent areas free from accumulations of waste materials, rubbish, and other debris. Removal and disposal of such waste materials, rubbish, and other debris will conform to applicable Laws and Regulations.
 - C. *Cleaning:* Prior to Substantial Completion of the Work Contractor shall clean the Site and the Work and make it ready for utilization by Owner. At the completion of the Work Contractor shall remove from the Site and adjacent areas all tools, appliances, construction equipment

and machinery, and surplus materials and shall restore to original condition all property not designated for alteration by the Contract Documents.

- D. *Loading of Structures:* Contractor shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall Contractor subject any part of the Work or adjacent structures or land to stresses or pressures that will endanger them.

5.03 *Subsurface and Physical Conditions*

A. *Technical Data:* The Contract Documents may identify:

1. those soil borings, plans, drawings, surveys or other reports of explorations of subsurface conditions at or contiguous to the Site that Engineer may have considered in preparing the Contract Documents; and
2. those drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site, (except Underground Facilities) that Engineer may have considered in preparing the Contract Documents.
3. The soil borings, plans, drawings, surveys and other reports referenced in Paragraphs 5.03.A.1 and 2 are collectively called "Technical Data."

B. Contractor may not rely upon the Technical Data referenced in 5.03.A or make any claim against Owner, Engineer (as previously indicated in 3.02. G.1), or any of Owner's or Engineer's Consultants or Subcontractors related to the Technical Data. This limitation includes but is not limited to:

1. the accuracy or completeness of such Technical Data for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto; or
2. the accuracy or completeness of other data, interpretations, opinions, and information contained in, shown on, or indicated in the Technical Data; or
3. any Contractor interpretation of or conclusion drawn from any of the Technical Data or any other data, interpretations, opinions or information referenced in the Reports and Drawings.

The Technical Data, including the information contained therein, are offered to the Contractor only as information that may have been considered by Engineer in the preparation of the Contract Documents, and the Contractor is solely responsible for confirming actual conditions. Contractor is required to retain its own consultants, including but not limited to licensed professional engineers, to allow Contractor to draw its own conclusions regarding the Technical Data. Neither the Engineer nor the Owner, nor the Consultants or Subcontractors of either have any responsibility for any conclusion, interpretation or analysis contained therein or made by the Contractor or its consultants, based upon the Contractor's review of the Technical Data.

Neither Owner nor Engineer (as previously indicated in 3.02.G.1) has any responsibility for and does not warrant that the soils or water table encountered during construction will be as shown in the Technical Data.

- C. Contractor warrants that before submitting a bid the Contractor has determined the soil and subsoil conditions, including the water table elevation, and the conditions to be encountered by Contractor in the performance of the Work and that said conditions and factors have been evaluated by Contractor and incorporated into its Bid to Owner. Contractor further warrants that the Contractor is fully aware of the soil conditions, subsoil conditions, water table and all applicable State and Federal Regulations related to the excavation, removal, transportation, placement and relocation of the materials involved in the Work to be performed by the Contractor and that Contractor will complete the Work under whatever conditions it may encounter or create without extra cost, expense to or claim against the Owner or Engineer, their Consultants or Subcontractors.
- D. Contractor has identified all locations where the Contractor's operations are near public roadways, the properties of railroads or contiguous physical structures. Work shall not take place until Contractor has made all arrangements necessary to identify the location and/or elevation of the roadways, the properties of railroads or contiguous physical structures and foundation or appurtenances and has taken all necessary steps to protect the roadways, the properties of railroads or contiguous physical structures from damage. Contractor is solely responsible for any and all damage to roadways, the properties of railroads or contiguous physical structures and any personal injury, death or property damage or consequential damages arising from Contractor's operations.
- ~~A. *Reports and Drawings:* The Supplementary Conditions identify:~~
- ~~1. Those reports of explorations and tests of subsurface conditions at or adjacent to the Site that contain Technical Data;~~
 - ~~2. Those drawings of existing physical conditions at or adjacent to the Site, including those drawings depicting existing surface or subsurface structures at or adjacent to the Site (except Underground Facilities), that contain Technical Data; and~~
 - ~~3. Technical Data contained in such reports and drawings.~~
- ~~B. *Underground Facilities:* Underground Facilities are shown or indicated on the Drawings, pursuant to Paragraph 5.05, and not in the drawings referred to in Paragraph 5.03.A. Information and data regarding the presence or location of Underground Facilities are not intended to be categorized, identified, or defined as Technical Data.~~
- ~~C. *Reliance by Contractor on Technical Data:* Contractor may rely upon the accuracy of the Technical Data expressly identified in the Supplementary Conditions with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely upon the accuracy of the Technical Data as defined in Paragraph 1.01.A.46.b.~~
- ~~D. *Limitations of Other Data and Documents:* Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, with respect to:~~
- ~~1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto;~~

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

5.04 *Differing Subsurface or Physical Conditions*

A. Notice: If Contractor believes that any subsurface or physical condition that is uncovered or revealed either:

1. is of such a nature as to require a change in the Contract Documents; or
2. 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, within 48 hours 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 6.16.A), notify Owner and Engineer in writing about such condition. Contractor shall not further disturb such condition or perform any Work in connection therewith (except as aforesaid) until receipt of written order to do so. Failure to provide notice as provided in the section shall constitute a waiver of Contractor's rights to submit a Change Proposal or Claim for Differing Subsurface or Physical Conditions and no change in Contract Price shall be considered or allowed.

~~A. Notice by Contractor: If Contractor believes that any subsurface or physical condition that is uncovered or revealed at the Site:~~

- ~~1. is of such a nature as to establish that any Technical Data on which Contractor is entitled to rely as provided in Paragraph 5.03 is materially inaccurate;~~
- ~~2. is of such a nature as to require a change in the Drawings or Specifications;~~
- ~~3. differs materially from that shown or indicated in the Contract Documents; or~~
- ~~4. is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents;~~

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

B. *Engineer's Review:* After receipt of written notice as required by the preceding paragraph, Engineer will promptly review the subsurface or physical condition in question; determine in consultation with Owner whether it is necessary for Owner to obtain additional exploration or tests with respect to the condition; conclude whether the condition falls within any one or

more of the differing site condition categories in Paragraph 5.04.A; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the Contractor's resumption of Work in connection with the subsurface or physical condition in question and the need for any change in the Drawings or Specifications; and advise Owner in writing of Engineer's findings, conclusions, and recommendations.

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

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

5.05 *Underground Facilities*

- A. Shown or Indicated: The information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or contiguous to the Site is based on information and data furnished to Owner or Engineer by the owners of such Underground Facilities, including Owner, or by others.
1. The Underground Facilities shown on or indicated in the Contract Documents are located according to the information available to the Engineer at the time of the preparation of the Contract Documents. Neither the Engineer nor the Owner guarantee the accuracy of such information, including but not limited to information provided by the Owner.
 2. The Contractor is solely responsible for identifying the actual location of all Underground Facilities and shall verify the location and/or elevations of the Underground Facilities prior to undertaking construction;
 3. At all locations where the Contractor's operations are near, will cross or contact Underground Facilities, no part of the work shall commence until Contractor has made all arrangements necessary to identify the location and/or elevation of the Underground Facility, including contacting Miss Dig, has notified the owner of the Underground Facility, and has taken all necessary steps to protect the Underground Facility from damage.
 4. The cost of all of the following will be included in the Contract Price, and Contractor shall have full responsibility for:
 - a. reviewing and checking all information and data;
 - b. locating all Underground Facilities shown or indicated in the Contract Documents;
 - c. coordination of the Work with the owners of such Underground Facilities including Owner, during construction;
 - d. the safety and protection of all such Underground Facilities and related above ground structures, including but not limited to shoring, bracing, supporting and maintenance of all Underground Facilities and related above ground structures affected by the Contractor's operations;
 - e. repairing any damage to Underground Facilities and related above ground structures resulting from the Work; and

f. any personal injury, death or property damage or consequential damages arising from Contractor's Work.

5. In the event of the interruption of or damage to an Underground Facility as the result of Contractor's operations, the Contractor shall immediately notify the Underground Facility owner and shall take all steps necessary to cooperate with and assist the Underground Facility owner in the restoration and repair of the Underground Facility. Said repair work shall be continuous and shall not result in any delay of the Project or increased cost or expense to Owner, or claim against Owner, Engineer or their Consultants.

~~A. Contractor's Responsibilities: Unless it is otherwise expressly provided in the Supplementary Conditions, the cost of all of the following are included in the Contract Price, and Contractor shall have full responsibility for:~~

- ~~1. reviewing and checking all information and data regarding existing Underground Facilities at the Site;~~
- ~~2. complying with applicable state and local utility damage prevention Laws and Regulations;~~
- ~~3. verifying the actual location of those Underground Facilities shown or indicated in the Contract Documents as being within the area affected by the Work, by exposing such Underground Facilities during the course of construction;~~
- ~~4. coordination of the Work with the owners (including Owner) of such Underground Facilities, during construction; and~~
- ~~5. the safety and protection of all existing Underground Facilities at the Site, and repairing any damage thereto resulting from the Work.~~

B. Not Shown or Indicated:

1. If an Underground Facility is uncovered or revealed at or contiguous to the Site which was not shown or indicated in the Contract Documents, 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 paragraph 6.16.A), identify the owner of such Underground Facility and give immediate written notice to that owner and to Owner and Engineer. Engineer will review the Underground Facility and determine the extent, if any, to which a change is required in the Contract Documents to reflect and document the consequences of the existence or location of the Underground Facility. At all times, Contractor shall be solely responsible for the safety and protection of such Underground Facility.

~~Notice by Contractor: If Contractor believes that an Underground Facility that is uncovered or revealed at the Site was not shown or indicated on the Drawings, or was not shown or indicated on the Drawings with reasonable accuracy, then Contractor shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), notify Owner and Engineer in writing regarding such Underground Facility.~~

E2. *Engineer's Review:* Engineer will:

- 1a. ~~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;
- 2b. 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;
- 3c. obtain any pertinent cost or schedule information from Contractor; determine the extent, if any, to which a change is required in the Drawings or Specifications to reflect and document the consequences of the existence or location of the Underground Facility; and
- 4d. advise Owner in writing of Engineer's findings, conclusions, and recommendations.

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

D3. *Owner's Statement to Contractor Regarding Underground Facility:* After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the Underground Facility in question addressing the resumption of Work in connection with such Underground Facility, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations in whole or in part.

E4. *Early Resumption of Work:* If at any time Engineer determines that Work in connection with the Underground Facility may resume prior to completion of Engineer's review or Owner's issuance of its statement to Contractor, because the Underground Facility in question and conditions affected by its presence have been adequately documented, and analyzed on a preliminary basis, then the Engineer may at its discretion instruct Contractor to resume such Work.

F5. *Possible Price and Times Adjustments*

1a. Contractor ~~shall~~ may 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:

Ai. With respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03;

bii. Contractor's entitlement to an adjustment of the Contract Times is subject to the provisions of Paragraphs 4.05.D and 4.05.E; and

ei. Contractor gave the notice required in Paragraph 5.05.B.

2b. 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.

3c. Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Price or Contract Times, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the Underground Facility in question.

~~4. The information and data shown or indicated on the Drawings with respect to existing Underground Facilities at the Site is based on information and data (a) furnished by the owners of such Underground Facilities, or by others, (b) obtained from available records, or (c) gathered in an investigation conducted in accordance with the current edition of ASCE 38, Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data, by the American Society of Civil Engineers. If such information or data is incorrect or incomplete, Contractor's remedies are limited to those set forth in this Paragraph 5.05.F.~~

5.06 Hazardous Environmental Conditions at Site

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

1. those reports, if any, known to Owner relating to Hazardous Environmental Conditions that have been identified at or adjacent to the Site;
2. drawings, if any, known to Owner relating to Hazardous Environmental Conditions that have been identified at or adjacent to the Site; and
3. Technical Data contained in such reports and drawings.

B. ~~Reliance by Contractor on Technical Data Authorized:~~ Reliance by Contractor Not Authorized: Contractor may not make any Claim against Owner, Engineer (as previously indicated in 3.01.G.1) or the Consultants of either with respect to:

1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences and procedures of construction to be employed by Contractor, the cost of Work and safety precautions and programs incident thereto; or
2. the accuracy of any data, interpretations, opinions and information contained in such reports or shown or indicated on such drawings; or
3. any Contractor interpretation of or conclusion drawn from any such report or drawing.

~~Contractor may rely upon the accuracy of the Technical Data expressly identified in the Supplementary Conditions with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely on the accuracy of the Technical Data as defined in Paragraph 1.01.A.46.b. Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, with respect to:~~

1. ~~the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences and procedures of~~

~~construction to be employed by Contractor, and safety precautions and programs incident thereto;~~

~~2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or~~

~~3. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions or information.~~

~~Contractor may rely upon the accuracy of the Technical Data expressly identified in the Supplementary Conditions with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely on the accuracy of the Technical Data as defined in Paragraph 1.01.A.46.b. Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, with respect to:~~

~~1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto;~~

~~2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or~~

~~3. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions or information.~~

C. Contractor shall not be responsible for removing or remediating any Hazardous Environmental Condition encountered, uncovered, or revealed at the Site unless such removal or remediation is expressly identified in the Contract Documents to be within the scope of the Work.

D. Contractor shall be responsible for controlling, containing, and duly removing all Constituents of Concern brought to the Site by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible, and for any associated costs; and for the costs of removing and remediating any Hazardous Environmental Condition created by the presence of any such Constituents of Concern.

E. If Contractor encounters, uncovers, or reveals a Hazardous Environmental Condition whose removal or remediation is not expressly identified in the Contract Documents as being within the scope of the Work, or if Contractor or anyone for whom Contractor is responsible creates a Hazardous Environmental Condition, then Contractor shall immediately: (1) secure or otherwise isolate such condition; (2) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by Paragraph 7.15); and (3) notify Owner and Engineer (and promptly thereafter confirm such notice in writing). Owner shall promptly consult with Engineer concerning the necessity for Owner to retain a qualified expert to evaluate such condition or take corrective action, if any. Promptly after consulting with Engineer, Owner shall take such actions as are necessary to permit Owner to timely obtain required permits and provide Contractor the written notice required by Paragraph 5.06.F. If Contractor or anyone for whom Contractor is responsible created the Hazardous Environmental Condition in question, then Owner may remove and remediate the

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

- K. The provisions of Paragraphs 5.03, 5.04, and 5.05 do not apply to the presence of Constituents of Concern or to a Hazardous Environmental Condition uncovered or revealed at the Site.

ARTICLE 6—BONDS AND INSURANCE

6.01 *Performance, Payment, and Other Bonds*

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

6.02 *Insurance—General Provisions*

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

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

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

2. Suppliers to purchase and maintain insurance that is appropriate for their participation in the Project.
- I. ~~If either party~~ the Contractor does not purchase or maintain the insurance required ~~of such party~~ by the Contract, such party the Contractor shall notify the other parties in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage.
- J. If Contractor has failed to obtain and maintain required insurance, Contractor's entitlement to enter or remain at the Site will end immediately, and Owner may impose an appropriate set-off against payment for any associated costs (including but not limited to the cost of purchasing necessary insurance coverage), and exercise Owner's termination rights under Article 16.
- K. Without prejudice to any other right or remedy, if ~~a party~~ the Contractor has failed to obtain required insurance, the ~~other party~~ Owner may elect (but is in no way obligated) to obtain equivalent insurance to protect ~~such other party's~~ the Owner's interests at the expense of the ~~party who was required to provide such coverage~~ Contractor, and the Contract Price will be adjusted accordingly.
- L. Owner does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect Contractor or Contractor's interests. Contractor is responsible for determining whether such coverage and limits are adequate to protect its interests, and for obtaining and maintaining any additional insurance that Contractor deems necessary.
- M. The insurance and insurance limits required herein will not be deemed as a limitation on Contractor's liability, or that of its Subcontractors or Suppliers, under the indemnities granted to Owner and other individuals and entities in the Contract or otherwise.
- N. ~~All the policies of insurance required to be purchased and maintained under this Contract will contain a provision or endorsement that the coverage afforded will not be canceled, or renewal refused, until at least 10 days prior written notice has been given to the purchasing policyholder. Within three days of receipt of any such written notice, the purchasing policyholder shall provide a copy of the notice to each other insured and Engineer. Replace with Insurance Specifications.~~

6.03 Contractor's Insurance

- A. *Required Insurance:* Contractor shall purchase and maintain Worker's Compensation, Commercial General Liability, and other insurance pursuant to the specific requirements of the Insurance Specifications and Supplementary Conditions.
- B. *General Provisions:* The policies of insurance required by this Paragraph 6.03 as supplemented must:
 1. include at least the specific coverages required;
 2. be written for not less than the limits provided, or those required by Laws or Regulations, whichever is greater;

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

6.04 *Builder's Risk and Other Property Insurance*

- A. *Builder's Risk*: Unless otherwise provided in the Insurance Specifications or Supplementary Conditions, Contractor shall purchase and maintain builder's risk insurance upon the Work on a completed value basis, in the amount of the Work's full insurable replacement cost (subject to such deductible amounts as may be provided in the Insurance Specifications or Supplementary Conditions or required by Laws and Regulations). The specific requirements applicable to the builder's risk insurance are set forth in the Insurance Specifications and Supplementary Conditions.
- B. ~~*Property Insurance for Facilities of Owner Where Work Will Occur*: Owner is responsible for obtaining and maintaining property insurance covering each existing structure, building, or facility in which any part of the Work will occur, or to which any part of the Work will attach or be adjoined. Such property insurance will be written on a special perils (all risk) form, on a replacement cost basis, providing coverage consistent with that required for the builder's risk insurance, and will be maintained until the Work is complete, as set forth in Paragraph 15.06.D.~~
- C. *Property Insurance for Substantially Complete Facilities*: Promptly after Substantial Completion, and before actual occupancy or use of the substantially completed Work, Owner

will obtain property insurance for such substantially completed Work, and maintain such property insurance at least until the Work is complete, as set forth in Paragraph 15.06.D. Such property insurance will be written on a special perils (all-risk) form, on a replacement cost basis, and provide coverage consistent with that required for the builder's risk insurance. The builder's risk insurance may terminate upon written confirmation of Owner's procurement of such property insurance.

- D. *Partial Occupancy or Use by Owner:* If Owner will occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work, as provided in Paragraph 15.04, then ~~Owner, through Contractor, (directly, if it is the purchaser of the builder's risk policy, or through Contractor)~~ will provide advance notice of such occupancy or use to the builder's risk insurer. The builder's risk insurance shall not be canceled or permitted to lapse on account of any such partial use or occupancy; rather, those portions of the Work that are occupied or used by Owner may come off the builder's risk policy, while those portions of the Work not yet occupied or used by Owner shall remain covered by the builder's risk insurance. ~~and obtain an endorsement consenting to the continuation of coverage prior to commencing such partial occupancy or use.~~
- E. *Insurance of Other Property; Additional Insurance:* If the express insurance provisions of the Contract do not require or address the insurance of a property item or interest, then the entity or individual owning such property item will be responsible for insuring it. If Contractor elects to obtain other special insurance to be included in or supplement the builder's risk or property insurance policies provided under this Paragraph 6.04, it may do so at Contractor's expense.

6.05 *Property Losses; Subrogation*

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

structures, buildings, or facilities of Owner; or to part or all of the completed or substantially completed Work, during partial occupancy or use pursuant to Paragraph 15.04, after Substantial Completion pursuant to Paragraph 15.03, or after final payment pursuant to Paragraph 15.06, will contain provisions to the effect that in the event of payment of any loss or damage the insurer will have no rights of recovery against any insureds thereunder, or against Contractor, Subcontractors, or Engineer, or the officers, directors, members, partners, employees, agents, consultants, or subcontractors of each and any of them, and that the insured is allowed to waive the insurer's rights of subrogation in a written contract executed prior to the loss, damage, or consequential loss.

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

6.06 *Receipt and Application of Property Insurance Proceeds*

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

ARTICLE 7—CONTRACTOR'S RESPONSIBILITIES

7.01 *Contractor's Means and Methods of Construction*

- A. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction. Unless otherwise set forth in the Contract Documents as being unequivocally required as part of the Performance of the Work, nothing in the design, specifications or Contract Documents shall be deemed to constitute a specific means, method, technique, sequence, or procedure of construction. Contractor shall be solely responsible for ensuring that the completed Work conforms accurately to the Contract Documents.
- B. If the Contract Documents note, or Contractor determines, that professional engineering or other design services are needed to carry out Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures, or for Site safety, then Contractor shall cause such services to be provided by a properly licensed design professional, at Contractor's expense. Such services are not Owner-delegated professional design services under this Contract, and neither Owner nor Engineer has any responsibility with respect to (1) Contractor's determination of the need for such services, (2) the qualifications or licensing of the design professionals retained or employed by Contractor, (3) the performance of such services, or (4) any errors, omissions, or defects in such services.

7.02 *Supervision and Superintendence*

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

7.03 *Labor; Working Hours*

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

7.04 *Services, Materials, and Equipment*

- A. Unless otherwise specified in the Contract Documents, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction

equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start up, and completion of the Work, whether or not such items are specifically called for in the Contract Documents.

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

7.05 *“Or Equals”*

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

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

7.06 *Substitutes*

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

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

denial of a substitution request will be final and binding, and may not be reversed through an appeal under any provision of the Contract. Contractor may challenge the scope of reimbursement costs imposed under Paragraph 7.06.D, by timely submittal of a Change Proposal.

7.07 *Concerning Subcontractors and Suppliers*

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

- J. The divisions and sections of the Specifications and the identifications of any Drawings do not control Contractor in dividing the Work among Subcontractors or Suppliers, or in delineating the Work to be performed by any specific trade.
- K. All Work performed for Contractor by a Subcontractor or Supplier must be pursuant to an appropriate contractual agreement that specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract for the benefit of Owner and Engineer.
- L. Owner may furnish to any Subcontractor or Supplier, to the extent practicable, information about amounts paid to Contractor for Work performed for Contractor by the Subcontractor or Supplier.
- M. Contractor shall restrict all Subcontractors and Suppliers from communicating with Engineer or Owner, except through Contractor or in case of an emergency, or as otherwise expressly allowed in this Contract.

7.08 *Patent Fees and Royalties*

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

7.09 *Permits*

- A. Unless otherwise provided in the Contract Documents, Contractor shall obtain and pay for all construction permits, licenses, and certificates of occupancy. Owner shall assist Contractor, when necessary, in obtaining such permits and licenses. Contractor shall pay all governmental charges and inspection fees necessary for the prosecution of the Work which are applicable

at the time of the submission of Contractor's Bid (or when Contractor became bound under a negotiated contract). Owner shall pay all charges of utility owners for connections for providing permanent service to the Work.

7.10 *Taxes*

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

7.11 *Laws and Regulations*

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

7.12 *Record Documents*

- A. Contractor shall maintain in a safe place at the Site one printed record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, written interpretations and clarifications, and approved Shop Drawings. Contractor shall keep such

record documents in good order and annotate them to show changes made during construction. These record documents, together with all approved Samples, will be available to Engineer for reference. Upon completion of the Work, Contractor shall deliver these record documents to Engineer.

7.13 *Safety and Protection*

- A. Contractor shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. Such responsibility does not relieve Subcontractors of their responsibility for the safety of persons or property in the performance of their work, nor for compliance with applicable safety Laws and Regulations.
- B. Contractor shall designate a qualified and experienced safety representative whose duties and responsibilities are the prevention of Work-related accidents and the maintenance and supervision of safety precautions and programs.
- C. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to:
 - 1. all persons on the Site or who may be affected by the Work;
 - 2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and
 - 3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, other work in progress, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.
- D. All damage, injury, or loss to any property referred to in Paragraph 7.13.C.2 or 7.13.C.3 caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by Contractor at its expense (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of Owner or Engineer or anyone employed by any of them, or anyone for whose acts any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them).
- E. Contractor shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection.
- F. Contractor shall notify Owner; the owners of adjacent property; the owners of Underground Facilities and other utilities (if the identity of such owners is known to Contractor); and other contractors and utility owners performing work at or adjacent to the Site, in writing, when Contractor knows that prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property or work in progress.
- G. Contractor shall comply with the applicable requirements of Owner's safety programs, if any. Any Owner's safety programs that are applicable to the Work are identified or included in the Supplementary Conditions or Specifications.

- H. Contractor shall inform Owner and Engineer of the specific requirements of Contractor's safety program with which Owner's and Engineer's employees and representatives must comply while at the Site.
- I. Contractor's duties and responsibilities for safety and protection will continue until all the Work is completed, Engineer has issued a written notice to Owner and Contractor in accordance with Paragraph 15.06.C that the Work is acceptable, and Contractor has left the Site (except as otherwise expressly provided in connection with Substantial Completion).
- J. Contractor's duties and responsibilities for safety and protection will resume whenever Contractor or any Subcontractor or Supplier returns to the Site to fulfill warranty or correction obligations, or to conduct other tasks arising from the Contract Documents.

7.14 *Hazard Communication Programs*

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

7.15 *Emergencies*

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

7.16 *Submittals*

A. *Shop Drawing and Sample Requirements*

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

2. Each Shop Drawing or Sample must bear a stamp or specific written certification that Contractor has satisfied Contractor's obligations under the Contract Documents with respect to Contractor's review of that Submittal, and that Contractor approves the Submittal.
 3. With each Shop Drawing or Sample, Contractor shall give Engineer specific written notice of any variations that the Submittal may have from the requirements of the Contract Documents. This notice must be set forth in a written communication separate from the Submittal; and, in addition, in the case of a Shop Drawing by a specific notation made on the Shop Drawing itself.
- B. *Submittal Procedures for Shop Drawings and Samples:* Contractor shall label and submit Shop Drawings and Samples to Engineer for review and approval in accordance with the accepted Schedule of Submittals.
1. *Shop Drawings*
 - a. Contractor shall submit the number of copies required in the Specifications.
 - b. Data shown on the Shop Drawings must be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show Engineer the services, materials, and equipment Contractor proposes to provide, and to enable Engineer to review the information for the limited purposes required by Paragraph 7.16.C.
 2. *Samples*
 - a. Contractor shall submit the number of Samples required in the Specifications.
 - b. Contractor shall clearly identify each Sample as to material, Supplier, pertinent data such as catalog numbers, the use for which intended and other data as Engineer may require to enable Engineer to review the Submittal for the limited purposes required by Paragraph 7.16.C.
 3. Where a Shop Drawing or Sample is required by the Contract Documents or the Schedule of Submittals, any related Work performed prior to Engineer's review and approval of the pertinent submittal will be at the sole expense and responsibility of Contractor.
- C. *Engineer's Review of Shop Drawings and Samples*
1. Engineer will provide timely review of Shop Drawings and Samples in accordance with the accepted Schedule of Submittals. Engineer's review ~~and approval~~ will be only to determine if the items covered by the Submittals will, after proper installation or incorporation in the Work by the Contractor, will comply with ~~the requirements of the Contract Documents, and be compatible with~~ the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.
 2. Engineer's review ~~and approval~~ will not extend to means, methods, techniques, sequences, or procedures of construction, or to safety precautions or programs incident thereto.
 3. Engineer's review ~~and approval~~ of a separate item as such will not indicate approval of the assembly in which the item functions.

4. Engineer's review ~~and approval~~ of a Shop Drawing or Sample will not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirements of Paragraph 7.16.A.3 and Engineer has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample. Engineer will document any such approved variation from the requirements of the Contract Documents in a Field Order or other appropriate Contract modification.
 5. Engineer's review ~~and approval~~ of a Shop Drawing or Sample will not relieve Contractor from responsibility for complying with the requirements of Paragraphs 7.16.A and B.
 6. Engineer's review ~~and approval~~ of a Shop Drawing or Sample, or of a variation from the requirements of the Contract Documents, will not, under any circumstances, change the Contract Times or Contract Price, unless such changes are included in a Change Order.
 7. Neither Engineer's receipt, review, acceptance, or approval of a Shop Drawing or Sample will result in such item becoming a Contract Document.
 8. Contractor shall perform the Work in compliance with the requirements and commitments set forth in approved Shop Drawings and Samples, subject to the provisions of Paragraph 7.16.C.4.
- D. *Resubmittal Procedures for Shop Drawings and Samples*
1. Contractor shall make corrections required by Engineer and shall return the required number of corrected copies of Shop Drawings and submit, as required, new Samples for review and approval. Contractor shall direct specific attention in writing to revisions other than the corrections called for by Engineer on previous Submittals.
 2. Contractor shall furnish required Shop Drawing and Sample submittals with sufficient information and accuracy to obtain required ~~approval~~ action of an item with no more than two resubmittals. Engineer will record Engineer's time for reviewing a third or subsequent resubmittal of a Shop Drawing or Sample, and Contractor shall be responsible for Engineer's charges to Owner for such time. Owner may impose a set-off against payments due Contractor to secure reimbursement for such charges.
 3. If Contractor requests a change of a previously approved Shop Drawing or Sample, Contractor shall be responsible for Engineer's charges to Owner for its review time, and Owner may impose a set-off against payments due Contractor to secure reimbursement for such charges, unless the need for such change is beyond the control of Contractor.
- E. *Submittals Other than Shop Drawings, Samples, and Owner-Delegated Designs*
1. The following provisions apply to all Submittals other than Shop Drawings, Samples, and Owner-delegated designs:
 - a. Contractor shall submit all such Submittals to the Engineer in accordance with the Schedule of Submittals and pursuant to the applicable terms of the Contract Documents.
 - b. Engineer will provide timely review of all such Submittals in accordance with the Schedule of Submittals and return such Submittals with an appropriate notation ~~of either Accepted or Not Accepted. Any such Submittal that is not returned within the time established in the Schedule of Submittals will be deemed accepted.~~

- c. Engineer's review will be only to determine if the Submittal is acceptable ~~under the requirements of the Contract Documents~~ as to general form and content of the Submittal.
 - d. If any such Submittal is not accepted, Contractor shall confer with Engineer regarding the reason for the non-acceptance, and resubmit an acceptable document.
2. Procedures for the submittal and acceptance of the Progress Schedule, the Schedule of Submittals, and the Schedule of Values are set forth in Paragraphs 2.03, 2.04, and 2.05.
- F. Owner-delegated Designs: Submittals pursuant to Owner-delegated designs are governed by the provisions of Paragraph 7.19.

7.17 Contractor's General Warranty and Guarantee

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

6. The issuance of a notice of acceptability by Engineer;
 7. The end of the correction period established in Paragraph 15.08;
 8. Any inspection, test, or approval by Engineer or others; or
 9. Any correction of defective Work by Owner.
 10. Any acceptance by Owner or any failure to do so.
- E. If the Contract requires the Contractor to accept the assignment of a contract entered into by Owner, then the specific warranties, guarantees, and correction obligations contained in the assigned contract will govern with respect to Contractor's performance obligations to Owner for the Work described in the assigned contract.

7.18 *Indemnification*

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

7.19 *Delegation of Professional Design Services*

- A. Owner may require Contractor to provide professional design services for a portion of the Work by express delegation in the Contract Documents. Such delegation will specify the performance and design criteria that such services must satisfy, and the Submittals that Contractor must furnish to Engineer with respect to the Owner-delegated design.
- B. Contractor shall cause such Owner-delegated professional design services to be provided pursuant to the professional standard of care by a properly licensed design professional in the

- state where the project is located, whose signature and seal must appear on all drawings, calculations, specifications, certifications, and Submittals prepared by such design professional. Such design professional must issue all certifications of design required by Laws and Regulations.
- C. If a Shop Drawing or other Submittal related to the Owner-delegated design is prepared by Contractor, a Subcontractor, or others for submittal to Engineer, then such Shop Drawing or other Submittal must bear the written approval of Contractor's design professional when submitted by Contractor to Engineer.
 - D. Owner and Engineer shall be entitled to rely upon the adequacy, accuracy, and completeness of the services, certifications, and approvals performed or provided by the design professionals retained or employed by Contractor under an Owner-delegated design, subject to the professional standard of care and the performance and design criteria stated in the Contract Documents.
 - E. Pursuant to this Paragraph 7.19, Engineer's review, approval, and other determinations regarding design drawings, calculations, specifications, certifications, and other Submittals furnished by Contractor pursuant to an Owner-delegated design will be only for the following limited purposes:
 - 1. Checking for conformance with the requirements of this Paragraph 7.19;
 - 2. Confirming that Contractor (through its design professionals) has used the performance and design criteria specified in the Contract Documents; and
 - 3. Establishing that the design furnished by Contractor is to the best of Engineer's knowledge, information and belief consistent with the design concept expressed in the Contract Documents.
 - F. Contractor shall not be responsible for the adequacy of performance or design criteria specified by Owner or Engineer.
 - G. Contractor is not required to provide professional services in violation of applicable Laws and Regulations.

ARTICLE 8—OTHER WORK AT THE SITE

8.01 *Other Work*

- A. In addition to and apart from the Work under the Contract Documents, the Owner may perform other work at or adjacent to the Site. Such other work may be performed by Owner's employees, or through contracts between the Owner and third parties. Owner may also arrange to have third-party utility owners perform work on their utilities and facilities at or adjacent to the Site.
- B. If Owner performs other work at or adjacent to the Site with Owner's employees, or through contracts for such other work, then Owner shall give Contractor written notice thereof prior to starting any such other work. If Owner has advance information regarding the start of any third-party utility work that Owner has arranged to take place at or adjacent to the Site, Owner shall provide such information to Contractor.
- C. Contractor shall afford proper and safe access to the Site to each contractor that performs such other work, each utility owner performing other work, and Owner, if Owner is

performing other work with Owner's employees, and provide a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work.

- D. Contractor shall do all cutting, fitting, and patching of the Work that may be required to properly connect or otherwise make its several parts come together and properly integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating, or otherwise altering such work; provided, however, that Contractor may cut or alter others' work with the written consent of Engineer and the others whose work will be affected.
- E. If the proper execution or results of any part of Contractor's Work depends upon work performed by others, Contractor shall inspect such other work and promptly report to Engineer in writing any delays, defects, or deficiencies in such other work that render it unavailable or unsuitable for the proper execution and results of Contractor's Work. Contractor's failure to so report will constitute an acceptance of such other work as fit and proper for integration with Contractor's Work except for latent defects and deficiencies in such other work.
- F. The provisions of this article are not applicable to work that is performed by third-party utilities or other third-party entities without a contract with Owner, or that is performed without having been arranged by Owner. If such work occurs, then any related delay, disruption, or interference incurred by Contractor is governed by the provisions of Paragraph 4.05.C.3.

8.02 *Coordination*

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

8.03 *Legal Relationships*

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

- event. The entitlement to, and extent of, any such equitable adjustment will take into account information (if any) regarding such other work that was provided to Contractor in the Contract Documents prior to the submittal of the Bid or the final negotiation of the terms of the Contract, and any remedies available to Contractor under Laws or Regulations concerning utility action or inaction. When applicable, any such equitable adjustment in Contract Price will be conditioned on Contractor assigning to Owner all Contractor's rights against such other contractor or utility owner with respect to the damage, delay, disruption, or interference that is the subject of the adjustment. Contractor's entitlement to an adjustment of the Contract Times or Contract Price is subject to the provisions of Paragraphs 4.05.D and 4.05.E.
- B. Contractor shall take reasonable and customary measures to avoid damaging, delaying, disrupting, or interfering with the work of Owner, any other contractor, or any utility owner performing other work at or adjacent to the Site.
1. If Contractor fails to take such measures and as a result damages, delays, disrupts, or interferes with the work of any such other contractor or utility owner, then Owner may impose a set-off against payments due Contractor, and assign to such other contractor or utility owner the Owner's contractual rights against Contractor with respect to the breach of the obligations set forth in this Paragraph 8.03.B.
 2. When Owner is performing other work at or adjacent to the Site with Owner's employees, Contractor shall be liable to Owner for damage to such other work, and for the reasonable direct delay, disruption, and interference costs incurred by Owner as a result of Contractor's failure to take reasonable and customary measures with respect to Owner's other work. In response to such damage, delay, disruption, or interference, Owner may impose a set-off against payments due Contractor.
- C. If Contractor damages, delays, disrupts, or interferes with the work of any other contractor, or any utility owner performing other work at or adjacent to the Site, through Contractor's failure to take reasonable and customary measures to avoid such impacts, or if any claim arising out of Contractor's actions, inactions, or negligence in performance of the Work at or adjacent to the Site is made by any such other contractor or utility owner against Contractor, Owner, or Engineer, then Contractor shall (1) promptly attempt to settle the claim as to all parties through negotiations with such other contractor or utility owner, or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law, and (2) indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against any such claims, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such damage, delay, disruption, or interference.

ARTICLE 9—OWNER'S RESPONSIBILITIES

9.01 *Communications to Contractor*

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

9.02 *Replacement of Engineer*

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

9.03 *Furnish Data*

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

9.04 *Pay When Due*

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

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

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

9.06 *Insurance*

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

9.07 *Change Orders*

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

9.08 *Inspections, Tests, and Approvals*

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

9.09 *Limitations on Owner's Responsibilities*

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

9.10 *Undisclosed Hazardous Environmental Condition*

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

9.11 *Evidence of Financial Arrangements*

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

9.12 *Safety Programs*

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

ARTICLE 10—ENGINEER'S STATUS DURING CONSTRUCTION

10.01 *Owner's Representative*

- A. ~~Engineer will be Owner's representative during the construction period. The duties and responsibilities and the limitations of authority of Engineer as Owner's representative during construction are set forth in the Contract.~~ Engineer will be Owner's representative during the construction period. The Engineer will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents. The authority and responsibilities of the Engineer as set forth in the Contract Documents shall not be restricted, extended or otherwise modified without the written consent of the Engineer and the Owner. As previously stated herein, nothing in the Contract Documents shall create for the benefit of the Contractor, any Subcontractor, Supplier or other individual or entity any contractual relationship between Engineer and any such Contractor, Subcontractor, Supplier or other individual or entity.

10.02 *Visits to Site*

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

10.03 *Resident Project Representative*

- A. If Engineer furnishes a Resident Project Representative (RPR), the RPR will be Engineer's employee or agent at the Site. The RPR's authority and responsibility is expressly limited to making observations of the progress that has been made and the quality of the various aspects of Contractor's executed Work, and reporting same to Engineer. RPR will not be required to make exhaustive or continuous observations or inspections on the Site to check the quality or quantity of the Work. RPR's efforts will be directed toward providing for Owner a greater degree of

confidence that the completed Work will conform generally to the technical requirements of the Contract Documents. In addition to the limitations set forth in Paragraph 10.07, the RPR does not have the authority or responsibility to:

1. Authorize any deviation from the Contract Documents or substitution of materials or equipment (including "or-equal" items).
 2. Exceed limitations of Engineer's authority as set forth in the Contract Documents.
 3. Undertake any of the responsibilities of Contractor, Subcontractors, Suppliers, or Contractor's superintendent.
 4. Advise on, issue directions relative to, or assume control over any aspect of the means, methods, techniques, sequences or procedures of Contractor's work.
 5. Advise on, issue directions regarding, or assume control over safety practices, precautions, and programs in connection with the activities or operations of Owner or Contractor.
 6. Participate in specialized field or laboratory tests or inspections conducted off-site by others except as specifically authorized by Engineer.
 7. Accept Shop Drawing or Sample submittals.
 8. Authorize Owner to occupy the Project in whole or in part.
 9. Interpret for Contractor or Owner any provision of the Contract Documents.
 10. Stop the Work for any reason or recommend suspension of the Work for any reason.
- A. ~~If Owner and Engineer have agreed that Engineer will furnish a Resident Project Representative to represent Engineer at the Site and assist Engineer in observing the progress and quality of the Work, then the authority and responsibilities of any such Resident Project Representative will be as provided in the Supplementary Conditions, and limitations on the responsibilities thereof will be as provided in the Supplementary Conditions and in Paragraph 10.07.~~
- B. If Owner designates an individual or entity who is not Engineer's consultant, agent, or employee to represent Owner at the Site, then the responsibilities and authority of such individual or entity will be as provided in the Supplementary Conditions.

10.04 *Engineer's Authority*

- A. Engineer has the authority to reject Work in accordance with Article 14.
- B. Engineer's authority as to Submittals is set forth in Paragraph 7.16.
- C. Engineer's authority as to design drawings, calculations, specifications, certifications and other Submittals from Contractor in response to Owner's delegation (if any) to Contractor of professional design services, is set forth in Paragraph 7.19.
- D. Engineer's authority as to changes in the Work is set forth in Article 11.
- E. Engineer's authority as to Applications for Payment is set forth in Article 15.

10.05 *Determinations for Unit Price Work*

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

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

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

10.07 *Limitations on Engineer's Authority and Responsibilities*

- A. As set forth repeatedly herein, neither Engineer's authority or responsibility under this Article 10 or under any other provision of the Contract, nor any decision made by Engineer in good faith either to exercise or not exercise such authority or responsibility or the undertaking, exercise, or performance of any authority or responsibility by Engineer, will create, impose, or give rise to any duty in contract, tort, or otherwise owed by Engineer to Contractor, any Subcontractor, any Supplier, any other individual or entity, or to any surety for or employee or agent of any of them.
- B. Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Engineer will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents or Contractor's approved Submittals. Engineer may not stop the work under any circumstances or suspend the work under any circumstances. No decision made by the Engineer in good faith either to exercise or not exercise any authority or responsibility delegated to Engineer in the Contract Documents or the undertaking, exercise, or performance of any authority or responsibility by Engineer shall be construed as interference with the progress of the Work. Engineer shall have no authority or responsibility to recommend alternate or possible safety activities or changes for the safety of the project, Contractor, Subcontractors, Suppliers, Owner, employees, third persons or their property.
- C. Engineer will not be responsible for the acts or omissions of Contractor or of any Subcontractor, any Supplier, or of any other individual or entity performing any of the Work.
- D. Engineer's review of the final Application for Payment and accompanying documentation, and all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by Contractor under Paragraph 15.06.A, will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals, that the results certified indicate compliance with the Contract Documents.
- E. The limitations upon authority and responsibility set forth in this Paragraph 10.07 also apply to the Resident Project Representative, if any.

- F. Engineer will not be responsible for Contractor's failure to pay Subcontractors, Suppliers, employees, taxes, fees, permits, patent fees, copyright fees, royalties, licenses or monies due to any individual or entity.

10.08 *Compliance with Safety Program*

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

ARTICLE 11—CHANGES TO THE CONTRACT

11.01 *Amending and Supplementing the Contract*

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

11.02 *Change Orders*

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

11.03 *Work Change Directives*

- A. A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the modification ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order, following negotiations by the parties as to the Work Change Directive's effect, if any, on the Contract Price and Contract Times; or, if negotiations are unsuccessful, by a determination under the terms of the Contract Documents governing adjustments, expressly including Paragraph 11.07 regarding change of Contract Price.
- B. If Owner has issued a Work Change Directive and:
 - 1. Contractor believes that an adjustment in Contract Times or Contract Price is necessary, then Contractor shall submit any Change Proposal seeking such an adjustment no later than 30 days after the completion of the Work set out in the Work Change Directive.
 - 2. Owner believes that an adjustment in Contract Times or Contract Price is necessary, then Owner shall submit any Claim seeking such an adjustment no later than 60 days after issuance of the Work Change Directive.

11.04 *Field Orders*

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

11.05 *Owner-Authorized Changes in the Work*

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

11.06 *Unauthorized Changes in the Work*

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

provided in Paragraph 7.15 or in the case of uncovering Work as provided in Paragraph 14.05.C.2.

11.07 Change of Contract Price

- A. The Contract Price may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Price must comply with the provisions of Paragraph 11.09. Any Claim for an adjustment of Contract Price must comply with the provisions of Article 12.
- B. An adjustment in the Contract Price will be determined as follows:
 - 1. Where the Work involved is covered by unit prices contained in the Contract Documents, then by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 13.03);
 - 2. Where the Work involved is not covered by unit prices contained in the Contract Documents, then by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 11.07.C.2); or
 - 3. Where the Work involved is not covered by unit prices contained in the Contract Documents and the parties do not reach mutual agreement to a lump sum, then on the basis of the Cost of the Work (determined as provided in Paragraph 13.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 11.07.C).
- C. *Contractor's Fee*: When applicable, the Contractor's fee for overhead and profit will be determined as follows:
 - 1. A mutually acceptable fixed fee; or
 - 2. If a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:
 - a. For costs incurred under Paragraphs 13.01.B.1 and 13.01.B.2, the Contractor's fee will be 15 percent;
 - b. For costs incurred under Paragraph 13.01.B.3, the Contractor's fee will be 5 percent;
 - c. Where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of Paragraphs 11.07.C.2.a and 11.07.C.2.b is that the Contractor's fee will be based on: (1) a fee of 15 percent of the costs incurred under Paragraphs 13.01.B.1 and 13.01.B.2 by the Subcontractor that actually performs the Work, at whatever tier, and (2) with respect to Contractor itself and to any Subcontractors of a tier higher than that of the Subcontractor that actually performs the Work, a fee of 5 percent of the amount (fee plus underlying costs incurred) attributable to the next lower tier Subcontractor; provided, however, that for any such subcontracted Work the maximum total fee to be paid by Owner will be no greater than 27 percent of the costs incurred by the Subcontractor that actually performs the Work;
 - d. No fee will be payable on the basis of costs itemized under Paragraphs 13.01.B.4, 13.01.B.5, and 13.01.C;
 - e. The amount of credit to be allowed by Contractor to Owner for any change which results in a net decrease in Cost of the Work will be the amount of the actual net

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

- f. When both additions and credits are involved in any one change or Change Proposal, the adjustment in Contractor's fee will be computed by determining the sum of the costs in each of the cost categories in Paragraph 13.01.B (specifically, payroll costs, Paragraph 13.01.B.1; incorporated materials and equipment costs, Paragraph 13.01.B.2; Subcontract costs, Paragraph 13.01.B.3; special consultants costs, Paragraph 13.01.B.4; and other costs, Paragraph 13.01.B.5) and applying to each such cost category sum the appropriate fee from Paragraphs 11.07.C.2.a through 11.07.C.2.e, inclusive.

11.08 *Change of Contract Times*

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

11.09 *Change Proposals*

- A. *Purpose and Content:* Contractor shall submit a Change Proposal to Engineer to request an adjustment in the Contract Times or Contract Price; contest an initial decision by Engineer concerning the requirements of the Contract Documents or relating to the acceptability of the Work under the Contract Documents; challenge a set-off against payment due; or seek other relief under the Contract. The Change Proposal will specify any proposed change in Contract Times or Contract Price, or other proposed relief, and explain the reason for the proposed change, with citations to any governing or applicable provisions of the Contract Documents. Each Change Proposal will address only one issue, or a set of closely related issues.
- B. *Change Proposal Procedures*
 1. *Submittal:* Unless otherwise set forth in these General Conditions, Contractor shall submit each Change Proposal to Engineer within 30 days after the start of the event giving rise thereto, or after such initial decision.
 2. *Supporting Data:* The Contractor shall submit supporting data, including the proposed change in Contract Price or Contract Time (if any), to the Engineer and Owner within 15 days after the submittal of the Change Proposal.
 - a. Change Proposals based on or related to delay, interruption, or interference must comply with the provisions of Paragraphs 4.05.D and 4.05.E.
 - b. Change proposals related to a change of Contract Price must include full and detailed accounts of materials incorporated into the Work and labor and equipment used for the subject Work.

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

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

11.10 Notification to Surety

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

ARTICLE 12—CLAIMS

12.01 Claims

- A. *Claims Process:* The following disputes between Owner and Contractor are subject to the Claims process set forth in this article:
1. Appeals by Owner or Contractor of Engineer's decisions regarding Change Proposals;
 2. Owner demands for adjustments in the Contract Price or Contract Times, or other relief under the Contract Documents;

3. Disputes that Engineer has been unable to address because they do not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters; and
 4. Subject to the waiver provisions of Paragraph 15.07, any dispute arising after Engineer has issued a written recommendation of final payment pursuant to Paragraph 15.06.B.
- B. *Submittal of Claim:* The party submitting a Claim shall deliver it directly to the other party to the Contract promptly (but in no event later than 30 days) after the start of the event giving rise thereto; in the case of appeals regarding Change Proposals within 30 days of the decision under appeal. The party submitting the Claim shall also furnish a copy to the Engineer, for its information only. The responsibility to substantiate a Claim rests with the party making the Claim. In the case of a Claim by Contractor seeking an increase in the Contract Times or Contract Price, Contractor shall certify that the Claim is made in good faith, that the supporting data are accurate and complete, and that to the best of Contractor's knowledge and belief the amount of time or money requested accurately reflects the full amount to which Contractor is entitled.
- C. *Review and Resolution:* The party receiving a Claim shall review it thoroughly, giving full consideration to its merits. The two parties shall seek to resolve the Claim through the exchange of information and direct negotiations. The parties may extend the time for resolving the Claim by mutual agreement. All actions taken on a Claim will be stated in writing and submitted to the other party, with a copy to Engineer.
- D. *Mediation*
1. At any time after initiation of a Claim, Owner and Contractor may mutually agree to mediation of the underlying dispute. The agreement to mediate will stay the Claim submittal and response process.
 2. If Owner and Contractor agree to mediation, then after 60 days from such agreement, either Owner or Contractor may unilaterally terminate the mediation process, and the Claim submittal and decision process will resume as of the date of the termination. If the mediation proceeds but is unsuccessful in resolving the dispute, the Claim submittal and decision process will resume as of the date of the conclusion of the mediation, as determined by the mediator.
 3. Owner and Contractor shall each pay one-half of the mediator's fees and costs.
- E. *Partial Approval:* If the party receiving a Claim approves the Claim in part and denies it in part, such action will be final and binding unless within 30 days of such action the other party invokes the procedure set forth in Article 17 for final resolution of disputes.
- F. *Denial of Claim:* If efforts to resolve a Claim are not successful, the party receiving the Claim may deny it by giving written notice of denial to the other party. If the receiving party does not take action on the Claim within 90 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of the inaction, the Claim is deemed denied, thereby commencing the time for appeal of the denial. A denial of the Claim will be final and binding unless within 30 days of the denial the other party invokes the procedure set forth in Article 17 for the final resolution of disputes.
- G. *Final and Binding Results:* If the parties reach a mutual agreement regarding a Claim, whether through approval of the Claim, direct negotiations, mediation, or otherwise; or if a Claim is

approved in part and denied in part, or denied in full, and such actions become final and binding; then the results of the agreement or action on the Claim will be incorporated in a Change Order or other written document to the extent they affect the Contract, including the Work, the Contract Times, or the Contract Price.

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

13.01 *Cost of the Work*

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

acceptable to Owner and Contractor and shall deliver such bids to Owner, which will then determine, with the advice of Engineer, which bids, if any, will be acceptable. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work plus a fee, the Subcontractor's Cost of the Work and fee will be determined in the same manner as Contractor's Cost of the Work and fee as provided in this Paragraph 13.01.

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

- d. Sales, consumer, use, and other similar taxes related to the Work, and for which Contractor is liable, as imposed by Laws and Regulations.
 - e. Deposits lost for causes other than negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.
 - f. Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by Contractor in connection with the performance of the Work (except losses and damages within the deductible amounts of builder's risk or other property insurance established in accordance with Paragraph 6.04), provided such losses and damages have resulted from causes other than the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses include settlements made with the written consent and approval of Owner. No such losses, damages, and expenses will be included in the Cost of the Work for the purpose of determining Contractor's fee.
 - g. The cost of utilities, fuel, and sanitary facilities at the Site.
 - h. Minor expenses such as communication service at the Site, express and courier services, and similar petty cash items in connection with the Work.
 - i. The costs of premiums for all bonds and insurance that Contractor is required by the Contract Documents to purchase and maintain.
- C. *Costs Excluded:* The term Cost of the Work does not include any of the following items:
1. Payroll costs and other compensation of Contractor's officers, executives, principals, general managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks, and other personnel employed by Contractor, whether at the Site or in Contractor's principal or branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 13.01.B.1 or specifically covered by Paragraph 13.01.B.4. The payroll costs and other compensation excluded here are to be considered administrative costs covered by the Contractor's fee.
 2. The cost of purchasing, renting, or furnishing small tools and hand tools.
 3. Expenses of Contractor's principal and branch offices other than Contractor's office at the Site.
 4. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.
 5. Costs due to the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property.
 6. Expenses incurred in preparing and advancing Claims.
 7. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraph 13.01.B.

D. *Contractor's Fee*

1. When the Work as a whole is performed on the basis of cost-plus-a-fee, then:
 - a. Contractor's fee for the Work set forth in the Contract Documents as of the Effective Date of the Contract will be determined as set forth in the Agreement.
 - b. for any Work covered by a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price on the basis of Cost of the Work, Contractor's fee will be determined as follows:
 - 1) When the fee for the Work as a whole is a percentage of the Cost of the Work, the fee will automatically adjust as the Cost of the Work changes.
 - 2) When the fee for the Work as a whole is a fixed fee, the fee for any additions or deletions will be determined in accordance with Paragraph 11.07.C.2.
2. When the Work as a whole is performed on the basis of a stipulated sum, or any other basis other than cost-plus-a-fee, then Contractor's fee for any Work covered by a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price on the basis of Cost of the Work will be determined in accordance with Paragraph 11.07.C.2.

E. *Documentation and Audit*: Whenever the Cost of the Work for any purpose is to be determined pursuant to this Article 13, Contractor and pertinent Subcontractors will establish and maintain records of the costs in accordance with generally accepted accounting practices. Subject to prior written notice, Owner will be afforded reasonable access, during normal business hours, to all Contractor's accounts, records, books, correspondence, instructions, drawings, receipts, vouchers, memoranda, and similar data relating to the Cost of the Work and Contractor's fee. Contractor shall preserve all such documents for a period of three years after the final payment by Owner. Pertinent Subcontractors will afford such access to Owner, and preserve such documents, to the same extent required of Contractor.

13.02 *Allowances*

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

13.03 *Unit Price Work*

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

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

14.01 *Access to Work*

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

14.02 *Tests, Inspections, and Approvals*

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

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

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

14.03 *Defective Work*

- A. *Contractor's Obligation:* It is Contractor's obligation to assure that the Work is not defective.
- B. *Engineer's Authority:* Engineer has the authority to determine whether Work is defective, and to reject defective Work.

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

14.04 *Acceptance of Defective Work*

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

14.05 *Uncovering Work*

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

1. If it is found that the uncovered Work is defective, Contractor shall be responsible for all claims, costs, losses, and damages arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); and pending Contractor's full discharge of this responsibility the Owner shall be entitled to impose a reasonable set-off against payments due under Article 15.
2. If the uncovered Work is not found to be defective, Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Times, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction. If the parties are unable to agree as to the amount or extent thereof, then Contractor may submit a Change Proposal within 30 days of the determination that the Work is not defective.

14.06 *Owner May Stop the Work*

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

14.07 *Owner May Correct Defective Work*

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

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

15.01 *Progress Payments*

- A. *Basis for Progress Payments*: The Schedule of Values established as provided in Article 2 will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to Engineer. Progress payments for Unit Price Work will be based on the number of units completed during the pay period, as determined under the provisions of Paragraph 13.03. Progress payments for cost-based Work will be based on Cost of the Work completed by Contractor during the pay period.
- B. *Applications for Payments*
1. At least 20 days before the date established in the Agreement for each progress payment (but not more often than once a month), Contractor shall submit to Engineer for review an Application for Payment filled out and signed by Contractor covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents.
 2. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment must also be accompanied by: (a) a bill of sale, invoice, copies of subcontract or purchase order payments, or other documentation establishing full payment by Contractor for the materials and equipment; (b) at Owner's request, documentation warranting that Owner has received the materials and equipment free and clear of all Liens; and (c) evidence that the materials and equipment are covered by appropriate property insurance, a warehouse bond, or other arrangements to protect Owner's interest therein, all of which must be satisfactory to Owner.
 3. Whenever Contractor submits an Application for Payment, Contractor shall also submit either proposed adjustments to the Progress Schedule as required by General Condition 4.04.A, or certify in writing that the existing Progress Schedule remains accurate and that no variation from the Progress Schedule is anticipated. Payment may be withheld by Owner until these documents are submitted.
 - ~~43.~~ 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.
 - ~~45.~~ The amount of retainage with respect to progress payments will be as stipulated in the Agreement.
- C. *Review of Applications*
1. Engineer will, within 10 days after receipt of each Application for Payment, including each resubmittal, either indicate in writing a recommendation of payment and present the Application to Owner, or return the Application to Contractor indicating in writing Engineer's reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.

2. Engineer's recommendation of any payment requested in an Application for Payment will constitute a representation by Engineer to Owner, based on Engineer's observations of the executed Work as an experienced and qualified design professional, and on Engineer's review of the Application for Payment and the accompanying data and schedules, that to the best of Engineer's knowledge, information and belief:
 - a. the Work has progressed to the point indicated;
 - b. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, the results of any subsequent tests called for in the Contract Documents, a final determination of quantities and classifications for Unit Price Work under Paragraph 13.03, and any other qualifications stated in the recommendation); and
 - c. the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work.
3. By recommending any such payment Engineer will not thereby be deemed to have represented that:
 - a. inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in the Contract; or
 - b. there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by Owner or entitle Owner to withhold payment to Contractor.
4. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment, including final payment, will impose responsibility on Engineer:
 - a. to supervise, direct, or control the Work;
 - b. for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto;
 - c. for Contractor's failure to comply with Laws and Regulations applicable to Contractor's performance of the Work;
 - d. to make any examination to ascertain how or for what purposes Contractor has used the money paid by Owner; or
 - e. to determine that title to any of the Work, materials, or equipment has passed to Owner free and clear of any Liens;-
 - f. for Contractor's failure to construct the Work or any part of the Work in conformance with the Contract Documents, or
 - g. for Contractor's defective Work.
5. Engineer may refuse to recommend the whole or any part of any payment if, in Engineer's opinion, it would be incorrect to make the representations to Owner stated in Paragraph 15.01.C.2.

6. Engineer will recommend reductions in payment (set-offs) necessary in Engineer's opinion to protect Owner from loss because:
 - a. the Work is defective, requiring correction or replacement;
 - b. the Contract Price has been reduced by Change Orders;
 - c. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;
 - d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible; or
 - e. Engineer has actual knowledge of the occurrence of any of the events that would constitute a default by Contractor and therefore justify termination for cause under the Contract Documents.

D. Payment Becomes Due

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

E. Reductions in Payment by Owner

1. In addition to any reductions in payment (set-offs) recommended by Engineer, Owner is entitled to impose a set-off against payment based on any of the following:
 - a. Claims have been made against Owner based on Contractor's conduct in the performance or furnishing of the Work, or Owner has incurred costs, losses, or damages resulting from Contractor's conduct in the performance or furnishing of the Work, including but not limited to claims, costs, losses, or damages from workplace injuries, adjacent property damage, non-compliance with Laws and Regulations, and patent infringement;
 - b. Contractor has failed to take reasonable and customary measures to avoid damage, delay, disruption, and interference with other work at or adjacent to the Site;
 - c. Contractor has failed to provide and maintain required bonds or insurance;
 - d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible;
 - e. Owner has incurred extra charges or engineering costs related to submittal reviews, evaluations of proposed substitutes, tests and inspections, or return visits to manufacturing or assembly facilities;
 - f. The Work is defective, requiring correction or replacement;
 - g. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;
 - h. The Contract Price has been reduced by Change Orders;
 - i. An event has occurred that would constitute a default by Contractor and therefore justify a termination for cause;

- j. Liquidated or other damages have accrued as a result of Contractor's failure to achieve Milestones, Substantial Completion, or final completion of the Work;
 - k. Liens have been filed in connection with the Work, except where Contractor has delivered a specific bond satisfactory to Owner to secure the satisfaction and discharge of such Liens; or
 - l. Other items entitle Owner to a set-off against the amount recommended.
- 2. If Owner imposes any set-off against payment, whether based on its own knowledge or on the written recommendations of Engineer, Owner will give Contractor immediate written notice (with a copy to Engineer) stating the reasons for such action and the specific amount of the reduction, and promptly pay Contractor any amount remaining after deduction of the amount so withheld. Owner shall promptly pay Contractor the amount so withheld, or any adjustment thereto agreed to by Owner and Contractor, if Contractor remedies the reasons for such action. The reduction imposed will be binding on Contractor unless it duly submits a Change Proposal contesting the reduction.
 - 3. Upon a subsequent determination that Owner's refusal of payment was not justified, the amount wrongfully withheld will be treated as an amount due as determined by Paragraph 15.01.D.1 and subject to interest as provided in the Agreement.

15.02 *Contractor's Warranty of Title*

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

15.03 *Substantial Completion*

- A. When Contractor considers the entire Work ready for its intended use Contractor shall notify Owner and Engineer in writing that the entire Work is substantially complete and request that Engineer issue a certificate of Substantial Completion. Contractor shall at the same time submit to Owner and Engineer an initial draft of punch list items to be completed or corrected before final payment.
- B. Promptly after Contractor's notification, Owner, Contractor, and Engineer shall make an inspection of the Work to determine the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify Contractor in writing giving the reasons therefor.
- C. If Engineer considers the Work substantially complete, Engineer will deliver to Owner a preliminary certificate of Substantial Completion which will fix the date of Substantial Completion. Engineer shall attach to the certificate a punch list of items to be completed or corrected before final payment. Owner shall have 7 days after receipt of the preliminary certificate during which to make written objection to Engineer as to any provisions of the certificate or attached punch list. If, after considering the objections to the provisions of the preliminary certificate, Engineer concludes that the Work is not substantially complete, Engineer will, within 14 days after submission of the preliminary certificate to Owner, notify Contractor in writing that the Work is not substantially complete, stating the reasons therefor. If Owner does not object to the provisions of the certificate, or if despite consideration of Owner's objections Engineer concludes that the Work is substantially complete, then

- Engineer will, within said 14 days, execute and deliver to Owner and Contractor a final certificate of Substantial Completion (with a revised punch list of items to be completed or corrected) reflecting such changes from the preliminary certificate as Engineer believes justified after consideration of any objections from Owner.
- D. At the time of receipt of the preliminary certificate of Substantial Completion, Owner and Contractor will confer regarding Owner's use or occupancy of the Work following Substantial Completion, review the builder's risk insurance policy with respect to the end of the builder's risk coverage, and confirm the transition to coverage of the Work under a permanent property insurance policy held by Owner. Unless Owner and Contractor agree otherwise in writing, Owner shall bear responsibility for security, operation, protection of the Work, property insurance, maintenance, heat, and utilities upon Owner's use or occupancy of the Work.
 - E. After Substantial Completion the Contractor shall promptly begin work on the punch list of items to be completed or corrected prior to final payment. In appropriate cases Contractor may submit monthly Applications for Payment for completed punch list items, following the progress payment procedures set forth above.
 - F. Owner shall have the right to exclude Contractor from the Site after the date of Substantial Completion subject to allowing Contractor reasonable access to remove its property and complete or correct items on the punch list.

15.04 *Partial Use or Occupancy*

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

15.05 *Final Inspection*

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

15.06 *Final Payment*

A. *Application for Payment*

1. After Contractor has, in the opinion of Engineer, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of inspection, annotated record documents (as provided in Paragraph 7.12), and other documents, Contractor may make application for final payment.
 2. The final Application for Payment must be accompanied (except as previously delivered) by:
 - a. all documentation called for in the Contract Documents;
 - b. consent of the surety, if any, to final payment;
 - c. satisfactory evidence that all title issues have been resolved such that title to all Work, materials, and equipment has passed to Owner free and clear of any Liens or other title defects, or will so pass upon final payment.
 - d. a list of all duly pending Change Proposals and Claims; and
 - e. complete and legally effective releases or waivers (satisfactory to Owner) of all Lien rights arising out of the Work, and of Liens filed in connection with the Work.
 3. In lieu of the releases or waivers of Liens specified in Paragraph 15.06.A.2 and as approved by Owner, Contractor may furnish receipts or releases in full and an affidavit of Contractor that: (a) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (b) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which Owner might in any way be responsible, or which might in any way result in liens or other burdens on Owner's property, have been paid or otherwise satisfied. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, Contractor may furnish a bond or other collateral satisfactory to Owner to indemnify Owner against any Lien, or Owner at its option may issue joint checks payable to Contractor and specified Subcontractors and Suppliers.
- B. *Engineer's Review of Final Application and Recommendation of Payment:* If, on the basis of Engineer's observation of the Work during construction and final inspection, and Engineer's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, Engineer is satisfied that the Work has been completed and Contractor's other obligations under the Contract have been fulfilled, Engineer will, within 10 days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of final payment and present the final Application for Payment to Owner for payment. Such recommendation will account for any set-offs against payment that are

necessary in Engineer's opinion to protect Owner from loss for the reasons stated above with respect to progress payments. Otherwise, Engineer will return the Application for Payment to Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case Contractor shall make the necessary corrections and resubmit the Application for Payment.

- C. *Notice of Acceptability*: In support of its recommendation of payment of the final Application for Payment, Engineer will also give written notice to Owner and Contractor that the Work is acceptable, subject to stated limitations in the notice and to the provisions of Paragraph 15.07.
- D. *Completion of Work*: The Work is complete (subject to surviving obligations) when it is ready for final payment as established by the Engineer's written recommendation of final payment and issuance of notice of the acceptability of the Work.
- E. *Final Payment Becomes Due*: Upon receipt from Engineer of the final Application for Payment and accompanying documentation, Owner shall set off against the amount recommended by Engineer for final payment any further sum to which Owner is entitled, including but not limited to set-offs for liquidated damages and set-offs allowed under the provisions of this Contract with respect to progress payments. Owner shall pay the resulting balance due to Contractor within 30 days of Owner's receipt of the final Application for Payment from Engineer.

15.07 *Waiver of Claims*

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

15.08 *Correction Period*

- A. If within one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the Supplementary Conditions or the terms of any applicable special guarantee required by the Contract Documents), Owner gives Contractor written notice that any Work has been found to be defective, or that Contractor's repair of any damages to the Site or adjacent areas has been found to be defective, then after receipt of such notice of defect Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:
 - 1. correct the defective repairs to the Site or such adjacent areas;
 - 2. correct such defective Work;
 - 3. remove the defective Work from the Project and replace it with Work that is not defective, if the defective Work has been rejected by Owner, and
 - 4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others, or to other land or areas resulting from the corrective measures.

- B. Owner shall give any such notice of defect within 60 days of the discovery that such Work or repairs is defective. If such notice is given within such 60 days but after the end of the correction period, the notice will be deemed a notice of defective Work under Paragraph 7.17.B.
- C. If, after receipt of a notice of defect within 60 days and within the correction period, Contractor does not promptly comply with the terms of Owner's written instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. Contractor shall pay all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others). Contractor's failure to pay such costs, losses, and damages within 10 days of invoice from Owner will be deemed the start of an event giving rise to a Claim under Paragraph 12.01.B, such that any related Claim must be brought within 30 days of the failure to pay.
- D. 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.
- E. 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.
- F. 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.

ARTICLE 16—SUSPENSION OF WORK AND TERMINATION

16.01 *Owner May Suspend Work*

- A. At any time and without cause, Owner may suspend the Work or any portion thereof for a period of not more than 90 consecutive days by written notice to Contractor and Engineer. Such notice will fix the date on which Work will be resumed. Contractor shall resume the Work on the date so fixed. Contractor shall be entitled to an adjustment in the Contract Price or an extension of the Contract Times 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.

16.02 *Owner May Terminate for Cause*

- A. The occurrence of any one or more of the following events will constitute a default by Contractor and justify termination for cause:
 - 1. Contractor's persistent failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment, or failure to adhere to the Progress Schedule);

2. Failure of Contractor to perform or otherwise to comply with a material term of the Contract Documents;
 3. Contractor's disregard of Laws or Regulations of any public body having jurisdiction; or
 4. Contractor's repeated disregard of the authority of Owner or Engineer.
- B. If one or more of the events identified in Paragraph 16.02.A occurs, then after giving Contractor (and any surety) 10 days' written notice that Owner is considering a declaration that Contractor is in default and termination of the Contract, Owner may proceed to:
1. declare Contractor to be in default, and give Contractor (and any surety) written notice that the Contract is terminated; and
 2. enforce the rights available to Owner under any applicable performance bond.
- C. Subject to the terms and operation of any applicable performance bond, if Owner has terminated the Contract for cause, Owner may exclude Contractor from the Site, take possession of the Work, incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere, and complete the Work as Owner may deem expedient.
- D. Owner may not proceed with termination of the Contract under Paragraph 16.02.B if Contractor within 7 days of receipt of notice of intent to terminate begins to correct its failure to perform and proceeds diligently to cure such failure.
- E. If Owner proceeds as provided in Paragraph 16.02.B, Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price exceeds the cost to complete the Work, including all related claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals) sustained by Owner, such excess will be paid to Contractor. If the cost to complete the Work including such related claims, costs, losses, and damages exceeds such unpaid balance, Contractor shall pay the difference to Owner. Such claims, costs, losses, and damages incurred by Owner will be reviewed by Engineer as to their reasonableness and, when so approved by Engineer, incorporated in a Change Order. When exercising any rights or remedies under this paragraph, Owner shall not be required to obtain the lowest price for the Work performed.
- F. Where Contractor's services have been so terminated by Owner, the termination will not affect any rights or remedies of Owner against Contractor then existing or which may thereafter accrue, or any rights or remedies of Owner against Contractor or any surety under any payment bond or performance bond. Any retention or payment of money due Contractor by Owner will not release Contractor from liability.
- G. If and to the extent that Contractor has provided a performance bond under the provisions of Paragraph 6.01.A, the provisions of that bond will govern over any inconsistent provisions of Paragraphs 16.02.B and 16.02.D.

16.03 *Owner May Terminate for Convenience*

- A. Upon 7 days' written notice to Contractor and Engineer, Owner may, without cause and without prejudice to any other right or remedy of Owner, terminate the Contract. In such case, Contractor shall be paid for (without duplication of any items):
 - 1. completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Work;
 - 2. expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses; and
 - 3. other reasonable expenses directly attributable to termination, including costs incurred to prepare a termination for convenience cost proposal.
- B. Contractor shall not be paid for any loss of anticipated profits or revenue, post-termination overhead costs, or other economic loss arising out of or resulting from such termination.

16.04 *Contractor May Stop Work or Terminate*

- A. If, through no act or fault of Contractor, (1) the Work is suspended for more than 90 consecutive days by Owner or under an order of court or other public authority, or (2) Engineer fails to act on any Application for Payment within 30 days after it is submitted, or (3) Owner fails for 30 days to pay Contractor any sum finally determined to be due, then Contractor may, upon 7 days' written notice to Owner and Engineer, and provided Owner or Engineer do not remedy such suspension or failure within that time, terminate the contract and recover from Owner payment on the same terms as provided in Paragraph 16.03.
- B. In lieu of terminating the Contract and without prejudice to any other right or remedy, if Engineer has failed to act on an Application for Payment within 30 days after it is submitted, or Owner has failed for 30 days to pay Contractor any sum finally determined to be due, Contractor may, 7 days after written notice to Owner and Engineer, stop the Work until payment is made of all such amounts due Contractor, including interest thereon. The provisions of this paragraph are not intended to preclude Contractor from submitting a Change Proposal for an adjustment in Contract Price or Contract Times or otherwise for expenses or damage directly attributable to Contractor's stopping the Work as permitted by this paragraph.

ARTICLE 17—FINAL RESOLUTION OF DISPUTES

17.01 *Methods and Procedures*

- A. *Disputes Subject to Final Resolution:* The following disputed matters are subject to final resolution under the provisions of this article:
 - 1. A timely appeal of an approval in part and denial in part of a Claim, or of a denial in full, pursuant to Article 12; and
 - 2. Disputes between Owner and Contractor concerning the Work, or obligations under the Contract Documents, that arise after final payment has been made.

~~B. *Final Resolution of Disputes:* For any dispute subject to resolution under this article, Owner or Contractor may:~~

B. Final Resolution of Disputes

1. Arbitration at the election of the Owner

- a. If the Owner elects in writing to demand arbitration of a Claim that has been finally decided in accordance with 12.01, the Claim will be decided by arbitration in accordance with the rules of the American Arbitration Association in effect as of the Effective Date of the Agreement, subject to the conditions and limitations of this Paragraph 12.01.
- b. The demand for arbitration will be filed in writing with the Contractor and a copy will be sent to Engineer for information. The demand for arbitration will be made within the 30 day period specified in Paragraph 12.01.
- c. The award rendered by the arbitrator(s) shall be consistent with the agreement of the parties, in writing, and include: (i) a concise breakdown of the award; and (ii) a written explanation of the award specifically citing the Contract Document provisions deemed applicable and relied on in making the award.
- d. The award will be final. Judgment may be entered upon it in any court having jurisdiction thereof, and it will not be subject to modification or appeal except as provided by the Controlling Law relating to vacating or modifying an arbitral award.
- e. The fees and expenses of the arbitrators and any arbitration service shall be shared equally by Owner and Contractor.

~~1. elect in writing to invoke the dispute resolution process provided for in the Supplementary Conditions;~~

2. Other Dispute resolution at election of Owner.

- a. Owner may agree agrees with the Contractor other party to submit the dispute to another dispute resolution process subject to the 30 day time limit specified in Paragraph 12.01; or

3. Dispute resolution at the election of Owner or by Contractor.~~if no dispute resolution~~

- a. If Owner does not elect to resolve disputes by Arbitration per paragraph 17.01.B.1 or the parties do not agree to resolve disputes pursuant to alternative means agreed upon per paragraph 17.01.B.2, process is provided for in the Supplementary Conditions or after written notice to the other party the dispute will be submitted, subject to the time limit set forth in paragraph 12.01, for resolution in mutually agreed to, give written notice to the other party of the intent to submit the dispute to a court of competent jurisdiction.

ARTICLE 18—MISCELLANEOUS

18.01 *Giving Notice*

- A. Whenever any provision of the Contract requires the giving of written notice to Owner, Engineer, or Contractor, it will be deemed to have been validly given only if delivered:
1. in person, by a commercial courier service or otherwise, to the recipient's place of business;
 2. by registered or certified mail, postage prepaid, to the recipient's place of business; or
 3. by e-mail to the recipient, with the words "Formal Notice" or similar in the e-mail's subject line.

18.02 *Computation of Times*

- A. When any period of time is referred to in the Contract by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day will be omitted from the computation.

18.03 *Cumulative Remedies*

- A. The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee, or by other provisions of the Contract. The provisions of this paragraph will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right, and remedy to which they apply.

18.04 *Limitation of Damages*

- A. With respect to any and all Change Proposals, Claims, disputes subject to final resolution, and other matters at issue, neither Owner nor Engineer (as previously set forth herein), nor any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, shall be liable to Contractor for any claims, costs, losses, or damages sustained by Contractor for any consequential damages, including but not limited to lost profits in connection with the Project, ~~on or in connection with~~ any other project or anticipated project, lost bonding capacity, or loss of reputation.

18.05 *No Waiver*

- A. A party's non-enforcement of any provision will not constitute a waiver of that provision, nor will it affect the enforceability of that provision or of the remainder of this Contract.

18.06 *Survival of Obligations*

- A. All representations, indemnifications, warranties, and guarantees made in, required by, or given in accordance with the Contract, as well as all continuing obligations indicated in the Contract, will survive final payment, completion, and acceptance of the Work or termination of the Contract or of the services of Contractor.

18.07 *Controlling Law*

- A. This Contract is to be governed by the law of the state in which the Project is located.

18.08 *Assignment of Contract*

- A. Unless expressly agreed to elsewhere in the Contract, no assignment by a party to this Contract of any rights under or interests in the Contract will be binding on the other party without the written consent of the party sought to be bound; and, specifically but without limitation, money that may become due and money that is due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract.

18.09 *Successors and Assigns*

- A. Owner and Contractor each binds itself, its successors, assigns, and legal representatives to the other party hereto, its successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

18.10 *Headings*

- A. Article and paragraph headings are inserted for convenience only and do not constitute parts of these General Conditions.

SUPPLEMENTARY CONDITIONS

**PARKING LOT 7A IMPROVEMENTS
KENT INTERMEDIATE SCHOOL DISTRICT
KENT COUNTY, MICHIGAN**

These Supplementary Conditions amend or supplement the Standard General Conditions of the Construction Contract, EJCDC C-700 (2007 Edition). All provisions which are not so amended or supplemented remain in full force and effect.

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

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

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Amendments or supplements to the Standard General Conditions of the Construction Contract, EJCDC C-700 (2007 Edition):

SC-1.01 *Defined Terms*

SC-1.01.A.3 Add the following language to the end of paragraph 1.01.A.3:

The Application for Payment form to be used on this Project is EJCDC No. C-620 or AIA No. G-702.

SC-1.01.A.9 Add the following language to the end of paragraph 1.01.A.9:

The Change Order form to be used on this Project is EJCDC No. C-941.

SC-1.01.A.19 Add the following language to the end of paragraph 1.01.A.19:

The Engineering Consultant on this project is: Vriesman & Korhorn Civil Engineers.

SC-1.01.A Add the following defined term to paragraph 1.01A:

19.1 *Falsework*--temporary construction work on which a main work is wholly or partly built and/or supported until the main work is strong enough to support itself.

SC-2.07 *Initial Acceptance of Schedules*

SC-2.07.A Delete Paragraph 2.07.A in its entirety and insert the following in its place:

A. Upon Owner's, Engineer's or Contractor's request at least ten days before submission of the first Application for Payment a conference attended by Contractor, Owner, Engineer and others as appropriate will be held to review for acceptability to Owner as provided below the schedules submitted in accordance with paragraph 2.05.A. Contractor shall have an additional ten days to make corrections and adjustments and to complete and resubmit the schedules. Upon notice by Owner, no progress payment shall be made to Contractor until acceptable schedules are submitted and accepted by Owner.

1. The Progress Schedule will be acceptable to Owner if it provides an orderly progression of the Work to completion within any specified Milestones and the Contract Time and if acceptable to Engineer. Such acceptance will not impose on Owner or Engineer responsibility for the Progress Schedule, for sequencing, scheduling, or progress of the Work nor interfere with or relieve Contractor from Contractor's full responsibility therefor.
2. Contractor's Schedule of Submittals will be acceptable to Owner if acceptable to Engineer and if it provides a workable arrangement for reviewing and processing the required submittals.
3. Contractor's Schedule of Values will be acceptable to Owner as to form and substance if it is acceptable to Engineer and if it provides a reasonable allocation of the Contract Price to component parts of the Work.

SC-3.03 *Reporting and Resolving Discrepancies*
SC-3.03.A Reporting Discrepancies

SC-3.03 Delete Sub-Paragraph 3.03.A.3 in its entirety and insert the following in its place:

3. Contractor shall not be entitled to any increase in the Contract Amount or Contract Time for any conflicts, errors, ambiguities or discrepancies in the Contract Documents that were known or should have been known to Contractor, or which could have been discovered by Contractor as part of its review of the bidding requirements and Contract Documents prior to bidding or its review of the Contract Documents prior to undertaking any part of the Work.

SC-4.02 *Subsurface and Physical Conditions*
SC-4.02.A Delete Paragraph 4.02.A in its entirety and insert the following in its place:

A. *Reports and Drawings*: The Contract Documents may identify:

1. those soil borings, plans, drawings, surveys or other reports of explorations of subsurface conditions at or contiguous to the Site that Engineer has used in preparing the Contract Documents; and
2. those drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site, (except Underground Facilities) that Engineer has used in preparing the Contract Documents.

The soil borings, plans, drawings, surveys and other reports referenced in Paragraphs 4.02.A.1 and 2 are collectively called "*Reports and Drawings*."

SC-4.02.B Delete Paragraph 4.02.B in its entirety and insert the following in its place:

B. Contractor may not rely upon the *Reports and Drawings* referenced in 4.02.A or make any claim against Owner, Engineer, or any of Owner's or Engineer's Consultants or Subcontractors related to the *Reports and Drawings*. This limitation includes but is not limited to:

1. the accuracy or completeness of such *Reports and Drawings* for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto; or
2. the accuracy or completeness of other data, interpretations, opinions, and information contained in, shown on, or indicated in the *Reports and Drawings*; or
3. any Contractor interpretation of or conclusion drawn from any of the *Reports and Drawings* or any other data, interpretations, opinions or information referenced in the *Reports and Drawings*.

The *Reports and Drawings*, including the information contained therein, are offered to the Contractor only as information relied upon by Engineer in the preparation of the Contract Documents, and the Contractor is solely responsible for confirming actual conditions. Neither the Engineer nor the Owner, nor the Consultants or Subcontractors of either have any responsibility for any conclusion, interpretation or analysis contained therein or made by the Contractor based upon the Contractor's review of the *Reports and Drawings*.

Neither Owner nor Engineer has any responsibility for and does not warrant that the soils or water table encountered during construction will be as shown in the *Reports and Drawings*.

SC-4.02.C Add the following new paragraphs immediately following Paragraph 4.02.B

- C. Contractor warrants that before submitting a bid the Contractor has determined the soil and subsoil conditions, including the water table elevation, and the conditions to be encountered by Contractor in the performance of the Work and that said conditions and factors have been evaluated by Contractor and incorporated into his Contract with Owner. Contractor further warrants that the Contractor is fully aware of the soil conditions, subsoil conditions, water table and all applicable State and Federal Regulations related to the excavation, removal, transportation, placement and relocation of the materials involved in the Work to be performed by the Contractor and that Contractor will complete the Work under whatever conditions he may encounter or create without extra cost, expense to or claim against the Owner or Engineer, their Consultants or Subcontractors.
- D. Contractor has identified all locations where the Contractor's operations are near public roadways, the properties of railroads or contiguous physical structures. Work shall not take place until Contractor has made all arrangements necessary to identify the location and/or elevation of the roadways, the properties of railroads or contiguous physical structures and foundation or appurtenances and has taken all necessary steps to protect the roadways, the properties of railroads or contiguous physical structures from damage. Contractor is solely responsible for any and all damage to roadways, the properties of railroads or contiguous physical structures and any personal injury, death or property damage or consequential damages arising from Contractor's operations.

SC-4.03 *Differing Subsurface or Physical Conditions*

SC-4.03.A Delete Paragraph 4.03.A in its entirety and insert the following in its place:

- A. *Notice:* If Contractor believes that any subsurface or physical condition that is uncovered or revealed either:
 - 1. is of such a nature as to require a change in the Contract Documents; or
 - 2. 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, within 48 hours 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 6.16.A), notify Owner and Engineer in writing about such condition. Contractor shall not further disturb such condition or perform any Work in connection therewith (except as aforesaid) until receipt of written order to do so. If notice as provided in the section is not given, no change in Contract Price shall be considered or allowed.

SC-4.03.B Amend the first sentence of Paragraph 4.03.B by striking out the word “promptly”.

SC-4.04 *Underground Facilities*

SC-4.04.A Delete Paragraph 4.04.A in its entirety and insert the following in its place:

- A. *Shown or Indicated:* The information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or contiguous to the Site is based on information and data furnished to Owner or Engineer by the owners of such Underground Facilities, including Owner, or by others.
1. The Underground Facilities shown on or indicated in the Contract Documents are located according to the information available to the Engineer at the time of the preparation of the Contract Documents. Neither the Engineer nor the Owner guarantee the accuracy of such information, including but not limited to information provided by the Owner.
 2. The Contractor is solely responsible for identifying the actual location of all Underground Facilities and shall verify the location and/or elevations of the Underground Facilities prior to undertaking construction;
 3. At all locations where the Contractor’s operations are near, will cross or contact Underground Facilities, no part of the work shall commence until Contractor has made all arrangements necessary to identify the location and/or elevation of the Underground Facility, including contacting Miss Dig, has notified the owner of the Underground Facility, and has taken all necessary steps to protect the Underground Facility from damage.
 4. The cost of all of the following will be included in the Contract Price, and Contractor shall have full responsibility for:
 - a. reviewing and checking all information and data;
 - b. locating all Underground Facilities shown or indicated in the Contract Documents;
 - c. coordination of the Work with the owners of such Underground Facilities including Owner, during construction;
 - d. the safety and protection of all such Underground Facilities and related above ground structures, including but not limited to shoring, bracing, supporting and maintenance of all Underground Facilities and related above ground structures affected by the Contractor’s operations;

- e. repairing any damage to Underground Facilities and related above ground structures resulting from the Work; and
 - f. any personal injury, death or property damage or consequential damages arising from Contractor's Work.
5. In the event of the interruption of or damage to an Underground Facility as the result of Contractor's operations, the Contractor shall immediately notify the Underground Facility owner and shall take all steps necessary to cooperate with and assist the Underground Facility owner in the restoration and repair of the Underground Facility. Said repair work shall be continuous and shall not result in any delay of the Project or increased cost or expense to Owner, or claim against Owner, Engineer or their Consultants.

SC-4.04.B Delete Paragraph 4.04.B in its entirety and insert the following in its place:

B. *Not Shown or Indicated*

1. If an Underground Facility is uncovered or revealed at or contiguous to the Site which was not shown or indicated in the Contract Documents, 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 paragraph 6.16.A), identify the owner of such Underground Facility and give written notice to that owner and to Owner and Engineer. Engineer will review the Underground Facility and determine the extent, if any, to which a change is required in the Contract Documents to reflect and document the consequences of the existence or location of the Underground Facility. At all times, Contractor shall be solely responsible for the safety and protection of such Underground Facility.
2. If Engineer concludes that a change in the Contract Documents is required, a Work Change Directive or a Change Order will be issued to reflect and document such consequences. An equitable adjustment shall be made in the Contract Price or Contract Times, or both, to the extent that they are attributable to the existence or location of any Underground Facility that was not shown or indicated in the Contract Documents and that Contractor did not know of and could not reasonably have been expected to be aware of or to have anticipated. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment in contract Price or Contract Times, Owner or Contractor may make a Claim therefor as provided in paragraph 10.05.

SC-4.06 *Hazardous Environmental Conditions at Site*

SC-4.06.A Delete Paragraph 4.06.A in its entirety and insert the following in its place:

A. *Reports and Drawings.* The following reports and drawings regarding Hazardous Environmental Conditions at the Site were utilized by the Engineer in the preparation of the Contract Documents:

- a. *None*

- SC-4.06.B** Delete Paragraph 4.06.B in its entirety and insert the following in its place:
- B. Reliance by Contractor Not Authorized:* Contractor may not make any Claim against Owner, Engineer or the Consultants of either with respect to:
1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences and procedures of construction to be employed by Contractor, the cost of Work and safety precautions and programs incident thereto; or
 2. The accuracy of any data, interpretations, opinions and information contained in such reports or shown or indicated on such drawings; or
 3. any Contractor interpretation of or conclusion drawn from any such report or drawing.
- SC-4.06.D** Amend the second and third sentences of Paragraph 4.06.D by striking out the word "promptly."
- SC-4.06.I** Delete Paragraph 4.06.I in its entirety.
- SC-5.03** *Certificates of Insurance*
- SC-5.03.A** Amend paragraph 5.03.A to read as follows:
- Contractor shall deliver to Owner and Engineer, with copies to each other additional insured and loss payee identified in the Supplementary Conditions and/or the Insurance Specifications, certificates of insurance (and other evidence of insurance requested by Owner, Engineer or any other additional insured) which Contractor is required to purchase and maintain.
- SC-5.03.B** Delete Paragraph 5.03.B in its entirety.
- SC-5.03.C** Amend Paragraph 5.03.C to read as follows:
- Failure of Owner or Engineer to demand such certificates or other evidence of Contractor's full compliance with these insurance requirements or failure of Owner or Engineer to identify a deficiency in compliance from the evidence provided shall not be construed as a waiver of Contractor's obligation to purchase and maintain such insurance.
- SC-5.03.D** Amend Paragraph 5.03.D to read as follows:
- Neither the Owner nor the Engineer represent that the insurance coverage and limits established in the Insurance Specifications will be adequate to protect the Contractor, any Subcontractors or any Suppliers.
- SC-5.03.E** Amend Paragraph 5.03.E to read as follows:
- The insurance and insurance limits required herein shall not be deemed as a limitation on Contractor's liability under the indemnities granted to Owner and Engineer in the Contract Documents.

SC-5.04 *Contractor's Insurance*

SC-5.04.A Delete Paragraph 5.04.A in its entirety and insert the following in its place:

A. Contractor shall purchase and maintain liability and such other insurance as set forth in and required by the Insurance Specifications. The Insurance Specifications are part of the Contract Documents and are specifically incorporated by reference here.

SC-5.04.B Delete Paragraph 5.04.B in its entirety and insert the following in its place:

B. The policies of insurance required by this Paragraph 5.04 shall meet the requirements set forth in and required by the Insurance Specifications. The Insurance Specifications are part of the Contract Documents and are specifically incorporated by reference here.

SC-5.06 *Property Insurance*

SC-5.06.A Delete Paragraph 5.06.A in its entirety and insert the following in its place:

A. Contractor shall purchase and maintain property insurance upon the Work as set forth in and required by the Insurance Specifications. The Insurance Specifications are part of the Contract Documents and are specifically incorporated by reference here.

SC-5.06.B Delete Paragraph 5.06.B in its entirety and insert the following in its place:

B. Contractor shall purchase and maintain equipment breakdown insurance and additional property insurance as required by the Insurance Specifications. The Insurance Specifications are part of the Contract Documents and are specifically incorporated by reference here.

SC-5.06.C Delete Paragraph 5.06.C in its entirety and insert the following in its place:

C. The policies of insurance required by this Paragraph 5.06 shall meet the requirements set forth in the Insurance Specifications. The Insurance Specifications are part of the Contract Documents and are specifically incorporated by reference here.

SC-5.06.D Delete Paragraph 5.06.D in its entirety.

SC-5.06.E Delete Paragraph 5.06.E in its entirety.

SC-6.01 *Supervision and Superintendence*

SC-6.01.A Add the following new sentence immediately after the last sentence in GC-6.01.A:

Nothing in the design, specifications or Contract Documents shall be deemed to constitute a specific means, method, technique, sequence, or procedure of construction. Contractor shall be solely responsible for ensuring that the completed Work conforms accurately to the Contract Documents.

SC-6.04 *Progress Schedules*

SC-6.04.B Add the following new paragraph immediately after 6.04.A:

- B. Whenever Contractor submits an Application for Payment, Contractor shall also submit either proposed adjustments to the Progress Schedule as required by General Condition 6.04.A, or certify in writing that the existing Progress Schedule remains accurate and that no variation from the Progress Schedule is anticipated. Payment may be withheld by Owner until these documents are submitted.

SC-6.05 *Substitutes and “Or-Equals”*

SC-6.05.A Add the following sub-paragraphs immediately after Paragraph 6.05.A.1.b:

- c. Contractor warrants that, if approved and incorporated into the Work, the “or-equal” will be functionally equal to the named item of material or equipment. Contractor assumes sole responsibility for the adequacy, performance and functioning of the “or-equal” material or equipment.
- d. Contractor shall submit with the request for review and approval of an “or-equal” item of material or equipment, an itemized estimate of all costs and credits that will result directly or indirectly from the use of such item, including without limitation, the costs of redesign and claims of other contractors affected by the approval of the “or-equal” item for incorporation into the Work.

SC-6.05.A.2.d.5 Add the following sub-paragraph immediately following paragraph 6.05.A.2.d.4:

5. Contractor warrants that, if approved and incorporated into the Work, the “substitute item” will be functionally equal to the named item of material or equipment. Contractor assumes sole responsibility for the adequacy, performance and functioning of the “substitute” material or equipment.

SC-6.06 *Concerning Subcontractors, Suppliers, and Others*

SC-6.06.H Add the following new paragraphs immediately after Paragraph 6.06.G:

- H. No later than two (2) business days after the bid opening, the Contractor shall submit to the Owner and Engineer for acceptance a list of the names and addresses of the Contractor’s Subcontractors, Suppliers and such other individuals and entities as the Owner requests.
- I. Contractor shall require all Subcontractors, prior to commencement of any Work by the Subcontractor, to secure and keep in force the insurance coverages set forth in and required by the Insurance Specifications.

SC-6.07 *Patent Fees and Royalties*

SC-6.07.B Delete paragraph 6.07.B in its entirety.

SC-6.09 *Laws and Regulations*

- SC-6.09.D** Add the following new paragraph immediately after Paragraph 6.09.C:
- D. Contractor shall be solely responsible for compliance with all Federal and State Occupational Safety and Health Act (“OSHA”) requirements related to the Work and the Site, including, if applicable, the requirements of the Michigan Occupational Safety and Health Act (“MIOSHA”). Neither Owner nor Engineer shall have any responsibility for construction site safety or OSHA or MIOSHA compliance. Contractor will indemnify and hold harmless Owner and Engineer from all claims, costs, fees, fines, penalties and expenses (including but not limited to all fees and charges of engineers, architects, attorneys and other professionals and all court, administrative proceeding, and dispute resolution costs) related in any way to claims related to construction site safety, OSHA or MIOSHA violations or charges.
- SC-6.13** *Safety and Protection*
SC-6.13.A Amend the first sentence of Paragraph 6.13.A to read as follows:
- A. Contractor shall be solely responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work, including but not limited to the enforcement of safety precautions and programs of all Subcontractors.
- SC-6.13.E** Amend Paragraph 6.13.E to read as follows:
- E. All damage, injury, or loss to any property referred to in Paragraph 6.13.A.2 or 6.13.A.3 caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by Contractor.
- SC-6.13.F** Add the following new sentence immediately after the last sentence in Paragraph 6.13.F:
- Contractor shall indemnify and hold harmless Owner and Engineer from any and all claims, including those of third-persons, for injury, damage or loss unless arising from the sole negligence of either Owner or Engineer.
- SC-6.17** *Shop Drawings and Samples*
SC-6.17.A.1 Amend paragraph 6.17.A.1.a to read as follows:
- a. Contractor will submit to the Engineer for approval eight (8) copies of all shop drawings.
- SC-6.17.D.2** Amend paragraph 6.17.D.2 to read as follows:
2. Engineer’s review and approval will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions or programs incident thereto. The review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.
- SC-6.17.F** Add the following new paragraphs immediately after Paragraph 6.17.E:

F. Contractor shall furnish required submittals with sufficient information and accuracy in order to obtain required approval of an item. If more than three (3) submittals (i.e. original submittal and two re-submittals) are needed to obtain the required approval of an item, Contractor shall reimburse Owner for Engineer's charges for reviewing the fourth and all subsequent submittals/re-submittals of a particular item. Engineer will record Engineer's time for reviewing all such submittals of Shop Drawings, samples, or other items requiring review and approval.

G. In the event that Contractor requests a change of a previously approved item, Contractor shall reimburse Owner for Engineer's charges for its review time unless the need for such change is beyond the control of Contractor.

SC-6.19 *Contractor's General Warranty and Guarantee*

SC-6.19.A Add the following new sentences immediately after the second sentence in Paragraph 6.19.A.

Contractor's warranty and guaranty that all Work will be in accordance with the Contract Documents and will not be defective includes but is not limited to all materials and equipment incorporated into the Work. Unless a longer duration is required by the Project Specifications, Contractor's warranty and guaranty that all Work will be in accordance with the Contract Documents and will not be defective will extend for at least one year from the date of substantial completion.

SC-6.19.C.1 Amend paragraph 6.19.C.1 to read as follows:

1. any observation, inspection, test, review, or approval by the Engineer or the Resident Project Representative, if one is assigned to the Site;

SC-6.19.C.7 Amend Paragraph 6.19.C.7 to read as follows:

7. any correction of defective Work by Owner; or

SC-6.19.C.8 Add the following new paragraph immediately after Paragraph 6.19.C.7:

8. any acceptance by Owner or any failure to do so.

SC-6.20 *Indemnification*

SC-6.20.A Delete Paragraph 6.20.A in its entirety and replace it with the following:

A. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the performance of the Work, provided that any such claim, cost, loss, or damage:

1. is attributable to bodily injury, sickness, disease, or death, or injury to or destruction of tangible property (including the Work, itself), including the loss of use resulting therefrom; and
2. is caused in whole or in part by any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts any of them may be liable, regardless of whether the claim, cost, loss or damage was also caused in part by any negligence or omission of the Owner, Engineer or any other individual or entity indemnified hereunder, provided that the claim, cost, loss or damage was not caused solely by the negligence of the Owner, Engineer or other individual or entity indemnified hereunder.

The Contractor's obligation to indemnify and hold harmless the Owner, Engineer and any other individual or entity indemnified hereunder applies to all situations where liability is imposed upon Owner, Engineer or any other indemnified individual without regard to the fault of the Owner, Engineer or any other indemnified individual or entity provided that the claim, cost, loss or damage was caused in part by any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts any of them may be liable.

SC-6.20.C Delete Paragraph 6.20.C in its entirety.

SC-6.21 *Delegation of Professional Design Services*

SC-6.21.B Add the following new sentence immediately after the last sentence in 6.21.B:

All drawings, calculations, specifications, certifications, Shop Drawings and other submittals submitted under this provision shall be sealed by the appropriate professional licensed in the state or states where the project is located.

SC-8.05 *Lands and Easements; Reports and Tests*

SC-8.05.A Delete the second sentence in Paragraph 8.05.A in its entirety.

SC-9.01 *Owner's Representative*

SC-9.01.A Delete Paragraph 9.01.A in its entirety and insert the following in its place:

- A. Engineer will be Owner's representative during the construction period. The Engineer will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents. The authority and responsibilities of the Engineer as set forth in the Contract Documents shall not be restricted, extended or otherwise modified without the written consent of the Engineer and the Owner. Nothing in the Contract Documents shall create for the benefit of the Contractor, any Subcontractor, Supplier or other individual or entity any contractual relationship between Engineer and any such Contractor, Subcontractor, Supplier or other individual or entity.

SC-9.02 *Visits to Site*
SC-9.02.A Amend Paragraph 9.02.A by striking the following words from the first sentence:

“at intervals appropriate to the various stages of construction”

SC-9.03 *Project Representative*
SC-9.03.B Add the following new paragraphs immediately after Paragraph 9.03.A:

B. If Engineer furnishes a Resident Project Representative (RPR), the RPR will be Engineer’s employee or agent at the Site. The RPR’s authority and responsibility is expressly limited to making observations of the progress that has been made and the quality of the various aspects of Contractor’s executed Work, and reporting same to Engineer. RPR will not be required to make exhaustive or continuous observations or inspections on the Site to check the quality or quantity of the Work. RPR’s efforts will be directed toward providing for Owner a greater degree of confidence that the completed Work will conform generally to the Contract Documents. In addition to the limitations set forth in Paragraph 9.09, the RPR does not have the authority or responsibility to:

1. Authorize any deviation from the Contract Documents or substitution of materials or equipment (including “or-equal” items).
2. Exceed limitations of Engineer’s authority as set forth in the Contract Documents.
3. Undertake any of the responsibilities of Contractor, Subcontractors, Suppliers, or Contractor’s superintendent.
4. Advise on, issue directions relative to, or assume control over any aspect of the means, methods, techniques, sequences or procedures of Contractor’s work.
5. Advise on, issue directions regarding, or assume control over safety practices, precautions, and programs in connection with the activities or operations of Owner or Contractor.
6. Participate in specialized field or laboratory tests or inspections conducted off-site by others except as specifically authorized by Engineer.
7. Accept Shop Drawing or Sample submittals.
8. Authorize Owner to occupy the Project in whole or in part.
9. Interpret for Contractor or Owner any provision of the Contract Documents.
10. Stop the Work for any reason.

SC-9.09 *Limitations on Engineer’s Authority and Responsibilities*
SC-9.09.B Add the following sentence immediately after the last sentence in Paragraph 9.09.B:

Engineer may not stop the work or interfere with the progress of the Work. No decision made by the Engineer in good faith either to exercise or not exercise any authority or responsibility delegated to Engineer in the Contract Documents or the undertaking, exercise, or performance of any authority or responsibility by Engineer shall be construed as interference with the progress of the Work. Engineer shall have no authority or responsibility to recommend alternate or possible safety activities or changes for the safety of the project, Contractor, Subcontractors, Suppliers, Owner, employees, third persons or their property.

SC-9.09.F Add the following new paragraph immediately after Paragraph 9.09.E:

F. Engineer will not be responsible for Contractor's failure to pay Subcontractors, Suppliers, employees, taxes, fees, permits, patent fees, copyright fees, royalties, licenses or monies due to any individual or entity.

SC-14.02 *Progress Payments*

SC-14.02.B Delete Paragraph 14.02.B.3.a and insert the following in its place:

a. inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work; or

SC-14.02.B Delete the period at the end of the sentence in Paragraph 14.02.B.4.e and insert the following in its place:

, or

SC-14.02.B Add the following new paragraphs immediately after Paragraph 14.02.B.4.e:

f. for Contractor's failure to construct the Work or any part of the Work in conformance with the Contract Documents, or

g. for Contractor's defective Work

SC-14.09 *Waiver of Claims*

SC-14.09.A Delete Paragraph 14.09.A in its entirety and insert the following in its place:

A. The making and acceptance of final payment will constitute:

1. a waiver of all Claims by Owner against Contractor, except 1) Claims arising from unsettled Liens, 2) Claims arising from defective Work, 3) Claims for failure to comply with the Contract Documents or the terms of any special guarantees specified therein, 4) claims for indemnification or 5) Claims arising from Contractor's continuing obligations under the Contract Documents; and
2. a waiver of all Claims by Contractor against Owner including those for additional compensation, other than those previously made in writing which are still unsettled.

SC-16.01 *Methods and Procedures*

SC-16.01.C Delete Paragraph 16.01.C in its entirety and insert the following in its place:

- C. If the Claim is not resolved by mediation, Engineer's action under Paragraph 10.05.C or a denial pursuant to Paragraphs 10.05.C.3 or 10.05.D shall become final and binding 30 days after termination of the mediation unless, within the 30 day time period:
1. At Owner's sole option, Owner demands in writing arbitration of the Claim, pursuant to Paragraph SC-16.02, or
 2. Owner and Contractor both agree to submit the Claim to another dispute resolution process, or
 3. Owner or Contractor give written notice to the other party of the intent to submit the Claim to a court of competent jurisdiction.

SC-16.02 *Arbitration of Claims at Election of Owner*

Add the following new paragraph immediately after Paragraph 16.01.

16.02 *Arbitration of Claims at Election of Owner*

- A. If the Owner elects in writing to demand arbitration as set forth in Paragraph 16.01.C.1, the Claim will be decided by arbitration in accordance with the rules of the American Arbitration Association in effect as of the Effective Date of the Agreement, subject to the conditions and limitations of this Paragraph 16.02.
- B. The demand for arbitration will be filed in writing with the Contractor and with the selected arbitrator, and a copy will be sent to Engineer for information. The demand for arbitration will be made within the 30 day period specified in Paragraph SC-16.01.C.
- C. The award rendered by the arbitrator(s) shall be consistent with the agreement of the parties, in writing, and include: (i) a concise breakdown of the award; and (ii) a written explanation of the award specifically citing the Contract Document provisions deemed applicable and relied on in making the award.
- D. The award will be final. Judgment may be entered upon it in any court having jurisdiction thereof, and it will not be subject to modification or appeal except as provided by the Controlling Law relating to vacating or modifying an arbitral award.
- E. The fees and expenses of the arbitrators and any arbitration service shall be shared equally by Owner and Contractor.

INSURANCE SPECIFICATIONS
PARKING LOT 7A IMPROVEMENTS
KENT INTERMEDIATE SCHOOL DISTRICT
KENT COUNTY, MICHIGAN

The provisions contained in this Insurance Specification are in addition to those in Article 6 of the General Conditions. In the event of a contradiction, the provisions in this Insurance Specification shall apply.

Prior to commencement of the Work, to protect against liability, loss and/or expense arising from damage to property or injury or death of any person or persons incurred in any way out of, in connection with or resulting from the Work, Contractor shall, at its sole expense, secure and keep in force during the entire period of the Contract between Owner and Contractor such insurance as will provide protection to the Contractor, Owner, Engineer, any additional insureds and loss payees from physical loss and damage to the Work, temporary buildings, falsework, materials, equipment and other property and any claims which may arise out of or result from Contractor's obligations under the Contract Documents and/or the performance of the Work, whether the Work is performed by Contractor, Subcontractor, Supplier, or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable.

The following is required:

- 1.01 LIABILITY INSURANCE
- 1.01.01 Owner's & Contractor's Protective Liability Policy

Contractor shall furnish and maintain an Owner's & Contractor's Protective Liability Policy ("OCP policy"). The OCP policy will name the Owner, the Engineer, their consultants, agents, employees and such public corporations in whose jurisdiction the Work is located as the insureds (hereinafter collectively called the "named insureds"). The OCP policy will protect the named insureds for any actual or alleged liability arising out of the work performed by the Contractor, the Subcontractor(s) or Suppliers on this project. The OCP policy will provide primary, non-contributing coverage.

In lieu of the Owner's & Contractor's Protective Liability Policy, the Contractor must add to their Bodily Injury and Property Damage Policy:

- a. **Additional Insured.** The Bodily Injury and Property Damage Policy must name as additional insured the Township, the County, VK Civil, and all agents and employees thereof and, where indicated by the identity of the contracting parties, the protection must be extended to all participating political subdivisions and public corporations.

b. **Per Project Aggregate.** The Bodily Injury and Property Damage Policy must be endorsed with an endorsement that provides the General Aggregate Limit to each designated construction Project.

c. **Umbrella Policy.** An umbrella policy with a \$2,000,000 limit must be provided.

1.01.02 Commercial General Liability Policy

Contractor shall furnish and maintain a Commercial General Liability policy and/or Comprehensive General Liability Insurance Policy (“CGL policy”). The CGL policy shall include coverage for:

- a. All premises and operations;
- b. Explosion, collapse and underground hazards;
- c. Products and Completed Operations Coverage. This coverage shall extend through the contract guarantee period;
- d. Contractual Liability Coverage for the obligations assumed by Contractor in the Indemnification and Hold Harmless agreement found in the General Conditions and Supplementary Conditions of the Contract Documents;
- e. Personal injury, including employees (with no exclusions pertaining to employment);
- f. Advertising injury;
- g. Contractor’s Protective Liability coverage for independent contractors or subcontractors employed by the Contractor.

The CGL policy shall be an occurrence policy.

1.01.03 Automobile Liability Policy

Contractor shall furnish and maintain a Comprehensive Automobile Liability Policy to cover bodily injury and property damage arising out of the ownership, maintenance or use of any motor vehicle, including owned, non-owned, and hired motor vehicles. In light of the standard policy provisions concerning (a) loading and unloading, and (b) definitions pertaining to motor vehicles licensed for road use versus unlicensed or self-propelled construction equipment, it is recommended that the Comprehensive Automobile Liability insurance and the Comprehensive general Liability insurance be written by the same insurance carrier, though not necessarily in one policy.

1.01.04 Worker's Compensation Insurance and Employer's Liability Insurance

Contractor shall furnish and maintain Worker's Compensation insurance including Employer's Liability insurance to cover employee injuries or disease compensable under the Worker's Compensation statutes of the States in which the Work is conducted, applicable disability benefit laws, if any, and Federal compensation acts, if applicable, such as the Merchant Marine Act, Federal Employers Liability Act, and the Longshore and Harbor Workers Compensation Act. Self-insurance plans approved by the regulatory authorities in the States in which the Work is performed are acceptable.

1.01.05 Umbrella or Excess Liability

Contractor shall furnish and maintain an Excess or Umbrella Liability policy applicable to both the Commercial General Liability/Comprehensive General Liability Policy and the Automobile Liability Policy. The Contractor is granted the option of arranging coverage under a single policy for the full limit required or by a combination of underlying policies with the balance provided by an Excess or Umbrella Liability policy equal to the total limits requested. Umbrella or Excess policy language shall be at least as broad as the primary or underlying policy(ies).

The umbrella or excess liability insurance shall be an occurrence policy.

1.01.06 Contractor's Pollution Liability Insurance

Contractor shall purchase and maintain a policy covering third-party injury and property damage claims, including clean-up costs, as a result of pollution conditions arising from Contractor's operations and completed operations. This insurance shall be maintained for no less than three years after final completion.

1.01.07 Railroad Protective Liability

Contractor shall furnish and maintain a Railroad Protective Liability policy, where such an exposure exists, to provide coverage in the name of each railroad company having jurisdiction over rights-of-way across which Work under the Contract Documents is to be performed. The form of the policy and the limits of liability shall be determined by the railroad company(ies) involved.

1.01.08 Contractor's Professional Liability Insurance

If Contractor will provide or furnish professional services under this Contract, through a delegation of professional design services or

otherwise, then Contractor shall purchase and maintain applicable professional liability insurance. This insurance shall provide protection against claims arising out of performance of professional design or related services, and caused by a negligent error, omission, or act for which that insured party is legally liable. It shall be maintained throughout the duration of the Contract and for a minimum of two years after Substantial Completion. If such professional design services are performed by a Subcontractor, and not by Contractor itself, then the requirements of this paragraph may be satisfied through the purchasing and maintenance of such insurance by such Subcontractor.

1.01.09 Aviation Liability Insurance

If required on this project as indicated by a check mark in Section **XXXX**, Contractor shall procure and maintain for the duration of the Contract insurance against claims for injuries to persons or damage to property which may arise from or in connection with the ownership, maintenance or use of Manned or Unmanned Aerial Vehicles, including but not limited to drone(s).

1.01.09.01 Minimum Scope and Limit of Insurance

Aviation Liability Insurance on an "occurrence" basis, including products and completed operations, property damage, bodily injury with limits no less than \$1,000,000 per occurrence, and \$2,000,000 in the aggregate. This coverage may also be provided by endorsement to the Contractor's Commercial General Liability policy.

1.02 PROPERTY INSURANCE

1.02.01 Builder's Risk

Contractor shall purchase and maintain property insurance upon the Work at the Site in the amount of the full replacement cost thereof. Contractor shall be responsible for any deductible or self-insured retention. This insurance shall:

- a. include the interests of Owner, Contractor, Subcontractors, Engineer, and [others as identified in 1.03.02] and the officers, directors, partners, employees, agents and other consultants and subcontractors of any of them, each of whom is deemed to have an insurable interest and shall be listed as a named insured, additional insured or loss payee;
- b. be written on a Builder's Risk "all-risk" policy form that shall at least include insurance for physical loss and damage to the Work, temporary buildings, falsework, and materials and equipment and shall insure

against at least the following perils or causes of loss: fire, wind, lightning, mold, mildew, extended coverage, theft, vandalism, and malicious mischief, earthquake, actual and constructive collapse, debris removal, demolition occasioned by enforcement of Laws and Regulations, water damage, flooding and such other perils or causes of loss as may be specifically required by these Insurance specifications;

- c. include an endorsement extending coverage to provide insurance against risks not covered under the basic policy. "Extended coverage" is a term used in the insurance business. All basic insurance policies have exclusions - specific loss causalities that are not covered by the insurance company. An Extended Coverage (EC) policy or endorsement is required to cover any such exclusions;
- d. include expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers and architects);
- e. cover materials and equipment that is in place, stored at the job site, stored elsewhere, or in transit at the risk of the insureds;
- f. allow for partial occupation or use of the Work by Owner, such that those portions of the Work that are not yet occupied or used by Owner shall remain covered by the builder's risk insurance.
- g. include testing and startup;
- h. be maintained in effect until final payment is made unless otherwise agreed to in writing by Owner, Contractor, and Engineer with 30 days written notice to each other loss payee to whom a certificate of insurance has been issued; and
- i. contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any insureds thereunder, or against Engineer or its consultants, or their officers, directors, members, partners, employees, agents, consultants, or subcontractors. Owner and contractor waive all rights against each other and the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work; and, in addition, waive all such rights against Engineer, its consultants, all Subcontractors, all individuals or entities identified in this Insurance Specification, or the Supplementary Conditions as insureds, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors

of each and any of them, under such policies for losses and damages so caused. None of the above waivers shall extend to the rights that any party making such waiver may have to the proceeds of insurance held by Owner or Contractor as trustee or fiduciary, or otherwise payable under any policy so issued.

1.03 OTHER INSURANCE REQUIREMENTS

1.03.01 Additional Insureds

Contractor is required to list as additional insureds on the commercial General Liability policy/Comprehensive General liability policy, the Automobile Liability policy, umbrella or excess, the Railroad Protective Liability policy, the Builder's Risk policy, pollution liability policies, and aviation liability insurance, the following persons or entities:

- a. Kent Intermediate School District
- b. VK Civil
- c. City of Grand Rapids

The additional insured coverage shall include coverage for the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and every additional insureds; and the insurance afforded to these additional insured shall provide primary coverage for all claims covered thereby (including as applicable those arising from both ongoing and completed operations) on a non-contributory basis. Contractor shall obtain all necessary endorsements to support these requirements. Each additional insured endorsement shall state that each additional insured is entitled to the same rights as the named insured in the event of cancellation, including but not limited to prior notice of cancellation.

1.03.02 Loss Payees

Contractor is required to list as loss payees on each property insurance policy, including but not limited to the Builder's Risk policy, the following persons or entities:

- a. Kent Intermediate School District
- b. VK Civil
- c. City of Grand Rapids

1.03.03 Notice of Cancellation or Intent Not to Renew

The policies required by these Insurance Specifications shall contain a provision or endorsement that the coverage afforded cannot be canceled, materially changed or renewal refused unless, at least 30 days prior to

such cancellation, material change or refusal to renew, written notice of such action has been given to Owner, Engineer, Contractor and to each other additional insured and loss payee. All notices of cancellation, material change or refusal to renew shall be made by certified mail or personal delivery to the Owner, Engineer, Contractor and each other additional insured and loss payee.

1.03.04 Evidence of Coverage

Prior to commencement of the Work, Contractor shall furnish to the Owner, Engineer and each other additional insured and loss payee identified in these Insurance Specifications, Certificates of Insurance on the form provided by the Owner, if any. Other forms of Certificate are acceptable only if (1) they include all of the information set forth on the form provided by the Owner, including but not limited to the cancellation provisions set forth in Paragraph 1.03.03; (2) show that all the insurance requirements set forth in these Insurance Specifications are met, and; (3) are approved for use, in writing, by the Owner.

If requested by Owner, Contractor shall furnish complete copies of the policies, including all declaration sheets, endorsements, riders, amendments and all other changes or attachments to the policy. Such policy copies shall be certified by the insurance carrier as true and accurate copies of the originals, or shall be designated by the insurance carrier as "Originally Signed Copies".

1.03.05 Qualifications of Insurers

In order to determine the financial strength and reputation of insurance carriers, all companies providing the coverages required by these Insurance Specifications shall be authorized to do business in the State or States where the project is located and shall have a financial rating not lower than VIII and a policyholder's service rating not lower than "A-" as listed in A.M. Best's Key Rating Guide, current edition. Companies with ratings lower than A-:VIII will be acceptable only upon written consent of the Owner.

1.03.06 Deductible Liability

Any and all deductibles in the policies described in these Insurance Specifications shall be assumed by, for the account of, and be the sole responsibility of Contractor. The amount of any deductible is subject to approval by the Owner.

1.03.07 Insurance will be Primary

The insurance required to be obtained and kept in force by the Contractor under these Insurance Specifications shall be primary (i.e. pay first) as respects any insurance, self-insurance or self-retention maintained by the Owner, Engineer, and any additional insureds or loss payees. Any insurance, self-insurance or self-retention maintained by the Owner, Engineer or any additional insureds or loss payees shall be in excess of the insurance obtained and kept in force by the contractor under these Insurance Specifications and shall not contribute with it.

1.04 MINIMUM LIMITS

1.04.01 The minimum limits for the insurance required by these Insurance Specifications shall provide coverage for not less than the following amounts or greater where required by Laws or Regulations:

1.04.02 Owner's & Contractor's protective Liability Policy

- a. Each Occurrence \$1,000,000
- b. General - Aggregate \$2,000,000

1.04.03 Contractor's Commercial General Liability and/or Comprehensive General Liability:

- a. General - Aggregate \$2,000,000
- b. Products - Completed Operations Aggregate \$2,000,000
- c. Personal and Advertising Injury \$1,000,000
- d. Each Occurrence \$1,000,000
 - Fire Damage \$ 50,000
 - Medical Expense \$ 5,000

1.04.04 Comprehensive Automobile Liability (in accordance with Michigan's No Fault Statute):

- a. Combined Single Limit of \$1,000,000

1.04.05 Worker's Compensation and Employer's Liability:

- a. State: Statutory
- b. Employer's Liability:
 - Each accident \$ 500,000
 - Disease - Each employee \$ 500,000
 - Disease - policy limit \$ 500,000
- c. Federal, if applicable (e.g. FELA, Longshoreman's, etc): Statutory

1.04.06	Excess or Umbrella Liability	
	General Aggregate	<u>\$2,000,000</u>
	Each Occurrence	<u>\$2,000,000</u>
1.04.07	Builder's Risk "all risk" policy	Full Replacement Cost
	<input type="checkbox"/> Check if requested	

SURFACE RESTORATION SPECIFICATIONS

PARKING LOT 7A IMPROVEMENTS

KENT INTERMEDIATE SCHOOL DISTRICT KENT COUNTY, MICHIGAN

1. GENERAL

All areas within existing rights-of-way and adjacent areas disturbed by construction operations shall be restored to the original condition thereof as determined by the Engineer using information from plans, surveys, and photographs or video tapes when available.

The work shall be performed in accordance with the specifications and drawings, the MDOT 2020 Standard Specifications for Construction and the following specifications.

2. GRADING

All streets, walks, and other improved surfaces disturbed by construction operations shall be replaced to uniform lines and grades established by the Engineer. The Contractor shall haul in approved fill material or haul out and dispose of excess material as necessary.

The Contractor shall perform all grading, compacting, shaping, and related work required to prepare the subgrade to the satisfaction of the Engineer. The cost for preparing the subgrade as specified herein shall be incidental to the cost of the project, and no specific payment will be made therefor.

Grade Tolerances:

Subgrade: +/- $\frac{3}{4}$ "

Subbase: +/- $\frac{1}{2}$ "

Aggregate Depth +/- $\frac{1}{2}$ "

Pavement Depth:

In no instance shall the finished bituminous course thickness be more than $\frac{1}{2}$ " thinner than plan thickness.

3. TESTING

Testing Requirements:

Compaction (Based on the Michigan One Point Cone Test)

Aggregate Base: 98%

Aggregate Surface: 98%

Gravel Shoulder: 95%
Sand sub-base: 95%
Hot Mix Asphalt Pavement: 92%-96% of the Theoretical Maximum Density.

Pavement cores may be taken for density determination if it appears that there is not enough compactive effort being made during paving operations. Cost for testing and repair will be the responsibility of the owner if the tests indicate the pavement surface falls below the specifications listed in this section.

Sub-grade is to be proof rolled prior to placing sub-base material. Any areas indicating signs of yielding are to be undercut and filled and compacted with material meeting MDOT Class II requirements.

Aggregate performance and stability is to be verified prior to the first course of pavement as directed by the Engineer.

4. HOT MIX ASPHALT (HMA)

HMA streets and parking lots shall be constructed in accordance with the typical section shown on the drawings or match existing thicknesses.

Base course shall be applied at a rate of 220 lbs./sq. yd. of MDOT 13A in one lift over eight (8) inches of compacted MDOT 22A aggregate. Mix designs must be submitted to the Engineer for approval.

Bond coat is to be applied between successive courses of asphalt and to all surfaces that the pavement will be in contact with, including existing pavement edges, edges of concrete curb, etc.

Top Course shall be applied at a rate of 165 lbs./sq. yd. of MDOT 13A in one lift over a bonding agent over the Base course. Mix designs must be submitted to the Engineer for approval.

Construction methods shall be in accordance with Sections 302, 501, 502 of the MDOT 2020 Standard Specifications for Construction.

The Contractor shall not place the aggregate base course until the subgrade has been approved by the Engineer. The Contractor shall not place the first course of HMA and each successive course of HMA until the underlying aggregate or HMA course has been approved by the Engineer. Proof rolling is required prior to placement of subbase and first course of HMA. No live-bottom trucks may be used unless directed by the Engineer and after base has been proven to withstand comparable loads with turning.

When an HMA surface that is not a street is disturbed by the Contractor's operations, that surface shall be replaced at a thickness equal to the thickness

of the existing pavement adjacent to the trench but not less than one and one-half (1.5) inches thick. If existing pavement is greater than two (2) inches in thickness, the replacement pavement shall be placed in two or more layers. Aggregate base shall be replaced at a thickness equal to the adjacent aggregate base (minimum six inches).

A minimum of two rollers will be used for compacting and finishing HMA surface. There shall be no visible roller marks on the finished surface of all courses of HMA.

For placement of valley gutters, pavers shall be equipped with an extension to the vibrating screed adjustable to fit the typical section shown on the drawings.

HMA street placement will be paid for by items as listed in the proposal.

5. CONCRETE

The Contractor shall replace all concrete sidewalks, drives, curb and gutter, and pavement removed during the installation of the project or damaged by the Contractor.

Concrete shall meet the requirements for Grade S2 Concrete as specified in Section 701 of the MDOT 2020 Standard Specifications for Construction and shall have limestone aggregate. Other material shall meet the requirements of the applicable portions of the MDOT 2020 Standard Specifications for Construction.

The thickness of the concrete shall be the same as the concrete adjacent to the disturbance but shall not be less than four (4) inches. The alignment and grade and the contour and finish of the surface shall be the same as the concrete adjacent to the trench unless otherwise directed by the Engineer.

Pavements, walks, curb & gutter, and drives shall be sawed at the edges of the disturbance or removed to existing joints as directed by the Engineer. The depth of the saw cut shall not be less than the full depth of the concrete.

Curb & gutter shall match the existing curb and contain two No. 4 steel reinforcing bars. Curb & gutter shall be placed in accordance with Section 802 of the MDOT 2020 Standard Specifications for Construction.

Sidewalk and concrete driveways shall be placed in accordance with Sections 801 and 803 of the MDOT 2020 Standard Specifications for Construction.

Concrete replacement will be paid for by items listed in the proposal.

6. AGGREGATE SURFACES

Aggregate streets, drives, shoulders, and other areas shall consist of a minimum of six (8) inches of aggregate surface course as specified below.

Aggregate surface course shall meet the requirements of Sections 306 and 902 of the MDOT 2020 Standard Specifications for Construction.

All material shall be taken from stockpiles that have recently been tested by the county road commission, MDOT, or an independent laboratory. Aggregate material that is removed from roadways and driveways shall not be reused but shall be replaced with an equivalent depth of newly compacted aggregate conforming to MDOT 22A.

Aggregate surface replacement will be paid for by items listed in the proposal.

7. TURF RESTORATION

All areas of established turf shall be replaced as nearly as possible to their original condition.

Topsoil shall be placed four (4) inches in depth over all areas disturbed by the Contractor's operations. The subgrade shall be approved by the Engineer prior to placing topsoil. The topsoil shall then be placed in accordance with Section 816 of the MDOT 2020 Standard Specifications for Construction.

Existing topsoil, where available and suitable, shall be stripped, salvaged, and used for replacement. The soil shall consist of natural loam topsoil and shall be of uniform quality, free from hard clods, stones, and all other undesirable material. The soil shall contain not less than three (3%) percent organic matter. The acidity range shall be between PH 5.0 and PH 8.0. New topsoil will be required where the existing topsoil does not meet the above specifications.

After the topsoil has been placed, it shall be fertilized at the rate of two (2) pounds per 1,000 square feet, in equal proportions of nitrogen, phosphoric acid and potash, or as directed by the Engineer. Fertilizer shall be applied just before the placing of the seed to retain its full benefit before unfavorable weather can cause deterioration.

All lawn areas to be seeded shall be seeded with Class A seed. Other areas disturbed by the Contractor's operations shall be seeded with Roadside seed. Seed mixtures, application rates, and methods shall be in accordance with Section 816 of the MDOT 2020 Standard Specifications for Construction.

Seasonal limitations on seeding in Section 816 of the MDOT Standard Specifications are waived. The Contractor shall repeat the seeding procedure as often as necessary to produce a close stand of weed-free grass.

All seeded areas shall be mulched immediately following the seeding. Mulching shall be applied to all newly seeded areas at a rate of two (2) tons per acre in accordance with the requirements of Section 816 of the current MDOT Standard Specifications. Separate loose straw mulch is prohibited on residential lawn areas.

All fertilizing, seeding and mulching shall be applied by an approved Hydro seeding and mulching process unless separate applications as heretofore described are approved by the Engineer.

Sod shall be placed only where required by the Engineer or as noted on the plans or specifications.

All sod shall be nursery grown, conforming to MDOT requirements for Class A. Sod shall be approved by the Engineer prior to placing and shall be placed in accordance with the requirements of Section 816 of the MDOT 2020 Standard Specifications for Construction. The base on which the sod is to be laid shall consist of a minimum of four (4) inches of topsoil placed and fertilized in the same manner required for seeding.

Turf restoration will be paid for by items listed in the proposal.

8. SAW CUTTING

Where HMA and concrete surfaces are being removed, a clean sawcut smooth joint the full depth of the material shall be made. Bond coat or joint material shall be applied if necessary.

9. CULVERTS

Culverts that are removed may be reused if they are in sound condition. If damaged, the culverts shall be replaced with ASTM C76 Class III (or stronger if necessary) concrete pipe or as specified on the plans.

10. UNDERGROUND SPRINKLING EQUIPMENT

The Contractor shall take the necessary precautions to preserve underground sprinkling lines, valves & heads, and water system curb stops & boxes during construction. Any underground sprinkling equipment disturbed by the Contractor shall be replaced at the Contractor's expense.

All underground sprinkling equipment shall be replaced in a timely fashion so as to minimize damage to the lawn areas. The Contractor will be responsible for any lawn damage caused by delayed replacement of the sprinkling equipment.

11. FENCES

Fences, which are removed for construction, shall be replaced with equal or better type and size.

12. TREE/BUSH REPLACEMENT

Replacement trees, ornamental shrubbery, and bushes that are removed during construction shall be replaced in kind and size in a vigorous growing condition.

Transplanting replacement trees/bushes shall be in accordance with Section 815 of the MDOT Standard Specifications for Construction.

All newly planted or transplanted trees, shrubs, and bushes shall be insured by a one (1) year warranty commencing from the date of installation.

13. SCHEDULING OF RESTORATION WORK

Initial restoration (rough grading, temporary aggregate if necessary, removal of excess excavated material and debris) shall be done each day to the extent necessary to allow the movement of local traffic and permit access to all properties for emergency vehicles. Maintenance of streets, drives, sidewalks, etc. shall be the responsibility of the Contractor (including dust control, grading, stabilization, etc.) until the restoration is complete and has been accepted by the Engineer.

Restoration of each street, sidewalk, or section of utility line shall follow the construction in a timely fashion so as to minimize inconvenience to the adjacent property owners and the general public. The manner in which this restoration is done by the Contractor will be a determining factor in the approval by the Engineer of staking requests and partial payment requests.

14. LIMITS FOR MEASURE & PAYMENT FOR SURFACE RESTORATION

All work necessary to return the area of construction operations to its original condition, other than the items listed in the Proposal, shall be considered incidental to the construction, and no specific payment will be made therefor.

For surface restoration items measured in lineal feet, payment will be based upon the type of surface that is directly adjacent to the sidewalk or utility line. Only one surface restoration item shall be paid for each lineal foot of sidewalk or utility line.

Any areas disturbed by the Contractor's operations outside of the limits of the specifically defined areas on the plans shall be restored by the Contractor to their original condition but will not be considered for payment.

PROJECT SPECIFICATIONS

PARKING LOT 7A IMPROVEMENTS

KENT INTERMEDIATE SCHOOL DISTRICT KENT COUNTY, MICHIGAN

1. STANDARD CONSTRUCTION SPECIFICATIONS

Work under this Contract shall be completed in accordance with the General and Supplementary Conditions and the Project Specifications contained herein and include the following standard specifications contained herein: "Insurance Specifications", "Surface Restoration Specifications" and "Storm Sewer Specifications". Modifications and additions to these specifications are found on the following pages.

Where a standard construction method or contract procedure is not specifically covered by the Contract Documents or shown on the plans, the most recent edition of the Michigan Department of Transportation (MDOT) Standard Specifications for Construction shall apply. Specific references made in these documents will be abbreviated as follows: MDOT ###.##.

Such current specifications are hereby incorporated into these Contract Documents by specific reference. These project specifications are modifications and therefore supersede the above mentioned specifications.

2. GENERAL

Work to be constructed in this project includes parking lot paving, milling and resurfacing, pavement striping and appurtenant work.

The Contractor shall furnish adequate materials, equipment, labor, and supervision to complete this work, which also includes surface restoration and testing to conform to the standards of the specifications.

2.01 Scheduling

The Contractor shall file a construction schedule with the Engineer, Owner, and impacted utilities. This schedule shall be presented by the Contractor and reviewed at the preconstruction meeting for the project. The Owner and Engineer need to be provided with a minimum of three working days of notice; not

including weekends or holidays, of all driveway lane closures and/or driveway lane restrictions by the Contractor. The notice shall include the date upon which the closure/restriction will start and the expected date when the lane will open to traffic. These notices shall be in addition to the required construction schedule.

2.02 Maintenance

Where streets or driveways are partially obstructed, the contractor shall place and maintain temporary driveways, ramps, etc. which, in the opinion of the Engineer, are necessary to accommodate the public. Emergency vehicles shall have access at all times and shall be assisted by the Contractor if necessary. Near the end of each day's work, the Contractor shall remove obstructions that would make access difficult or impossible.

The Contractor shall inform the local police, ambulance service, and fire department in advance of his program of any street obstruction. Traffic must be maintained at all times.

2.03 Dust Control

All haul roads, detour roads, and other public and private roads (including backfilled trenches), driveways, and parking lots used by the Contractor must be maintained in a dust free condition during the duration of this Contract. All paved streets, driveways, and parking lots shall be swept daily to control the accumulation of dust and soil and to prevent the tracking of materials onto public and/or private streets, driveways, and parking lots. The control of dust shall be accomplished by the application of dust control materials by methods of application as approved and/or sweeping shall be applied as often as is necessary to control the dust or if directed to do so by the Owner's representative.

Cost of providing dust control shall be considered incidental to the project.

2.03 Material Haul Roads

Any spillage on public roadways used as haul routes shall be cleaned daily. Permission to use gravel roads shall be given to

Contractor only if Contractor assumes responsibility of maintenance, dust control and restoration of the gravel roads to the satisfaction of the Owner.

2.06 Protection of Natural Resources

The Contractor shall take all necessary steps to prevent damage to fish and game habitats and to preserve the natural resources of the State. Excavation and backfill shall be carried out so as to minimize discharge of damaging material into any stream, lake or reservoir.

The Contractor shall exercise caution in the discharge of waters from pumps, deep wells, or well point systems in order that such discharges do not cause erosion, siltation, soil depositions, etc., in sewers, streams or other water courses or drainage structures.

The Contractor shall not permit any sand or debris of any kind to enter the existing ditches, streams, storm sewers or culverts.

The rules and regulations of all work shall comply with Part 31 (Water Resources Protection), Part 301 (Inland Lakes and Streams Act), Part 91 (Soil Erosion), and Part 303 (Wetland Protection) of P.A. No. 451 (Natural Resources and Environmental Protections Act of 1994).

2.07 Soil Erosion and Sedimentation Control

All work shall comply with the rules and regulations of Part 91 of P.A. No. 451. Soil Erosion and Sedimentation Control Measures included in the "Excavating, Trenching and Backfilling for Utilities" Specification shows the minimum requirements for the construction of this project.

The Contractor shall provide all necessary measures to prevent erosion until surface restoration can be completed and approved. The Contractor shall stabilize any disturbed river or creek bank areas within 72 hours of completion of work within the river or creek bank area.

The Contractor shall apply for and obtain a Soil Erosion and Sedimentation Control permit from the City of Grand Rapids and pay for all necessary fees and obtain necessary bonds.

3. PERMITS

Prior to commencing construction of the Project, the following permits shall be obtained (if applicable) by the Kent Intermediate School District:

- a. Michigan Department of Environmental Quality (MDEQ) Part 41 of Act 451 Construction Permit for Wastewater Systems
- b. MDEQ Act 399 Construction Permit for Water Supply Systems
- c. MDEQ Part 301 of Act 451 Permit for work within Inland Lakes and Streams
- d. MDEQ Part 303 of Act 451 Permit for work within Wetlands
- e. Part 91 of Act 451 Soil Erosion and Sedimentation Control
- f. Part 31 of Act 451 Stormwater Discharge Permit
- g. MDOT Construction Permit for Operations within State Highway Right-of-Way

The Contractor shall be responsible for obtaining a permit for performing work within County Right-of-Ways, City Right-of-Ways, and MDOT Right-of-Ways.

4. COORDINATION

The contractor shall coordinate their work with utilities to assure that utility facilities are relocated in a manner that allows the contractor to meet the construction schedule. The contractor shall facilitate grade changes or other conditions for utilities as necessary for the utility to complete necessary relocations.

The Contractor shall coordinate their work with Kent Intermediate School District staff to accommodate events and other various operations. The Contractor shall coordinate all lane closures with other work that may occur on the Kent Intermediate School District so that access is maintained at all times to all buildings and facilities.

5. STAKING

VK Civil will provide construction staking for this project. The Contractor shall give 72 hours' notice when requesting stakes. The Contractor shall exercise proper care in the preservation of all stakes set for his use or the use of the engineer and if such stakes are damaged, lost or removed by Contractor's operation, the cost of resetting may be charged to the contractor.

6. MEASUREMENT AND PAYMENT

Payment shall be made for the proposal items only. All of the work specified in the contract documents and indicated on the drawings shall be considered included in the unit prices shown on the proposal. The unit price bid for each

proposal item shall be payment in full for completing the work, ready for use as specified.

All construction shall be measured for payment by the Owners Representative in accordance with the items listed in the proposal and as may be more specifically directed below.

Clearing Brushing and Tree Removal – All costs for clearing, brushing, tree removal, tunneling, and preservation of trees shall be considered incidental to the major items of work unless specific items have been provided in the proposal. Where specific items have been provided in the proposal per tree size, trees will be measured at a point 4 ½' above the ground line at the base of the tree. Where more than one tree has grown from a common stump, each tree is measured as a separate tree.

Removal of Surface Improvements – All costs for removal of surface improvements shall be considered incidental to the major items of work unless specific items have been provided in the proposal.

Existing Underground Utilities and Structures – All costs for replacement, relocation, reconnection, removing and salvaging, shoring, bracing, or abandonment of existing utilities, structures, utility poles, and guy wires shall be considered incidental to the major items of work unless specific items have been provided in the proposal.

Subgrade – Contractor shall notify Engineer of any questionable material encountered and the Engineer shall determine if it is suitable. If the soil in the bottom of the trench is soft due to excessive amounts of groundwater, weather, and/or the Contractor's method of operation, stabilization of the trench bottom shall be at the Contractor's expense. Payment for removal and replacement of unstable organic material or naturally soft clay, or installation of special foundations, will be paid under the *Place 6" MDOT Class II Sand Subbase* pay item, unless specific items have been provided in the proposal.

Surface Restoration – All work necessary to return the area of construction operations to its original condition shall be considered incidental to the major items of work unless specific items have been provided in the proposal. Measurement for surface restoration shall be made in horizontal feet along the centerline of the improved driveway and shall include all disturbed areas incidental to the construction of the driveway unless specific items have been provided for in the proposal.

Disturbed areas shall be repaired as often as necessary in order to produce a close stand of weed free grass. Any additional costs for repeated repair of disturbed areas shall be borne by the contractor.

7. TRAFFIC MAINTENANCE/TRAFFIC CONTROL

a) General

This work shall be in accordance with the requirements of the Kent County Road Commission (KCRC) and/or the City of Grand Rapids.

The Contractor shall inform the local police, ambulance service, fire department and school systems in advance of planned closures.

The Contractor shall submit an approved signage plan prior to commencement of work and coordinate work within right-of-ways during construction with the KCRC and/or the City of Grand Rapids. All signage, lights and barricades shall comply with the Michigan Manual of Uniform Traffic Control Devices (the Manual) and shall include posted detours.

The Contractor shall maintain public access to all sites impacted by the project. Emergency vehicle access shall be maintained at all times.

b) Temporary Signs

All temporary construction signs in accordance with the applicable requirements of the Manual shall be in place prior to construction in any area.

c) Payment

Payment for traffic control, detours, signage, and permits shall be included in the contract lump sum price as stated in the proposal. No additional payment will be made for the other costs incurred without written approval by the Engineer.

8. EARTHWORK

Excess material shall be disposed of in an upland area designated by the Owner. The area used for the disposal of excess material shall first be stripped of topsoil; which shall be stock piled for restoration of the disposal area, and then excess material shall be placed, compacted as necessary to consolidate the excess soils, graded to conform to the grades in the vicinity and as directed by the engineer, temporary and permanent soil erosion and sedimentation control measures shall be in place and final restoration of the excess material shall be completed and shall include seeding with a class A seed mixture and if necessary based on final slopes mulch blanket. No area shall be graded with greater than 1:4 slopes.

Payment for all earthwork, fill, and other related items is included in the cost of *Earth Excavation and Grading*, unless otherwise specified under a different pay item.

9. ROAD MATERIAL REMOVAL AND DISPOSAL

The Contractor shall remove, and responsibly dispose of all existing asphalt material off-site. The costs associated with removal of these materials and all other excess materials is considered incidental to the pay item for *Remove and Dispose of Pavement and Subbase*.

10. CONCRETE WALK CONSTRUCTION

10.01 Grade

Vriesman and Korhorn will stake the grades of the walk. Unless otherwise noted on the plan, the walk shall be constructed to be within 6 inches of existing grade. Where minor cuts and fills are shown on the plans, the specified cuts or fills are intended to indicate the amount of cut or fill necessary at the center of the sidewalk to bring the existing grade within 6 inches of the proposed sidewalk grade as determined in the field (i.e. if fill of 1 foot is specified on the plans, the proposed center of the sidewalk may be as much as 1' – 6" above the existing grade at the center of the sidewalk). The sidewalk will have a 1.5% - 2% transverse slope to maintain existing drainage patterns. The cost to make all minor cuts and fills required to construct the sidewalk shall be included in the bid price for concrete walk.

Major fill areas are paid for separately under a separate pay item. Fill areas shall be considered minor unless associated under a separate pay item.

10.02 Sub-base Preparation

Existing vegetation shall be removed and organic material excavated to provide an eight (8) inch minimum sand sub-base for the proposed walk. The existing sand sub-base shall be compacted to ninety-five (95%) percent maximum unit weight in accordance with MDOT procedures. Where fill sand is required it shall be compacted to achieve ninety-five (95%) percent maximum unit weight in accordance with MDOT procedures. The cost to prepare and provide the eight (8") inch sand subbase shall be included in the unit price bid for Place Thick Edge Concrete Walk.

10.03 Concrete

Concrete shall meet the requirements for Grade P1 or S2 Concrete as specified in Sections 601 and 701 of the MDOT 2020 Standard Specifications for Construction and shall have limestone aggregate. Other material shall meet the requirements of the applicable portions of the MDOT 2020 Standard Specifications for Construction. All concrete sidewalks shall be paved with a single course of concrete.

Sidewalk and concrete driveways shall be placed in accordance with Sections 801 and 803 of the MDOT 2020 Standard Specifications for Construction.

Sidewalks through driveways shall be six (6") inches thick extending a minimum of 5' on either side of the driveway. All other walks shall be four (4") inches thick. Unless otherwise specified, saw cuts and removal of existing sidewalk shall be considered incidental to the major items of work.

10.04 Joints

Full depth transverse expansion joints shall be constructed perpendicular to the surface of the walk at intervals not to exceed fifty (50') feet.

Expansion joint material shall be one-half (1/2") inch pre-molded expansion joints and shall be set 1/4" below the surface of the sidewalk.

Sealing of joints will not be required.

One (1") inch pre-molded expansion joints must be placed between the sidewalk and back-of-curb when walk is constructed between the curb and building or other rigid structures. Sealing of joints will not be required.

Transverse plane of weakness joints shall be true to line and grade, and shall be placed at five (5') foot intervals and shall be formed with a grooving tool. Planes of weakness joints shall be constructed to a depth of at least one (1") inch and a width of 1/8 inch to 1/4 inch. Sealing of joints will not be required.

10.05 Longitudinal and Transverse Grades

Walk transverse grades shall be between 1.5% and 2.0%. In no circumstance may transverse grades exceed 2.0%. Longitudinal grades shall be 5.0% maximum unless directed by engineer and must meet ADA requirements.

10.06 Surface

The surface of the concrete shall be floated to a level uniform surface and left with a slightly rounded surface. The surface shall be roughened with mechanic's brush to prevent smooth and slippery surfaces. No surface shall be troweled to a glassy finish. Edges at

11. Fence Gates

The fence gates shall match the proposed chain link fence to be 6-ft tall, with 9 gauge 2-inch mesh galvanized chain link fence. The gates shall be double swing 2-inch HF40 galvanized gate frame on all four sides with pool locking latch. The 8-ft wide gates shall include a dop rod into the pavement.

12. COMPLETION DATE

The project may not begin any earlier than June 2, 2025. The project shall be substantially complete by August 15, 2025 with final completion, including final restoration, by August 29, 2025.

STORM SEWER SPECIFICATIONS

PARKING LOT 7A IMPROVEMENTS

KENT INTERMEDIATE SCHOOL DISTRICT KENT COUNTY, MICHIGAN

1. STANDARD CONSTRUCTION SPECIFICATIONS

Where a standard construction method or contract procedure is not specifically covered by the Contract Documents or shown on the plans, the most recent edition of the Michigan Department of Transportation (MDOT) Standard Specifications for Construction shall apply. Specific references made in these documents will be abbreviated as follows: MDOT ###.##.

Such current specifications are hereby incorporated into these Contract Documents by specific reference. These project specifications are modifications and therefore supersede the above mentioned specifications.

3. FIELD QUALITY CONTROL

- A. The final inspection shall consist of a visible and audible check of the sewers and structures to ascertain that the steps have been placed, all lift holes jointed, flow channels constructed, all visible and audible leaks have stopped, all pipe has been placed straight and true to the proper slopes and elevations, frame and cover properly installed, and that the system has been thoroughly cleaned.

4. SUBMITTALS

- A. All pipe, precast structures and covers delivered to the job shall be accompanied by certification papers showing they have been tested in accordance with applicable specifications and that they meet the specifications for the project. Shop drawings are to be submitted on the pipe and structure covers prior to delivery.

PART 2 – PRODUCTS

1. MATERIALS

- A. All materials furnished by the contractor shall conform to the specifications, which follow. Where reference specifications are used, they shall be considered as referencing the 2020 MDOT Standard Specifications of Construction.

2. REINFORCED CONCRETE PIPE

- A. Reinforced concrete pipe shall conform to the requirements of ASTM C-76 for the various classes as specified. All pipe shall be suitably marked to provide the manufacturer's name, date of manufacture, pipe class, and lot or production number. Any deviation from the type or class of pipe shown on the drawings will not be permitted, except upon receipt of written approval of the Engineer. Pipe,

unless otherwise indicated on the plans or authorized in writing by the Owner, shall be new material. Pipe, materials offered by the Contractor shall be the standard products of reputable manufactures normally engaged in the manufacturing of the particular item in question.

- B. Joints – Cold-applied pipe joint sealer shall conform to MDOT 914. The bituminous material shall be of such consistency that it may be spread on the joints with a trowel when the temperature of the air is between 20 degrees F and 100 degrees F. The bituminous material shall adhere to the pipe as to make a watertight seal and shall not flow, crack, or become brittle when exposed to the atmosphere. Pipe joint materials shall be as specified herein except that the Contractor may submit, with his request for approval, technical literature and manufacturer's specifications describing, in detail, the materials and installation instructions. The Engineer reserves the right to call for a field demonstration as part of the submittal for approval.

2. SMOOTHLINED CORRUGATED POLYETHYLENE PIPE

- A. Smoothlined Corrugated shall conform to the requirements of ASTM F2306 for 12-inch to 60-inch as specified. All pipe shall be suitably marked to provide the manufacturer's name, date of manufacture, pipe class, and lot or production number. Any deviation from the type or class of pipe shown on the drawings will not be permitted, except upon receipt of written approval of the Engineer. Pipe, unless otherwise indicated on the plans or authorized in writing by the Owner, shall be new material. Pipe, materials offered by the Contractor shall be the standard products of reputable manufactures normally engaged in the manufacturing of the particular item in question.
- B. Joints – Pipe shall be joined with coupling bands covering at least two full corrugations on each end of the pipe. Standard connections shall meet or exceed the soil-tight requirements of AASHTO M252, AASHTO M294, or ASTM F2306. Gasketed connections shall incorporate a closed-cell synthetic expanded rubber gasket meeting the requirements of ASTM D1056 Grade 2A2. Gaskets, when applicable, shall be installed by the pipe manufacturer. Pipe joint materials shall be as specified herein except that the Contractor may submit, with his request for approval, technical literature and manufacturer's specifications describing, in detail, the materials and installation instructions. The Engineer reserves the right to call for a field demonstration as part of the submittal for approval.
- C. Materials– Virgin material for pipe and fitting production shall be high density polyethylene conforming with the minimum requirements of cell classification 424420C for 4- through 10-inch (100 to 250 mm) diameters, and 435400C for 12- through 60-inch (300 to 1500 mm) diameters, as defined and described in the latest version of ASTM D3350, except that carbon black content should not exceed 4%. The 12- through 60-inch (300 to 1500mm) virgin pipe material shall comply with the notched constant ligament-stress (NCLS) test as specified in Sections 9.5 and 5.1 of AASHTO M294 and ASTM F2306 respectively.

3. STRUCTURES – Material for storm sewer structures shall conform to the requirements below and to the details on the Plans.

- A. Precast Concrete Units – Precast reinforced concrete manhole bases, risers, and cones shall conform to ASTM C-478, and shall be circular with circular reinforcement. The wall thickness of the sections shall be five (5) inches. The joints on precast concrete sections shall be the same as the joints on the storm sewer.
- B. Manhole Steps – Manhole steps for precast construction shall be East Jordan No. 8533 or approved equal. Cast iron manhole steps shall conform to ASTM A48, Class 35, gray iron with a minimum cross section dimension of 1 inch in any direction. Plastic manhole steps may be used in lieu of the above. Plastic manhole steps must have a 3/8-inch steel reinforcement rod encapsulated in polypropylene plastic. Plastic steps shall be M.A. Industries Inc., Step #PS1-PF or approved equal.
- D. Frames and Covers / Castings – Frames and covers for manholes, catch basins, and inlets shall conform to ASTM A48, Class 30, gray iron and shall be of the types and sizes indicated on the Plans. The castings shall be neatly made and free from cracks, holes, and other defects. Surfaces of castings shall be ground to assure proper fit and to prevent rocking. Castings to be East Jordan Iron Works or approved equal.
- E. Concrete Grade Rings – Concrete grade rings shall conform to ASTM C478.

PART 3 – EXECUTION

1. PRODUCT STORAGE AND HANDLING

- A. Handling Material – Load and unload material using suitable equipment. Material shall not be allowed to impact against itself. All pipes and precast structures will be inspected upon delivery to the job site, and any cracked, damaged, or broken pieces or sections will be immediately removed from the site at the Contractor's expense.

2. CONTRACTOR'S VERIFICATION

- A. Excavation and Bedding – Prior to the installation of any storm sewer piping, structures, or materials, examine all trenches and other excavations to the proper grades, lines levels, and clearances required to receive the new work. Ascertain that all new excavation bottoms, compacted sub grades, and pipe bedding are adequate to receive the storm sewer materials to be installed. Correct all defects and deficiencies before proceeding with the work.
- B. Connections to Existing Sewers – Expose the existing storm sewer and structures to which the new work is to be connected and notify the Engineer of same. The Engineer will verify the vertical and horizontal locations of the existing system and shall inform the Contractors as to any adjustments required to align the new storm sewer with the existing work.

3. PREPARATION

- A. Pipe Ends – The outside surface of the spigot end and the inside surface of the bell end of the pipe shall be cleaned and free of any foreign materials, other than the sealant recommended by the manufacturer, prior to installation.

4. INSTALLATION

A. Pipe

- i. Pipe Bearing – Each section of pipe, when placed to grade and line, shall have firm bearing on the trench bedding throughout its length.
- ii. Pipe Cutting – Cutting of pipe shall be done with tools and by methods suitable for the pipe material. Pipe cutting methods that produce a smooth, square cut end without damage to the pipe shall be employed. When cutting pipe, care shall be taken to prevent damage to the interior and exterior surfaces. Damage to either shall be cause for rejection of a complete section of pipe.
- iii. Pipe Laying – Installation of pipe shall conform to ASTM C12 or ASTM D2321 for plastic pipe, and as recommended by the pipe manufacturer. All pipe shall be laid to the line and grade called for on the Plans. Each pipe as laid, shall be checked by the Contractor with line and grade pole or laser system to ensure that this result is obtained. When employing a laser system, the Contractor shall have an independent means of checking the line and grade. The finished work shall be straight and sighted through between manholes.

Pipes shall be centered in bells or grooves and pushed tight together to form a smooth and continuous invert. Construction shall begin at the outlet end and proceed upgrade with spigot ends pointing in the direction of flow. After laying the pipe, care shall be taken so as not to disturb its line and grade. Any pipe found to be out of line or grade shall be relayed properly by the Contractor.

Mechanical means shall be used for pulling home all pipe where manual means will not result in pushing and holding the pipe home. Mechanical means shall consist of a cable placed inside the pipe with a suitable winch, jack, or come-along for pulling the pipe home and holding the pipe in position.

- iv. Pipe Bedding – The pipe shall be bedded in natural bank run sand meeting the requirements of MDOT Class II granular material, placed on the trench bottom. The bedding shall have a minimum thickness beneath the pipe of four (4) inches or 1/8 of the outside diameter of the pipe, whichever is greater. This material shall be placed in six (6) inch layers with each later thoroughly compacted by mechanical means.
- B. Structures – Construct storm sewer manholes, catch basins, and inlets to the grades and lines indicated on the Plans. Structures shall be complete with

concrete bases, risers, cones, adjustment bricks, and frame and covers as shown and as required for a complete installation. Storm sewer structures shall conform to the dimensions indicated on the Plans.

i. Precast Concrete Units – Construct as detailed on the Plans. Provide three to five courses of brick or concrete grade rings at the top of the structure for future adjustment of castings.

ii. Brick / Block – Prior to laying, all brick shall be thoroughly wetted and the surfaces allowed to dry only sufficiently to prevent slippage on the mortar. Broken or chipped brick shall not be used on the face of the surface.

Brick shall be laid in neat, even courses with full and close mortar joints. Courses shall be level throughout. Stagger joints in adjoining courses by one-half a brick as nearly as practicable. Joints shall be not more than 1/2 inch thick and shall be of uniform thickness throughout the structure. Rake all joints to receive plaster coat. Prior to applying coat, brick shall be thoroughly wetted with water and the surface allowed to dry sufficiently to effect proper bonding.

iii. Plaster Coat – A cement mortar plaster coat shall be applied to the exterior surfaced of the brick and block sections. Plaster coat shall be 1/2 inch thick.

iv. Castings – Provide and install to the elevations indicated on the Plans, all cast iron covers, frames, as required. Castings shall be set in a full bed of mortar 1/2 inch thick, minimum,

v. Steps – Steps shall be installed at the plant by the manufacturer of the precast units.

vi. Sumps – Sump shall be provided, as indicated on the Plans, in all catch basins.

PROJECT SPECIFICATIONS

PARKING LOT 7A IMPROVEMENTS

KENT INTERMEDIATE SCHOOL DISTRICT KENT COUNTY, MICHIGAN

1. STANDARD CONSTRUCTION SPECIFICATIONS

Work under this Contract shall be completed in accordance with the General and Supplementary Conditions and the Project Specifications contained herein and include the following standard specifications contained herein: "Insurance Specifications", "Surface Restoration Specifications" and "Storm Sewer Specifications". Modifications and additions to these specifications are found on the following pages.

Where a standard construction method or contract procedure is not specifically covered by the Contract Documents or shown on the plans, the most recent edition of the Michigan Department of Transportation (MDOT) Standard Specifications for Construction shall apply. Specific references made in these documents will be abbreviated as follows: MDOT ###.##.

Such current specifications are hereby incorporated into these Contract Documents by specific reference. These project specifications are modifications and therefore supersede the above mentioned specifications.

2. GENERAL

Work to be constructed in this project includes parking lot paving, milling and resurfacing, pavement striping and appurtenant work.

The Contractor shall furnish adequate materials, equipment, labor, and supervision to complete this work, which also includes surface restoration and testing to conform to the standards of the specifications.

2.01 Scheduling

The Contractor shall file a construction schedule with the Engineer, Owner, and impacted utilities. This schedule shall be presented by the Contractor and reviewed at the preconstruction meeting for the project. The Owner and Engineer need to be provided with a minimum of three working days of notice; not

including weekends or holidays, of all driveway lane closures and/or driveway lane restrictions by the Contractor. The notice shall include the date upon which the closure/restriction will start and the expected date when the lane will open to traffic. These notices shall be in addition to the required construction schedule.

2.02 Maintenance

Where streets or driveways are partially obstructed, the contractor shall place and maintain temporary driveways, ramps, etc. which, in the opinion of the Engineer, are necessary to accommodate the public. Emergency vehicles shall have access at all times and shall be assisted by the Contractor if necessary. Near the end of each day's work, the Contractor shall remove obstructions that would make access difficult or impossible.

The Contractor shall inform the local police, ambulance service, and fire department in advance of his program of any street obstruction. Traffic must be maintained at all times.

2.03 Dust Control

All haul roads, detour roads, and other public and private roads (including backfilled trenches), driveways, and parking lots used by the Contractor must be maintained in a dust free condition during the duration of this Contract. All paved streets, driveways, and parking lots shall be swept daily to control the accumulation of dust and soil and to prevent the tracking of materials onto public and/or private streets, driveways, and parking lots. The control of dust shall be accomplished by the application of dust control materials by methods of application as approved and/or sweeping shall be applied as often as is necessary to control the dust or if directed to do so by the Owner's representative.

Cost of providing dust control shall be considered incidental to the project.

2.03 Material Haul Roads

Any spillage on public roadways used as haul routes shall be cleaned daily. Permission to use gravel roads shall be given to

Contractor only if Contractor assumes responsibility of maintenance, dust control and restoration of the gravel roads to the satisfaction of the Owner.

2.06 Protection of Natural Resources

The Contractor shall take all necessary steps to prevent damage to fish and game habitats and to preserve the natural resources of the State. Excavation and backfill shall be carried out so as to minimize discharge of damaging material into any stream, lake or reservoir.

The Contractor shall exercise caution in the discharge of waters from pumps, deep wells, or well point systems in order that such discharges do not cause erosion, siltation, soil depositions, etc., in sewers, streams or other water courses or drainage structures.

The Contractor shall not permit any sand or debris of any kind to enter the existing ditches, streams, storm sewers or culverts.

The rules and regulations of all work shall comply with Part 31 (Water Resources Protection), Part 301 (Inland Lakes and Streams Act), Part 91 (Soil Erosion), and Part 303 (Wetland Protection) of P.A. No. 451 (Natural Resources and Environmental Protections Act of 1994).

2.07 Soil Erosion and Sedimentation Control

All work shall comply with the rules and regulations of Part 91 of P.A. No. 451. Soil Erosion and Sedimentation Control Measures included in the "Excavating, Trenching and Backfilling for Utilities" Specification shows the minimum requirements for the construction of this project.

The Contractor shall provide all necessary measures to prevent erosion until surface restoration can be completed and approved. The Contractor shall stabilize any disturbed river or creek bank areas within 72 hours of completion of work within the river or creek bank area.

The Contractor shall apply for and obtain a Soil Erosion and Sedimentation Control permit from the City of Grand Rapids and pay for all necessary fees and obtain necessary bonds.

3. PERMITS

Prior to commencing construction of the Project, the following permits shall be obtained (if applicable) by the Kent Intermediate School District:

- a. Michigan Department of Environmental Quality (MDEQ) Part 41 of Act 451 Construction Permit for Wastewater Systems
- b. MDEQ Act 399 Construction Permit for Water Supply Systems
- c. MDEQ Part 301 of Act 451 Permit for work within Inland Lakes and Streams
- d. MDEQ Part 303 of Act 451 Permit for work within Wetlands
- e. Part 91 of Act 451 Soil Erosion and Sedimentation Control
- f. Part 31 of Act 451 Stormwater Discharge Permit
- g. MDOT Construction Permit for Operations within State Highway Right-of-Way

The Contractor shall be responsible for obtaining a permit for performing work within County Right-of-Ways, City Right-of-Ways, and MDOT Right-of-Ways.

4. COORDINATION

The contractor shall coordinate their work with utilities to assure that utility facilities are relocated in a manner that allows the contractor to meet the construction schedule. The contractor shall facilitate grade changes or other conditions for utilities as necessary for the utility to complete necessary relocations.

The Contractor shall coordinate their work with Kent Intermediate School District staff to accommodate events and other various operations. The Contractor shall coordinate all lane closures with other work that may occur on the Kent Intermediate School District so that access is maintained at all times to all buildings and facilities.

5. STAKING

VK Civil will provide construction staking for this project. The Contractor shall give 72 hours' notice when requesting stakes. The Contractor shall exercise proper care in the preservation of all stakes set for his use or the use of the engineer and if such stakes are damaged, lost or removed by Contractor's operation, the cost of resetting may be charged to the contractor.

6. MEASUREMENT AND PAYMENT

Payment shall be made for the proposal items only. All of the work specified in the contract documents and indicated on the drawings shall be considered included in the unit prices shown on the proposal. The unit price bid for each

proposal item shall be payment in full for completing the work, ready for use as specified.

All construction shall be measured for payment by the Owners Representative in accordance with the items listed in the proposal and as may be more specifically directed below.

Clearing Brushing and Tree Removal – All costs for clearing, brushing, tree removal, tunneling, and preservation of trees shall be considered incidental to the major items of work unless specific items have been provided in the proposal. Where specific items have been provided in the proposal per tree size, trees will be measured at a point 4 ½' above the ground line at the base of the tree. Where more than one tree has grown from a common stump, each tree is measured as a separate tree.

Removal of Surface Improvements – All costs for removal of surface improvements shall be considered incidental to the major items of work unless specific items have been provided in the proposal.

Existing Underground Utilities and Structures – All costs for replacement, relocation, reconnection, removing and salvaging, shoring, bracing, or abandonment of existing utilities, structures, utility poles, and guy wires shall be considered incidental to the major items of work unless specific items have been provided in the proposal.

Subgrade – Contractor shall notify Engineer of any questionable material encountered and the Engineer shall determine if it is suitable. If the soil in the bottom of the trench is soft due to excessive amounts of groundwater, weather, and/or the Contractor's method of operation, stabilization of the trench bottom shall be at the Contractor's expense. Payment for removal and replacement of unstable organic material or naturally soft clay, or installation of special foundations, will be paid under the *Place 6" MDOT Class II Sand Subbase* pay item, unless specific items have been provided in the proposal.

Surface Restoration – All work necessary to return the area of construction operations to its original condition shall be considered incidental to the major items of work unless specific items have been provided in the proposal. Measurement for surface restoration shall be made in horizontal feet along the centerline of the improved driveway and shall include all disturbed areas incidental to the construction of the driveway unless specific items have been provided for in the proposal.

Disturbed areas shall be repaired as often as necessary in order to produce a close stand of weed free grass. Any additional costs for repeated repair of disturbed areas shall be borne by the contractor.

7. TRAFFIC MAINTENANCE/TRAFFIC CONTROL

a) General

This work shall be in accordance with the requirements of the Kent County Road Commission (KCRC) and/or the City of Grand Rapids.

The Contractor shall inform the local police, ambulance service, fire department and school systems in advance of planned closures.

The Contractor shall submit an approved signage plan prior to commencement of work and coordinate work within right-of-ways during construction with the KCRC and/or the City of Grand Rapids. All signage, lights and barricades shall comply with the Michigan Manual of Uniform Traffic Control Devices (the Manual) and shall include posted detours.

The Contractor shall maintain public access to all sites impacted by the project. Emergency vehicle access shall be maintained at all times.

b) Temporary Signs

All temporary construction signs in accordance with the applicable requirements of the Manual shall be in place prior to construction in any area.

c) Payment

Payment for traffic control, detours, signage, and permits shall be included in the contract lump sum price as stated in the proposal. No additional payment will be made for the other costs incurred without written approval by the Engineer.

8. EARTH GRADING, EXCAVATION, AND SWALE GRADING

Excess material shall be disposed of in an upland area designated by the Owner. The area used for the disposal of excess material shall first be stripped of topsoil; which shall be stock piled for restoration of the disposal area, and then excess material shall be placed, compacted as necessary to consolidate the excess soils, graded to conform to the grades in the vicinity and as directed by the engineer, temporary and permanent soil erosion and sedimentation control measures shall be in place and final restoration of the excess material shall be completed and shall include seeding with a class A seed mixture and if necessary based on final slopes mulch blanket. No area shall be graded with greater than 1:4 slopes.

Payment for all earthwork, fill, and other related items is included in the cost of *Earth Excavation and Grading*, unless otherwise specified under a different pay item.

9. ROAD MATERIAL REMOVAL AND DISPOSAL

The Contractor shall remove, and responsibly dispose of all existing asphalt material off-site. The costs associated with removal of these materials and all other excess materials is considered incidental to the pay item for *Remove and Dispose of Pavement and Subbase*.

10. CONCRETE WALK CONSTRUCTION

10.01 Grade

Vriesman and Korhorn will stake the grades of the walk. Unless otherwise noted on the plan, the walk shall be constructed to be within 6 inches of existing grade. Where minor cuts and fills are shown on the plans, the specified cuts or fills are intended to indicate the amount of cut or fill necessary at the center of the sidewalk to bring the existing grade within 6 inches of the proposed sidewalk grade as determined in the field (i.e. if fill of 1 foot is specified on the plans, the proposed center of the sidewalk may be as much as 1' – 6" above the existing grade at the center of the sidewalk). The sidewalk will have a 1.5% - 2% transverse slope to maintain existing drainage patterns. The cost to make all minor cuts and fills required to construct the sidewalk shall be included in the bid price for concrete walk.

Major fill areas are paid for separately under a separate pay item. Fill areas shall be considered minor unless associated under a separate pay item.

10.02 Sub-base Preparation

Existing vegetation shall be removed and organic material excavated to provide an eight (8) inch minimum sand sub-base for the proposed walk. The existing sand sub-base shall be compacted to ninety-five (95%) percent maximum unit weight in accordance with MDOT procedures. Where fill sand is required it shall be compacted to achieve ninety-five (95%) percent maximum unit weight in accordance with MDOT procedures. The cost to prepare and provide the eight (8") inch sand subbase shall be included in the unit price bid for Place Thick Edge Concrete Walk.

10.03 Concrete

Concrete shall meet the requirements for Grade P1 or S2 Concrete as specified in Sections 601 and 701 of the MDOT 2020 Standard Specifications for Construction and shall have limestone aggregate. Other material shall meet the requirements of the applicable portions of the MDOT 2020 Standard Specifications for Construction. All concrete sidewalks shall be paved with a single course of concrete.

Sidewalk and concrete driveways shall be placed in accordance with Sections 801 and 803 of the MDOT 2020 Standard Specifications for Construction.

Sidewalks through driveways shall be six (6") inches thick extending a minimum of 5' on either side of the driveway. All other walks shall be four (4") inches thick. Unless otherwise specified, saw cuts and removal of existing sidewalk shall be considered incidental to the major items of work.

10.04 Joints

Full depth transverse expansion joints shall be constructed perpendicular to the surface of the walk at intervals not to exceed fifty (50') feet.

Expansion joint material shall be one-half (1/2") inch pre-molded expansion joints and shall be set 1/4" below the surface of the sidewalk.

Sealing of joints will not be required.

One (1") inch pre-molded expansion joints must be placed between the sidewalk and back-of-curb when walk is constructed between the curb and building or other rigid structures. Sealing of joints will not be required.

Transverse plane of weakness joints shall be true to line and grade, and shall be placed at five (5') foot intervals and shall be formed with a grooving tool. Planes of weakness joints shall be constructed to a depth of at least one (1") inch and a width of 1/8 inch to 1/4 inch. Sealing of joints will not be required.

10.05 Longitudinal and Transverse Grades

Walk transverse grades shall be between 1.5% and 2.0%. In no circumstance may transverse grades exceed 2.0%. Longitudinal grades shall be 5.0% maximum unless directed by engineer and must meet ADA requirements.

10.06 Surface

The surface of the concrete shall be floated to a level uniform surface and left with a slightly rounded surface. The surface shall be roughened with mechanic's brush to prevent smooth and slippery surfaces. No surface shall be troweled to a glassy finish. Edges at

11. Fence Gates

The fence gates shall match the proposed chain link fence to be 6-ft tall, with 9 gauge 2-inch mesh galvanized chain link fence. The gates shall be double swing 2-inch HF40 galvanized gate frame on all four sides with pool locking latch. The 8-ft wide gates shall include a dop rod into the pavement.

12. COMPLETION DATE

The project may not begin any earlier than June 2, 2025. The project shall be substantially complete by August 15, 2025 with final completion, including final restoration, by August 29, 2025.