



REQUEST FOR PROPOSALS
PHRAGMITES CONTROL AND LANDSCAPE INSTALLATION SERVICES

VILLAGE OF ASHWAUBENON

Proposals for a 5 year phragmites management service and installation of landscaping will be received by the Village of Ashwaubenon Parks, Recreation & Forestry Department, 900 Anderson Drive until 10:30 am on Friday, May 10th. The bid proposal will then be forwarded to the May 21st Park Board meeting and the May 28th Village Board meeting.

All proposals shall be plainly marked "CABELA'S AREA PHRAGMITES AND LANDSCAPING PROPOSAL" and the name of the bidder.

After the Village Board has considered said proposals, an award will be made to the successful bidder.

The bidder shall submit their proposal on the forms provided by the Village. Forms and specifications may be obtained / printed online at www.ashwaubenon.gov, or you could receive by email, by calling the Parks, Recreation & Forestry Department office at (920) 492-2331.

The Village has the right to waive any informality in any bid and has the right to reject any or all bids.

Dated this 24th day of April, 2024.

Village of Ashwaubenon
Rex Mehlberg, Director
Parks, Recreation and Forestry



VILLAGE OF ASHWAUBENON

REQUEST FOR PROPOSALS (RFP)

**PHRAGMITES CONTROL
AND
LANDSCAPE INSTALLATION
SERVICES**

**VILLAGE OF ASHWAUBENON
2155 HOLMGREN WAY
ASHWAUBENON, WI 54304**

MAY 2024

Request for Proposals for *Phragmites* Control and Landscape Installation Services

Village of Ashwaubenon Parks, Recreation and Forestry Department
Green Bay Cabelas Store Property, 1499 Lombardi Ave, Ashwaubenon, WI 54304

Release Date: April 24, 2024

Proposals Due: May 10, 2024

General Information

This Request for Proposal (RFP) is intended to solicit responses from qualified restoration consultants and landscape contractors to implement the proposed 5-year *Phragmites* management plan and install the attached landscape planting plan. The site is located at the Green Bay Cabelas storefront, 1499 Lombardi Ave, Ashwaubenon, WI (Project Area). This project will be administered and managed by the Village of Ashwaubenon, Parks, Recreation and Forestry Department (the Village) in consultation with the Green Bay Packers (Cabelas property owner) and the Wisconsin Department of Transportation (WisDOT owned ROW along Lombardi Avenue and INT 41).

This RFP pertains to the restoration of a remnant wet/sedge meadow wetland along the Cabelas storefront area facing Lombardi Avenue (north) and Argonne Street (east) in the Village of Ashwaubenon. This wetland area is approximately 6.75 acres in size and is currently completely infested with *Phragmites* with smaller areas of Common Buckthorn (*Rhamnus cathartica*) and narrow leaved cattail (*Typha angustifolia*). The wetland surface is generally flat with one emergent/open water depressional area totaling roughly 0.8 acres. Soils consist of a mucky peat with groundwater within 6 inches of the ground surface during most of the year. The *Phragmites* within the Project Area and eastern ditch line along the Interstate 41 corridor was treated with herbicide in September 2023.

The goal of this project is to restore and beautify the Cabelas storefront area and administer and implement a 5-year *Phragmites* maintenance plan. The proposed landscape plan incorporates native tree, shrub and herbaceous vegetation suited to live in saturated soil conditions and provide a variety of different colored flowers and fall colors. The proposed landscape plan also minimizes ongoing maintenance. The *Phragmites* management plan aims at containing and eliminating this invasive species to the extent practicable.

Scope of Work

The Village is soliciting proposals with the intention of entering into a contract for the eradication and maintenance of *Phragmites* and the installation and maintenance of the proposed landscape plan at the Green Bay Cabelas store front. The proposed landscape plan is included in Attachment A. The *Phragmites* plan will be implemented over a 5-year period to ensure eradication of the existing population and ensure successful establishment of the restored vegetative communities. Materials to be submitted as part of the proposal include:

1. Detailed scope of work for the management, permitting, procurement of materials and implementation of the *Phragmites* management plan and landscape plan.
 - a. Equipment owned by consultant and equipment/services that will require outsourcing or subcontracting.
 - b. Cost discounts for procurement of plants, seeds or herbicide.
2. List of local or state licenses for herbicide applications and landscape design.

3. Identification of key staff including the Project Manager and dedicated project team members.
4. Summary of similar and related past project experience (up to 4 past projects).
5. Preliminary project timeline and schedule.
6. Pricing for the scope of services detailed below.
7. Optional tasks or alternative methodologies and associated costs.
 - a. State or federal grant funding options (including grant application and award timelines and expected funding)

The following services are to be performed beginning February 2024 with an anticipated completion date of November 1, 2028.

5-Year Phragmites Management

The current *Phragmites* infestation will require yearly maintenance in order to facilitate the success of the proposed landscape plan. For this RFP, it is assumed that yearly herbicide treatments and periodic mowing/mulching will likely be required to achieve the eradication of *Phragmites* from the Project Area. Total Project Area included in the *Phragmites* management plan is 6.75 acres. Qualified bidders will have a valid State of Wisconsin, Department of Agriculture, Trade and Consumer Protection (DATCP) Commercial Pesticide Applicator License and maintain this license throughout the 5-year management period.

State of Wisconsin permitting will be required for the management of the *Phragmites* within the Project Area. The consultant shall provide a scope of work and cost to prepare, submit and obtain the following permits prior to the implementation of the *Phragmites* management plan:

- Obtain a project specific Wisconsin Department of Natural Resources (WDNR) NR 107 Aquatic Plant Management permit for herbicide applications.
 - Maintain yearly records of herbicide applications as required by law.
- Obtain or hold a Wisconsin Department of Transportation (WisDOT) Permit to Work on Highway Right-of-Way. This permit allows for work within WisDOT right-of-way.
- NOTE: It is assumed at this time that Wisconsin Department of Natural Resources (WDNR) wetland and/or waterway permitting for temporary or permanent wetland impacts (discharge of fill material, rutting, etc.) will not be required for the *Phragmites* mowing (large equipment tracking within wetlands), herbicide application or landscape plan implementation. If the methodology proposed by the consultant is anticipated to create impacts to the Project Area wetland, a detailed narrative and cost estimate for the preparation and submittal of applicable permit applications is required.

Qualified proposals will include a scope of work and associated costs describing the tasks associated with the implementation of the 5-year *Phragmites* management plan. Procurement of materials, proposed equipment to be used and costs associated for mobilization and implementation of the plan should be included. The plan generally includes yearly foliar herbicide treatments (aquatic glyphosate or similar) and mowing or mulching.

The initial Year 1 mowing of the *Phragmites* is anticipated to generate a significant amount of plant residue (thatch). Consultants shall provide a description of methodology that may be implemented to manage this thatch prior to the initial seeding and tree/shrub installation. Examples of thatch management for this Project may include shredding in place, burning or stockpiling for disposal/burning. Consultations between the Village, the Green Bay Packers and WisDOT detailing the safest and most cost-effective procedure may be required and assumptions regarding this aspect of the project should be included in the proposal. Any additional value added or cost saving approaches to the management of the *Phragmites* within the Project

Area should be incorporated into the proposal. The proposed 5-year management plan (including landscape plan tasks) is summarized below:

YEAR 1 – 2024

- Mow or mulch approximately 6.75 acres of standing or dead *Phragmites* in the late spring months of 2024 (May thru June).
- Manage resulting thatch either through removal from Project Area, burning in place or other innovative methods.
- Foliar treat with aquatic glyphosate (or similar) approximately 6.75 acres of newly emergent *Phragmites* when the plant has begun to form inflorescence (actively growing), or generally during the period from September thru October.
 - Foliar herbicide application will consist of a combination of low volume spraying using backpack sprayers and higher volume vehicle mounted boom or pistol sprayers.
- Post herbicide treatment reporting via a project web-map and database to track treatment progress and enable required reporting.

YEAR 2 – 2025

- Mow or mulch 2024 prior treated *Phragmites* areas in late winter or early spring (February thru April 2025). Assume 6.75 acres of mowing or mulching.
- Install trees, shrubs and emergent wetland plugs as detailed below in the proposed landscape plan.
- Foliar treat with aquatic glyphosate newly emergent *Phragmites* when the plant has begun to form inflorescence (actively growing), or generally during the period from September thru October.
 - For the purposes of the 2025 plan, assume 2.0 acres of herbicide treatment.
 - Foliar herbicide application will consist of a combination of low volume spraying using backpack sprayers and higher volume vehicle mounted boom or pistol sprayers.
- Provide landscape plan implementation oversight and associated documentation to Village.
- Post herbicide treatment reporting via a project web-map and database to track treatment progress and enable required reporting.

YEAR 3 - 2026

- Mow or mulch 2025 prior treated *Phragmites* areas in late winter or early spring (February thru April 2026). Assume 2.0 acre of mowing or mulching.
- Prepare Project Area (soil and/or seed bed) for seed installation.
- Install wetland and upland seed mixes as detailed below in the proposed landscape plan.
- Foliar treat with aquatic glyphosate newly emergent *Phragmites* when the plant has begun to form inflorescence (actively growing), or generally during the period from September thru October.
 - For the purposes of the 2026 plan, assume 1.0 acres of herbicide treatment.
 - Foliar herbicide application will consist of a combination of low volume spraying using backpack sprayers and higher volume vehicle mounted boom or pistol sprayers.
- Provide landscape plan implementation oversight and associated documentation to Village.
- Post herbicide treatment reporting via a project web-map and database to track treatment progress and enable required reporting.

YEAR 4 – 2027

- Assess Project Area for locations of poor seed germination or lack of native seed mix growth.
- Install wetland and upland seed mixes in areas of poor germination as detailed below in the proposed landscape plan.
- Foliar treat with aquatic glyphosate newly emergent *Phragmites* when the plant has begun to form inflorescence (actively growing), or generally during the period from September thru October.
 - For the purposes of the 2027 plan, assume 1.0 acres of herbicide treatment.

- Foliar herbicide application will consist of a combination of low volume spraying using backpack sprayers and higher volume vehicle mounted boom or pistol sprayers.
- Post herbicide treatment reporting via a project web-map and database to track treatment progress and enable required reporting.

YEAR 5 - 2028

- Foliar treat with aquatic glyphosate newly emergent *Phragmites* when the plant has begun to form inflorescence (actively growing), or generally during the period from September thru October.
 - For the purposes of the 2028 plan, assume 1.0 acres of herbicide treatment.
 - Foliar herbicide application will consist of a combination of low volume spraying using backpack sprayers and higher volume vehicle mounted boom or pistol sprayers.
- Post herbicide treatment reporting via a project web-map and database to track treatment progress and enable required reporting.

Landscape Plan Implementation

The proposed landscape plan incorporates a combination of native trees, flowering shrubs, plugs and wetland and upland herbaceous seed mixes to be installed within the Project Area. Prior to the installation of the trees, shrubs and seed, minor site preparation activities are anticipated. These activities will likely include seed bed preparation and minor dead vegetation removal. As stated above, WDNR permitting for wetland and waterway impacts is not anticipated for this Project. If equipment proposed for this project may rut or otherwise disturb the Project Area, consultation with the WDNR may be required and any resulting permit application preparation services and associated costs should be incorporated into the proposal.

The species list for each vegetation types was chosen based on ecoregion, site conditions and desired aesthetics for this highly visible area. Trees, shrubs and plug installation should occur in 2025 following the spring mowing event. Seed installation should occur in 2026 and be followed up by maintenance installation (as needed) in 2027. A species summary list with quantities and acreages (for seed mixes) is included in the attached landscape plan on sheet L1.01. The scope of services for the landscape plan implementation are as follows:

- Develop and submit appropriate WDNR and U.S. Army Corps of Engineers permitting for wetland impacts (if required).
- Procure trees, shrubs, plug plantings and seed mixes as listed on the attached landscape plan and included in the seed mix summaries.
- Site preparation, including:
 - Protection of existing trees
 - Erosion control
 - Protection of existing emergent open water
 - Locate and protect all underground utilities.
- Installation of plugs 2' on center as noted on the attached landscape plan and details:
 - Emergent wetland & flowering plugs – 0.84 acres (9,190 plugs)
- Installation of proposed seed mixes as noted on the attached seed mix summary tables:
 - Seed bed preparation
 - Emergent wetland and flowering mix – 0.70 acres (30,870 SF)
 - Hardwood swamp herbaceous mix – 0.99 acres (43,530 SF)
 - Upland flowering mix – 1.25 acres (54,444 SF)
 - Wet meadow sedge and flowering mix – 2.14 acres (93,402 SF)
- Re-Seeding of proposed seed mixes as noted on the attached seed mix summary tables:
 - Emergent wetland and flowering mix – 0.17 acres (7,405 SF)
 - Hardwood swamp herbaceous mix – 0.24 acres (10,781 SF)

- Upland flowering mix – 0.31 acres (13,612 SF)
- Wet meadow sedge and flowering mix – .53 acres (23,304 SF)
- Installation of trees at locations noted on the attached landscape plan and details:
 - 6' HT coniferous trees: 55
 - 2.5" B&B deciduous trees: 34
 - 1.5" B&B ornamental trees: 24

Qualifications

- Nursery: Company specializing in growing and cultivating the specified trees and shrubs with documented experience as represented by a list of completed past projects.
- Seed Distributor: Company specializing in harvesting and mixing of native plant species with guaranteed analysis of seed mix purity (%), inert matter (%) and weed seeds (%). Seed mix must be guaranteed weed free.
- Installer: Company specializing in installing and planting the specified plants and seed mixes with a minimum of 3-years documented experience as represented by a list of completed past projects.
 - Past projects must include *Phragmites* eradication with subsequent natural/native landscape planting and maintenance.
 - Installer must provide a list of equipment suitable, including descriptions and weights, for this Project.
 - Installer must also provide a decontamination plan and documentation for cleaning of equipment to remove foreign or invasive plant matter prior to arrival on Site.

Requirements

- **Scheduling**
 - Mowing to be done during snow covered or frozen ground conditions to minimize impacts to wetland areas.
 - Herbicide applications to be done in early fall when *Phragmites* has begun to form inflorescence (actively growing). Assumed to be September thru October of each year.
 - Tree, shrub, plug and seed installation to be done in spring or fall months only. No summer installation of vegetation.
- No herbicide application will be performed without appropriate Wisconsin herbicide application license.
- Herbicide applications will commence only after appropriate, project specific WDNR and WisDOT herbicide application and property access permits are approved and issued.
- Ship landscape materials with certificates of inspection required by governing authorities. Comply with regulations applicable to landscape materials.
- Plant or seed substitutions accepted only upon approval of the Village or the Village landscape architect or consultant. If specified landscape material is not obtainable, submit proof of non-availability to the Village and Village landscape architect or consultant together with proposal for use of equivalent material.
- **Analysis and Standards:** Package standard products with manufacturer's certified analysis. For other materials, provide analysis by a recognized laboratory made in accordance with methods established by the Association of Official Agriculture Chemists, whenever applicable.

- **Trees and Plugs:** Provide trees and plugs of quantity, size, genus, species, and variety shown and scheduled for landscape work and complying with recommendations and requirements of ANSI Z60.1 “American Standard for Nursery Stock.” Provide healthy, vigorous stock, grown in recognized nursery in accordance with good horticultural practice and free of disease, insects, eggs, larvae, and defects, such as knots, hail damage, sunscald, injuries, abrasions, or disfigurement.
- **Plant Names and Labels:** The nomenclature used in the Landscape Plan conforms with few exceptions, to that of the current edition of Standardized Plant Names as adopted by the American Joint Committee on Horticulture Nomenclature.
- **Workers:** Landscaping work shall be performed by personnel familiar with planting procedures, and Work shall be supervised under the direction of a qualified planting supervisor or restoration ecologist.
- **Inspection:** The Village or Village landscape architect or consultant will inspect shrubs and perennials at place of growth before planting, for compliance with requirements for genus, species, variety, size, and quality. The Village retains the right to further inspect shrubs and perennials for size and condition of balls and root systems, insects, injuries and latent defects, and to reject unsatisfactory or defective material at any time during progress of Work. Remove rejected trees and perennials within 8 hours from the Project Area.

Consultant will also provide qualified personal to complete on-site inspections of equipment, trees, shrubs and seed mixes prior to installation. The consultant on-site inspector will also be responsible for providing oversight during active installation to ensure plan is implemented correctly and within specifications. The inspector is expected to be on site at least 3 hours/day that construction personal are installing the proposed landscape plan. A summary report or similar, complete with photographs, is required to be submitted to the Village once installation is complete.

- All plant material shall be hardy stock grown in a similar hardiness zone for a minimum of 2 years.
- Fertilizer Manufacturer’s Certificate of Compliance: Written documentation verifying compliance with chemical analysis of fertilizer furnished. Submit to the Village, the Village landscape architect or consultant 5 days prior to delivery. Most Deciduous Trees and Shrubs: Transplant in early spring after ground thaws and buds on trees or shrubs begin to swell, or in fall after leaves drop and before ground freezes. Evergreens: Transplant in late summer to early fall (prone to winter browning if transplanting is delayed to late fall).

Acceptance and Warranty

- As described above, landscape work will be inspected for acceptance upon completion of all Work.
- The Village, the Village landscape architect or consultant shall inspect work and provide written acceptance of work. The establishment period and warranty will begin upon written acceptance.
- All trees and shrubs will have a 2-year establishment and warranty period. Seed mixes are not required to have a warranty.
- At the conclusion of the establishment and warranty period, a final inspection of planting will be made to determine the conditions of Work. When Work does not comply with Specifications, Contractor

shall replace rejected work. Replacement plants will include a second establishment period. Remove rejected plants and materials from the Site.

Proposal Submittal

Qualified restoration consultants and/or landscape installers shall submit proposals by May 10, 2024 to the following:

Rex Mehlberg
Director, Parks, Recreation & Forestry
Village of Ashwaubenon
900 Anderson Dr.
Green Bay, WI 54304

Email: rmehlberg@ashwaubenon.gov

Project Manual

**Cabelas Store Property - Phragmites Control and Landscape
Installation Services**

Village of Ashwaubenon Parks

Recreation and Forestry Department

Ashwaubenon, Wisconsin

February 2024

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Ashwaubenon, WISCONSIN
2024

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REQUEST FOR PROPOSALS

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ADVERTISEMENT FOR BIDS

Project: Cabelas Store Property - Phragmites Control and Landscape Services

Date of Ad: April 24, 2024

Pre-Bid Meeting: There will be no Pre-Bid Meeting.

Date Bids are due: May 10, 2024

Bid Opening: Village of Ashwaubenon Village Hall
2155 Holmgren Way, Ashwaubenon, WI. 54304

DESCRIPTION OF WORK: The project is officially known as "Cabelas Store Property - Phragmites Control and Landscape Services". The project is generally described as restoration of a remnant wet/sedge meadow wetland along the Cabela's storefront area facing Lombardi Avenue (north) and Argonne Street (east) in the Village of Ashwaubenon. Refer to the General Information within the Request for Proposals for a further description of work.

BIDDING DOCUMENTS: Complete bidding documents will be made available by the Owner.

Direct inquiries to Rex Mehlberg, Director Parks, Recreation and Forestry

LEGAL PROVISIONS: The Contract letting shall be subject to the provisions of Sections 66.29, and 779.15 of the Wisconsin Statutes.

BASE AND ALTERNATE BID ITEMS: The Owner has the right to accept base bid and any alternate bid items. Acceptance of a bid will not be determined solely on the lowest bid amount.

RIGHT TO REJECT BIDS: The Owner reserves the right to reject any and all bids, the right to waive irregularities and informalities in bidding, the right to disregard all nonconforming, non-responsive, unbalanced or conditional bids, and the right to accept the bid which best serves the interests of the Owner.

CONTRACT SECURITY: The bidder to whom a Contract is awarded shall furnish a Performance Bond for the full amount of the Contract within 10 days of award or execution of the Contract. The Performance Bond shall contain a provision to increase the Performance Bond by the amount of any change orders that might increase the amount of the Contract price. If such bidder fails to execute and file such Contract and Performance Bond, within the 10-day period, the check, bond, or bank draft accompanying the bid shall be forfeited to the Owner as liquidated damages.

BID WITHDRAWAL: The Owner reserves the right to postpone the award of the contract and no bids shall be withdrawn for a period not exceeding 60 days after the date and time set forth in the Bid Opening. The Owner further reserves the right to retain the bid security of the three (3) lowest bidders during that time.

Published by authority of the Village of Ashwaubenon, Wisconsin.

END OF SECTION

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INSTRUCTIONS TO BIDDERS

ARTICLE 1 - DEFINED TERMS

1.01 Terms used in these Instructions to Bidders have the meanings indicated in the General Conditions and Supplementary Conditions. Additional terms used in these Instructions to Bidders have the meanings indicated below:

- A. Issuing Office – The office from which the Bidding Documents are to be issued and where the Bidding procedures are to be administered.

ARTICLE 2 - COPIES OF BIDDING DOCUMENTS

2.01 Complete sets of the Bidding Documents will be provided by the Owner to the selected Contractors.

2.02 Complete sets of Bidding Documents shall be used in preparing Bids; Owner assumes any responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.

2.03 Owner, in making copies of Bidding Documents available on the above terms, do so only for the purpose of obtaining Bids for the Work and do not authorize or confer a license for any other use.

2.04 Neither Owner nor the Consultant assumes any responsibility for errors or misinterpretations resulting from Bidder's use of electronic downloadable Bidding Documents (Electronic Bidding Documents). In addition to the above items, Bidders using Electronic Bidding Documents are solely responsible for use of such documents, including, but not limited to:

- A. It is the responsibility of the Bidder to verify the intended document size (sheet dimensions) and to verify proper colors (color, or black and white) of the Electronic Bidding Documents prior to reproduction. Bidder shall ensure that the Electronic Bidding Documents are reproduced to the correct and exact scale, and correct colors.

ARTICLE 3 - QUALIFICATIONS OF BIDDERS

3.01 To demonstrate Bidder's Qualifications to perform the Work, within 5 days of Owner's request, bidder shall submit written evidence such as financial data, previous experience, present commitments and such other data as may be called for below:

- A. Evidence of Bidder's authority to do business in the state where the Project is located.
- B. Evidence of genuineness of Bid and lack of collusion in conjunction therewith.

3.02 Bidder is advised to carefully review those portions of the Bid Form requiring Bidder's Representations and Certifications.

ARTICLE 4 - EXAMINATION OF BIDDING DOCUMENTS, OTHER RELATED DATA, AND SITE

4.01 Underground Facilities

- A. Information and data shown or indicated in the Bidding Documents with respect to existing Underground Facilities at or contiguous to the Site is based upon information and data furnished to Owner and the Consultant by owners of such Underground Facilities, including Owner or others.

4.02 On request, Owner will provide Bidder access to the Site to conduct such examinations, investigations, explorations, tests, and studies as Bidder deems necessary for submission of a Bid. Bidder shall fill all holes and clean up and restore the Site to its former condition upon completion of such explorations, investigations, tests, and studies. Bidder shall comply with all applicable Laws and Regulations relative to excavation and utility locates.

4.03 Reference is made to Article 7 of the EJCDC for the identification of the general nature of other work that is to be performed at the Site by Owner or others (such as utilities and other prime contractors) that relates to the Work contemplated by these Bidding Documents. On request, Owner will provide to each Bidder for examination access to or copies of contract documents (other than portions thereof related to price) for such other work.

4.04 It is the responsibility of each Bidder before submitting a Bid to:

- A. Examine and carefully study the Bidding Documents, and the other related data identified in the Bidding Documents;
- B. Visit the Site and become familiar with and satisfy Bidder as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work;
- C. Become familiar with and satisfy Bidder as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work;
- D. Consider the information known to Bidder; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Bidding Documents; and the Site-related reports and drawings identified in the Bidding 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 Bidder, including applying any specific means, methods, techniques, sequences, and procedures of construction expressly required by the Bidding Documents; and (3) Bidder's safety precautions and programs;
- E. Agree at the time of submitting its Bid that no further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of its Bid for performance of the Work at the price(s) Bid and within the times required, and in accordance with the other terms and conditions of the Bidding Documents;
- F. Become aware of the general nature of the work to be performed by Owner and others at the Site that relates to the Work as indicated in the Bidding Documents;
- G. Promptly give the Consultant written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder discovers in the Bidding Documents and confirm that the written resolution thereof by the Consultant is acceptable to Bidder; and

- H. Determine that the Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance of the Work.
- 4.05 The submission of a Bid will constitute an incontrovertible representation by Bidder that Bidder has complied with every requirement of this Article 4, that without exception the Bid is premised upon performing and furnishing the Work required by the Bidding Documents and applying any specific means, methods, techniques, sequences, and procedures of construction that may be shown or indicated or expressly required by the Bidding Documents, that Bidder has given Engineer written notice of all conflicts, errors, ambiguities, and discrepancies that Bidder has discovered in the Bidding Documents and the written resolutions thereof by the Consultant are acceptable to Bidder, and that the Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performing and furnishing the Work.

ARTICLE 5 - PRE-BID CONFERENCE

- 5.01 There will be no Pre-Bid Conference.

ARTICLE 6 - SITE AND OTHER AREAS

- 6.01 The Site is identified in the Bidding Documents. Easements for permanent structures or permanent changes in existing facilities are to be obtained and paid for by Owner, unless otherwise provided in the Bidding Documents. All additional lands and access thereto required for temporary construction facilities, construction equipment, or storage of materials and equipment to be incorporated in the Work are to be obtained and paid for by Contractor.

ARTICLE 7 - INTERPRETATIONS AND ADDENDUM

- 7.01 All questions about the meaning or intent of the Bidding Documents are to be submitted to the Consultant in writing. Interpretations or clarifications considered necessary by the Consultant in response to such questions will be issued by Addendum mailed or delivered to all parties recorded by the Consultant as having received the Bidding Documents. Questions received less than 10 days prior to the date for Opening of Bids may not be answered. Only questions answered by Addendum will be binding. Oral and other interpretations or clarifications will be without legal effect.
- 7.02 Addendum may be issued to clarify, correct, or change the Bidding Documents as deemed advisable by Owner or the Consultant.

ARTICLE 8 - BID SECURITY

- 8.01 A Bid must be accompanied by Bid Security made payable to Owner in an amount of 5 percent of Bidder's maximum Bid price and in the form of a certified check, bank money order, or a Bid Bond issued by a surety meeting the requirements of Paragraphs 5.01 and 5.02 of the General Conditions.
- 8.02 The Bid Security of the successful Bidder will be retained until such Bidder has executed the Contract Documents, furnished the required Contract Security and met the other conditions of the Notice of Award, whereupon the Bid Security will be returned. If the successful Bidder fails to execute and deliver the Contract Documents and furnish the required Contract Security within 15 days after the Notice of Award, Owner may consider Bidder to be in default, annul the Notice of Award, and the Bid Security of that Bidder will

be forfeited. Such forfeiture shall be Owner's exclusive remedy if Bidder defaults. The Bid Security of other Bidders whom Owner believes to have a reasonable chance of receiving the award may be retained by Owner until the earlier of 7 days after the Effective Date of the Agreement or 61 days after the Bid Opening, whereupon Bid Security furnished by such Bidders will be returned.

- 8.03 Bid Security of other Bidders whom Owner believes do not have a reasonable chance of receiving the award will be returned within 7 days after the Bid Opening.

ARTICLE 9 - CONTRACT TIMES

- 9.01 The number of days within which, or the dates by which, Milestones are to be achieved and the Work is to be Substantially Completed and ready for Final Payment are set forth in the Agreement.

ARTICLE 10 - LIQUIDATED DAMAGES

- 10.01 Provisions for liquidated damages, if any, are set forth in the Agreement.

ARTICLE 11 - SUBSTITUTE AND "OR-EQUAL" ITEMS

- 11.01 The Contract, if awarded, will be on the basis of materials and equipment specified or described in the Bidding Documents without consideration of possible substitute or "or-equal" items. Whenever it is specified or described in the Bidding Documents that a substitute or "or-equal" item of material or equipment may be furnished or used by Contractor if acceptable to the Consultant, application for such acceptance will not be considered by the Consultant until after the Effective Date of the Agreement.

ARTICLE 12 - SUBCONTRACTORS, SUPPLIERS, AND OTHERS

- 12.01 If the Supplementary Conditions require the identity of certain subcontractors, suppliers, individuals, or entities to be submitted to Owner in advance of a specified date prior to the Effective Date of the Agreement, the apparent successful Bidder, and any other Bidder so requested, shall within 5 days after Bid Opening, submit to Owner a list of all such subcontractors, suppliers, individuals, or entities proposed for those portions of the Work for which such identification is required. Such list shall be accompanied by an experience statement with pertinent information regarding similar projects and other evidence of qualification for each such subcontractor, supplier, individual, or entity if requested by Owner. If Owner or the Consultant, after due investigation, has reasonable objection to any proposed subcontractor, supplier, individual, or entity, Owner may, before the Notice of Award is given, request apparent successful Bidder to submit a substitute, in which case apparent successful Bidder shall submit an acceptable substitute, Bidder's Bid price will be increased (or decreased) by the difference in cost occasioned by such substitution, and Owner may consider such price adjustment in evaluating Bids and making the Contract award.

- 12.02 If apparent successful Bidder declines to make any such substitution, Owner may award the Contract to the next lowest Bidder that proposes to use acceptable subcontractors, suppliers, individuals, or entities. Declining to make requested substitutions will not constitute grounds for forfeiture of the Bid Security of any Bidder. Any subcontractor, supplier, individual, or entity so listed and against which Owner or the Consultant makes no written objection prior to the giving of the Notice of Award will be deemed acceptable to

Owner and the Consultant subject to revocation of such acceptance after the Effective Date of the Agreement as provided in Paragraph 6.06 of the General Conditions.

12.03 Contractor shall not be required to employ any subcontractor, supplier, individual, or entity against whom Contractor has reasonable objection.

ARTICLE 13 - PREPARATION OF BID

13.01 The Bid Form is included with the Bidding Documents.

13.02 All blanks on the Bid Form shall be completed. A Bid price shall be indicated for each section, Bid Item, Alternate, adjustment Bid Unit Price Bid Item, and Bid Unit Price Bid Item listed therein.

13.03 A Bid by a corporation shall be executed in the corporate name by the president or a vice-president or other corporate officer accompanied by evidence of authority to sign. The corporate seal shall be affixed and attested by the secretary or an assistant secretary. The corporate address and state of incorporation shall be shown.

13.04 A Bid by a partnership shall be executed in the partnership name and signed by a partner (whose title must appear under the signature), accompanied by evidence of authority to sign. The official address of the partnership shall be shown.

13.05 A Bid by a limited liability company shall be executed in the name of the firm by a member and accompanied by evidence of authority to sign. The state of formation of the firm and the official address of the firm shall be shown.

13.06 A Bid by an individual shall show the Bidder's name and official address.

13.07 A Bid by a joint venture shall be executed by each joint venturer in the manner indicated on the Bid Form. The official address of the joint venture shall be shown.

13.08 The Bid shall contain an acknowledgment of receipt of all Addendum, the numbers of which shall be filled in on the Bid Form.

13.09 The Bid shall contain evidence of Bidder's authority and qualification to do business in the state where the Project is located, or Bidder shall covenant in writing to obtain such authority and qualification prior to award of the Contract and attach such covenant to the Bid. Bidder's state contractor license number, if any, shall also be shown on the Bid Form.

13.10 Bidders shall identify the name of the subcontractor that will perform the listed portion of the Work if the Bidder is awarded the Contract.

ARTICLE 14 - BASIS OF BID; COMPARISON OF BIDS

14.01 Unit Price with Alternates

- A. Bidders shall submit a Bid on a Bid Unit Price basis for each Bid Item of Work listed in the Bid Form and include a separate price for each Alternate described in the Bidding Documents as provided on the Bid Form. The price for each Alternate will be the amount added to or deleted from the Base Bid if the Owner selects the Alternate in the evaluation of Bids, Owner may select any combination of Alternates or Owner may choose not to accept any Alternate Bids.
- B. The total of all estimated prices will be the sum of the products of the estimated quantity of each Bid Item and the corresponding Bid Unit Price. The final quantities and Contract Price will be determined in accordance with Paragraph 11.03 of the General Conditions.
- C. Discrepancies between the multiplication of units of work and Bid Unit Prices will be resolved in favor of the Bid Unit Prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum.
- D. Bidders may submit a Bid on proposed Substitute Items. The Deduct Price for each Substitute Item shall be the price deducted from the Total Base Bid, if accepted by the Owner. In the evaluation of Bids, Owner may select any combination of Substitute Items or may choose not to accept any Substitute Items.

14.02 Allowances

- A. For cash allowances the Bid price shall include such amounts as the Bidder deems proper for Contractor's overhead, costs, profit, and other expenses on account of cash allowances, if any, named in the Contract Documents, in accordance with Paragraph 11.02.B of the General Conditions.

ARTICLE 15 - SUBMITTAL OF BID

15.01 Bid shall be submitted no later than the date and time indicated in the Advertisement or Invitation for Bids and shall be emailed with the Project title (and, if applicable, the designated portion of the Project for which the Bid is submitted), the name and address of Bidder, and shall be accompanied by the Bid Security and other required documents.

15.02 The Bid shall include the entire Document 00 41 10, Bid Form. This includes all attachments listed in Article 7.01 of the Bid Form and/or all forms included with the Bid Form. The Contractor may remove or copy these sheets from the Project Manual

15.03 The entire Project Manual should not be submitted with the Bid.

ARTICLE 16 - MODIFICATION AND WITHDRAWAL OF BID

16.01 A Bid may be modified or withdrawn by an appropriate document duly executed in the same manner that a Bid must be executed and delivered to the place where Bids are to be submitted prior to the date and time for the Opening of Bids.

16.02 Bids may be withdrawn after Bid Opening only in accordance with the law.

ARTICLE 17 - OPENING OF BIDS

17.01 Bids will be opened at the time and place indicated in the advertisement or invitation to bid and, unless obviously non-responsive, read aloud publicly. An abstract of the amounts of the base Bids and major alternates, if any, will be made available to Bidders after the opening of Bids.

17.02 All Bidders must be prequalified in accordance with Section 3.01.

ARTICLE 18 - BIDS TO REMAIN SUBJECT TO ACCEPTANCE

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

ARTICLE 19 - EVALUATION OF BIDS AND AWARD OF CONTRACT

19.01 If the Contract is awarded, award will be made by the choice of the Owner and not specifically on the lowest total bid price.

19.02 Owner reserves the right to reject any or all Bids, including without limitation, nonconforming, nonresponsive, unbalanced, or conditional Bids. Owner further reserves the right to reject the Bid of any Bidder whom it finds, after reasonable inquiry and evaluation, to not be responsible. Owner may also reject the Bid of any Bidder if Owner believes that it would not be in the best interest of the Project to make an award to that Bidder. Owner also reserves the right to waive all informalities not involving price, time, or changes in the Work and to negotiate contract terms with the successful Bidder.

19.03 More than 1 Bid for the same Work from an individual or entity under the same or different names will not be considered. Reasonable grounds for believing that any Bidder has an interest in more than 1 Bid for the Work may be cause for disqualification of that Bidder and the rejection of all Bids in which that Bidder has an interest.

19.04 In evaluating Bids, Owner will consider whether or not the Bids comply with the prescribed requirements, and such Alternates, Bid Unit Prices and other data, as may be requested in the Bid Form or prior to the Notice of Award.

19.05 In evaluating Bidders, Owner will consider the qualifications of Bidders and may consider the qualifications and experience of subcontractors, suppliers, and other individuals or entities proposed for those portions of the Work for which the identity of subcontractors, suppliers, and other individuals or entities must be submitted as provided in the Supplementary Conditions.

19.06 Owner may conduct such investigations as Owner deems necessary to establish the responsibility, qualifications, and financial ability of Bidders, proposed subcontractors, suppliers, individuals, or entities proposed for those portions of the Work in accordance with the Contract Documents. As a condition of its Bid, Bidder is required to waive any and all claims of whatever nature against Owner, the Consultant, and their employees and agents which arise out of or relate to such investigations and statements made as a result thereof, except for statements that can be shown by clear and convincing evidence to be intentionally false and made with actual malice. This waiver is not intended to restrict Bidder's rights to challenge a Contract pursuant to law.

19.07 If the Contract is to be awarded, Owner will award the Contract to the Bidder whose Bid is in the best interests of the Project.

ARTICLE 20 - CONTRACT SECURITY AND INSURANCE

20.01 Article 5 of the General Conditions, as may be modified by the Supplementary Conditions, sets forth Owner's requirements as to performance and payment bonds and insurance. When the successful Bidder delivers the executed Agreement to Owner, it shall be accompanied by such bonds.

ARTICLE 21.01 - SIGNING OF AGREEMENT

21.01 When Owner issues a Notice of Award to the successful Bidder, it shall be accompanied by the required number of unsigned counterparts of the Agreement along with the other Contract Documents which are identified in the Agreement as attached thereto. Within 7 days thereafter, successful Bidder shall sign and deliver the required number of counterparts of the Agreement and attached documents to Owner. Within 7 days thereafter, Owner shall deliver 2 fully signed counterparts to successful Bidder with a complete set of the Drawings with appropriate identification.

END OF SECTION



BIDDER: _____

DOCUMENT 00 41 10

BID FORM

Phragmites Control and Landscape Installation Services
Village of Ashwaubenon Parks
Ashwaubenon, WI
2024

THIS BID IS SUBMITTED TO:
Rex Mehlberg, Director, Village of Ashwaubenon Parks,
Recreation and Forestry Department

1.01 The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an Agreement with Owner in the form included in the Bidding Documents to perform all Work as specified or indicated in the Bidding Documents for the prices and within the times indicated in this Bid and in accordance with the other terms and conditions of the Bidding Documents.

2.01 Bidder accepts all of the terms and conditions of the Instructions to Bidders, including without limitation those dealing with the disposition of Bid Security. The Bid will remain subject to acceptance for 60 days after the Bid Opening, or for such longer period of time that Bidder may agree to in writing upon request of Owner.

3.01 In submitting this Bid, Bidder represents that:

A.

Bidder has examined and carefully studied the Bidding Documents, the other related data identified in the Bidding Documents, and the following Addenda, receipt of all which is hereby acknowledged:

<u>Addendum No.</u>	<u>Addendum Date</u>
_____	_____
_____	_____
_____	_____

B.

Bidder 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. Bidder 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. Bidder 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 in or relating to existing surface or subsurface structures at, or contiguous to, the Site (except Underground Facilities) which have been identified in SC-4.02, and (2) reports and drawings of Hazardous Environmental Conditions that have been identified in SC-4.06.
- E. Bidder has obtained and carefully studied (or accepts the consequences for not doing so) all additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at, or contiguous to, the Site which may affect cost, progress, or performance of the work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder, including applying the specific means, methods, techniques, sequences, and procedures of construction expressly required by the Bidding Documents to be employed by Bidder, and safety precautions and programs incident thereto.
- F. Bidder does not consider that any further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of this Bid for performance of the Work at the price(s) Bid and within the times and in accordance with the other terms and conditions of the Bidding Documents.
- G. Bidder is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Bidding Documents.
- H. Bidder has correlated the information known to Bidder, information and observations obtained from visits to the Site, reports and drawings identified in the Bidding Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Bidding Documents.
- I. Bidder has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bidding Documents, and the written resolution thereof by Engineer is acceptable to Bidder.
- J. The Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance of the Work for which this Bid is submitted.
- K. Bidder will submit written evidence of its authority to do business in the state where the Project is located not later than the date of its execution of the Agreement.

4.01 Bidder further represents that:

- A. The prices in this Bid have been arrived at independently, without consultation, communication, or agreement as to any matters relating to such prices with any other Bidder or with any competitor for the purpose of restricting competition.
- B. The prices in this Bid have not or will not be knowingly disclosed to any other Bidder or competitor prior to opening of the Bids.
- C. No attempt has been made or will be made by the Bidder to induce any other person or firm to submit or not to submit a Bid for the purpose of restricting competition.

4.02 Bidder understands that the law may require the Owner, or Engineer at the Owner's direction, to undertake an investigation and submit an evaluation concerning Bidder's responsiveness, responsibility, and qualifications before awarding a contract. Bidder hereby waives any and all claims, of whatever nature, against Owner, Engineer and their employees and agents, which arise out of or relate to such investigation and evaluation, and statements made as a result thereof, except for statements that can be shown by clear and convincing evidence to be intentionally false and made with actual malice. Nothing in this paragraph is intended to restrict Bidder's rights to challenge a contract pursuant to law.

5.01 Bidder will complete the Work in accordance with the Contract Documents for the following price(s):

All specific cash allowances are included in the price(s) set forth below and have been computed in accordance with Paragraph 11.02 of the General Conditions.

Unit Prices have been computed in accordance with Paragraph 11.03.B of the General Conditions

Bidder acknowledges that estimated quantities are not guaranteed, and are solely for the purpose of comparison of Bids, and final payment for all Unit Price Bid items will be based on actual quantities provided, determined as provided in the Contract Documents.

Base Bid

No.	Item	Units	Qty
1	INVASIVE SPECIES MANAGEMENT - YEAR 1	LS	1
	PRICE (IN WORDS) \$ _____		
	PRICE (IN FIGURES) _____	\$	_____
2	LANDSCAPE INSTALLATION - YEAR 2	LS	1
	PRICE (IN WORDS) \$ _____		
	PRICE (IN FIGURES) _____	\$	_____
3	INVASIVE SPECIES MANAGEMENT - YEAR 2	LS	1
	PRICE (IN WORDS) \$ _____		
	PRICE (IN FIGURES) _____	\$	_____
4	LANDSCAPE INSTALLATION - YEAR 3	LS	1
	PRICE (IN WORDS) \$ _____		
	PRICE (IN FIGURES) _____	\$	_____
5	INVASIVE SPECIES MANAGEMENT - YEAR 3	LS	1
	PRICE (IN WORDS) \$ _____		
	PRICE (IN FIGURES) _____	\$	_____
6	LANDSCAPE INSTALLATION - YEAR 4	LS	1
	PRICE (IN WORDS) \$ _____		
	PRICE (IN FIGURES) _____	\$	_____
7	INVASIVE SPECIES MANAGEMENT - YEAR 4	LS	1
	PRICE (IN WORDS) \$ _____		
	PRICE (IN FIGURES) _____	\$	_____
8	INVASIVE SPECIES MANAGEMENT - YEAR 5	LS	1
	PRICE (IN WORDS) \$ _____		
	PRICE (IN FIGURES) _____	\$	_____
	TOTAL BASE BID		\$ _____

6.01 Bidder agrees that the Work will be Substantially Completed and completed and ready for Final Payment in accordance with Paragraph 14.07.B of the General Conditions on or before the dates or within the number of calendar days indicated in the Agreement.

6.02 Bidder accepts the provisions of the Agreement as to liquidated damages in the event of failure to complete the Work within the times specified above, which shall be stated in the Agreement.

7.01 The following documents are attached to and made a condition of this Bid:

- A. Required Bid Security in the form of 5 percent.

8.01 The terms used in this Bid with initial capital letters have the meanings stated in the Instructions to Bidders, the General Conditions, and the Supplementary Conditions.

SUBMITTED on _____, 20__.

If Bidder Is:

An Individual

Name (typed or printed): _____

By: _____ (SEAL)
(Individual's signature)

Doing business as: _____

Business Street Address (No P.O. Box #'s):

Phone No.: _____ Fax No.: _____

A Partnership

Partnership Name: _____(SEAL)

By: _____
(Signature of general partner)

Name (typed or printed): _____

Business Street Address (No P.O. Box #'s):

Phone No.: _____ Fax No.: _____

A Corporation

Corporation Name: _____(SEAL)

State of Incorporation: _____

Type (General Business, Professional, Service, Limited Liability): _____

By: _____
(Signature)

Name (typed or printed): _____

Title: _____

Attest _____ (CORPORATE SEAL)
(Signature of Corporate Secretary)

Business Street Address (No P.O. Box #'s):

Phone No.: _____ Fax No.: _____

A Joint Venture

Joint Venture Name: _____(SEAL)

By: _____
(Signature of joint venture partner)

Name (typed or printed): _____

Title: _____

Business address: _____

Phone No.: _____ Fax No.: _____

Joint Venturer Name: _____(SEAL)

By: _____
(Signature)

Name (typed or printed): _____

Title: _____

Business Street Address (No P.O. Box #'s):

Phone No.: _____ Fax No.: _____

Phone and Fax Number, and Address for receipt of official communications:

(Each joint venturer must sign. The manner of signing for each individual, partnership, and corporation that is a party to the joint venture should be in the manner indicated above).

END OF DOCUMENT

SECTION 00 52 00

AGREEMENT BETWEEN OWNER AND CONTRACTOR FOR CONSTRUCTION CONTRACT

This Agreement is by and between Village of Ashwaubenon ("Owner") and
(insert Contractors name here) _____ ("Contractor").

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

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: eradication and maintenance of Phragmites and installation and maintenance of the proposed landscape plan.

ARTICLE 2—THE PROJECT

2.01 The Project, of which the Work under the Contract Documents is a part, is generally described as follows: **Phragmites Control and Landscape Services**

ARTICLE 3—THE CONSULTANT

3.01 The Owner has not retained a consultant. Any reference to ("the Consultant") shall be directed to the Owner.

ARTICLE 4—CONTRACT TIMES

4.01 *Time is of the Essence*

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

4.02 *Contract Times: Dates*

A. Milestones

1. The Work, completion of all landscape implementation and invasive species management, shall be complete within each year's parameters defined within the Request for Proposals. All tasks where a timeline is not provided must be completed by the end of the associated year.

4.03 *Liquidated Damages*

A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial and other losses if the Work is not completed and Milestones not achieved within the Contract Times, as duly modified. 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

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Cabelas Store Property - Phragmites Control and Landscape Installation Services Agreement Between Owner And
Contractor For Construction Contract

Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty):

1. *Milestone Completion*: Contractor shall pay Owner **\$200** for each day that expires after the time (as duly adjusted pursuant to the Contract) specified above for Milestone Completion, until the Work is complete.
 2. Liquidated damages for failing to timely attain Milestone Completions will not be imposed concurrently.
- B. If Owner recovers liquidated damages for a delay in completion by Contractor, then such liquidated damages are Owner's sole and exclusive remedy for such delay, and Owner is precluded from recovering any other damages, whether actual, direct, excess, or consequential, for such delay, except for special damages (if any) specified in this Agreement.

4.05 *Special Damages*

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

ARTICLE 5—CONTRACT PRICE

- 5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents, the amounts that follow, subject to adjustment under the Contract:
- A. For all Work, at the prices stated in Contractor's Bid, attached hereto as an exhibit. 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 13.03 of the General Conditions, estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by the Consultant as provided in Paragraph 10.05 of the General Conditions.

ARTICLE 6—PAYMENT PROCEDURES

6.01 *Submittal and Processing of Payments*

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

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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, monthly during performance of the Work as provided in Paragraphs 6.02.A1 - 6.02.A6 below. All such payments will be measured by the Schedule of Values established in Paragraph 2.07.A of the General Conditions (and in the case of Bid 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. The retainage shall be an amount equal to not more than 5% of the estimate until 50% of the work has been completed.
 2. At 50% completion, further partial payments shall be made in full to the contractor and no additional amounts may be retained unless the architect or engineer certifies that the job is not proceeding satisfactorily, but amounts previously retained shall not be paid to the contractor.
 3. At 50% completion or any time after 50% completion when the progress of the work is not satisfactory, additional amounts may be retained but the total retainage may not be more than 10% of the value of the work completed.
 4. Upon substantial completion of the work, an amount retained may be paid to the contractor.
 5. When the work has been substantially completed except for work which cannot be completed because of weather conditions, lack of materials or other reasons which in the judgment of the municipality are valid reasons for non completion, the municipality may make additional payments, retaining at all times an amount sufficient to cover the estimated cost of the work still to be completed or may pay out the entire amount retained and receive from the contractor guarantees in the form of a bond or other collateral sufficient to ensure completion of the job.
 6. For the purposes of this section, estimates may include any fabricated or manufactured materials and components specified, previously paid for by the contractor and delivered to the work or properly stored and suitable for incorporation in the work embraced in the contract.

6.03 *Final Payment*

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

6.04 *Consent of Surety*

- A. Owner will not make final payment or return or release retainage at Milestone Completion or any other time, unless Contractor submits written consent of the surety to such payment, return, or release.

6.05 *Interest*

- A. All amounts not paid when due will bear interest at the maximum rate allowed by law at the place of the Project.

ARTICLE 7—CONTRACT DOCUMENTS

7.01 *Contents*

- A. The Contract Documents consist of all of the following:
1. This Agreement.
 2. Bonds:

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and American Society of Civil Engineers. All rights reserved.**

- a. Performance bond (together with power of attorney).
- b. Payment bond (together with power of attorney).
- 3. General Conditions.
- 4. Supplementary Conditions.
- 5. Specifications as listed in the table of contents of the Project Manual
- 6. Drawings bearing the following general title: **Phragmites Control and Landscape Services.**
- 7. Addenda (numbers, inclusive).
- 8. Exhibits to this Agreement (enumerated as follows):
 - a. Contractor's Bid Form.
 - b. Documentation submitted by Contractor prior to Notice of Award.
- 9. The following which may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:
 - a. Notice to Proceed.
 - b. Work Change Directives.
 - c. Change Orders.
 - d. Field Orders.
 - e. Warranty Bond, if any.
- B. The Contract Documents listed in Paragraph 7.01.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 7.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in the Contract.

ARTICLE 8—REPRESENTATIONS, CERTIFICATIONS, AND STIPULATIONS

A. *Contractor's Representations*

- A. In order to induce Owner to enter into this Contract, Contractor makes the following representations:
 - 1. Contractor has examined and carefully studied the Contract Documents, including Addenda.
 - 2. Contractor has visited the Site, conducted a thorough visual examination of the Site and adjacent areas, and become familiar with the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
 - 3. Contractor is familiar with all Laws and Regulations that may affect cost, progress, and performance of the Work.
 - 4. Contractor has carefully studied the reports of explorations and tests of subsurface conditions at or adjacent to the Site and the drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been

identified in the Supplementary Conditions, with respect to the Technical Data in such reports and drawings.

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

8.02 *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 8.02:
 1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process or in the Contract execution;
 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;

3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

8.03 *Standard General Conditions*

- A. Owner stipulates that if the General Conditions that are made a part of this Contract are EJCDC® C-700, Standard General Conditions for the Construction Contract (2007), published by the Engineers Joint Contract Documents Committee, and if Owner is the party that has furnished said General Conditions, then Owner has plainly shown all modifications to the standard wording of such published document to the Contractor, through a process such as highlighting or "track changes" (redline/strikeout), or in the Supplementary Conditions.

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

This Agreement will be effective on _____, 2024 (which is the Effective Date of the Contract).

Owner:

Village of Ashwaubenon
(typed or printed name of organization)

By: _____
(individual's signature)

Date: _____
(date signed)

Name: _____
(typed or printed)

Title: _____
(typed or printed)

Attest: _____
(individual's signature)

Title: _____
(typed or printed)

Address for giving notices:

Designated Representative:
Name: _____
(typed or printed)

Title: _____
(typed or printed)

Address:

Phone: _____

Email: _____

Contractor:

(typed or printed name of organization)

By: _____
(individual's signature)

Date: _____
(date signed)

Name: _____
(typed or printed)

Title: _____
(typed or printed)

(If [Type of Entity] is a corporation, a partnership, or a joint venture, attach

Attest: _____
(individual's signature)

Title: _____
(typed or printed)

Address for giving notices:

Designated Representative:
Name: _____
(typed or printed)

Title: _____
(typed or printed)

Address:

Phone: _____

Email: _____

License No.: _____
(where applicable)

State: _____

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Cabelas Store Property - Phragmites Control and Landscape Installation Services Agreement Between Owner And
Contractor For Construction Contract

PERFORMANCE BOND

Any singular reference to Contractor, Surety, Owner, or other party shall be considered plural where applicable.

CONTRACTOR (*Name and Address*): SURETY (*Name, and Address of Principal Place of Business*):

-.
-
-

OWNER (*Name and Address*):

Village of Ashwaubenon
900 Anderson Dr.
Ashwaubenon, WI 54304

CONTRACT

Effective Date of Agreement:
Amount:
Description (*Name and Location*):

BOND

Bond Number:
Date (*Not earlier than Effective Date of Agreement*):
Amount:
Modifications to this Bond Form:

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

Note: Provide execution by additional parties, such as joint venturers, if necessary.

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

1. If Contractor performs the Contract, Surety and Contractor have no obligation under this Bond, except to participate in conferences as provided in Paragraph 2.1.
2. If there is no Owner Default, Surety's obligation under this Bond shall arise after:
 - 2.1 Owner has notified Contractor and Surety, at the addresses described in Paragraph 9 below, that Owner is considering declaring a Contractor Default and has requested and attempted to arrange a conference with Contractor and Surety to be held not later than 15 days after receipt of such notice to discuss methods of performing the Contract. If Owner, Contractor, and Surety agree, Contractor shall be allowed a reasonable time to perform the Contract, but such an agreement shall not waive Owner's right, if any, subsequently to declare a Contractor Default; and
 - 2.2 Owner has declared a Contractor Default and formally terminated Contractor's right to complete the Contract. Such Contractor Default shall not be declared earlier than 20 days after Contractor and Surety have received notice as provided in Paragraph 2.1; and
 - 2.3 Owner has agreed to pay the Balance of the Contract Price to:
 1. Surety in accordance with the terms of the Contract; or
 2. Another contractor selected pursuant to Paragraph 3.3 to perform the Contract.
3. When Owner has satisfied the conditions of Paragraph 2, Surety shall promptly, and at Surety's expense, take one of the following actions:
 - 3.1 Arrange for Contractor, with consent of Owner, to perform and complete the Contract; or
 - 3.2 Undertake to perform and complete the Contract itself, through its agents or through independent contractors; or
 - 3.3 Obtain bids or negotiated proposals from qualified contractors acceptable to Owner for a contract for performance and completion of the Contract, arrange for a contract to be prepared for execution by Owner and contractor selected with Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Contract, and pay to Owner the amount of damages as described in Paragraph 5 in excess of the Balance of the Contract Price incurred by Owner resulting from Contractor Default; or
 - 3.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor, and with reasonable promptness under the circumstances:
 1. After investigation, determine the amount for which it may be liable to Owner and, as soon as practicable after the amount is determined, tender payment therefor to Owner; or
 2. Deny liability in whole or in part and notify Owner citing reasons therefor.
4. If Surety does not proceed as provided in Paragraph 3 with reasonable promptness, Surety shall be deemed to be in default on this Bond 15 days after receipt of an additional written notice from Owner to Surety demanding that Surety perform its obligations under this Bond, and Owner shall be entitled to enforce any remedy available to Owner. If Surety proceeds as provided in Paragraph 3.4, and Owner refuses the payment tendered or Surety has denied liability, in whole or in part, without further notice Owner shall be entitled to enforce any remedy available to Owner.
5. After Owner has terminated Contractor's right to complete the Contract, and if Surety elects to act under Paragraph 3.1, 3.2, or 3.3 above, then the responsibilities of Surety to Owner shall not be greater than those of Contractor under the Contract, and the responsibilities of Owner to Surety shall not be greater than those of Owner under the Contract. To the limit of the amount of this Bond, but subject to commitment by Owner of the Balance of the Contract Price to mitigation of costs and damages on the Contract, Surety is obligated without duplication for:

- 5.1 The responsibilities of Contractor for correction of defective Work and completion of the Contract;
- 5.2 Additional legal, design professional, and delay costs resulting from Contractor's Default, and resulting from the actions of or failure to act of Surety under Paragraph 3; and
- 5.3 Liquidated damages, or if no liquidated damages are specified in the Contract, actual damages caused by delayed performance or non-performance of Contractor.

6. Surety shall not be liable to Owner or others for obligations of Contractor that are unrelated to the 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 Owner or its heirs, executors, administrators, or successors.

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

8. 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 Contractor Default or within two years after Contractor ceased working or within two years after 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 period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

9. Notice to Surety, Owner, or Contractor shall be mailed or delivered to the address shown on the signature page.

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

11. Definitions.

- 11.1 Balance of the Contract Price: The total amount payable by Owner to Contractor under the Contract after all proper adjustments have been made, including allowance to Contractor of any amounts received or to be received by Owner in settlement of insurance or other Claims for damages to which Contractor is entitled, reduced by all valid and proper payments made to or on behalf of Contractor under the Contract.
- 11.2 Contract: The agreement between Owner and Contractor identified on the signature page, including all Contract Documents and changes thereto.
- 11.3 Contractor Default: Failure of Contractor, which has neither been remedied nor waived, to perform or otherwise to comply with the terms of the Contract.
- 11.4 Owner Default: Failure of Owner, which has neither been remedied nor waived, to pay Contractor as required by the Contract or to perform and complete or otherwise comply with the other terms thereof.

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PAYMENT BOND

Any singular reference to Contractor, Surety, Owner, or other party shall be considered plural where applicable.

CONTRACTOR (*Name and Address*):

SURETY (*Name, and Address of Principal Place of Business*):

-.
-
-

OWNER (*Name and Address*):

Village of Ashwaubenon
900 Anderson Dr.
Ashwaubenon, WI 54304

CONTRACT

Effective Date of Agreement:

Amount:

Description (*Name and Location*):

BOND

Bond Number:

Date (*Not earlier than Effective Date of Agreement*):

Amount:

Modifications to this Bond Form:

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

Note: Provide execution by additional parties, such as joint venturers, if necessary.

1. Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to Owner to pay for labor, materials, and equipment furnished by Claimants for use in the performance of the Contract, which is incorporated herein by reference.
2. With respect to Owner, this obligation shall be null and void if Contractor:
 - 2.1 Promptly makes payment, directly or indirectly, for all sums due Claimants, and
 - 2.2 Defends, indemnifies, and holds harmless Owner from all claims, demands, liens, or suits alleging non-payment by Contractor by any person or entity who furnished labor, materials, or equipment for use in the performance of the Contract, provided Owner has promptly notified Contractor and Surety (at the addresses described in Paragraph 12) of any claims, demands, liens, or suits and tendered defense of such claims, demands, liens, or suits to Contractor and Surety, and provided there is no Owner Default.
3. With respect to Claimants, this obligation shall be null and void if Contractor promptly makes payment, directly or indirectly, for all sums due.
4. Surety shall have no obligation to Claimants under this Bond until:
 - 4.1 Claimants who are employed by or have a direct contract with Contractor have given notice to Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to Owner, stating that a claim is being made under this Bond and, with substantial accuracy, the amount of the claim.
 - 4.2 Claimants who do not have a direct contract with Contractor:
 1. Have furnished written notice to Contractor and sent a copy, or notice thereof, to Owner, within 90 days after having last performed labor or last furnished materials or equipment included in the claim stating, with substantial accuracy, the amount of the claim and the name of the party to whom the materials or equipment were furnished or supplied, or for whom the labor was done or performed; and
 2. Have either received a rejection in whole or in part from Contractor, or not received within 30 days of furnishing the above notice any communication from Contractor by which Contractor had indicated the claim will be paid directly or indirectly; and
 3. Not having been paid within the above 30 days, have sent a written notice to Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to Owner, stating that a claim is being made under this Bond and enclosing a copy of the previous written notice furnished to Contractor.
5. If a notice by a Claimant required by Paragraph 4 is provided by Owner to Contractor or to Surety, that is sufficient compliance.
6. When a Claimant has satisfied the conditions of Paragraph 4, the Surety shall promptly and at Surety's expense take the following actions:
 - 6.1 Send an answer to that Claimant, with a copy to Owner, within 45 days after receipt of the claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed.
 - 6.2 Pay or arrange for payment of any undisputed amounts.
7. Surety's total obligation shall not exceed the amount of this Bond, and the amount of this Bond shall be credited for any payments made in good faith by Surety.
8. Amounts owed by Owner to Contractor under the Contract shall be used for the performance of the Contract and to satisfy claims, if any, under any performance bond. By Contractor furnishing and Owner accepting this Bond, they agree that all funds earned by Contractor in the performance of the Contract are dedicated to satisfy obligations of Contractor and Surety under this Bond, subject to Owner's priority to use the funds for the completion of the Work.

9. Surety shall not be liable to Owner, Claimants, or others for obligations of Contractor that are unrelated to the Contract. Owner shall not be liable for payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligations to make payments to, give notices on behalf of, or otherwise have obligations to Claimants under this Bond.

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

11. No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the location in which the Work or part of the Work is located or after the expiration of one year from the date (1) on which the Claimant gave the notice required by Paragraph 4.1 or Paragraph 4.2.3, 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 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.

12. Notice to Surety, Owner, or Contractor shall be mailed or delivered to the addresses shown on the signature page. Actual receipt of notice by Surety, Owner, or Contractor, however accomplished, shall be sufficient compliance as of the date received at the address shown on the signature page.

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

14. Upon request of any person or entity appearing to be a potential beneficiary of this Bond, Contractor shall promptly furnish a copy of this Bond or shall permit a copy to be made.

15. Definitions

15.1 Claimant: An individual or entity having a direct contract with Contractor, or with a first-tier subcontractor of Contractor, to furnish labor, materials, or equipment for use in the performance of the Contract. The intent of this Bond shall be to include without limitation in the terms “labor, materials or equipment” that part of water, gas, power, light, heat, oil, gasoline, telephone service, or rental equipment used in the Contract, architectural and engineering services required for performance of the Work of Contractor and 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.

15.2 Contract: The agreement between Owner and Contractor identified on the signature page, including all Contract Documents and changes thereto.

15.3 Owner Default: Failure of Owner, which has neither been remedied nor waived, to pay Contractor as required by the Contract, or to perform and complete or otherwise comply with the other terms thereof.

FOR INFORMATION ONLY – *(Name, Address, and Telephone)*

Surety Agency or Broker:

Owner’s Representative *(Engineer or other)*:

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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

ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE

and

Issued and Published Jointly by

ACEC

AMERICAN COUNCIL OF ENGINEERING COMPANIES



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of Civil Engineers

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Professional Engineers in Private Practice

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Endorsed by



CONSTRUCTION SPECIFICATIONS INSTITUTE

These General Conditions have been prepared for use with the Suggested Forms of Agreement Between Owner and Contractor (EJCDC C-520 or C-525, 2007 Editions). Their provisions are interrelated and a change in one may necessitate a change in the other. Comments concerning their usage are contained in the Narrative Guide to the EJCDC Construction Documents (EJCDC C-001, 2007 Edition). For guidance in the preparation of Supplementary Conditions, see Guide to the Preparation of Supplementary Conditions (EJCDC C-800, 2007 Edition).

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**STANDARD GENERAL CONDITIONS OF THE
CONSTRUCTION CONTRACT**

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ARTICLE 1 – DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

- A. Wherever used in the Bidding Requirements or Contract Documents and printed with initial capital letters, the terms listed below will have the meanings indicated which are applicable to both the singular and plural thereof. 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 which is evidence of the agreement between Owner and Contractor covering the Work.
 3. *Application for Payment*—The form acceptable to Engineer which is to be used by Contractor during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Contract Documents.
 4. *Asbestos*—Any material that contains more than one percent asbestos and is friable or is releasing asbestos fibers into the air above current action levels established by the United States Occupational Safety and Health Administration.
 5. *Bid*—The offer or proposal of a Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.
 6. *Bidder*—The individual or entity who submits a Bid directly to Owner.
 7. *Bidding Documents*—The Bidding Requirements and the proposed Contract Documents (including all Addenda).
 8. *Bidding Requirements*—The advertisement or invitation to bid, Instructions to Bidders, Bid security of acceptable form, if any, and the Bid Form with any supplements.
 9. *Change Order*—A document recommended by Engineer 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, issued on or after the Effective Date of the Agreement.
 10. *Claim*—A demand or assertion by Owner or Contractor seeking an adjustment of Contract Price or Contract Times, or both, or other relief with respect to the terms of the Contract. A demand for money or services by a third party is not a Claim.
 11. *Contract*—The entire and integrated written agreement between the Owner and Contractor concerning the Work. The Contract supersedes prior negotiations, representations, or agreements, whether written or oral.

12. *Contract Documents*—Those items so designated in the Agreement. Only printed or hard copies of the items listed in the Agreement are Contract Documents. Approved Shop Drawings, other Contractor submittals, and the reports and drawings of subsurface and physical conditions are not Contract Documents.
13. *Contract Price*—The moneys payable by Owner to Contractor for completion of the Work in accordance with the Contract Documents as stated in the Agreement (subject to the provisions of Paragraph 11.03 in the case of Unit Price Work).
14. *Contract Times*—The number of days or the dates stated in the Agreement to: (i) achieve Milestones, if any; (ii) achieve Substantial Completion; and (iii) complete the Work so that it is ready for final payment as evidenced by Engineer's written recommendation of final payment.
15. *Contractor*—The individual or entity with whom Owner has entered into the Agreement.
16. *Cost of the Work*—See Paragraph 11.01 for definition.
17. *Drawings*—That part of the Contract Documents prepared or approved by Engineer which graphically shows the scope, extent, and character of the Work to be performed by Contractor. Shop Drawings and other Contractor submittals are not Drawings as so defined.
18. *Effective Date of the Agreement*—The date indicated in the Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver.
19. *Engineer*—The individual or entity named as such in the Agreement.
20. *Field Order*—A written order issued by Engineer which requires minor changes in the Work but which does not involve a change in the Contract Price or the Contract Times.
21. *General Requirements*—Sections of Division 1 of the Specifications.
22. *Hazardous Environmental Condition*—The presence at the Site of Asbestos, PCBs, Petroleum, Hazardous Waste, or Radioactive Material in such quantities or circumstances that may present a substantial danger to persons or property exposed thereto.
23. *Hazardous Waste*—The term Hazardous Waste shall have the meaning provided in Section 1004 of the Solid Waste Disposal Act (42 USC Section 6903) as amended from time to time.
24. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
25. *Liens*—Charges, security interests, or encumbrances upon Project funds, real property, or personal property.
26. *Milestone*—A principal event specified in the Contract Documents relating to an intermediate completion date or time prior to Substantial Completion of all the Work.

27. *Notice of Award*—The written notice by Owner to the Successful Bidder stating that upon timely compliance by the Successful Bidder with the conditions precedent listed therein, Owner will sign and deliver the Agreement.
28. *Notice to Proceed*—A written notice given 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 under the Contract Documents.
29. *Owner*—The individual or entity with whom Contractor has entered into the Agreement and for whom the Work is to be performed.
30. *PCBs*—Polychlorinated biphenyls.
31. *Petroleum*—Petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), such as oil, petroleum, fuel oil, oil sludge, oil refuse, gasoline, kerosene, and oil mixed with other non-Hazardous Waste and crude oils.
32. *Progress Schedule*—A schedule, prepared and maintained by Contractor, describing the sequence and duration of the activities comprising the Contractor’s plan to accomplish the Work within the Contract Times.
33. *Project*—The total construction of which the Work to be performed under the Contract Documents may be the whole, or a part.
34. *Project Manual*—The bound documentary information prepared for bidding and constructing the Work. A listing of the contents of the Project Manual, which may be bound in one or more volumes, is contained in the table(s) of contents.
35. *Radioactive Material*—Source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 USC Section 2011 et seq.) as amended from time to time.
36. *Resident Project Representative*—The authorized representative of Engineer who may be assigned to the Site or any part thereof.
37. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish the standards by which such portion of the Work will be judged.
38. *Schedule of Submittals*—A schedule, prepared and maintained by Contractor, of required submittals and the time requirements to support scheduled performance of related construction activities.
39. *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.

40. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work.
41. *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 for access thereto, and such other lands furnished by Owner which are designated for the use of Contractor.
42. *Specifications*—That part of the Contract Documents consisting of written requirements for materials, equipment, systems, standards and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable thereto.
43. *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 at the Site.
44. *Substantial Completion*—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms “substantially complete” and “substantially completed” as applied to all or part of the Work refer to Substantial Completion thereof.
45. *Successful Bidder*—The Bidder submitting a responsive Bid to whom Owner makes an award.
46. *Supplementary Conditions*—That part of the Contract Documents which amends or supplements these General Conditions.
47. *Supplier*—A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or Subcontractor.
48. *Underground Facilities*—All underground pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or attachments, and any encasements containing such facilities, including those that convey electricity, gases, steam, liquid petroleum products, telephone or other communications, cable television, water, wastewater, storm water, other liquids or chemicals, or traffic or other control systems.
49. *Unit Price Work*—Work to be paid for on the basis of unit prices.
50. *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, and furnishing, installing, and incorporating all materials and equipment into such construction, all as required by the Contract Documents.
51. *Work Change Directive*—A written statement to Contractor issued on or after the Effective Date of the Agreement and signed by Owner and recommended by Engineer ordering an

addition, deletion, or revision in the Work, or responding to differing or unforeseen subsurface or physical conditions under which the Work is to be performed or to emergencies. A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the change ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order following negotiations by the parties as to its effect, if any, on the Contract Price or Contract Times.

1.02 *Terminology*

A. The words and terms discussed in Paragraph 1.02.B through F are not defined but, when used in the Bidding Requirements or Contract Documents, have the indicated meaning.

B. *Intent of Certain Terms or Adjectives:*

1. The Contract Documents include the terms “as allowed,” “as approved,” “as ordered,” “as directed” or terms of like effect or import to authorize an exercise of professional judgment by Engineer. In addition, the adjectives “reasonable,” “suitable,” “acceptable,” “proper,” “satisfactory,” or adjectives of like effect or import are used to describe an action or determination of Engineer as to the Work. It is intended that such exercise of professional judgment, action, or determination will be solely to evaluate, in general, the Work for compliance with the information in the Contract Documents and with the design concept of the Project as a functioning whole as shown or indicated in the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective is not intended to and shall not be effective to assign to Engineer any duty or authority to supervise or direct the performance of the Work, or any duty or authority to undertake responsibility contrary to the provisions of Paragraph 9.09 or any other provision of the Contract Documents.

C. *Day:*

1. The word “day” means a calendar day of 24 hours measured from midnight to the next midnight.

D. *Defective:*

1. The word “defective,” when modifying the word “Work,” refers to Work that is unsatisfactory, faulty, or deficient in that it:
 - a. does not conform to the Contract Documents; or
 - b. does not meet the requirements of any applicable inspection, reference standard, test, or approval referred to in the Contract Documents; or
 - c. has been damaged prior to Engineer’s recommendation of final payment (unless responsibility for the protection thereof has been assumed by Owner at Substantial Completion in accordance with Paragraph 14.04 or 14.05).

E. *Furnish, Install, Perform, Provide:*

1. The word “furnish,” when used in connection with services, materials, or equipment, shall mean to supply and deliver said services, materials, or equipment to the Site (or some other specified location) ready for use or installation and in usable or operable condition.
 2. The word “install,” when used in connection with services, materials, or equipment, shall mean to put into use or place in final position said services, materials, or equipment complete and ready for intended use.
 3. The words “perform” or “provide,” when used in connection with services, materials, or equipment, shall mean to furnish and install said services, materials, or equipment complete and ready for intended use.
 4. When “furnish,” “install,” “perform,” or “provide” is not used in connection with services, materials, or equipment in a context clearly requiring an obligation of Contractor, “provide” is implied.
- F. Unless stated otherwise in the Contract Documents, words or phrases that have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with such recognized meaning.

ARTICLE 2 – PRELIMINARY MATTERS

2.01 Delivery of Bonds and Evidence of Insurance

- A. When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner such bonds as Contractor may be required to furnish.
- B. *Evidence of Insurance:* Before any Work at the Site is started, Contractor and Owner shall each deliver to the other, with copies to each additional insured identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance which either of them or any additional insured may reasonably request) which Contractor and Owner respectively are required to purchase and maintain in accordance with Article 5.

2.02 Copies of Documents

- A. Owner shall furnish to Contractor up to ten printed or hard copies of the Drawings and Project Manual. Additional copies will be furnished upon request at the cost of reproduction.

2.03 Commencement of Contract Times; Notice to Proceed

- A. The Contract Times will commence to run on the thirtieth day after the Effective Date of the Agreement 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 Agreement. In no event will the Contract Times commence to run later than the sixtieth day after the day of Bid opening or the thirtieth day after the Effective Date of the Agreement, whichever date is earlier.

2.04 *Starting the Work*

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

2.05 *Before Starting Construction*

- A. *Preliminary Schedules:* Within 10 days after the Effective Date of the Agreement (unless otherwise specified in the General Requirements), 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 Documents;
 - 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.

2.06 *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 2.05.A, procedures for handling Shop Drawings and other submittals, processing Applications for Payment, 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 instructions, receive information, render decisions relative to the Contract, and otherwise act on behalf of each respective party.

2.07 *Initial Acceptance of Schedules*

- A. At least 10 days before submission of the first Application for Payment a conference attended by Contractor, Engineer, and others as appropriate will be held to review for acceptability to Engineer as provided below the schedules submitted in accordance with Paragraph 2.05.A. Contractor shall have an additional 10 days to make corrections and adjustments and to complete and resubmit the schedules. No progress payment shall be made to Contractor until acceptable schedules are submitted to Engineer.
 - 1. The Progress Schedule will be acceptable to Engineer if it provides an orderly progression of the Work to completion within the Contract Times. Such acceptance will not impose on Engineer responsibility for the Progress Schedule, for sequencing, scheduling, or progress of

the Work, nor interfere with or relieve Contractor from Contractor's full responsibility therefor.

2. Contractor's Schedule of Submittals will be acceptable to Engineer if it provides a workable arrangement for reviewing and processing the required submittals.
3. Contractor's Schedule of Values will be acceptable to Engineer as to form and substance if it provides a reasonable allocation of the Contract Price to component parts of the Work.

ARTICLE 3 – CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE

3.01 *Intent*

- A. The Contract Documents are complementary; what is required by one is as binding as if required by all.
- B. It is the intent of the Contract Documents to describe a functionally complete project (or part thereof) to be constructed in accordance with the Contract Documents. Any labor, documentation, services, materials, or equipment that reasonably may be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the indicated result will be provided whether or not specifically called for, at no additional cost to Owner.
- C. Clarifications and interpretations of the Contract Documents shall be issued by Engineer as provided in Article 9.

3.02 *Reference Standards*

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

3.03 *Reporting and Resolving Discrepancies*

- A. *Reporting Discrepancies:*

1. *Contractor's Review of Contract Documents Before Starting Work:* Before undertaking each part of the Work, Contractor shall carefully study and compare the Contract Documents and check and verify pertinent figures therein and all applicable field measurements. Contractor shall promptly report in writing to Engineer any conflict, error, ambiguity, or discrepancy which Contractor discovers, or has actual knowledge of, and shall obtain a written interpretation or clarification from Engineer before proceeding with any Work affected thereby.
2. *Contractor's Review of Contract Documents During Performance of Work:* If, 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) any standard, specification, manual, or code, or (c) 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 6.16.A) until an amendment or supplement to the Contract Documents has been issued by one of the methods indicated in Paragraph 3.04.
3. Contractor shall not be liable to Owner or Engineer for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless Contractor had actual knowledge thereof.

B. *Resolving Discrepancies:*

1. Except as may be otherwise specifically stated in the Contract Documents, the provisions of the Contract Documents shall take precedence in resolving any conflict, error, ambiguity, or discrepancy between the provisions of the Contract Documents and:
 - a. the provisions of any standard, specification, manual, or code, or the instruction of any Supplier (whether or not specifically incorporated by reference in the Contract Documents); 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 *Amending and Supplementing Contract Documents*

- A. The Contract Documents may be amended to provide for additions, deletions, and revisions in the Work or to modify the terms and conditions thereof by either a Change Order or a Work Change Directive.
- B. The requirements of the Contract Documents may be supplemented, and minor variations and deviations in the Work may be authorized, by one or more of the following ways:
 1. A Field Order;
 2. Engineer's approval of a Shop Drawing or Sample (subject to the provisions of Paragraph 6.17.D.3); or

3. Engineer's written interpretation or clarification.

3.05 *Reuse of Documents*

- A. Contractor and any Subcontractor or Supplier shall not:
 1. have or acquire any title to or ownership rights in any of the Drawings, Specifications, or other documents (or copies of any thereof) prepared by or bearing the seal of Engineer or its consultants, including electronic media editions; or
 2. 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.
- B. The prohibitions of this Paragraph 3.05 will survive final payment, or termination of the Contract. Nothing herein shall preclude Contractor from retaining copies of the Contract Documents for record purposes.

3.06 *Electronic Data*

- A. Unless otherwise stated in the Supplementary Conditions, the data furnished by Owner or Engineer to Contractor, or by Contractor to Owner or Engineer, that may be relied upon are limited to the printed copies (also known as hard copies). Files in electronic media format of text, data, graphics, or other types are furnished only for the convenience of the receiving party. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.
- B. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within 60 days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any errors detected within the 60-day acceptance period will be corrected by the transferring party.
- C. When transferring documents in electronic media format, the transferring party makes no representations as to long term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by the data's creator.

ARTICLE 4 – AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS; REFERENCE POINTS

4.01 *Availability of Lands*

- A. Owner shall furnish the Site. Owner shall notify Contractor of any encumbrances or restrictions not of general application but specifically related to use of the Site with which Contractor must comply in performing the Work. Owner will obtain in a timely manner and pay for easements for permanent structures or permanent changes in existing facilities. If Contractor and Owner are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the

Contract Price or Contract Times, or both, as a result of any delay in Owner's furnishing the Site or a part thereof, Contractor may make a Claim therefor as provided in Paragraph 10.05.

- 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 the Work is to be performed 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.

4.02 *Subsurface and Physical Conditions*

A. *Reports and Drawings:* The Supplementary Conditions identify:

- 1. those reports known to Owner of explorations and tests of subsurface conditions at or contiguous to the Site; and
- 2. those drawings known to Owner of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities).

B. *Limited Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the accuracy of the "technical data" contained in such reports and drawings, but such reports and drawings are not Contract Documents. Such "technical data" is identified in the Supplementary Conditions. Except for such reliance on such "technical data," Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors with respect to:

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

4.03 *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 establish that any "technical data" on which Contractor is entitled to rely as provided in Paragraph 4.02 is materially inaccurate; or
- 2. is of such a nature as to require a change in the Contract Documents; or
- 3. differs materially from that shown or indicated in the Contract Documents; or

4. is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents;

then Contractor shall, promptly after becoming aware thereof and before further disturbing the subsurface or physical conditions or performing any Work in connection therewith (except in an emergency as required by Paragraph 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.

- B. *Engineer's Review*: After receipt of written notice as required by Paragraph 4.03.A, Engineer will promptly review the pertinent condition, determine the necessity of Owner's obtaining additional exploration or tests with respect thereto, and advise Owner in writing (with a copy to Contractor) of Engineer's findings and conclusions.

C. *Possible Price and Times Adjustments*:

1. The Contract Price or the Contract Times, or both, will be equitably adjusted to the extent that the existence of such differing subsurface or physical condition 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 meet any one or more of the categories described in Paragraph 4.03.A; and
 - 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 Paragraphs 9.07 and 11.03.
2. Contractor shall not be entitled to any adjustment in the Contract Price or Contract Times if:
 - a. Contractor knew of the existence of such conditions at the time Contractor made a final 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
 - b. the existence of such condition could reasonably have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site and contiguous areas required by the Bidding Requirements or Contract Documents to be conducted by or for Contractor prior to Contractor's making such final commitment; or
 - c. Contractor failed to give the written notice as required by Paragraph 4.03.A.
3. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, a Claim may be made therefor as provided in Paragraph 10.05. However, neither Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors shall be liable to Contractor for any claims, costs, losses, or 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) sustained by Contractor on or in connection with any other project or anticipated project.

4.04 *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. Unless it is otherwise expressly provided in the Supplementary Conditions:

1. Owner and Engineer shall not be responsible for the accuracy or completeness of any such information or data provided by others; and
2. the cost of all of the following will be included in the Contract Price, and Contractor shall have full responsibility for:
 - a. reviewing and checking all such 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; and
 - d. the safety and protection of all such Underground Facilities 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, or not shown or indicated with reasonable accuracy 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 by 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 promptly 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. During such time, Contractor shall be 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 or not shown or indicated with reasonable accuracy 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.

4.05 *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.

4.06 *Hazardous Environmental Condition at Site*

- A. *Reports and Drawings:* The Supplementary Conditions identify those reports and drawings known to Owner relating to Hazardous Environmental Conditions that have been identified at the Site.
- B. *Limited Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the accuracy of the "technical data" contained in such reports and drawings, but such reports and drawings are not Contract Documents. Such "technical data" is identified in the Supplementary Conditions. Except for such reliance on such "technical data," Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors with respect to:
 - 1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences and procedures of construction to be employed by Contractor and safety precautions and programs incident thereto; or
 - 2. other data, interpretations, opinions and information contained in such reports or shown or indicated in such drawings; or
 - 3. any Contractor interpretation of or conclusion drawn from any "technical data" or any such other data, interpretations, opinions or information.
- C. Contractor shall not be responsible for any Hazardous Environmental Condition uncovered or revealed at the Site which was not shown or indicated in Drawings or Specifications or identified in the Contract Documents to be within the scope of the Work. Contractor shall be responsible for a Hazardous Environmental Condition created with any materials brought to the Site by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible.
- D. If Contractor encounters a Hazardous Environmental Condition or if Contractor or anyone for whom Contractor is responsible creates a Hazardous Environmental Condition, Contractor shall immediately: (i) secure or otherwise isolate such condition; (ii) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by Paragraph 6.16.A); and (iii) 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 4.06.E.

- E. Contractor shall not be required to resume Work in connection with such condition or in any affected area until after Owner has obtained any required permits related thereto and delivered written notice to Contractor: (i) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work; or (ii) specifying any special conditions under which such Work may be resumed safely. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, or both, as a result of such Work stoppage or such special conditions under which Work is agreed to be resumed by Contractor, either party may make a Claim therefor as provided in Paragraph 10.05.
- F. 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. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of an adjustment in Contract Price or Contract Times as a result of deleting such portion of the Work, then either party may make a Claim therefor as provided in Paragraph 10.05. Owner may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Article 7.
- G. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition, provided that such Hazardous Environmental Condition: (i) was not shown or indicated in the Drawings or Specifications or identified in the Contract Documents to be included within the scope of the Work, and (ii) was not created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 4.06.G shall obligate Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.
- H. 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 a Hazardous Environmental Condition created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 4.06.H shall obligate Contractor to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.
- I. The provisions of Paragraphs 4.02, 4.03, and 4.04 do not apply to a Hazardous Environmental Condition uncovered or revealed at the Site.

ARTICLE 5 – BONDS AND INSURANCE

5.01 *Performance, Payment, and Other Bonds*

- A. Contractor shall furnish performance and payment bonds, each in an amount at least equal to the Contract Price as security for the faithful performance and payment of all of Contractor's obligations under the Contract Documents. These bonds shall remain in effect until one year after the date when final payment becomes due or until completion of the correction period specified in Paragraph 13.07, whichever is later, except as provided otherwise by Laws or Regulations or by the Contract Documents. Contractor shall also furnish such other bonds as are required by the Contract Documents.
- B. All bonds shall be in the form prescribed by the Contract Documents except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in the list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. All bonds signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual's authority to bind the surety. The evidence of authority shall show that it is effective on the date the agent or attorney-in-fact signed each bond.
- C. If the surety on any bond furnished by Contractor is declared bankrupt or becomes insolvent or its right to do business is terminated in any state where any part of the Project is located or it ceases to meet the requirements of Paragraph 5.01.B, Contractor shall promptly notify Owner and Engineer and shall, within 20 days after the event giving rise to such notification, provide another bond and surety, both of which shall comply with the requirements of Paragraphs 5.01.B and 5.02.

5.02 *Licensed Sureties and Insurers*

- A. All bonds and insurance required by the Contract Documents to be purchased and maintained by Owner or Contractor shall be obtained from surety or insurance companies that are duly licensed or authorized in the jurisdiction in which the Project is located to issue bonds or insurance policies for the limits and coverages so required. Such surety and insurance companies shall also meet such additional requirements and qualifications as may be provided in the Supplementary Conditions.

5.03 *Certificates of Insurance*

- A. Contractor shall deliver to Owner, with copies to each additional insured and loss payee identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance requested by Owner or any other additional insured) which Contractor is required to purchase and maintain.
- B. Owner shall deliver to Contractor, with copies to each additional insured and loss payee identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance requested by Contractor or any other additional insured) which Owner is required to purchase and maintain.

- C. Failure of Owner to demand such certificates or other evidence of Contractor's full compliance with these insurance requirements or failure of Owner to identify a deficiency in compliance from the evidence provided shall not be construed as a waiver of Contractor's obligation to maintain such insurance.
- D. Owner does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect Contractor.
- E. The insurance and insurance limits required herein shall not be deemed as a limitation on Contractor's liability under the indemnities granted to Owner in the Contract Documents.

5.04 *Contractor's Insurance*

- A. Contractor shall purchase and maintain such insurance as is appropriate for the Work being performed and as will provide protection from claims set forth below which may arise out of or result from Contractor's performance of the Work and Contractor's other obligations under the Contract Documents, whether it is to be performed by Contractor, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable:
 - 1. claims under workers' compensation, disability benefits, and other similar employee benefit acts;
 - 2. claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees;
 - 3. claims for damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees;
 - 4. claims for damages insured by reasonably available personal injury liability coverage which are sustained:
 - a. by any person as a result of an offense directly or indirectly related to the employment of such person by Contractor, or
 - b. by any other person for any other reason;
 - 5. claims for damages, other than to the Work itself, because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom; and
 - 6. claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle.
- B. The policies of insurance required by this Paragraph 5.04 shall:
 - 1. with respect to insurance required by Paragraphs 5.04.A.3 through 5.04.A.6 inclusive, be written on an occurrence basis, include as additional insureds (subject to any customary exclusion regarding professional liability) Owner and Engineer, and any other individuals or entities identified in the Supplementary Conditions, all of whom shall be listed as additional insureds, and include coverage for the respective officers, directors, members, partners,

employees, agents, consultants, and subcontractors of each and any of all such additional insureds, and the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby;

2. include at least the specific coverages and be written for not less than the limits of liability provided in the Supplementary Conditions or required by Laws or Regulations, whichever is greater;
3. include contractual liability insurance covering Contractor's indemnity obligations under Paragraphs 6.11 and 6.20;
4. contain a provision or endorsement that the coverage afforded will not be canceled, materially changed or renewal refused until at least 30 days prior written notice has been given to Owner and Contractor and to each other additional insured identified in the Supplementary Conditions to whom a certificate of insurance has been issued (and the certificates of insurance furnished by the Contractor pursuant to Paragraph 5.03 will so provide);
5. remain in effect at least until final payment and at all times thereafter when Contractor may be correcting, removing, or replacing defective Work in accordance with Paragraph 13.07; and
6. include completed operations coverage:
 - a. Such insurance shall remain in effect for two years after final payment.
 - b. Contractor shall furnish Owner and each other additional insured identified in the Supplementary Conditions, to whom a certificate of insurance has been issued, evidence satisfactory to Owner and any such additional insured of continuation of such insurance at final payment and one year thereafter.

5.05 *Owner's Liability Insurance*

- A. In addition to the insurance required to be provided by Contractor under Paragraph 5.04, Owner, at Owner's option, may purchase and maintain at Owner's expense Owner's own liability insurance as will protect Owner against claims which may arise from operations under the Contract Documents.

5.06 *Property Insurance*

- A. Unless otherwise provided in the Supplementary Conditions, Owner shall purchase and maintain property insurance upon the Work at the Site in the amount of the full replacement cost thereof (subject to such deductible amounts as may be provided in the Supplementary Conditions or required by Laws and Regulations). This insurance shall:
 1. include the interests of Owner, Contractor, Subcontractors, and Engineer, and any other individuals or entities identified in the Supplementary Conditions, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of

them, each of whom is deemed to have an insurable interest and shall be listed as a loss payee;

2. be written on a Builder's Risk "all-risk" policy form that shall at least include insurance for physical loss or damage to the Work, temporary buildings, falsework, and materials and equipment in transit, and shall insure against at least the following perils or causes of loss: fire, lightning, extended coverage, theft, vandalism and malicious mischief, earthquake, collapse, debris removal, demolition occasioned by enforcement of Laws and Regulations, water damage (other than that caused by flood), and such other perils or causes of loss as may be specifically required by the Supplementary Conditions.
 3. include expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers and architects);
 4. cover materials and equipment stored at the Site or at another location that was agreed to in writing by Owner prior to being incorporated in the Work, provided that such materials and equipment have been included in an Application for Payment recommended by Engineer;
 5. allow for partial utilization of the Work by Owner;
 6. include testing and startup; and
 7. 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.
- B. Owner shall purchase and maintain such equipment breakdown insurance or additional property insurance as may be required by the Supplementary Conditions or Laws and Regulations which will include the interests of Owner, Contractor, Subcontractors, and Engineer, and any other individuals or entities identified in the Supplementary Conditions, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, each of whom is deemed to have an insurable interest and shall be listed as a loss payee.
- C. All the policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained in accordance with this Paragraph 5.06 will contain a provision or endorsement that the coverage afforded will not be canceled or materially changed or renewal refused until at least 30 days prior written notice has been given to Owner and Contractor and to each other loss payee to whom a certificate of insurance has been issued and will contain waiver provisions in accordance with Paragraph 5.07.
- D. Owner shall not be responsible for purchasing and maintaining any property insurance specified in this Paragraph 5.06 to protect the interests of Contractor, Subcontractors, or others in the Work to the extent of any deductible amounts that are identified in the Supplementary Conditions. The risk of loss within such identified deductible amount will be borne by Contractor, Subcontractors, or others suffering any such loss, and if any of them wishes property insurance coverage within the limits of such amounts, each may purchase and maintain it at the purchaser's own expense.

- E. If Contractor requests in writing that other special insurance be included in the property insurance policies provided under this Paragraph 5.06, Owner shall, if possible, include such insurance, and the cost thereof will be charged to Contractor by appropriate Change Order. Prior to commencement of the Work at the Site, Owner shall in writing advise Contractor whether or not such other insurance has been procured by Owner.

5.07 *Waiver of Rights*

- A. Owner and Contractor intend that all policies purchased in accordance with Paragraph 5.06 will protect Owner, Contractor, Subcontractors, and Engineer, and all other individuals or entities identified in the Supplementary Conditions as loss payees (and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them) in such policies and will provide primary coverage for all losses and damages caused by the perils or causes of loss covered thereby. All such policies shall contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any of the insureds or loss payees thereunder. Owner and Contractor waive all rights against each other and their 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 Subcontractors and Engineer, and all other individuals or entities identified in the Supplementary Conditions as loss payees (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 as trustee or otherwise payable under any policy so issued.
- B. Owner waives all rights against Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them for:
1. loss due to business interruption, loss of use, or other consequential loss extending beyond direct physical loss or damage to Owner's property or the Work caused by, arising out of, or resulting from fire or other perils whether or not insured by Owner; and
 2. loss or damage to the completed Project or part thereof caused by, arising out of, or resulting from fire or other insured peril or cause of loss covered by any property insurance maintained on the completed Project or part thereof by Owner during partial utilization pursuant to Paragraph 14.05, after Substantial Completion pursuant to Paragraph 14.04, or after final payment pursuant to Paragraph 14.07.
- C. Any insurance policy maintained by Owner covering any loss, damage or consequential loss referred to in Paragraph 5.07.B shall contain provisions to the effect that in the event of payment of any such loss, damage, or consequential loss, the insurers will have no rights of recovery against Contractor, Subcontractors, or Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them.

5.08 *Receipt and Application of Insurance Proceeds*

- A. Any insured loss under the policies of insurance required by Paragraph 5.06 will be adjusted with Owner and made payable to Owner as fiduciary for the loss payees, as their interests may appear, subject to the requirements of any applicable mortgage clause and of Paragraph 5.08.B. Owner shall deposit in a separate account any money so received and shall distribute it in accordance with such agreement as the parties in interest may reach. If no other special agreement is reached, the damaged Work shall be repaired or replaced, the moneys so received applied on account thereof, and the Work and the cost thereof covered by an appropriate Change Order.
- B. Owner as fiduciary shall have power to adjust and settle any loss with the insurers unless one of the parties in interest shall object in writing within 15 days after the occurrence of loss to Owner's exercise of this power. If such objection be made, Owner as fiduciary shall make settlement with the insurers in accordance with such agreement as the parties in interest may reach. If no such agreement among the parties in interest is reached, Owner as fiduciary shall adjust and settle the loss with the insurers and, if required in writing by any party in interest, Owner as fiduciary shall give bond for the proper performance of such duties.

5.09 *Acceptance of Bonds and Insurance; Option to Replace*

- A. If either Owner or Contractor has any objection to the coverage afforded by or other provisions of the bonds or insurance required to be purchased and maintained by the other party in accordance with Article 5 on the basis of non-conformance with the Contract Documents, the objecting party shall so notify the other party in writing within 10 days after receipt of the certificates (or other evidence requested) required by Paragraph 2.01.B. Owner and Contractor shall each provide to the other such additional information in respect of insurance provided as the other may reasonably request. If either party does not purchase or maintain all of the bonds and insurance required of such party by the Contract Documents, such party shall notify the other party in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage. Without prejudice to any other right or remedy, the other party may elect to obtain equivalent bonds or insurance to protect such other party's interests at the expense of the party who was required to provide such coverage, and a Change Order shall be issued to adjust the Contract Price accordingly.

5.10 *Partial Utilization, Acknowledgment of Property Insurer*

- A. If Owner finds it necessary to occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work as provided in Paragraph 14.05, no such use or occupancy shall commence before the insurers providing the property insurance pursuant to Paragraph 5.06 have acknowledged notice thereof and in writing effected any changes in coverage necessitated thereby. The insurers providing the property insurance shall consent by endorsement on the policy or policies, but the property insurance shall not be canceled or permitted to lapse on account of any such partial use or occupancy.

ARTICLE 6 – CONTRACTOR’S RESPONSIBILITIES

6.01 *Supervision and Superintendence*

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

6.02 *Labor; Working Hours*

- A. Contractor shall provide competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. Contractor shall at all times maintain good discipline and order at the Site.
- B. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site shall be performed during regular working hours. Contractor will not permit the performance of Work on a Saturday, Sunday, or any legal holiday without Owner’s written consent (which will not be unreasonably withheld) given after prior written notice to Engineer.

6.03 *Services, Materials, and Equipment*

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

6.04 *Progress Schedule*

- A. Contractor shall adhere to the Progress Schedule established in accordance with Paragraph 2.07 as it may be adjusted from time to time as provided below.
1. Contractor shall submit to Engineer for acceptance (to the extent indicated in Paragraph 2.07) proposed adjustments in the Progress Schedule that will not result in changing the Contract Times. Such adjustments will comply with any provisions of the General Requirements applicable thereto.
 2. Proposed adjustments in the Progress Schedule that will change the Contract Times shall be submitted in accordance with the requirements of Article 12. Adjustments in Contract Times may only be made by a Change Order.

6.05 *Substitutes and "Or-Equals"*

- A. Whenever an item of material or equipment is specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier, the specification or description 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 or no substitution is permitted, other items of material or equipment or material or equipment of other Suppliers may be submitted to Engineer for review under the circumstances described below.
1. "*Or-Equal*" Items: If in Engineer's sole discretion an item of material or equipment proposed by Contractor is functionally equal to that named and sufficiently similar so that no change in related Work will be required, it may be considered by Engineer as an "or-equal" item, in which case review and approval of the proposed item may, in Engineer's sole discretion, be accomplished without compliance with some or all of the requirements for approval of proposed substitute items. For the purposes of this Paragraph 6.05.A.1, a proposed item of material or equipment will be considered functionally equal to an item so named if:
 - a. in the exercise of reasonable judgment Engineer determines that:
 - 1) it is at least equal in materials of construction, quality, durability, appearance, strength, and design characteristics;
 - 2) it will reliably perform at least equally well the function and achieve the results imposed by the design concept of the completed Project as a functioning whole; and
 - 3) it has a proven record of performance and availability of responsive service.
 - b. Contractor certifies that, if approved and incorporated into the Work:
 - 1) there will be no increase in cost to the Owner or increase in Contract Times; and
 - 2) it will conform substantially to the detailed requirements of the item named in the Contract Documents.

2. *Substitute Items:*

- a. If in Engineer's sole discretion an item of material or equipment proposed by Contractor does not qualify as an "or-equal" item under Paragraph 6.05.A.1, it will be considered a proposed substitute item.
- b. Contractor shall submit sufficient information as provided below to allow Engineer to determine if the item of material or equipment proposed is essentially equivalent to that named and an acceptable substitute therefor. Requests for review of proposed substitute items of material or equipment will not be accepted by Engineer from anyone other than Contractor.
- c. The requirements for review by Engineer will be as set forth in Paragraph 6.05.A.2.d, as supplemented by the General Requirements, and as Engineer may decide is appropriate under the circumstances.
- d. Contractor shall make written application to Engineer for review of a proposed substitute item of material or equipment that Contractor seeks to furnish or use. The application:
 - 1) shall certify that the proposed substitute item will:
 - a) perform adequately the functions and achieve the results called for by the general design,
 - b) be similar in substance to that specified, and
 - c) be suited to the same use as that specified;
 - 2) will state:
 - a) the extent, if any, to which the use of the proposed substitute item will prejudice Contractor's achievement of Substantial Completion on time,
 - b) whether use of the proposed substitute item in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with Owner for other work on the Project) to adapt the design to the proposed substitute item, and
 - c) whether incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty;
 - 3) will identify:
 - a) all variations of the proposed substitute item from that specified, and
 - b) available engineering, sales, maintenance, repair, and replacement services; and
 - 4) shall contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including costs of redesign and claims of other contractors affected by any resulting change.

- B. *Substitute Construction Methods or Procedures:* If a specific means, method, technique, sequence, or procedure of construction is expressly required by the Contract Documents, Contractor may furnish or utilize a substitute means, method, technique, sequence, or procedure of construction approved by Engineer. Contractor shall submit sufficient information to allow Engineer, in Engineer's sole discretion, to determine that the substitute proposed is equivalent to that expressly called for by the Contract Documents. The requirements for review by Engineer will be similar to those provided in Paragraph 6.05.A.2.
- C. *Engineer's Evaluation:* Engineer will be allowed a reasonable time within which to evaluate each proposal or submittal made pursuant to Paragraphs 6.05.A and 6.05.B. Engineer may require Contractor to furnish additional data about the proposed substitute item. Engineer will be the sole judge of acceptability. No "or equal" or substitute will be ordered, installed or utilized until Engineer's review is complete, which will be evidenced by a Change Order in the case of a substitute and an approved Shop Drawing for an "or equal." Engineer will advise Contractor in writing of any negative determination.
- D. *Special Guarantee:* Owner may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute.
- E. *Engineer's Cost Reimbursement:* Engineer will record Engineer's costs in evaluating a substitute proposed or submitted by Contractor pursuant to Paragraphs 6.05.A.2 and 6.05.B. 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.
- F. *Contractor's Expense:* Contractor shall provide all data in support of any proposed substitute or "or-equal" at Contractor's expense.

6.06 *Concerning Subcontractors, Suppliers, and Others*

- A. Contractor shall not employ any Subcontractor, Supplier, or other individual or entity (including those acceptable to Owner as indicated in Paragraph 6.06.B), whether initially or as a replacement, against whom Owner may have reasonable objection. Contractor shall not be required to employ any Subcontractor, Supplier, or other individual or entity to furnish or perform any of the Work against whom Contractor has reasonable objection.
- B. If the Supplementary Conditions require the identity of certain Subcontractors, Suppliers, or other individuals or entities to be submitted to Owner in advance for acceptance by Owner by a specified date prior to the Effective Date of the Agreement, and if Contractor has submitted a list thereof in accordance with the Supplementary Conditions, Owner's acceptance (either in writing or by failing to make written objection thereto by the date indicated for acceptance or objection in the Bidding Documents or the Contract Documents) of any such Subcontractor, Supplier, or other individual or entity so identified may be revoked on the basis of reasonable objection after due investigation. Contractor shall submit an acceptable replacement for the rejected Subcontractor, Supplier, or other individual or entity, and the Contract Price will be adjusted by the difference in the cost occasioned by such replacement, and an appropriate Change Order will be issued. No acceptance by Owner of any such Subcontractor, Supplier, or other individual or

entity, whether initially or as a replacement, shall constitute a waiver of any right of Owner or Engineer to reject defective Work.

- C. Contractor shall be fully responsible to Owner and Engineer for all acts and omissions of the Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work just as Contractor is responsible for Contractor's own acts and omissions. Nothing in the Contract Documents:
1. shall create for the benefit of any such Subcontractor, Supplier, or other individual or entity any contractual relationship between Owner or Engineer and any such Subcontractor, Supplier or other individual or entity; nor
 2. shall create any obligation on the part of Owner or Engineer to pay or to see to the payment of any moneys due any such Subcontractor, Supplier, or other individual or entity except as may otherwise be required by Laws and Regulations.
- D. Contractor shall be solely responsible for scheduling and coordinating the Work of Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work under a direct or indirect contract with Contractor.
- E. Contractor shall require all Subcontractors, Suppliers, and such other individuals or entities performing or furnishing any of the Work to communicate with Engineer through Contractor.
- F. The divisions and sections of the Specifications and the identifications of any Drawings shall not control Contractor in dividing the Work among Subcontractors or Suppliers or delineating the Work to be performed by any specific trade.
- G. All Work performed for Contractor by a Subcontractor or Supplier will be pursuant to an appropriate agreement between Contractor and the Subcontractor or Supplier which specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract Documents for the benefit of Owner and Engineer. Whenever any such agreement is with a Subcontractor or Supplier who is listed as a loss payee on the property insurance provided in Paragraph 5.06, the agreement between the Contractor and the Subcontractor or Supplier will contain provisions whereby the Subcontractor or Supplier waives all rights against Owner, Contractor, Engineer, and all other individuals or entities identified in the Supplementary Conditions to be listed as insureds or loss payees (and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them) for all losses and damages caused by, arising out of, relating to, or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work. If the insurers on any such policies require separate waiver forms to be signed by any Subcontractor or Supplier, Contractor will obtain the same.

6.07 *Patent Fees and Royalties*

- A. Contractor shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product, or device which is the subject of patent rights or copyrights held by others. If a particular invention, design, process, product, or device is specified in the Contract Documents for use in the performance of the Work and if, to the actual knowledge of Owner or Engineer, its

use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed by Owner in the Contract Documents.

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

6.08 *Permits*

- A. Unless otherwise provided in the Supplementary Conditions, Contractor shall obtain and pay for all construction permits and licenses. Owner shall assist Contractor, when necessary, in obtaining such permits and licenses. Contractor shall pay all governmental charges and inspection fees necessary for the prosecution of the Work which are applicable at the time of opening of Bids, or, if there are no Bids, on the Effective Date of the Agreement. Owner shall pay all charges of utility owners for connections for providing permanent service to the Work.

6.09 *Laws and Regulations*

- A. Contractor shall give all notices required by and shall comply with all Laws and Regulations applicable to the performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, neither Owner nor Engineer shall be responsible for monitoring Contractor's compliance with any Laws or Regulations.
- B. If Contractor performs any Work knowing or having reason to know that it is contrary to Laws or Regulations, Contractor shall bear 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. However, it shall not be Contractor's responsibility to make certain that the Specifications and Drawings are in accordance with Laws and Regulations, but this shall not relieve Contractor of Contractor's obligations under Paragraph 3.03.
- C. Changes in Laws or Regulations not known at the time of opening of Bids (or, on the Effective Date of the Agreement if there were no Bids) having an effect on the cost or time of performance of the Work shall be the subject of an adjustment in Contract Price or Contract Times. If Owner

and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment, a Claim may be made therefor as provided in Paragraph 10.05.

6.10 *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.

6.11 *Use of Site and Other Areas*

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

1. Contractor shall confine construction equipment, the storage of materials and equipment, and the operations of workers to the Site and other areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and other areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility for any damage to any such land or area, or to the owner or occupant thereof, or of any adjacent land or areas resulting from the performance of the Work.
2. Should any claim be made by any such owner or occupant because of the performance of the Work, Contractor shall promptly settle with such other party by negotiation or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law.
3. 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 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 by or based upon Contractor's performance of the Work.

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

C. *Cleaning:* Prior to Substantial Completion of the Work Contractor shall clean the Site and the Work and make it ready for utilization by Owner. At the completion of the Work Contractor shall remove from the Site 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 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 property to stresses or pressures that will endanger it.

6.12 *Record Documents*

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

6.13 *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. 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, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.
- B. Contractor shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection. Contractor shall notify owners of adjacent property and of Underground Facilities and other utility owners when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property.
- C. Contractor shall comply with the applicable requirements of Owner's safety programs, if any. The Supplementary Conditions identify any Owner's safety programs that are applicable to the Work.
- D. Contractor shall inform Owner and Engineer of the specific requirements of Contractor's safety program with which Owner's and Engineer's employees and representatives must comply while at the Site.
- E. All damage, injury, or loss to any property referred to in Paragraph 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 (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of Owner or Engineer or anyone employed by any of them, or anyone for whose acts

any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them).

- F. Contractor's duties and responsibilities for safety and for protection of the Work shall continue until such time as all the Work is completed and Engineer has issued a notice to Owner and Contractor in accordance with Paragraph 14.07.B that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion).

6.14 *Safety Representative*

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

6.15 *Hazard Communication Programs*

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

6.16 *Emergencies*

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

6.17 *Shop Drawings and Samples*

- A. Contractor shall submit Shop Drawings and Samples to Engineer for review and approval in accordance with the accepted Schedule of Submittals (as required by Paragraph 2.07). Each submittal will be identified as Engineer may require.

1. *Shop Drawings:*

- a. Submit number of copies specified in the General Requirements.
- b. Data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show Engineer the services, materials, and equipment Contractor proposes to provide and to enable Engineer to review the information for the limited purposes required by Paragraph 6.17.D.

2. *Samples:*

- a. Submit number of Samples specified in the Specifications.

- b. 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 6.17.D.
- B. 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. *Submittal Procedures:*

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

D. *Engineer's Review:*

1. Engineer will provide timely review of Shop Drawings and Samples in accordance with the Schedule of Submittals acceptable to Engineer. Engineer's review and approval will be only to determine if the items covered by the submittals will, after installation or incorporation in the Work, conform to the information given in the Contract Documents and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.
2. Engineer's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction (except where a particular means, method, technique, sequence, or procedure of construction is specifically and expressly called for by the

Contract Documents) 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.

3. Engineer's review and approval shall not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirements of Paragraph 6.17.C.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's review and approval shall not relieve Contractor from responsibility for complying with the requirements of Paragraph 6.17.C.1.

E. *Resubmittal Procedures:*

1. Contractor shall make corrections required by Engineer and shall return the required number of corrected copies of Shop Drawings and submit, as required, new Samples for review and approval. Contractor shall direct specific attention in writing to revisions other than the corrections called for by Engineer on previous submittals.

6.18 *Continuing the Work*

- A. Contractor shall carry on the Work and adhere to the Progress Schedule during all disputes or disagreements with Owner. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, except as permitted by Paragraph 15.04 or as Owner and Contractor may otherwise agree in writing.

6.19 *Contractor's General Warranty and Guarantee*

- A. Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective. Engineer and its officers, directors, members, partners, employees, agents, consultants, and subcontractors shall be entitled to rely on representation of Contractor's warranty and guarantee.
- B. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:
 1. abuse, modification, or improper maintenance or operation by persons other than Contractor, Subcontractors, Suppliers, or any other individual or entity for whom Contractor is responsible; or
 2. normal wear and tear under normal usage.
- C. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents or a release of Contractor's obligation to perform the Work in accordance with the Contract Documents:
 1. observations by Engineer;
 2. recommendation by Engineer or payment by Owner of any progress or final payment;

3. the issuance of a certificate of Substantial Completion by Engineer or any payment related thereto by Owner;
4. use or occupancy of the Work or any part thereof by Owner;
5. any review and approval of a Shop Drawing or Sample submittal or the issuance of a notice of acceptability by Engineer;
6. any inspection, test, or approval by others; or
7. any correction of defective Work by Owner.

6.20 *Indemnification*

- 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 is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom but only to the extent caused by any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts any of them may be liable .
- B. In any and all claims against Owner or Engineer or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors by any employee (or the survivor or personal representative of such employee) of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 6.20.A shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.
- C. The indemnification obligations of Contractor under Paragraph 6.20.A shall not extend to the liability of Engineer and Engineer's officers, directors, members, partners, employees, agents, consultants and subcontractors arising out of:
 1. the preparation or approval of, or the failure to prepare or approve maps, Drawings, opinions, reports, surveys, Change Orders, designs, or Specifications; or
 2. giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage.

6.21 *Delegation of Professional Design Services*

- A. Contractor will not be required to provide professional design services unless such services are specifically required by the Contract Documents for a portion of the Work or unless such services are required to carry out Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. Contractor shall not be required to provide professional services in violation of applicable law.
- B. If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of Contractor by the Contract Documents, Owner and Engineer will specify all performance and design criteria that such services must satisfy. Contractor shall cause such services or certifications to be provided by a properly licensed professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to Engineer.
- C. Owner and Engineer shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals, provided Owner and Engineer have specified to Contractor all performance and design criteria that such services must satisfy.
- D. Pursuant to this Paragraph 6.21, Engineer's review and approval of design calculations and design drawings will be only for the limited purpose of checking for conformance with performance and design criteria given and the design concept expressed in the Contract Documents. Engineer's review and approval of Shop Drawings and other submittals (except design calculations and design drawings) will be only for the purpose stated in Paragraph 6.17.D.1.
- E. Contractor shall not be responsible for the adequacy of the performance or design criteria required by the Contract Documents.

ARTICLE 7 – OTHER WORK AT THE SITE

7.01 *Related Work at Site*

- A. Owner may perform other work related to the Project at the Site with Owner's employees, or through other direct contracts therefor, or have other work performed by utility owners. If such other work is not noted in the Contract Documents, then:
 - 1. written notice thereof will be given to Contractor prior to starting any such other work; and
 - 2. if Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times that should be allowed as a result of such other work, a Claim may be made therefor as provided in Paragraph 10.05.
- B. Contractor shall afford each other contractor who is a party to such a direct contract, each utility owner, and Owner, if Owner is performing other work with Owner's employees, proper and safe

access to the Site, provide a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work, and properly coordinate the Work with theirs. 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. The duties and responsibilities of Contractor under this Paragraph are for the benefit of such utility owners and other contractors to the extent that there are comparable provisions for the benefit of Contractor in said direct contracts between Owner and such utility owners and other contractors.

- C. If the proper execution or results of any part of Contractor's Work depends upon work performed by others under this Article 7, 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.

7.02 *Coordination*

- A. If Owner intends to contract with others for the performance of other work on the Project at the Site, the following will be set forth in Supplementary Conditions:
 - 1. the individual or entity who will have authority and responsibility for coordination of the activities among the various contractors will be identified;
 - 2. the specific matters to be covered by such authority and responsibility will be itemized; and
 - 3. the extent of such authority and responsibilities will be provided.
- B. Unless otherwise provided in the Supplementary Conditions, Owner shall have sole authority and responsibility for such coordination.

7.03 *Legal Relationships*

- A. Paragraphs 7.01.A and 7.02 are not applicable for utilities not under the control of Owner.
- B. Each other direct contract of Owner under Paragraph 7.01.A shall provide that the other contractor is liable to Owner and Contractor for the reasonable direct delay and disruption costs incurred by Contractor as a result of the other contractor's wrongful actions or inactions.
- C. Contractor shall be liable to Owner and any other contractor under direct contract to Owner for the reasonable direct delay and disruption costs incurred by such other contractor as a result of Contractor's wrongful action or inactions.

ARTICLE 8 – OWNER’S RESPONSIBILITIES

8.01 *Communications to Contractor*

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

8.02 *Replacement of Engineer*

- A. In case of termination of the employment of Engineer, Owner shall appoint an engineer to whom Contractor makes no reasonable objection, whose status under the Contract Documents shall be that of the former Engineer.

8.03 *Furnish Data*

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

8.04 *Pay When Due*

- A. Owner shall make payments to Contractor when they are due as provided in Paragraphs 14.02.C and 14.07.C.

8.05 *Lands and Easements; Reports and Tests*

- A. Owner’s duties with respect to providing lands and easements and providing engineering surveys to establish reference points are set forth in Paragraphs 4.01 and 4.05. Paragraph 4.02 refers to Owner’s identifying and making available to Contractor copies of reports of explorations and tests of subsurface conditions and drawings of physical conditions relating to existing surface or subsurface structures at the Site.

8.06 *Insurance*

- A. Owner’s responsibilities, if any, with respect to purchasing and maintaining liability and property insurance are set forth in Article 5.

8.07 *Change Orders*

- A. Owner is obligated to execute Change Orders as indicated in Paragraph 10.03.

8.08 *Inspections, Tests, and Approvals*

- A. Owner’s responsibility with respect to certain inspections, tests, and approvals is set forth in Paragraph 13.03.B.

8.09 *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.

8.10 *Undisclosed Hazardous Environmental Condition*

A. Owner's responsibility in respect to an undisclosed Hazardous Environmental Condition is set forth in Paragraph 4.06.

8.11 *Evidence of Financial Arrangements*

A. Upon request of Contractor, Owner shall furnish Contractor reasonable evidence that financial arrangements have been made to satisfy Owner's obligations under the Contract Documents.

8.12 *Compliance with Safety Program*

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 pursuant to Paragraph 6.13.D.

ARTICLE 9 – ENGINEER'S STATUS DURING CONSTRUCTION

9.01 *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 Documents.

9.02 *Visits to Site*

A. Engineer will make visits to the Site at intervals appropriate to the various stages of construction as Engineer deems necessary in order to observe as an experienced and qualified design professional the progress that has been made and the quality of the various aspects of Contractor's executed Work. Based on information obtained during such visits and observations, Engineer, for the benefit of Owner, will determine, in general, if the Work is proceeding in accordance with the Contract Documents. Engineer will not be required to make exhaustive or continuous inspections on the Site to check the quality or quantity of the Work. Engineer's efforts will be directed toward providing for Owner a greater degree of confidence that the completed Work will conform generally to the Contract Documents. On the basis of such visits and observations, Engineer will keep Owner informed of the progress of the Work and will endeavor to guard Owner against defective Work.

B. Engineer's visits and observations are subject to all the limitations on Engineer's authority and responsibility set forth in Paragraph 9.09. 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.

9.03 *Project Representative*

- A. If Owner and Engineer agree, Engineer will furnish a Resident Project Representative to assist Engineer in providing more extensive observation of the Work. The authority and responsibilities of any such Resident Project Representative and assistants will be as provided in the Supplementary Conditions, and limitations on the responsibilities thereof will be as provided in Paragraph 9.09. If Owner designates another representative or agent to represent Owner at the Site who is not Engineer's consultant, agent or employee, the responsibilities and authority and limitations thereon of such other individual or entity will be as provided in the Supplementary Conditions.

9.04 *Authorized Variations in Work*

- A. Engineer may authorize minor variations in the Work from the requirements of the Contract Documents which 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. These may be accomplished by a Field Order and will be binding on Owner and also on Contractor, who shall perform the Work involved promptly. If Owner or Contractor believes that a Field Order justifies an adjustment in the Contract Price or Contract Times, or both, and the parties are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment, a Claim may be made therefor as provided in Paragraph 10.05.

9.05 *Rejecting Defective Work*

- A. Engineer will have authority to reject Work which Engineer believes to be defective, or that Engineer believes will not produce a completed Project that conforms to the Contract Documents or that will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Engineer will also have authority to require special inspection or testing of the Work as provided in Paragraph 13.04, whether or not the Work is fabricated, installed, or completed.

9.06 *Shop Drawings, Change Orders and Payments*

- A. In connection with Engineer's authority, and limitations thereof, as to Shop Drawings and Samples, see Paragraph 6.17.
- B. In connection with Engineer's authority, and limitations thereof, as to design calculations and design drawings submitted in response to a delegation of professional design services, if any, see Paragraph 6.21.
- C. In connection with Engineer's authority as to Change Orders, see Articles 10, 11, and 12.
- D. In connection with Engineer's authority as to Applications for Payment, see Article 14.

9.07 *Determinations for Unit Price Work*

- A. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor. Engineer will review with Contractor the Engineer's preliminary determinations

on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise). Engineer's written decision thereon will be final and binding (except as modified by Engineer to reflect changed factual conditions or more accurate data) upon Owner and Contractor, subject to the provisions of Paragraph 10.05.

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

- A. Engineer will be the initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the Work thereunder. All matters in question and other matters between Owner and Contractor arising prior to the date final payment is due relating to the acceptability of the Work, and the interpretation of the requirements of the Contract Documents pertaining to the performance of the Work, will be referred initially to Engineer in writing within 30 days of the event giving rise to the question.
- B. Engineer will, with reasonable promptness, render a written decision on the issue referred. If Owner or Contractor believes that any such decision entitles them to an adjustment in the Contract Price or Contract Times or both, a Claim may be made under Paragraph 10.05. The date of Engineer's decision shall be the date of the event giving rise to the issues referenced for the purposes of Paragraph 10.05.B.
- C. Engineer's written decision on the issue referred will be final and binding on Owner and Contractor, subject to the provisions of Paragraph 10.05.
- D. When functioning as interpreter and judge under this Paragraph 9.08, Engineer will not show partiality to Owner or Contractor and will not be liable in connection with any interpretation or decision rendered in good faith in such capacity.

9.09 *Limitations on Engineer's Authority and Responsibilities*

- A. Neither Engineer's authority or responsibility under this Article 9 or under any other provision of the Contract Documents nor any decision made by Engineer in good faith either to exercise or not exercise such authority or responsibility or the undertaking, exercise, or performance of any authority or responsibility by Engineer shall create, impose, or give rise to any duty in contract, tort, or otherwise owed by Engineer to Contractor, any Subcontractor, any Supplier, any other individual or entity, or to any surety for or employee or agent of any of them.
- B. Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Engineer will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.
- C. Engineer will not be responsible for the acts or omissions of Contractor or of any Subcontractor, any Supplier, or of any other individual or entity performing any of the Work.
- D. Engineer's review of the final Application for Payment and accompanying documentation and all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by Paragraph 14.07.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 9.09 shall also apply to the Resident Project Representative, if any, and assistants, if any.

9.10 *Compliance with Safety Program*

- A. While at the Site, Engineer's employees and representatives shall comply with the specific applicable requirements of Contractor's safety programs of which Engineer has been informed pursuant to Paragraph 6.13.D.

ARTICLE 10 – CHANGES IN THE WORK; CLAIMS

10.01 *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 by a Change Order, or a Work Change Directive. Upon receipt of any such document, Contractor shall promptly proceed with the Work involved which will be performed under the applicable conditions of the Contract Documents (except as otherwise specifically provided).
- B. If Owner and Contractor are unable to agree on entitlement to, or on the amount or extent, if any, of an adjustment in the Contract Price or Contract Times, or both, that should be allowed as a result of a Work Change Directive, a Claim may be made therefor as provided in Paragraph 10.05.

10.02 *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 as provided in Paragraph 3.04, except in the case of an emergency as provided in Paragraph 6.16 or in the case of uncovering Work as provided in Paragraph 13.04.D.

10.03 *Execution of Change Orders*

- A. Owner and Contractor shall execute appropriate Change Orders recommended by Engineer covering:
 - 1. changes in the Work which are: (i) ordered by Owner pursuant to Paragraph 10.01.A, (ii) required because of acceptance of defective Work under Paragraph 13.08.A or Owner's correction of defective Work under Paragraph 13.09, or (iii) agreed to by the parties;
 - 2. changes in the Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive; and
 - 3. changes in the Contract Price or Contract Times which embody the substance of any written decision rendered by Engineer pursuant to Paragraph 10.05; provided that, in lieu of

executing any such Change Order, an appeal may be taken from any such decision in accordance with the provisions of the Contract Documents and applicable Laws and Regulations, but during any such appeal, Contractor shall carry on the Work and adhere to the Progress Schedule as provided in Paragraph 6.18.A.

10.04 *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.

10.05 *Claims*

- A. *Engineer's Decision Required:* All Claims, except those waived pursuant to Paragraph 14.09, shall be referred to the Engineer for decision. A decision by Engineer shall be required as a condition precedent to any exercise by Owner or Contractor of any rights or remedies either may otherwise have under the Contract Documents or by Laws and Regulations in respect of such Claims.
- B. *Notice:* Written notice stating the general nature of each Claim shall be delivered by the claimant to Engineer and the other party to the Contract promptly (but in no event later than 30 days) after the start of the event giving rise thereto. The responsibility to substantiate a Claim shall rest with the party making the Claim. Notice of the amount or extent of the Claim, with supporting data shall be delivered to the Engineer and the other party to the Contract within 60 days after the start of such event (unless Engineer allows additional time for claimant to submit additional or more accurate data in support of such Claim). A Claim for an adjustment in Contract Price shall be prepared in accordance with the provisions of Paragraph 12.01.B. A Claim for an adjustment in Contract Times shall be prepared in accordance with the provisions of Paragraph 12.02.B. Each Claim shall be accompanied by claimant's written statement that the adjustment claimed is the entire adjustment to which the claimant believes it is entitled as a result of said event. The opposing party shall submit any response to Engineer and the claimant within 30 days after receipt of the claimant's last submittal (unless Engineer allows additional time).
- C. *Engineer's Action:* Engineer will review each Claim and, within 30 days after receipt of the last submittal of the claimant or the last submittal of the opposing party, if any, take one of the following actions in writing:
 - 1. deny the Claim in whole or in part;
 - 2. approve the Claim; or
 - 3. notify the parties that the Engineer is unable to resolve the Claim if, in the Engineer's sole discretion, it would be inappropriate for the Engineer to do so. For purposes of further resolution of the Claim, such notice shall be deemed a denial.
- D. In the event that Engineer does not take action on a Claim within said 30 days, the Claim shall be deemed denied.

- E. Engineer's written action under Paragraph 10.05.C or denial pursuant to Paragraphs 10.05.C.3 or 10.05.D will be final and binding upon Owner and Contractor, unless Owner or Contractor invoke the dispute resolution procedure set forth in Article 16 within 30 days of such action or denial.
- F. No Claim for an adjustment in Contract Price or Contract Times will be valid if not submitted in accordance with this Paragraph 10.05.

ARTICLE 11 – COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK

11.01 Cost of the Work

- A. *Costs Included:* The term Cost of the Work means the sum of all costs, except those excluded in Paragraph 11.01.B, necessarily incurred and paid by Contractor in the proper performance of the Work. When the value of any Work covered by a Change Order or when a Claim for an adjustment in Contract Price is determined on the basis of Cost of the Work, the costs to be reimbursed to Contractor will be only those additional or incremental costs required because of the change in the Work or because of the event giving rise to the Claim. Except as otherwise may be agreed to in writing by Owner, such costs shall be in amounts no higher than those prevailing in the locality of the Project, shall not include any of the costs itemized in Paragraph 11.01.B, and shall include only the following items:
 - 1. Payroll costs for employees in the direct employ of Contractor in the performance of the Work under schedules of job classifications agreed upon by Owner and Contractor. Such employees shall include, without limitation, superintendents, foremen, and other personnel employed full time on the Work. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits, which shall include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, bonuses, sick leave, vacation and holiday pay applicable thereto. The expenses of performing Work outside of regular working hours, on Saturday, Sunday, or legal holidays, shall be included in the above to the extent authorized by Owner.
 - 2. Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts shall accrue to Contractor unless Owner deposits funds with Contractor with which to make payments, in which case the cash discounts shall accrue to Owner. All trade discounts, rebates and refunds and returns from sale of surplus materials and equipment shall accrue to Owner, and Contractor shall make provisions so that they may be obtained.
 - 3. Payments made by Contractor to Subcontractors for Work performed by Subcontractors. If required by Owner, Contractor shall obtain competitive bids from subcontractors acceptable to Owner and Contractor and shall deliver such bids to Owner, who will then determine, with the advice of Engineer, which bids, if any, will be acceptable. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work plus a fee, the Subcontractor's Cost of the Work and fee shall be determined in the same manner as Contractor's Cost of the Work and fee as provided in this Paragraph 11.01.

4. Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed for services specifically related to the Work.
5. Supplemental costs including the following:
 - a. The proportion of necessary transportation, travel, and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.
 - b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office, and temporary facilities at the Site, and hand tools not owned by the workers, which are consumed in the performance of the Work, and cost, less market value, of such items used but not consumed which remain the property of Contractor.
 - c. Rentals of all construction equipment and machinery, and the parts thereof whether rented from Contractor or others in accordance with rental agreements approved by Owner with the advice of Engineer, and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs shall be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts shall cease when the use thereof is no longer necessary for the Work.
 - d. Sales, consumer, use, and other similar taxes related to the Work, and for which Contractor is liable, as imposed by Laws and Regulations.
 - e. Deposits lost for causes other than negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.
 - f. Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by Contractor in connection with the performance of the Work (except losses and damages within the deductible amounts of property insurance established in accordance with Paragraph 5.06.D), provided such losses and damages have resulted from causes other than the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses shall include settlements made with the written consent and approval of Owner. No such losses, damages, and expenses shall be included in the Cost of the Work for the purpose of determining Contractor's fee.
 - g. The cost of utilities, fuel, and sanitary facilities at the Site.
 - h. Minor expenses such as telegrams, long distance telephone calls, telephone 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 Contractor is required by the Contract Documents to purchase and maintain.

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

1. Payroll costs and other compensation of Contractor's officers, executives, principals (of partnerships and sole proprietorships), general managers, safety managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks, and other personnel employed by Contractor, whether at the Site or in Contractor's principal or branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 11.01.A.1 or specifically covered by Paragraph 11.01.A.4, all of which are to be considered administrative costs covered by the Contractor's fee.
 2. Expenses of Contractor's principal and branch offices other than Contractor's office at the Site.
 3. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.
 4. Costs due to the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property.
 5. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraphs 11.01.A.
- C. *Contractor's Fee:* When all the Work is performed on the basis of cost-plus, Contractor's fee shall be determined as set forth in the Agreement. When the value of any Work covered by a Change Order or when a Claim for an adjustment in Contract Price is determined on the basis of Cost of the Work, Contractor's fee shall be determined as set forth in Paragraph 12.01.C.
- D. *Documentation:* Whenever the Cost of the Work for any purpose is to be determined pursuant to Paragraphs 11.01.A and 11.01.B, Contractor will establish and maintain records thereof in accordance with generally accepted accounting practices and submit in a form acceptable to Engineer an itemized cost breakdown together with supporting data.

11.02 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:*
1. Contractor agrees that:
 - a. the cash allowances include the cost to Contractor (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the Site, and all applicable taxes; and
 - b. Contractor's costs for unloading and handling on the Site, labor, installation, overhead, profit, and other expenses contemplated for the cash allowances have been included in

the Contract Price and not in the allowances, and no demand for additional payment on account of any of the foregoing will be valid.

C. *Contingency Allowance:*

1. Contractor agrees that a contingency allowance, if any, is for the sole use of Owner to cover unanticipated costs.

D. Prior to final payment, an appropriate Change Order will be issued as recommended by Engineer to reflect actual amounts due Contractor on account of Work covered by allowances, and the Contract Price shall be correspondingly adjusted.

11.03 *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. Determinations of the actual quantities and classifications of Unit Price Work performed by Contractor will be made by Engineer subject to the provisions of Paragraph 9.07.

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. Owner or Contractor may make a Claim for an adjustment in the Contract Price in accordance with Paragraph 10.05 if:

1. the quantity of any item of Unit Price Work performed by Contractor differs materially and significantly from the estimated quantity of such item indicated in the Agreement; and
2. there is no corresponding adjustment with respect to any other item of Work; and
3. Contractor believes that Contractor is entitled to an increase in Contract Price as a result of having incurred additional expense or Owner believes that Owner is entitled to a decrease in Contract Price and the parties are unable to agree as to the amount of any such increase or decrease.

ARTICLE 12 – CHANGE OF CONTRACT PRICE; CHANGE OF CONTRACT TIMES

12.01 *Change of Contract Price*

A. The Contract Price may only be changed by a Change Order. Any Claim for an adjustment in the Contract Price shall be based on written notice submitted by the party making the Claim to the Engineer and the other party to the Contract in accordance with the provisions of Paragraph 10.05.

- B. The value of any Work covered by a Change Order or of any Claim for 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, by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 11.03); or
 2. where the Work involved is not covered by unit prices contained in the Contract Documents, by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 12.01.C.2); or
 3. where the Work involved is not covered by unit prices contained in the Contract Documents and agreement to a lump sum is not reached under Paragraph 12.01.B.2, on the basis of the Cost of the Work (determined as provided in Paragraph 11.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 12.01.C).
- C. *Contractor's Fee*: The Contractor's fee for overhead and profit shall be determined as follows:
1. a mutually acceptable fixed fee; or
 2. if a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:
 - a. for costs incurred under Paragraphs 11.01.A.1 and 11.01.A.2, the Contractor's fee shall be 15 percent;
 - b. for costs incurred under Paragraph 11.01.A.3, the Contractor's fee shall be five percent;
 - c. where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of Paragraphs 12.01.C.2.a and 12.01.C.2.b is that the Subcontractor who actually performs the Work, at whatever tier, will be paid a fee of 15 percent of the costs incurred by such Subcontractor under Paragraphs 11.01.A.1 and 11.01.A.2 and that any higher tier Subcontractor and Contractor will each be paid a fee of five percent of the amount paid to the next lower tier Subcontractor;
 - d. no fee shall be payable on the basis of costs itemized under Paragraphs 11.01.A.4, 11.01.A.5, and 11.01.B;
 - e. the amount of credit to be allowed by Contractor to Owner for any change which results in a net decrease in cost will be the amount of the actual net decrease in cost plus a deduction in Contractor's fee by an amount equal to five percent of such net decrease; and
 - f. when both additions and credits are involved in any one change, the adjustment in Contractor's fee shall be computed on the basis of the net change in accordance with Paragraphs 12.01.C.2.a through 12.01.C.2.e, inclusive.

12.02 *Change of Contract Times*

- A. The Contract Times may only be changed by a Change Order. Any Claim for an adjustment in the Contract Times shall be based on written notice submitted by the party making the Claim to the Engineer and the other party to the Contract in accordance with the provisions of Paragraph 10.05.
- B. Any adjustment of the Contract Times covered by a Change Order or any Claim for an adjustment in the Contract Times will be determined in accordance with the provisions of this Article 12.

12.03 *Delays*

- A. Where Contractor is prevented from completing any part of the Work within the Contract Times due to delay beyond the control of Contractor, the Contract Times will be extended in an amount equal to the time lost due to such delay if a Claim is made therefor as provided in Paragraph 12.02.A. Delays beyond the control of Contractor shall include, but not be limited to, acts or neglect by Owner, acts or neglect of utility owners or other contractors performing other work as contemplated by Article 7, fires, floods, epidemics, abnormal weather conditions, or acts of God.
- B. If Owner, Engineer, or other contractors or utility owners performing other work for Owner as contemplated by Article 7, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress of the Work, then Contractor shall be entitled to an equitable adjustment in the Contract Price or the Contract Times, or both. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.
- C. If Contractor is delayed in the performance or progress of the Work by fire, flood, epidemic, abnormal weather conditions, acts of God, acts or failures to act of utility owners not under the control of Owner, or other causes not the fault of and beyond control of Owner and Contractor, then Contractor shall be entitled to an equitable adjustment in Contract Times, if such adjustment is essential to Contractor's ability to complete the Work within the Contract Times. Such an adjustment shall be Contractor's sole and exclusive remedy for the delays described in this Paragraph 12.03.C.
- D. Owner, Engineer, and their officers, directors, members, partners, employees, agents, consultants, or subcontractors shall not be liable to Contractor for any claims, costs, losses, or 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) sustained by Contractor on or in connection with any other project or anticipated project.
- E. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delays within the control of Contractor. Delays attributable to and within the control of a Subcontractor or Supplier shall be deemed to be delays within the control of Contractor.

ARTICLE 13 – TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK

13.01 Notice of Defects

- A. Prompt notice of all defective Work of which Owner or Engineer has actual knowledge will be given to Contractor. Defective Work may be rejected, corrected, or accepted as provided in this Article 13.

13.02 Access to Work

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

13.03 Tests and Inspections

- A. Contractor shall give Engineer timely notice of readiness of the Work for all required inspections, tests, or approvals and shall cooperate with inspection and testing personnel to facilitate required inspections or tests.
- B. Owner shall employ and pay for the services of an independent testing laboratory to perform all inspections, tests, or approvals required by the Contract Documents except:
 - 1. for inspections, tests, or approvals covered by Paragraphs 13.03.C and 13.03.D below;
 - 2. that costs incurred in connection with tests or inspections conducted pursuant to Paragraph 13.04.B shall be paid as provided in Paragraph 13.04.C; and
 - 3. as otherwise specifically provided in the Contract Documents.
- 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 and obtaining and shall pay all costs in connection with any inspections, tests, or approvals required for Owner's and Engineer's acceptance of materials or equipment to be incorporated in the Work; or acceptance of materials, mix designs, or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work. Such inspections, tests, or approvals shall be performed by organizations acceptable to Owner and Engineer.

- E. 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.
- F. Uncovering Work as provided in Paragraph 13.03.E shall be at Contractor's expense unless Contractor has given Engineer timely notice of Contractor's intention to cover the same and Engineer has not acted with reasonable promptness in response to such notice.

13.04 *Uncovering Work*

- A. If any Work is covered contrary to the written request of Engineer, it must, if requested by Engineer, be uncovered for Engineer's observation and replaced at Contractor's expense.
- B. If Engineer considers it necessary or advisable that covered Work be observed by Engineer or inspected or tested by others, 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, furnishing all necessary labor, material, and equipment.
- C. If it is found that the uncovered Work is defective, Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such 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 Owner shall be entitled to an appropriate decrease in the Contract Price. If the parties are unable to agree as to the amount thereof, Owner may make a Claim therefor as provided in Paragraph 10.05.
- D. If the uncovered Work is not found to be defective, Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Times, or both, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction. If the parties are unable to agree as to the amount or extent thereof, Contractor may make a Claim therefor as provided in Paragraph 10.05.

13.05 *Owner May Stop the Work*

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

13.06 *Correction or Removal of Defective Work*

- A. Promptly after receipt of written notice, Contractor shall correct all defective Work, whether or not fabricated, installed, or completed, or, if the Work has been rejected by Engineer, remove it from the Project and replace it with Work that is not defective. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers,

architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or removal (including but not limited to all costs of repair or replacement of work of others).

- B. When correcting defective Work under the terms of this Paragraph 13.06 or Paragraph 13.07, Contractor shall take no action that would void or otherwise impair Owner's special warranty and guarantee, if any, on said Work.

13.07 *Correction Period*

- A. If within one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the terms of any applicable special guarantee required by the Contract Documents) or by any specific provision of the Contract Documents, any Work is found to be defective, or if the repair of any damages to the land or areas made available for Contractor's use by Owner or permitted by Laws and Regulations as contemplated in Paragraph 6.11.A is found to be defective, Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:
1. repair such defective land or areas; or
 2. correct such defective Work; or
 3. if the defective Work has been rejected by Owner, remove it from the Project and replace it with Work that is not defective, and
 4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others or other land or areas resulting therefrom.
- B. If Contractor does not promptly comply with the terms of Owner's written instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. All claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others) will be paid by Contractor.
- C. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications.
- D. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this Paragraph 13.07, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.
- E. Contractor's obligations under this Paragraph 13.07 are in addition to any other obligation or warranty. The provisions of this Paragraph 13.07 shall not be construed as a substitute for, or a waiver of, the provisions of any applicable statute of limitation or repose.

13.08 *Acceptance of Defective Work*

- A. If, instead of requiring correction or removal and replacement of defective Work, Owner (and, prior to Engineer's recommendation of final payment, Engineer) prefers to accept it, Owner may do so. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) 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 pursuant to this sentence. If any such acceptance occurs prior to Engineer's recommendation of final payment, a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work, and Owner shall be entitled to an appropriate decrease in the Contract Price, reflecting the diminished value of Work so accepted. If the parties are unable to agree as to the amount thereof, Owner may make a Claim therefor as provided in Paragraph 10.05. If the acceptance occurs after such recommendation, an appropriate amount will be paid by Contractor to Owner.

13.09 *Owner May Correct Defective Work*

- A. If Contractor fails within a reasonable time after written notice from Engineer to correct defective Work, or to remove and replace rejected Work as required by Engineer in accordance with Paragraph 13.06.A, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any other provision of the Contract Documents, Owner may, after seven days written notice to Contractor, correct, or remedy any such deficiency.
- B. In exercising the rights and remedies under this Paragraph 13.09, 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, take possession of Contractor's tools, appliances, construction equipment and machinery at the Site, 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 (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) incurred or sustained by Owner in exercising the rights and remedies under this Paragraph 13.09 will be charged against Contractor, and a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work; and Owner shall be entitled to an appropriate decrease in the Contract Price. If the parties are unable to agree as to the amount of the adjustment, Owner may make a Claim therefor as provided in Paragraph 10.05. 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 13.09.

ARTICLE 14 – PAYMENTS TO CONTRACTOR AND COMPLETION

14.01 Schedule of Values

- A. The Schedule of Values established as provided in Paragraph 2.07.A will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to Engineer. Progress payments on account of Unit Price Work will be based on the number of units completed.

14.02 Progress Payments

A. Applications for Payments:

1. At least 20 days before the date established in the Agreement for each progress payment (but not more often than once a month), Contractor shall submit to Engineer for review an Application for Payment filled out and signed by Contractor covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment shall also be accompanied by a bill of sale, invoice, or other documentation warranting that Owner has received the materials and equipment free and clear of all Liens and evidence that the materials and equipment are covered by appropriate property insurance or other arrangements to protect Owner's interest therein, all of which must be satisfactory to Owner.
2. Beginning with the second Application for Payment, each Application shall include an affidavit of Contractor stating that all previous progress payments received on account of the Work have been applied on account to discharge Contractor's legitimate obligations associated with prior Applications for Payment.
3. The amount of retainage with respect to progress payments will be as stipulated in the Agreement.

B. Review of Applications:

1. Engineer will, within 10 days after receipt of each Application for Payment, 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 9.07, 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 Documents; or
 - b. there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by Owner or entitle Owner to withhold payment to Contractor.
4. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment, including final payment, will impose responsibility on Engineer:
- a. to supervise, direct, or control the Work, or
 - b. for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or
 - c. for Contractor's failure to comply with Laws and Regulations applicable to Contractor's performance of the Work, or
 - d. to make any examination to ascertain how or for what purposes Contractor has used the moneys paid on account of the Contract Price, or
 - e. to determine that title to any of the Work, materials, or equipment has passed to Owner free and clear of any Liens.
5. Engineer may refuse to recommend the whole or any part of any payment if, in Engineer's opinion, it would be incorrect to make the representations to Owner stated in Paragraph 14.02.B.2. Engineer may also refuse to recommend any such payment or, because of subsequently discovered evidence or the results of subsequent inspections or tests, revise or revoke any such payment recommendation previously made, to such extent as may be necessary in Engineer's opinion to protect Owner from loss because:

- a. the Work is defective, or completed Work has been damaged, requiring correction or replacement;
- b. the Contract Price has been reduced by Change Orders;
- c. Owner has been required to correct defective Work or complete Work in accordance with Paragraph 13.09; or
- d. Engineer has actual knowledge of the occurrence of any of the events enumerated in Paragraph 15.02.A.

C. *Payment Becomes Due:*

1. Ten days after presentation of the Application for Payment to Owner with Engineer's recommendation, the amount recommended will (subject to the provisions of Paragraph 14.02.D) become due, and when due will be paid by Owner to Contractor.

D. *Reduction in Payment:*

1. Owner may refuse to make payment of the full amount recommended by Engineer because:
 - a. claims have been made against Owner on account of Contractor's performance or furnishing of the Work;
 - b. 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;
 - c. there are other items entitling Owner to a set-off against the amount recommended; or
 - d. Owner has actual knowledge of the occurrence of any of the events enumerated in Paragraphs 14.02.B.5.a through 14.02.B.5.c or Paragraph 15.02.A.
2. If Owner refuses to make payment of the full amount recommended by Engineer, Owner will give Contractor immediate written notice (with a copy to Engineer) stating the reasons for such action 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, when Contractor remedies the reasons for such action.
3. Upon a subsequent determination that Owner's refusal of payment was not justified, the amount wrongfully withheld shall be treated as an amount due as determined by Paragraph 14.02.C.1 and subject to interest as provided in the Agreement.

14.03 *Contractor's Warranty of Title*

- A. Contractor warrants and guarantees that title to all Work, materials, and equipment covered by any Application for Payment, whether incorporated in the Project or not, will pass to Owner no later than the time of payment free and clear of all Liens.

14.04 *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 (except for items specifically listed by Contractor as incomplete) and request that Engineer issue a certificate of Substantial Completion.
- 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 tentative certificate of Substantial Completion which shall fix the date of Substantial Completion. There shall be attached to the certificate a tentative list of items to be completed or corrected before final payment. Owner shall have seven days after receipt of the tentative certificate during which to make written objection to Engineer as to any provisions of the certificate or attached list. If, after considering such objections, Engineer concludes that the Work is not substantially complete, Engineer will, within 14 days after submission of the tentative certificate to Owner, notify Contractor in writing, stating the reasons therefor. If, after consideration of Owner's objections, Engineer considers the Work substantially complete, Engineer will, within said 14 days, execute and deliver to Owner and Contractor a definitive certificate of Substantial Completion (with a revised tentative list of items to be completed or corrected) reflecting such changes from the tentative certificate as Engineer believes justified after consideration of any objections from Owner.
- D. At the time of delivery of the tentative certificate of Substantial Completion, Engineer will deliver to Owner and Contractor a written recommendation as to division of responsibilities pending final payment between Owner and Contractor with respect to security, operation, safety, and protection of the Work, maintenance, heat, utilities, insurance, and warranties and guarantees. Unless Owner and Contractor agree otherwise in writing and so inform Engineer in writing prior to Engineer's issuing the definitive certificate of Substantial Completion, Engineer's aforesaid recommendation will be binding on Owner and Contractor until final payment.
- E. 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 tentative list.

14.05 *Partial Utilization*

- 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. Owner at any time may request Contractor in writing to permit Owner to use or occupy any such part of the Work which Owner believes to be ready for its intended use and 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 14.04.A through D for that part of the Work.
2. Contractor at any time may notify Owner and Engineer in writing that Contractor considers any such part of the Work ready for its intended use and 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 14.04 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 5.10 regarding property insurance.

14.06 *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 is incomplete or defective. Contractor shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.

14.07 *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, marked-up record documents (as provided in Paragraph 6.12), and other documents, Contractor may make application for final payment following the procedure for progress payments.
2. The final Application for Payment shall be accompanied (except as previously delivered) by:
 - a. all documentation called for in the Contract Documents, including but not limited to the evidence of insurance required by Paragraph 5.04.B.6;
 - b. consent of the surety, if any, to final payment;
 - c. a list of all Claims against Owner that Contractor believes are unsettled; and

- d. complete and legally effective releases or waivers (satisfactory to Owner) of all Lien rights arising out of or Liens filed in connection with the Work.
3. In lieu of the releases or waivers of Liens specified in Paragraph 14.07.A.2 and as approved by Owner, Contractor may furnish receipts or releases in full and an affidavit of Contractor that: (i) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (ii) 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.

B. Engineer's Review of Application and Acceptance:

1. If, on the basis of Engineer's observation of the Work during construction and final inspection, and Engineer's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, Engineer is satisfied that the Work has been completed and Contractor's other obligations under the Contract Documents have been fulfilled, Engineer will, within ten days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of payment and present the Application for Payment to Owner for payment. At the same time Engineer will also give written notice to Owner and Contractor that the Work is acceptable subject to the provisions of Paragraph 14.09. 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. Payment Becomes Due:

1. Thirty days after the presentation to Owner of the Application for Payment and accompanying documentation, the amount recommended by Engineer, less any sum Owner is entitled to set off against Engineer's recommendation, including but not limited to liquidated damages, will become due and will be paid by Owner to Contractor.

14.08 Final Completion Delayed

- A. If, through no fault of Contractor, final completion of the Work is significantly delayed, and if Engineer so confirms, Owner shall, upon receipt of Contractor's final Application for Payment (for Work fully completed and accepted) and recommendation of Engineer, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance to be held by Owner for Work not fully completed or corrected is less than the retainage stipulated in the Agreement, and if bonds have been furnished as required in Paragraph 5.01, the written consent of the surety to the payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by Contractor to Engineer with the Application for such payment. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

14.09 *Waiver of Claims*

- A. The making and acceptance of final payment will constitute:
1. a waiver of all Claims by Owner against Contractor, except Claims arising from unsettled Liens, from defective Work appearing after final inspection pursuant to Paragraph 14.06, from failure to comply with the Contract Documents or the terms of any special guarantees specified therein, or from Contractor's continuing obligations under the Contract Documents; and
 2. a waiver of all Claims by Contractor against Owner other than those previously made in accordance with the requirements herein and expressly acknowledged by Owner in writing as still unsettled.

ARTICLE 15 – SUSPENSION OF WORK AND TERMINATION

15.01 *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 notice in writing to Contractor and Engineer which will fix the date on which Work will be resumed. Contractor shall resume the Work on the date so fixed. Contractor shall be granted an adjustment in the Contract Price or an extension of the Contract Times, or both, directly attributable to any such suspension if Contractor makes a Claim therefor as provided in Paragraph 10.05.

15.02 *Owner May Terminate for Cause*

- A. The occurrence of any one or more of the following events will 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 established under Paragraph 2.07 as adjusted from time to time pursuant to Paragraph 6.04);
 2. Contractor's disregard of Laws or Regulations of any public body having jurisdiction;
 3. Contractor's repeated disregard of the authority of Engineer; or
 4. Contractor's violation in any substantial way of any provisions of the Contract Documents.
- B. If one or more of the events identified in Paragraph 15.02.A occur, Owner may, after giving Contractor (and surety) seven days written notice of its intent to terminate the services of Contractor:
1. exclude Contractor from the Site, and take possession of the Work and of all Contractor's tools, appliances, construction equipment, and machinery at the Site, and use the same to the full extent they could be used by Contractor (without liability to Contractor for trespass or conversion);

2. 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
 3. complete the Work as Owner may deem expedient.
- C. If Owner proceeds as provided in Paragraph 15.02.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 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) sustained by Owner arising out of or relating to completing the Work, such excess will be paid to Contractor. If such claims, costs, losses, and damages exceed 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.
- D. Notwithstanding Paragraphs 15.02.B and 15.02.C, Contractor's services will not be terminated if Contractor begins within seven days of receipt of notice of intent to terminate to correct its failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt of said notice.
- E. 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. Any retention or payment of moneys due Contractor by Owner will not release Contractor from liability.
- F. If and to the extent that Contractor has provided a performance bond under the provisions of Paragraph 5.01.A, the termination procedures of that bond shall supersede the provisions of Paragraphs 15.02.B and 15.02.C.

15.03 *Owner May Terminate For Convenience*

- A. Upon seven days written notice to Contractor and Engineer, Owner may, without cause and without prejudice to any other right or remedy of Owner, terminate the Contract. In such case, Contractor shall be paid for (without duplication of any items):
1. completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Work;
 2. expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses;
 3. 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) incurred in settlement of terminated contracts with Subcontractors, Suppliers, and others; and

4. reasonable expenses directly attributable to termination.

B. Contractor shall not be paid on account of loss of anticipated profits or revenue or other economic loss arising out of or resulting from such termination.

15.04 *Contractor May Stop Work or Terminate*

A. If, through no act or fault of Contractor, (i) the Work is suspended for more than 90 consecutive days by Owner or under an order of court or other public authority, or (ii) Engineer fails to act on any Application for Payment within 30 days after it is submitted, or (iii) Owner fails for 30 days to pay Contractor any sum finally determined to be due, then Contractor may, upon seven days written notice to Owner and Engineer, and provided Owner or Engineer do not remedy such suspension or failure within that time, terminate the Contract and recover from Owner payment on the same terms as provided in Paragraph 15.03.

B. In lieu of terminating the Contract and without prejudice to any other right or remedy, if Engineer has failed to act on an Application for Payment within 30 days after it is submitted, or Owner has failed for 30 days to pay Contractor any sum finally determined to be due, Contractor may, seven days after written notice to Owner and Engineer, stop the Work until payment is made of all such amounts due Contractor, including interest thereon. The provisions of this Paragraph 15.04 are not intended to preclude Contractor from making a Claim under Paragraph 10.05 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 16 – DISPUTE RESOLUTION

16.01 *Methods and Procedures*

A. Either Owner or Contractor may request mediation of any Claim submitted to Engineer for a decision under Paragraph 10.05 before such decision becomes final and binding. The mediation will be governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect as of the Effective Date of the Agreement. The request for mediation shall be submitted in writing to the American Arbitration Association and the other party to the Contract. Timely submission of the request shall stay the effect of Paragraph 10.05.E.

B. Owner and Contractor shall participate in the mediation process in good faith. The process shall be concluded within 60 days of filing of the request. The date of termination of the mediation shall be determined by application of the mediation rules referenced above.

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 that time period, Owner or Contractor:

1. elects in writing to invoke any dispute resolution process provided for in the Supplementary Conditions; or

2. agrees with the other party to submit the Claim to another dispute resolution process; or
3. gives written notice to the other party of the intent to submit the Claim to a court of competent jurisdiction.

ARTICLE 17 – MISCELLANEOUS

17.01 *Giving Notice*

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

17.02 *Computation of Times*

- A. When any period of time is referred to in the Contract Documents 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.

17.03 *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 Documents. 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.

17.04 *Survival of Obligations*

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

17.05 *Controlling Law*

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

17.06 *Headings*

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

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SECTION 00 73 01
SUPPLEMENTARY CONDITIONS

These Supplementary Conditions amend or supplement the Standard General Conditions of the Construction Contract (No. C-700, 2007 Edition) and other provisions of the Contract Documents as indicated below. All provisions which are not so amended or supplemented remain in full force and effect.

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

ARTICLE 1 DEFINITIONS AND TERMINOLOGY

SC-1.02 Add the following new paragraph immediately after Paragraph 1.02.F:

- G. The Specifications are written in imperative mood and streamlined form. This imperative language is directed to the Contractor, unless specifically noted otherwise. The words "shall be" are included by inference where a colon (:) is used within sentences or phrases.

ARTICLE 2 PRELIMINARY MATTERS

SC-2.02 Delete Paragraph 2.02.A in its entirety and insert the following in its place:

- A. Owner shall furnish to Contractor up to five printed or hard copies of the Drawings and Project Manual. Additional copies will be furnished upon request at the cost of reproduction

ARTICLE 4 AVAILABILITY OF LANDS: SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS; REFERENCE POINTS

SC-4.06 Delete Paragraphs 4.06.A and 4.06.B in their entirety and insert the following:

- A. No reports or drawings related to Hazardous Environmental Conditions at the Site are known to Owner.
- B. Not Used.

ARTICLE 5 BONDS AND INSURANCE

SC-5.01 Add the following new paragraph immediately after Paragraph 5.01.C:

- D. Separate Performance and Payment Bonds should be submitted utilizing EJCDC Form C-610 and C-615 (2007 Edition) or a similar bond form if approved by Owner.

the insured's as their interest may appear and adjust the loss with the insurance company.

SC-5.06.A Add the following new item immediately after Item 5.06.A7:

8. The Builder's Risk Insurance required herein shall apply to projects involving construction of structures and buildings only. The requirements of this Section shall be waived on projects involving only underground utilities, grading, street improvements, and similar construction work but any damage or loss to property shall be at the sole responsibility of Contractor until final acceptance of the Work.
9. Comply with the requirements of Paragraph 5.06C of the General Conditions.

ARTICLE 6 CONTRACTOR'S RESPONSIBILITIES

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

- H. Pursuant to Wisconsin Statute, Contractors that engage subcontractors to perform part of the work on an order or contract from an agency shall pay subcontractors for satisfactory work in a timely fashion. A payment is timely if it is mailed, delivered or transferred to the subcontractor no later than 7 days after the Contractor's receipt of any payment from the agency. If a subcontractor is not paid in a timely fashion, the Contractor shall pay interest on the balance due from the 8th day after the Contractor's receipt of any payment from the agency, at the rate of 12% per year compounded monthly. Subcontractors receiving payment shall pay lower-tier subcontractors, and be liable for interest on late payments, in the same manner as Contractors are required to pay subcontractors.

SC-6.08.A Amend the first sentence of Paragraph 6.08.A by replacing the words "the Supplementary Conditions" with the words "Division 1."

SC-6.19.A Delete the words "representation of" in the second sentence.

Article 7 Other Work At The Site

ARTICLE 9 ENGINEER'S STATUS DURING CONSTRUCTION

SC-9.03 Add the following new paragraphs immediately after paragraph 9.03.A:

- B. The Resident Project Representative (RPR) will be Engineer's employee or agent at the Site, will act as directed by and under the supervision of Engineer, and will confer with Engineer regarding RPR's actions. RPR's dealings in matters pertaining to the Work in general shall be with Engineer and Contractor. RPR's dealings with Subcontractors shall be through or with the full knowledge and approval of Contractor. The RPR shall:
 1. *Schedules:* Review the progress schedule, schedule of Shop Drawing and Sample submittals, and schedule of values prepared by Contractor and consult with Engineer concerning acceptability.

2. *Conferences and Meetings:* Attend meetings with Contractor, such as preconstruction conferences, progress meetings, job conferences and other project-related meetings, and prepare and circulate copies of minutes thereof.
3. *Liaison:*
 - a. Serve as Engineer's liaison with Contractor, working principally through Contractor's authorized representative, assist in providing information regarding the intent of the Contract Documents.
 - b. Assist Engineer in serving as Owner's liaison with Contractor when Contractor's operations affect Owner's on-Site operations.
 - c. Assist in obtaining from Owner additional details or information, when required for proper execution of the Work.
4. *Interpretation of Contract Documents:* Report to Engineer when clarifications and interpretations of the Contract Documents are needed and transmit to Contractor clarifications and interpretations as issued by Engineer.
5. *Shop Drawings and Samples:*
 - a. Record date of receipt of Samples and approved Shop Drawings.
 - b. Receive Samples which are furnished at the Site by Contractor, and notify Engineer of availability of Samples for examination.
6. *Modifications:* Consider and evaluate Contractor's suggestions for modifications in Drawings or Specifications and report such suggestions, together with RPR's recommendations, to Engineer. Transmit to Contractor in writing decisions as issued by Engineer.
7. *Review of Work and Rejection of Defective Work:*
 - a. Conduct on-Site observations of Contractor's work in progress to assist Engineer in determining if the Work is in general proceeding in accordance with the Contract Documents.
 - b. Report to Engineer whenever RPR believes that any part of Contractor's work in progress will not produce a completed Project that conforms generally to the Contract Documents or will imperil the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents, or has been damaged, or does not meet the requirements of any inspection, test or approval required to be made; and advise Engineer of that part of work in progress that RPR believes should be corrected or rejected or should be uncovered for observation, or requires special testing, inspection or approval.

8. *Inspections, Tests, and System Startups:*
 - a. Verify that tests, equipment, and systems start-ups and operating and maintenance training are conducted in the presence of appropriate Owner's personnel, and that Contractor maintains adequate records thereof.
 - b. Observe, record, and report to Engineer appropriate details relative to the test procedures and systems start-ups.
9. *Records:*
 - a. Record names, addresses, fax numbers, e-mail addresses, web site locations, and telephone numbers of all Contractors, Subcontractors, and major Suppliers of materials and equipment.
 - b. Maintain records for use in preparing Project documentation.
10. *Reports:*
 - a. Furnish to Engineer periodic reports as required of progress of the Work and of Contractor's compliance with the progress schedule and schedule of Shop Drawing and Sample submittals.
 - b. Draft and recommend to Engineer proposed Change Orders, Work Change Directives, and Field Orders. Obtain backup material from Contractor.
 - c. Immediately notify Engineer of the occurrence of any Site accidents, emergencies, acts of God endangering the Work, damage to property by fire or other causes, or the discovery of any Hazardous Environmental Condition.
11. *Payment Requests:* Review Applications for Payment with Contractor for compliance with the established procedure for their submission and forward with recommendations to Engineer, noting particularly the relationship of the payment requested to the schedule of values, Work completed, and materials and equipment delivered at the Site but not incorporated in the Work.
12. *Certificates, Operation and Maintenance Manuals:* During the course of the Work, verify that materials and equipment certificates, operation and maintenance manuals and other data required by the Specifications to be assembled and furnished by Contractor are applicable to the items actually installed and in accordance with the Contract Documents, and have these documents delivered to Engineer for review and forwarding to Owner prior to payment for that part of the Work.
13. *Completion:*
 - a. Participate in a Substantial Completion inspection, assist in the determination of Substantial Completion and the preparation of lists of items to be completed or corrected.

- b. Participate in a final inspection in the company of Engineer, Owner, and Contractor and prepare a final list of items to be completed and deficiencies to be remedied.
- c. Observe whether all items on the final list have been completed or corrected and make recommendations to Engineer concerning acceptance and issuance of the Notice of Acceptability of the Work.

C. Resident Project Representative shall not:

- 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 Agreement or 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 unless such advice or directions are specifically required by the Contract Documents.
- 5. Advise on, issue directions regarding, or assume control over safety 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 from anyone other than Contractor.
- 8. Authorize Owner to occupy the Project in whole or in part.

ARTICLE 10 CHANGES IN THE WORK; CLAIMS

SC-10.05.B Amend the first sentence of Paragraph 10.05.B by replacing the words "30 days" with the words "10 days." Amend the third sentence of Paragraph 10.05.B by replacing the words "60 days" with the words "30 days."

ARTICLE 13 TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK

SC-13.07.A Amend the first sentence of Paragraph 13.07.A by striking out the words "one year" and inserting the words "two years."

ARTICLE 14 PAYMENTS TO CONTRACTOR AND COMPLETION

SC-14.02.B5 Add the following new item immediately after Item 14.02.B5d:

- e. Contractor's failure to make acceptable submittals in accordance with the accepted schedules.

ARTICLE 16 DISPUTE RESOLUTION

SC-16.01 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.C3 or 10.05.D shall become final and binding 30 days after termination of the mediation, unless within that time period Owner or Contractor:
 - 1. elects in writing to demand arbitration of the claim, pursuant to Paragraph SC-16.02, or
 - 2. agrees with the other party to submit the claim to another dispute resolution process.

SC-16.02 Add the following new paragraph immediately after Paragraph 16.01:

16.02 ARBITRATION

- A. All claims or counterclaims, disputes, or other matters in question between Owner and Contractor arising out of or relating to the Contract Documents or the breach thereof (except for claims which have been waived by the making or acceptance of Final Payment as provided by Paragraph 14.09), including but not limited to those not resolved under the provisions of Paragraphs SC-16.01.A and 16.01.B, will be decided by arbitration in accordance with the Construction Industry Dispute Resolutions Procedures of the American Arbitration Association then in effect subject to the conditions and limitations of this Paragraph SC-16.02. This agreement to arbitrate and any other agreement or consent to arbitrate entered into will be specifically enforceable under the prevailing law of any court having jurisdiction.
- B. The demand for arbitration will be filed in writing with the other party to the Contract and with the selected arbitrator or arbitration provider 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 and in all other cases within a reasonable time after the claim or counterclaim, dispute, or other matter in question has arisen, and in no event shall any such demand be made after the date when institution of legal or equitable proceedings based on such claim or other dispute or matter in question would be barred by the applicable statute of limitations.
- C. No arbitration arising out of or relating to the Contract Documents shall include by consolidation, joinder, or in any other manner any other individual or entity (including Engineer, Engineer's consultants and the officers, directors, partners, agents, employees, or consultants of any of them) who is not a party to this Contract, unless:
 - 1. the inclusion of such other individual or entity is necessary if complete relief is to be afforded among those who are already parties to the arbitration; and

2. such other individual or entity is substantially involved in a question of law or fact which is common to those who are already parties to the arbitration and which will arise in such proceedings.
- D. 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; (ii) a written explanation of the award specifically citing the Contract Document provisions deemed applicable and relied on in making the award.
 - E. 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, subject to provisions of the Controlling Law relating to vacating or modifying an arbitral award.
 - F. The fees and expenses of the arbitrators and any arbitration service shall be shared equally by Owner and Contractor.

END OF DOCUMENT

SECTION 01 10 00

SUMMARY

PART 1 GENERAL

1.01 SECTION INCLUDES

- A. Basic description of the Project and Work restrictions.

1.02 SUMMARY OF WORK

- A. Project Name: *Phragmites* Control and Landscape Installation Services.
- B. Base and Alternate Bid:
Furnish the materials and labor necessary to complete the work as specified in Section 00 11 13 – Advertisement for Bids
- C. Schedule of Project Tasks:
Contractor to submit to the Consultant prior to Pre-construction meeting according to Section 01 33 00, at the Pre-Construction Meeting.

1.03 COMPLETION DATES

- A. Substantial Completion: Set forth in the Agreement.
- B. Final Completion: Set forth in the Agreement.

1.04 LIQUIDATED DAMAGES

- A. Provisions for liquidated damages, if any, are set forth in the Agreement.

1.05 WORK RESTRICTIONS

- A. Use of Site
 1. Location of construction facilities, staging areas, product stockpiles, material storage, and temporary construction shall be approved by the Owner prior to start of work.
 2. If additional storage space is needed, obtain and pay for such space off Site.
 3. Keep existing driveways and entrances clear and available to the public and to the Owner.
 4. Work shall be limited to Monday through Friday 7 A.M. – 7 P.M. Any work outside of this time zone shall be approved by the Owner.

PART 2 PRODUCTS

Not Used.

PART 3 EXECUTION

3.01 MEASUREMENT AND PAYMENT

- A. All Work and costs of this Section shall be incidental to the Project and included in the TOTAL BASE BID as described.

END OF SECTION

SECTION 01 20 00

MEASUREMENT AND PAYMENT

PART 1 GENERAL

1.01 SUMMARY

- A. Section Includes administrative and procedural requirements for pricing of Work and request for payment procedures.
- B. Scope of work, materials and quantities for each individual bid item listed below (Section 1.02) are detailed in the attached "Request for Proposals for *Phragmites* Control and Landscape Installation Services"

1.02 MEASUREMENT AND PAYMENT

A. General

- 1. Payment items for the work of this contract are listed in the Bid Form and described below. The contract price for each item shall constitute full compensation for furnishing all plant, labor, materials, appurtenances, incidentals, surveying, quality control, environmental protection, meeting safety requirements, tests and reports, permit submittals, and performing all operations necessary to construct and complete the work in accordance with these specifications and the applicable drawings. All costs for items of work, which are not specifically mentioned to be included in a particular pay item, shall be included in the listed item most closely associated with the work involved. No separate payment will be made for the work, services, or operations required by the Contractor, as specified to complete the project in accordance with these specifications; all costs thereof shall be considered as incidental to the work unless specifically listed on the Bid Form.

B. Bid Item 1: Invasive Species Management – Year 1

- 1. Invasive Species Management – Year 1 shall be paid for at the Contract LUMP SUM price identified on the Bid Form.
- 2. This work covered by this item generally includes:
 - a. Managing invasive species during the first year of this Contract.
- 3. Payment shall constitute full compensation for furnishing all labor, material, maintenance, and equipment necessary to complete the work as specified and shown on the plans including:
 - a. Mobilizing to the site.
 - b. Site preparation.
 - c. Submittals.
 - d. Necessary temporary erosion and sediment control.
 - e. Mow or mulch standing or dead phragmites.
 - f. Manage resulting thatch.
 - g. Foliar treat newly emergent phragmites.
 - h. Post herbicide treatment reporting
 - i. All related work.
- 4. Refer to the Request for Proposals for additional details of work included in this item.

C. Bid Item 2: Landscape Installation – Year 2

1. Landscape Installation – Year 2 shall be paid for at the Contract LUMP SUM price identified on the Bid Form.
2. This work covered by this item generally includes:
 - a. Installation of landscape items during the second year of this Contract.
3. Payment shall constitute full compensation for furnishing all labor, material, maintenance, and equipment necessary to complete the work as specified and shown on the plans including:
 - a. Mobilizing to the site.
 - b. Site preparation.
 - c. Submittals.
 - d. Necessary temporary erosion and sediment control.
 - e. Installation of trees, shrubs, and emergent wetland plugs conforming to the Plans.
 - f. Landscape plan implementation oversight and associated documentation.
 - g. All related work.
4. Refer to the Request for Proposals for additional details of work included in this item.

D. Bid Item 3: Invasive Species Management – Year 2

1. Invasive Species Management – Year 2 shall be paid for at the Contract LUMP SUM price identified on the Bid Form.
2. This work covered by this item generally includes:
 - a. Managing invasive species during the second year of this Contract.
3. Payment shall constitute full compensation for furnishing all labor, material, maintenance, and equipment necessary to complete the work as specified and shown on the plans including:
 - a. Mobilizing to the site.
 - b. Site preparation.
 - c. Submittals.
 - d. Necessary temporary erosion and sediment control.
 - e. Mow or mulch treated phragmites.
 - f. Foliar treat newly emergent phragmites.
 - g. Post herbicide treatment reporting
 - h. All related work.
4. Refer to the Request for Proposals for additional details of work included in this item.

E. Bid Item 4: Landscape Installation – Year 3

1. Landscape Installation – Year 3 shall be paid for at the Contract LUMP SUM price identified on the Bid Form.
2. This work covered by this item generally includes:
 - a. Installation of seed mixes during the third year of this Contract.
3. Payment shall constitute full compensation for furnishing all labor, material, maintenance, and equipment necessary to complete the work as specified and shown on the plans including:
 - a. Mobilizing to the site.
 - b. Site preparation.
 - c. Submittals.
 - d. Necessary temporary erosion and sediment control.
 - e. Preparation of project area for seed installation.
 - f. Installation of wetland and upland seed mixes conforming to the Plans.

- g. Landscape plan implementation oversight and associated documentation.
 - h. All related work.
 - 4. Refer to the Request for Proposals for additional details of work included in this item.
- F. Bid Item 5: Invasive Species Management – Year 3
- 1. Invasive Species Management – Year 3 shall be paid for at the Contract LUMP SUM price identified on the Bid Form.
 - 2. This work covered by this item generally includes:
 - a. Managing invasive species during the third year of this Contract.
 - 3. Payment shall constitute full compensation for furnishing all labor, material, maintenance, and equipment necessary to complete the work as specified and shown on the plans including:
 - a. Mobilizing to the site.
 - b. Site preparation.
 - c. Submittals.
 - d. Necessary temporary erosion and sediment control.
 - e. Mow or mulch treated phragmites.
 - f. Foliar treat newly emergent phragmites.
 - g. Post herbicide treatment reporting
 - h. All related work.
 - 4. Refer to the Request for Proposals for additional details of work included in this item.
- G. Bid Item 6: Landscape Installation – Year 4
- 1. Landscape Installation – Year 4 shall be paid for at the Contract LUMP SUM price identified on the Bid Form.
 - 2. This work covered by this item generally includes:
 - a. Installation of seed mixes items during the fourth year of this Contract.
 - 3. Payment shall constitute full compensation for furnishing all labor, material, maintenance, and equipment necessary to complete the work as specified and shown on the plans including:
 - a. Mobilizing to the site.
 - b. Site preparation.
 - c. Submittals.
 - d. Necessary temporary erosion and sediment control.
 - e. Assess project area for locations of poor seed germination or growth.
 - f. Installation of wetland and upland seed mixes in areas of poor seed germination or growth.
 - g. All related work.
 - 4. Refer to the Request for Proposals for additional details of work included in this item.
- H. Bid Item 7: Invasive Species Management – Year 4
- 1. Invasive Species Management – Year 4 shall be paid for at the Contract LUMP SUM price identified on the Bid Form.
 - 2. This work covered by this item generally includes:
 - a. Managing invasive species during the fourth year of this Contract.
 - 3. Payment shall constitute full compensation for furnishing all labor, material, maintenance, and equipment necessary to complete the work as specified and shown on the plans including:
 - a. Mobilizing to the site.

- b. Site preparation.
 - c. Submittals.
 - d. Necessary temporary erosion and sediment control.
 - e. Foliar treat newly emergent phragmites.
 - f. Post herbicide treatment reporting
 - g. All related work.
4. Refer to the Request for Proposals for additional details of work included in this item.

I. Bid Item 8: Invasive Species Management – Year 5

- 1. Invasive Species Management – Year 5 shall be paid for at the Contract LUMP SUM price identified on the Bid Form.
- 2. This work covered by this item generally includes:
 - a. Managing invasive species during the fifth year of this Contract.
- 3. Payment shall constitute full compensation for furnishing all labor, material, maintenance, and equipment necessary to complete the work as specified and shown on the plans including:
 - a. Mobilizing to the site.
 - b. Site preparation.
 - c. Submittals.
 - d. Necessary temporary erosion and sediment control.
 - e. Foliar treat newly emergent phragmites.
 - f. Post herbicide treatment reporting
 - g. All related work.
- 4. Refer to the Request for Proposals for additional details of work included in this item.

1.03 BID PRICES

- A. Partial payment for lump sum items will be made according to a schedule of values submitted by the Contractor for approval by the Owner. The approved and finalized schedule of values shall subdivide the Work into component parts in sufficient detail to serve as the basis for progress payments during construction.
- B. The Owner will make measurements and determinations as necessary to classify the work within Bid Items and verify the quantities for pay purposes.
- C. Work for which there is not a Bid Item will be considered incidental to the Contract and no separate payment will be made unless approved by the Owner.
- D. Contractor's general and administrative costs, including but not limited to project management, coordination, submittals, bonds and insurance, warranties and guaranties, shall be incidental to the Work and shall be distributed through all Bid Items. No separate payment will be made for these costs unless specifically listed on the Bid Form.
- E. If the Contractor delivers and places more of any material that is paid for on a Bid Unit Price basis than is required to perform the Work and thereby causes the materials to be wasted, the quantity wasted will be deducted from the final measurement for that Bid Item.

1.04 PAYMENT PROCEDURES

- A. Use one of the following formulas:
 - 1. EJCDC 1910-8-E (2007);

2. Owner approved alternative.
- B. Preparation of Applications:
1. Comply with Article 14 of the General Conditions.
 2. Use approved Schedule of Values.
 3. List each authorized Change Order with Owner-assigned change item number.
- C. Submittal procedure:
1. Submit monthly, by date set at Pre-construction conference.
 2. Submit 3 notarized originals of each Application.
- D. Submit a written report detailing current progress of Work and indicating Work schedule deficiencies. The Owner will use information contained in report when reviewing Contractor's Payment Application.

PART 2 PRODUCTS

NOT USED.

PART 3 EXECUTION

NOT USED.

END OF SECTION

SECTION 01 31 00

PROJECT MANAGEMENT AND COORDINATION

PART 1 GENERAL

1.01 SUMMARY

- A. Section Includes
 - 1. General requirements for overall Project coordination.

1.02 UTILITIES

- A. Notify Diggers Hotline before starting construction in a given area requesting utility locates in the Site.

1.03 PERMITS

- A. The following permits shall be obtained by the Contractor:
 - 1. Wisconsin Department of Natural Resources (WDNR) NR 107 Aquatic Plant Management permit for herbicide applications
 - 2. Wisconsin Department of Transportation (WisDOT) Permit to Work on Highway Right-of-Way

1.04 SURVEYING AND CONSTRUCTION OBSERVATION

- A. Provide the Owner a minimum of 48-hour notice in advance of the need for observation of Work.
- B. All survey and offset staking shall be the responsibility of the Contractor and included in the appropriate bid item.

1.05 PROJECT MEETINGS

- A. Administrative Requirements
 - 1. Project Superintendent or persons designated by the Contractor to attend and participate in the Project meetings shall have all required authority to commit the Contractor to solutions agreed upon in the Project meetings.
- B. Preconstruction Conference
 - 1. Provisions for the Preconstruction Conference are set forth in the General Conditions.
 - 2. Requirements for preconstruction submittals are set forth in the General Conditions. Submittal procedures shall be consistent with Section 01 33 00.
- C. Progress Meeting Procedures
 - 1. The Contractor shall coordinate and set up any necessary project meetings.

PART 2 PRODUCTS

Not Used.

PART 3 EXECUTION

3.01 MEASUREMENT AND PAYMENT

- A. All Work and costs of this Section shall be incidental to the Project and included in the TOTAL BASE BID.

END OF SECTION

SECTION 01 33 00
SUBMITTAL PROCEDURES

PART 1 GENERAL

1.01 SUMMARY

- A. Section Includes
 - 1. General procedures and requirements for submittals during the course of construction.

1.02 SEQUENCING AND SCHEDULING

- A. Schedule submittals consistent with the Contractor's schedule of shop drawings.

PART 2 PRODUCTS

Not Used.

PART 3 EXECUTION

3.01 CONSTRUCTION SCHEDULE

- A. Submit preliminary schedule and progress schedule consistent with the General Conditions at the Pre-Construction Meeting.
- B. Prepare schedules on 11 inch by 17 inch sheets showing overall sequence of construction. Organize the schedule by work activity. Identify separate stages of each work activity:
 - 1. List work items in chronological sequence. Show beginning and completion dates of each activity. Include all activities with an estimated duration of 3 days or longer.
 - 2. Format schedule as a horizontal bar chart. Provide separate bars for each activity or trade.
 - 3. Provide space for revisions and notations.
 - 4. Identify interrelations between activities.
 - 5. Include estimated times for preparation of submittals by Contractor, processing and review of submittals by the Owner, fabrication, delivery, installation, testing, start-up, instruction of Owner, and clean-up.
- C. As Work progresses, revise, update, and resubmit schedule as requested by Owner. At a minimum, update schedule with each Application for Payment. Show all activities started or finished since previous schedule was submitted and show percentage of completion for each activity.

3.02 EROSION CONTROL PLAN

- A. Not Applicable

3.03 EMERGENCY CONTACT LIST

- A. Before any Work at the Site is started, submit a typed list on 8-1/2 inch by 11 inch paper outlining 24 hour on-call contacts for the Project. This list shall include the Contractor's safety representative, key representatives from the Contractor, subcontractors, and suppliers. Include the following information for each contact:
 - 1. Company name.
 - 2. Contact person(s).
 - 3. Local and mobile phone numbers.
 - 4. Fax number.

3.04 HAUL ROUTES, PERMITS, AND TEMPORARY FACILITIES

- A. Before any Work at the Site is started, submit exhibits showing proposed haul routes and proposed locations of temporary facilities according to Section 01 50 00 – Temporary Facilities and Controls. These exhibits shall be provided at the Pre-Construction Meeting.
- B. Provide all required permitting at the Pre-Construction Meeting.

3.05 SHOP DRAWINGS AND MANUFACTURERS' INFORMATION

- A. Please reference existing landscape and seeding plan figure set contained in the attached RFP.

3.06 TEST REPORTS

- A. Submit all inspections, tests, and approvals required in the Specification.

3.07 MATERIAL AND SAFETY DATA SHEETS

- A. Furnish Owner with current copies of Material Safety Data Sheets for all chemicals and products on Site.

3.08 MEASUREMENT AND PAYMENT

- A. All Work and costs of this Section shall be incidental to the Project and included in the TOTAL BASE BID.

END OF SECTION

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SECTION 01 40 00
QUALITY REQUIREMENTS

PART 1 GENERAL

1.01 SECTION INCLUDES

- A. Information required for conformance to regulatory requirements.
- B. Quality assurance.
- C. Procedures to measure and report the quality and performance of the Work.

1.02 REFERENCE STANDARDS

- A. Whenever a product is specified in accordance with a Federal Specification an ASTM Standard, an American National Standard Institute Specification, or other Association Standard, the Contractor shall present an affidavit from the manufacturer when requested by the Consultant or required in the Specifications, certifying that the product complies with the particular standard or specification. When requested by the Consultant or specified, support test data shall be submitted to substantiate compliance.
- B. Comply with all Federal, State, and Local codes and requirements.

1.03 SUBMITTALS

- A. Prior to start of Work, submit herbicide MSDS, seed composition tags and nursery stock information to the Owner for review and approval.

1.04 WORKMANSHIP

- A. Comply with industry standards of the region, except where more restrictive tolerances or specified requirements indicate more rigid standards or more precise workmanship.

1.05 TESTS AND INSPECTIONS

- A. Not Applicable

1.06 LABORATORY REPORTS

- A. Not Applicable

1.07 LABORATORY RESPONSIBILITIES

- A. Not Applicable

1.08 LIMITS ON TESTING LABORATORY AUTHORITY

- A. Not Applicable

1.09 ACCREDITED TESTING LABORATORIES

- A. Not Applicable

1.10 RESPONSIBILITY

- A. The Contractor shall assume complete and sole responsibility for the quality of work. If changes or adjustments are recommended by the Contractor, they may be made only upon written approval from the Consultant.
- B. The Contractor shall assume full responsibility for the furnishing of uniform and satisfactory materials.
- C. The Contractor will be required to continually update the Owner on a daily basis progress of work and any changes to the existing landscape and seeding plan.

1.11 AUTHORITY OF THE CONSULTANT

- A. All work shall be done in compliance with the Contract Documents. The Consultant shall decide all questions regarding the quality and acceptability of materials furnished, work performed, workmanship, rate of progress of work, and interpretation of the plans and specifications. The Consultant shall decide all questions of acceptable fulfillment of the contract under the specifications.
- B. The Consultant's Failure to reject what is in his opinion to be substandard work or materials does not imply his acceptance of said work or materials. The Owner may, at any subsequent time, recover damages for or require that the General Contractor replace substandard work or material regardless of his failure to reject said work or materials.

1.12 AUTHORITY AND DUTIES OF INSPECTORS

- A. Not Applicable

1.13 MANUFACTURER'S CERTIFICATES

- A. If requested by Consultant, submit manufacturer's certificates certifying that products meet or exceed specified requirements executed by responsible officer.

1.14 MANUFACTURER'S FIELD SERVICES

- A. Provide qualified representative to observe field conditions; conditions of surfaces and installation; quality of workmanship; start-up of equipment; and test, adjust, and balance of equipment.

PART 2 PRODUCTS

Not Used.

PART 3 EXECUTION

3.01 MEASUREMENT AND PAYMENT

- A. All Work and costs of this Section shall be incidental to the Project and included in the TOTAL BASE BID.

END OF SECTION

SECTION 01 50 00
TEMPORARY FACILITIES AND CONTROLS

PART 1 GENERAL

1.01 SUMMARY

- A. Section Includes
 - 1. Temporary utilities and miscellaneous temporary facilities required during construction.
- B. Products furnished but not installed under this Section or products installed but not furnished under this Section.

1.02 REFERENCES

- A. Not Applicable

1.03 SUBMITTALS

- A. Construction Staging Plan consistent with Section 01 33 00, including the following information:
 - 1. Sequence of construction.
 - 2. Staging and stockpile areas.
 - 3. Haul routes and site access locations.

PART 2 PRODUCTS

Not Used.

PART 3 EXECUTION

3.01 MOBILIZATION AND DEMOBILIZATION

- A. Conform to NRCS Construction Specification Section 007 Mobilization and Demobilization.
- B. Move personnel, equipment, materials, and all other items required to complete the Work at the Site.
- C. Establish Contractor offices, building, or other facilities necessary for Work on the Project.
- D. Temporarily hold or relocate utilities and any miscellaneous structures, such as signs, power poles, guy wires, and mailboxes disturbed.

3.02 TEMPORARY UTILITIES

- A. Provide and maintain all temporary facilities, utilities, and controls as long as needed for the safe and proper completion of the Work. Remove all temporary facilities, utilities, and controls as rapidly as progress will permit.
- B. Temporary Water for Construction:
 - 1. No public water system is available. If water is required for any work, the Contractor shall provide temporary water for construction.

3.03 CONSTRUCTION FACILITIES

- A. Sanitary Facilities
 - 1. Comply with all governing regulations, including safety and health codes, for sanitary fixtures and facilities.
 - 2. Provide self-contained toilet units, or water and sewer connected temporary toilet facilities, consistent with governing regulations. Contractor may not use Owner's toilet facilities.
 - 3. Provide and maintain adequate supply of toilet tissue, paper towels, paper cups, and similar disposable materials appropriate for each facility. Provide appropriate covered waste containers for used material.

3.04 TEMPORARY CONSTRUCTION

- 1. Not Applicable

3.05 TRAFFIC CONTROL

- A. General
 - 1. The Contractor shall provide and maintain all traffic control devices in accordance with the approved Construction Staging Plan. All traffic control devices and other protective measures shall conform to the Wisconsin State Manual for Uniform Traffic Control Devices.
 - 2. The Contractor will not be permitted to park vehicles as to obstruct a traffic control device. The parking of workers' vehicles will not be allowed within the Project limits, unless so approved by the Owner.
 - 3. The Contractor will not be permitted to store materials or equipment within 30 feet of through traffic, unless approved by the Owner. If materials or equipment must be stored within 30 feet of through traffic, the Contractor shall provide barricades or barriers, as directed by the Owner, to warn and protect traffic.
 - 4. The Contractor shall conduct Work in a manner which will allow access to all properties within and adjacent to the Project by fire, police, and emergency vehicles.
 - 5. The Contractor is responsible to maintain all unpaved surfaces. The surface shall be watered and bladed as directed by the Owner.
- B. Vehicle Warning Light
 - 1. All Contractors', subcontractors', and suppliers' mobile equipment, which are working at or parked near the Project, shall be equipped with operable warning lights which meet the appropriate requirements of the SAE Specifications. This would include any vehicle which enters the traveled roadway or Cabelas parking lot at any time. The SAE Specification requirements are as follows:
 - a. 360-Degree Rotating Lights - SAE Specification J845.
 - b. Flashing Lights - SAE Specification J595.
 - c. Flashing Strobe Lights - SAE Specification J1318.

- C. Temporary Lane Closures
 - a. Not Applicable

3.06 TEMPORARY BARRIERS AND ENCLOSURES

- A. Temporary Barriers
 - 1. Provide temporary covers, enclosures, markers, and barriers as necessary to protect Work.
 - 2. Damage to the Site caused by removal of temporary fencing, including postholes, shall be promptly repaired by Contractor. During removal at no time shall the Work remain unattended if a dangerous condition exists because of incomplete removal or Site repairing.

3.07 CONSTRUCTION AND DEMOLITION DEBRIS

- A. The Contractor shall at all times keep the site, including all private or public property involved in or adjacent to the site, free from any rubbish, surplus, or waste materials.
- B. The Contractor shall remove all surplus materials, tools, and equipment leaving the site and all portions of the finished work clean, unobstructed and ready for use before Final Completion will be granted. After written notification, the Owner may remove all rubbish, surplus, or waste materials which the Contractor has neglected or refused to remove from the site and deduct the costs of such removal from any monies due the Contractor.
- C. The Owner or its Representative shall have the right to regulate the work in order to control objectionable dust, mud, or other nuisances in or adjacent to the area of the site.
- D. The Contractor must arrange for a disposal site for all debris and rubble which is to be removed from the site.
- E. Contractor's costs for disposal of material shall be included in Contractor's bid price for the various items of this Contract and no extra or additional payment shall be made for this work.

3.08 STREET AND RIGHT-OF-WAY USE

- A. The Contractor shall furnish the Owner with a listing of all proposed haul routes for approval prior to commencement of work. See Section 01 33 00 - Submittals.
- B. Contractor shall be responsible to keep all streets, drives, and parking lots in the area free of mud, clay, gravel, and other materials which vehicles or equipment may track or scatter onto them, or which may be deposited by uncontrolled drainage of water directly onto streets or drives.
- C. Frequency of cleaning shall be based upon amount of material deposited, not necessarily done on a fixed schedule.
- D. Contractor failure to comply with these requirements within twenty-four hours after being given notice by the Owner will result in the Owner having streets cleaned and deducting costs from amount due Contractor.

- E. Vehicles and equipment shall not be flushed out or dumped onto any streets, drives, walks, gutters, or on grounds of any private property.
- F. Contractor shall maintain dust-free roadways at all times. Roadway surfaces shall be kept watered.

END OF SECTION

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SECTION 01 57 13

TEMPORARY EROSION AND SEDIMENT CONTROL

PART 1 GENERAL

1.01 SUMMARY

A. Section Includes

1. Managing storm water runoff and other Project related water discharges to minimize sediment pollution during construction.

1.02 REFERENCES

A. Wisconsin Department of Transportation "Standard Specifications for Highway and Structure Construction," Latest Edition (WisDOT std Spec.) and current supplements.

1. Section 627 - Mulching
2. Section 628 – Erosion Control
3. Section 645 – Geosynthetics

B. Wisconsin Department of Natural Resources (WDNR) Storm Water Construction Technical Standards.

1.03 SUBMITTALS

A. Certification and Sampling

1. Furnish a manufacturer's certification stating that the material supplied conforms to the requirements of this Section. The certification shall include or have attached typical results of tests for the specified properties, representative of the materials supplied.

1.04 QUALITY ASSURANCE

A. Erosion Control Supervisor: Provide an Erosion Control Supervisor to direct the erosion control operations and ensure compliance with Federal, State, and Local ordinances and regulations.

1.05 SEQUENCING AND SCHEDULING

A. Install sediment control measures prior to installation activities or as needed.

B. Stabilization timeframes shall conform to the NPDES General Stormwater Permit for Construction Activity and WPDES General Stormwater and Erosion Control Standards, if applicable.

C. Prior to Project shutdown for the winter or other periods of a week or more, the Site shall be adequately protected from erosion and off-Site damage by covering exposed soils with mulch and establishing perimeter controls.

PART 2 PRODUCTS

2.01 SILT FENCE

- A. Not Applicable
- 2.02 MULCH MATERIAL (IF REQUIRED)
 - A. Conform to WisDOT Std Spec. 627.
 - B. Conform to WDNR Technical Standard 1058.
- 2.03 EROSION CONTROL MATTING (IF REQUIRED)
 - A. Conform to WisDOT Std Spec. 628.2.2.
 - B. Conform to WDNR Technical Standard 1053 for channel applications.
 - C. Conform to WDNR Technical Standard 1052 for non-channel applications.
- 2.04 INLET PROTECTION (IF REQUIRED)
 - A. Conform to WisDOT Std Spec. 628.2.12.
 - B. Conform to WDNR Technical Standard 1060.
- 2.05 DUST CONTROL (IF REQUIRED)
 - A. Water clear and free from suspended fine sediment.
 - B. The Owner may elect to have the Contractor apply a chloride solution for dust control
 - 1. Calcium Chloride Solution: Conform to WisDOT Std Spec. 628.2.3.
 - 2. Magnesium Chloride Solution: Conform to WisDOT Std Spec. 628.2.2.

PART 3 EXECUTION

3.01 GENERAL

- A. Comply with all applicable laws, ordinances, regulations, permit requirements, orders and decrees pertaining to erosion/sediment control and stormwater discharge during the conduct of the Work.
- B. Take necessary precautions against damage to the Project by action of the elements.
- C. Minimize the amount of disturbed land that is susceptible to erosion at any time. Delineate areas not to be disturbed
 - 1. Exclude vehicles and construction equipment from area not to be disturbed to preserve natural vegetation.
 - 2. Maintain and preserve riparian and naturally vegetated buffer strips (10 feet minimum distance) along water courses.

3.02 INSTALLATION

- A. Silt Fence: Conform to WisDOT Std Spec. 628.3.4
 - 1. Not Applicable
- B. Mulch (if required)

1. For seeded Sites, apply at a rate of 2 tons per acre (4,500 kg/ha).
 2. For unseeded Sites, apply at a rate of 2 to 3 tons per acre (4,500 to 6,700 kg/ha), covering the entire soil surface.
 3. Distribute mulch evenly by hand or machine and cover the exposed area to a uniform depth.
 4. Anchor in conformance with WisDOT Std Spec. 627.
 5. Anchor mulch immediately to minimize loss by wind or water.
- C. Erosion Control Matting (if required)
1. Install immediately following seeding in accordance with WisDOT Std Spec. 628.3.2 and as modified below.
 2. Install as shown on Drawings.
 3. Raking or harrowing of soil/seed shall be done before installation of erosion control matting.
 4. Install matting parallel to the direction of flow.
 5. If permanent seeding is not available at the time of matting installation, this material will have to be removed, re-seeded, and installed again as a permanent erosion control measure. If permanent seeding is available at the time of initial installation, a one-time proper installation is acceptable.
- D. Inlet Protection (if required)
1. Provide effective inlet protection over the life of the Project until all sources with potential for discharging to inlets have been paved or stabilized.
 2. Place devices so that driving hazards or obstructions are not created. The devices must be cleaned out regularly and all devices must have an emergency overflow to reduce flooding potential.

3.03 MAINTENANCE

1. A WDNR Stormwater and Erosion Control Notice of Intent (NOI) is not anticipated for this Project, and specific BMPs have not been developed for this project. However, if erosion or other off site migration of sediment or vegetative matter is discovered, Consultant is responsible for addressing these conditions.
2. Temporary mulching and temporary seeding/mulching are very effective at controlling erosion. However, these are considered temporary measures. These measures may need to be re-established several times throughout the duration of the Work.
3. If an erosion control device has been reduced in capacity by 30-percent or more, the Contractor shall restore such features to their original condition.
4. Control dust blowing and movement on Site and roads as directed by Engineer to prevent exposure of soil surfaces, to reduce on and off-site damage, to prevent health hazards, and to improve traffic safety.

END OF SECTION

SECTION 01 60 00
PRODUCT REQUIREMENTS

PART 1 GENERAL

1.01 SUMMARY

- A. Section Includes
1. Basic requirements for products used in the Work.

1.02 SUBMITTALS

- A. Submit the following items consistent with Instructions to Bidders:
1. Written request for approval with supporting documentation.
- B. Submit the following items consistent with Section 01 33 00 and General Conditions Article 6.05:
1. Shop drawings for named products and "or-equal" products.
 2. Written application for substitute items, including supporting documentation.

1.03 PRODUCT SUBSTITUTIONS AND "OR-EQUAL" PROCEDURES

- A. Procedures During Bidding:
1. Conform to the requirements of the Instructions to Bidders.
- B. Procedures During Construction:
1. Scheduling of Submittals: Conform to the Contractor's Schedule of Submittals.
 2. Submittal Procedures: Conform to the requirements of Section 01 33 00.
 3. Items not approved as "or-equal" may be resubmitted as a Substitute Item.
 4. Owner will review Substitute Item requests that conform to General Conditions Article 6.05.A2d and the following additional supporting documentation:
 - a. Drawings and specifications.
 - b. Installation lists.
 - c. Performance data, including equipment capacity, strengths, weights, and dimensions.
 - d. Catalog cut-sheets.
 - e. Lists of deviations from and exceptions to the Specifications.
 - f. Detailed information for all buy-out items, including motors and drives.
 - g. Lists of materials of construction.
 - h. Maintenance schedules of equipment, including buy-out items.
 - i. Other information deemed necessary at the discretion of Owner.
 5. Incomplete submittals will be returned to Contractor without review.
 6. Contract times will not be modified due to substitute and "or-equal" review process.
 7. Owner shall not have to prove that an item is not an "or-equal."
 8. Owner does not have to accept proposed Substitute Items.

1.04 SUBSTITUTE ITEMS

- A. Procedures During Bidding:

1. Conform to the requirements of the Instructions to Bidders.
- B. Procedures During Construction:
 1. Alternate material or equipment items accepted by the Owner and included in the award of Contract become named materials or equipment.
 2. Submit shop drawings and material certifications consistent with Section 01 33 00.

PART 2 PRODUCTS

Not Used.

PART 3 EXECUTION

3.01 DELIVERY

- A. Transport and handle products in accordance with the manufacturer's instructions.
- B. Handle and lift products only at designated lift points and by methods to avoid soiling, disfigurement, bending, over stressing, and damage.
- C. Store products on shelves, in bins, or in neat groups of like items with seals and labels intact and legible, and in a manner to provide access for maintenance and inspection.
- D. Store loose granular materials on clean, solid, flat surfaces, and prevent mixing with foreign matter. Store fabricated products supported above the ground on skids or blocking. Provide surface drainage to prevent erosion and ponding of water.
- E. Cover products subject to discoloration or deterioration with impervious sheet covering and protect products from soiling and staining.
- F. Store and protect products which are subject to damage by the elements in weathertight, climate controlled enclosures, and according to the manufacturer's instructions. Maintain temperature, ventilation, and humidity within ranges stated in the manufacturer's instructions.
- G. Attach applicable manufacturer's service instructions labeled "STORAGE SERVICE INSTRUCTIONS ENCLOSED" to exterior of each stored product.
- H. Inspect, maintain, and service stored products on a regularly scheduled basis, consistent with the manufacturer's instructions.
- I. Record inspection, maintenance, services performed, and keep log available for review.
- J. Traffic control required for all deliveries to and from the Site shall be the responsibility of the Contractor. All flagmen, barricades, flares, and safety measures are the sole responsibility of the Contractor.

3.02 STORAGE AND HANDLING

- A. Protect from damage all materials and equipment to be used in the completed facility.

- B. The Contractor shall provide the Owner with keys or combinations to any locks that may be used to secure fencing gates.

3.03 OWNER SUPPLIED PRODUCTS

- A. The Contractor shall be responsible for removal, protection, storage, delivery, and installation of all Owner furnished equipment or materials, unless otherwise specified.
- B. The Contractor shall be required to make all modifications to structures, equipment, and power to provide a complete and working installation of the Owner furnished products.
- C. The Contractor shall provide any materials or equipment required for the installation of the Owner supplied products, including but not limited to electric wire and conduit, pipes, anchors, and supports.
- D. The Contractor shall be responsible for inspection of any existing Owner furnished products to verify characteristics prior to Bidding.
- E. Install Owner furnished equipment in accordance with manufacturer's recommendations and as specified in other Sections.
- F. All costs associated with the complete installation of Owner furnished equipment shall be considered incidental to the Project, unless otherwise specified.

3.04 PRICE AND PAYMENT PROCEDURES

- A. Measurement and Payment
 - 1. All Work and costs of this Section shall be incidental to the Project and included in the Total Base Bid.

END OF SECTION

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SECTION 01 70 00
EXECUTION REQUIREMENTS

PART 1 GENERAL

1.01 SUMMARY

- A. Section Includes
 1. Requirements for overall execution of the Work and closeout of the Contract for Final Payment.

1.02 SUBMITTALS

- A. Submit the following items consistent with the Conditions of the Contract and Division 01 Sections:
 1. Record Documents.
 2. Written Notification of Substantial Completion.
 3. Executed Certificate of Substantial Completion.
 4. Written Notification of Final Completion.
 5. Spare Parts, Operation and Maintenance Manuals, instructions, schedules, warranties, guarantees, Bonds, certificates, certificates of inspection, and other documents.
 6. Final Application for Payment, including accompanying documentation.

PART 2 PRODUCTS

NOT USED

PART 3 EXECUTION

3.01 EXAMINATION

- A. Acceptance of Conditions: By commencing Work, Contractor construes acceptance of the adjacent work as satisfactory to receive subsequent Work.
- B. Existing Conditions: Before commencing Work, inspect work completed by others that is adjacent to Work. If adjacent conditions prevent completion of Work, Contractor will not commence Work until the conditions are corrected.
- C. Inspect each product immediately prior to installation. Remove damaged products from Site.

3.02 GENERAL INSTALLATION REQUIREMENTS

- A. Comply with the manufacturer's instructions for installation of manufactured products to the extent that these instructions are applicable and more explicit or more stringent than requirements indicated in the Contract Documents.
- B. Secure Work true to line and level, within recognized industry tolerances, with anchorage devices designed and sized to withstand stresses, vibration, and rocking. Allow for expansion and movement of building.

- C. Install each element of work during weather conditions and Project status to ensure coordination of the Work. Isolate each element of work from incompatible work as necessary to prevent deterioration.
- D. Record installation details and prepare Record Documents consistent with the General Conditions.

3.03 SITE MAINTENANCE

- A. Maintain work areas and adjacent parking lot and roadways free from dust. Employ dust abatement techniques whenever a dust nuisance or hazard occurs, or as directed by Owner. Comply with local ordinances.
- B. Protect hazardous work areas and hazardous material storage areas.
- C. Protect trees, unless specifically indicated on Drawings.
- D. If Contractor fails to maintain Site, Owner will provide Written Notice of Contractor's defective Work. Contractor will be given 12 hours from the Notice to Clean Site. After the 12-hour period, Owner may correct the defective Work consistent with Article 13.09 of the Conditions of the Contract.

3.04 CLEANING AND PROTECTION

- A. Clean and protect Work in progress and adjoining Work during handling and installation. Apply protective covering on installed Work where it is required to ensure freedom from damage or deterioration.
- B. Clean and perform maintenance as frequently as necessary throughout construction period. Adjust and lubricate operable components to ensure operability without damage effects.
- C. Areas outside of the influence of construction, including but not limited to the terrace area beyond shouldering work, shall be protected. Any land disturbance beyond the aggregate shoulders shall be restored at the cost of the Contractor.

3.05 FINAL CLEANING

- A. Prior to the inspection for substantial completion of the work, remove waste material and rubbish from the site. Remove protective coatings, barriers, and other protective devices, temporary work, and surplus materials.
- B. After substantial completion, remove waste material and rubbish and clean up dirt caused by the Work.
- C. Upon completion of the work, remove tools, construction equipment, machinery, and surplus materials.

3.06 CUTTING AND PATCHING

- A. Not Applicable

3.07 MILESTONE COMPLETION

- A. The work for each Milestone shall be considered complete when the Owner approves all work for the corresponding Milestone. Written notice will be provided to the Contractor. If not deemed complete, a punch list will be provided to the Contractor.

3.08 FINAL PAYMENT

- A. Upon completion of all Milestones and as a condition of final payment, the Contractor shall submit to the Owner, notification stating:
 - 1. Requirements of the Request for Proposals is complete.
 - 2. Work site shall be clean.
 - 3. Punch list is completed.

3.09 MEASUREMENT AND PAYMENT

- A. All other Work and costs of this Section shall be incidental to the Project and included in the TOTAL BASE BID.

END OF SECTION

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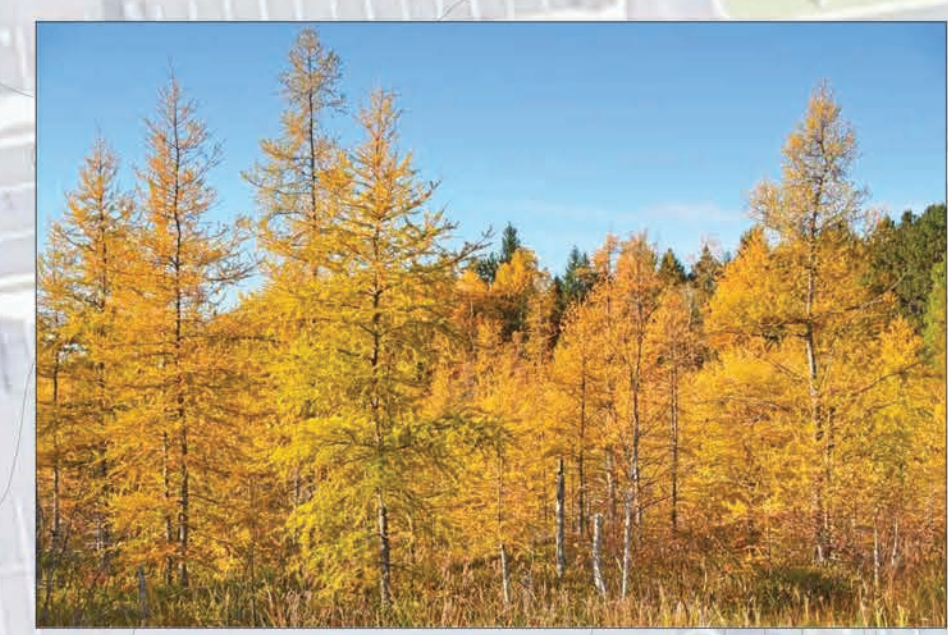
THE CONTRACTOR SHALL VERIFY AND BE RESPONSIBLE FOR ALL DIMENSIONS. DO NOT SCALE THE DRAWING. ANY ERRORS OR OMISSIONS SHALL BE REPORTED TO STANTEC WITHOUT DELAY. REPRODUCTION OR USE FOR ANY PURPOSE OTHER THAN THAT AUTHORIZED BY STANTEC IS FORBIDDEN.

Plot Date: 11/27/2023 - 4:58pm
 Drawing Name: \\na1502101\shared_projects\193709739_03_data\fig_cad\cad.dwg (upon sheets) 193709739_L100_LANDSCAPE.dwg
 Xref: E:\3622-MEG_193709739_AERIAL contour_1.rvt



PLANT SCHEDULE

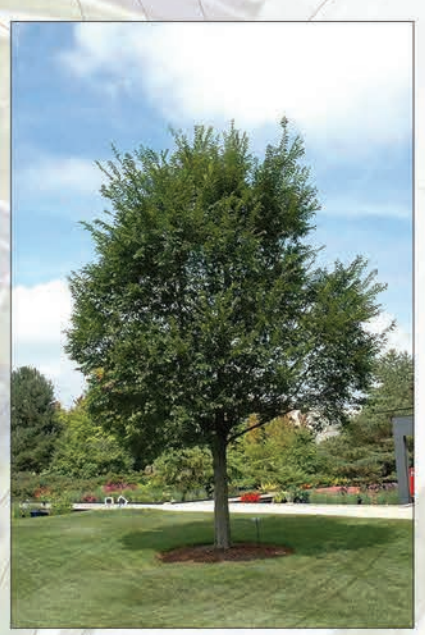
SYMBOL	CODE	BOTANICAL NAME	COMMON NAME	CONT	REMARKS	QTY
CONIFEROUS TREES						
	LL	LARIX LARICINA	TAMARACK	6' HT.	15' O.C.	55
DECIDUOUS TREES						
	AR	ACER RUBRUM	RED MAPLE	2.5" BB		15
	UM	ULMUS X 'MORTON'	ACCOLADE™ ELM	2.5" BB		19
ORNAMENTAL TREES						
	AL	AMELANCHIER LAEVIS	ALLEGHENY SERVICEBERRY	1.5" BB	15' O.C.	9
	CA	CORNUS ALTERNIFOLIA	PAGODA DOGWOOD	1.5" BB		15
GROUND COVERS						
	EWS	EMERGENT WETLAND AND FLOWERING MIX		SEED MIX		30,870 SF
	EWP	EMERGENT WETLAND AND FLOWERING PLUGS		PLUG 1" W X 6" T - MINIMUM		36,760 SF (9,190 PLUGS)
	HSS	HARDWOOD SWAMP HERBACEOUS MIX		SEED MIX		43,530 SF
	UFS	UPLAND FLOWERING MIX		SEED MIX		54,444 SF
	WMS	WET MEADOW SEDGE AND FLOWERING MIX		SEED MIX		93,402 SF



TAMARACK



RED MAPLE



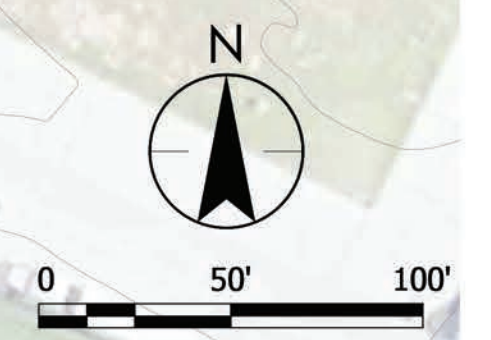
ACCOLADE ELM



ALLEGHENY SERVICEBERRY



PAGODA DOGWOOD



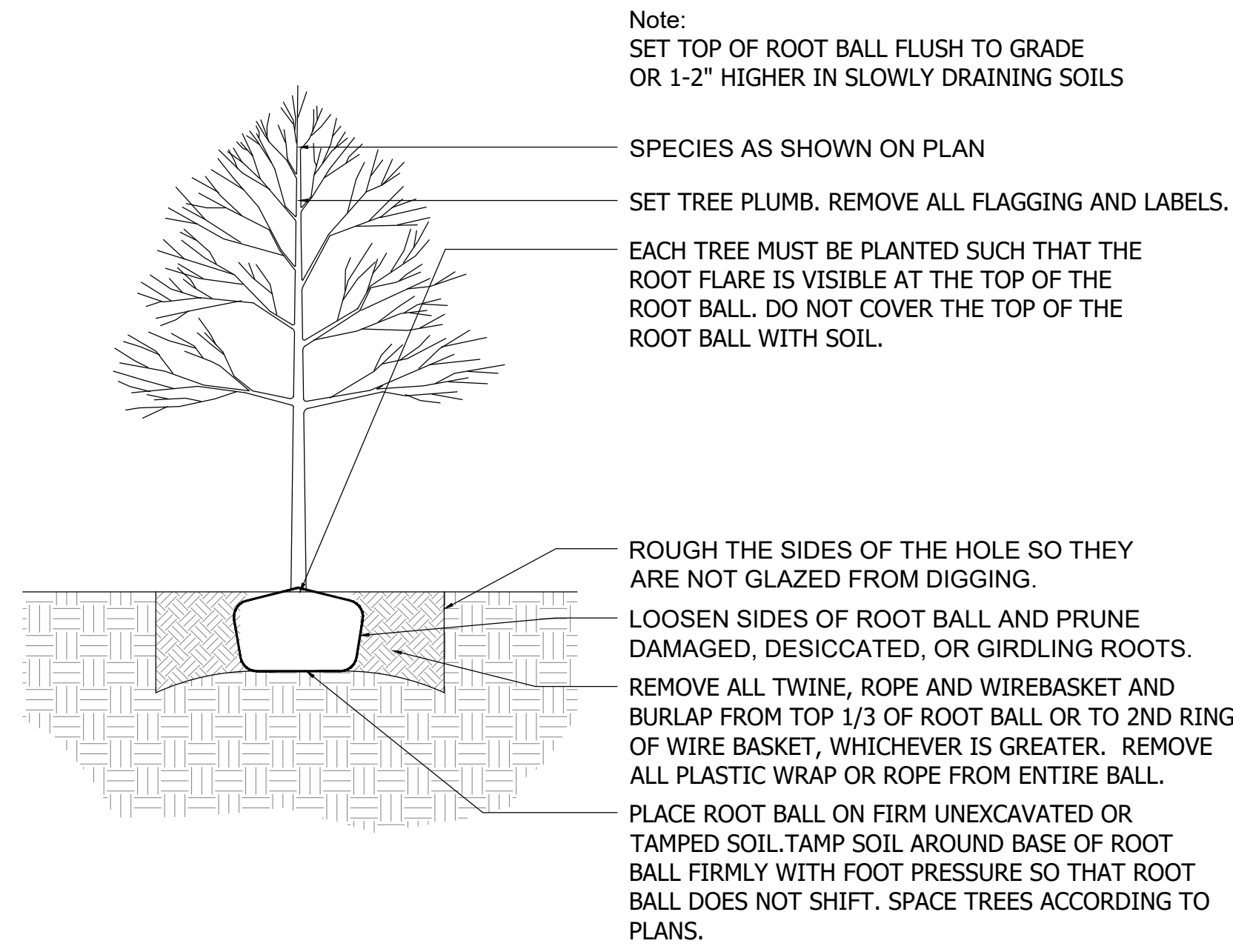
Stantec
 350 N Orleans St, Suite 1301
 Chicago, IL 60654
 www.stantec.com

NOT FOR CONSTRUCTION

LANDSCAPE PLAN
 CABELA'S ASHWAUBENON LANDSCAPE
 CABELA'S
 ASHWAUBENON, WI

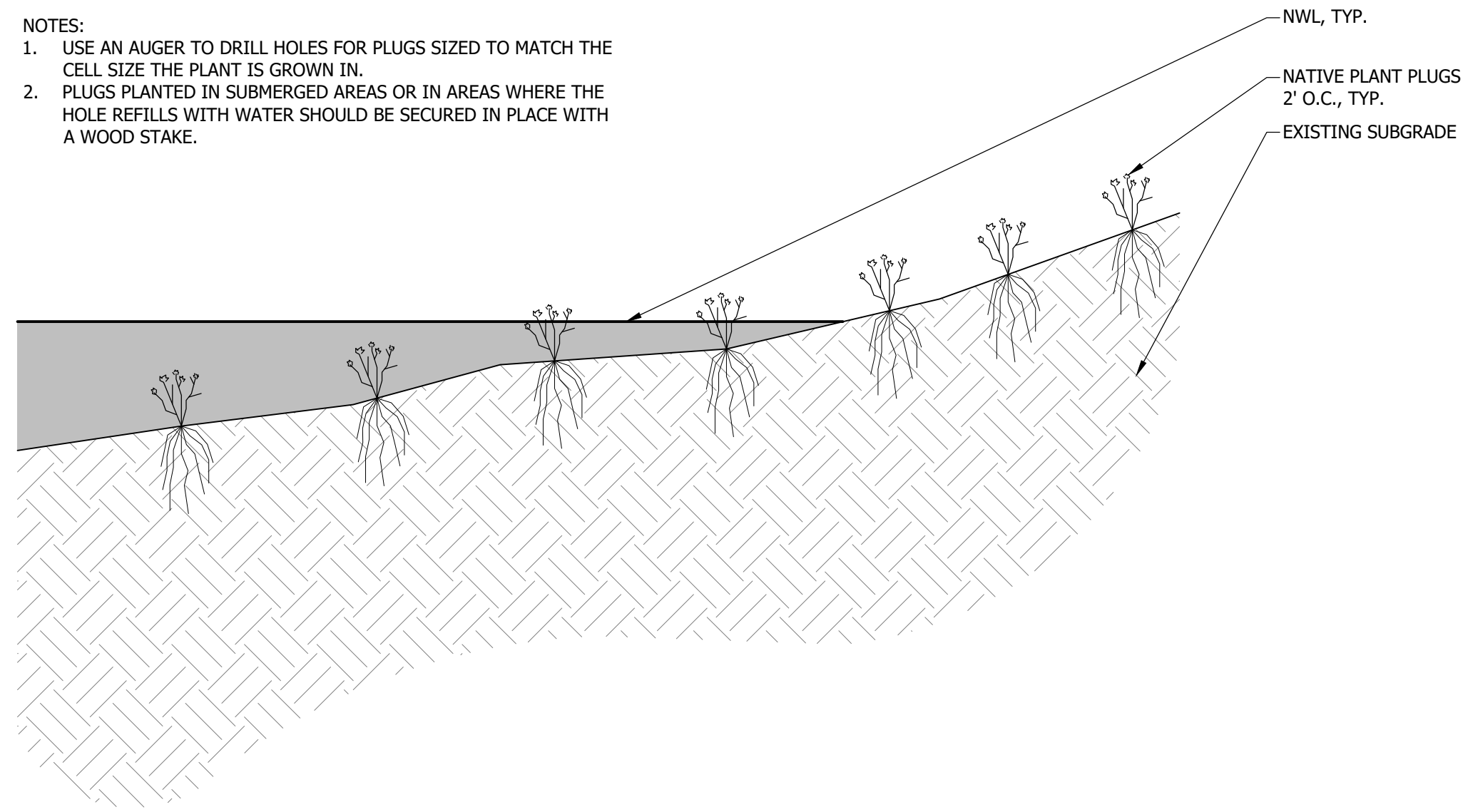
DATE OF ISSUANCE	November 27, 2023
NO. REVISION	DATE
SURVEY	XXXXXXXX
DRAWN	XXX
DESIGNED	XXX
CHECKED	XXX
APPROVED	XXX
PROJ. NO.	193709739
SHEET NUMBER	L1.01

THE CONTRACTOR SHALL VERIFY AND BE RESPONSIBLE FOR ALL DIMENSIONS. DO NOT SCALE THE DRAWING. ANY ERRORS OR OMISSIONS SHALL BE REPORTED TO STANTEC WITHOUT DELAY. REPRODUCTION OR USE FOR ANY PURPOSE OTHER THAN THAT AUTHORIZED BY STANTEC IS FORBIDDEN.



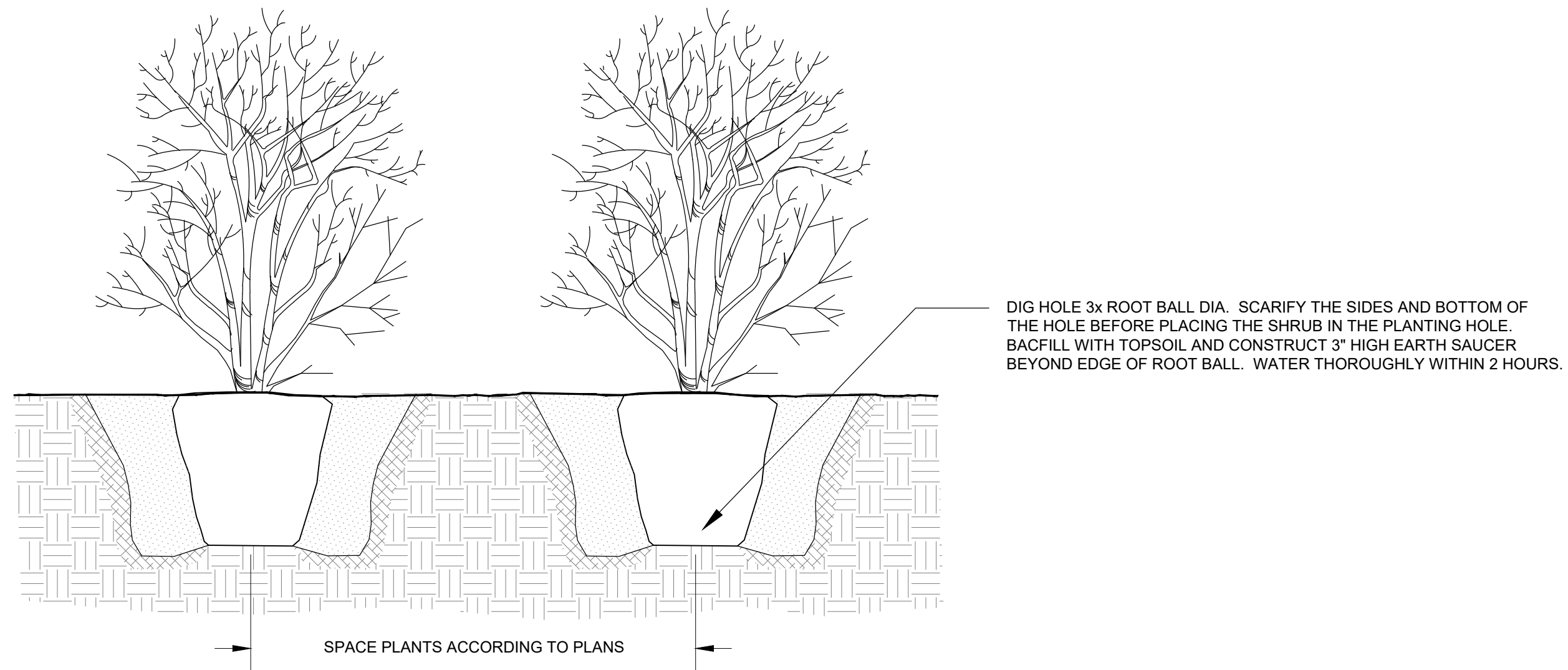
Note:
SET TOP OF ROOT BALL FLUSH TO GRADE
OR 1-2" HIGHER IN SLOWLY DRAINING SOILS

NOTES:
1. USE AN AUGER TO DRILL HOLES FOR PLUGS SIZED TO MATCH THE CELL SIZE THE PLANT IS GROWN IN.
2. PLUGS PLANTED IN SUBMERGED AREAS OR IN AREAS WHERE THE HOLE REFILLS WITH WATER SHOULD BE SECURED IN PLACE WITH A WOOD STAKE.



1 DECIDUOUS TREE PLANTING
L8.01 NOT TO SCALE

2 EMERGENT PLUG PLANTING
L8.01 NOT TO SCALE



NOTE:
• IF PLANT IS SHIPPED WITH A CONTAINER AROUND THE ROOTBALL, SLICE SIDES OF CONTAINER AND REMOVE COMPLETELY. USE FINGERS OR SMALL HAND TOOLS TO PULL ROOTS OUT OF THE OUTER LAYER OF POTTING SOIL, THEN CUT OR PULL APART ANY CIRCLING ROOTS. REMOVE ALL ROPE, TWINE AND BURLAP FROM TOP HALF OF ROOT BALL FROM B&B SHRUBS
• SET TOP OF ROOT BALL FLUSH TO GRADE OR 1"-2" HIGHER IN SLOWLY DRAINING SOILS. ADD MYCORRHIZAL TRANSPLANT INOCULANT AT PLANTING TIME PER MANUFACTURER'S DIRECTIONS
• DO NOT HEAVILY PRUNE AT PLANTING. PRUNE ONLY BROKEN OR DEAD BRANCHES, RETAINING NATURAL FORM

3 TYPICAL SHRUB PLANTING
L8.01 NOT TO SCALE

NOT FOR CONSTRUCTION

LANDSCAPE DETAILS
CABELA'S ASHWAUBENON LANDSCAPE
CABELA'S
ASHWAUBENON, WI

DATE OF ISSUANCE
October 11, 2023

NO REVISION DATE

SURVEY	XXXXXXXX
DRAWN	XXX
DESIGNED	XXX
CHECKED	XXX
APPROVED	XXX
PROJ. NO.	193709739

SHEET NUMBER
L8.01

Emergent Wetland and Flowering Seed Mix

This is a wetland seed mix for saturated soils and shallow water in relatively stable wetlands and ponds with good water quality. When established, plants will spread to water depths of up to 12 inches. This seed mix includes at least 8 of 12 native permanent grass and sedge species and 15 of 20 native forb or shrub species. Apply at a rate of 36.88 PLS pounds per acre.

Botanical Name	Common Name	PLS Oz/Acre
Permanent Grasses/Sedges/Rushes		
<i>Bolboschoenus fluviatilis</i>	River Bulrush	4.00
<i>Carex comosa</i>	Bristly Sedge	2.50
<i>Carex lacustris</i>	Common Lake Sedge	0.50
<i>Carex lurida</i>	Bottlebrush Sedge	2.00
<i>Carex stricta</i>	Common Tussock Sedge	1.00
<i>Carex vulpinoidea</i>	Brown Fox Sedge	2.00
<i>Eleocharis palustris</i>	Great Spike Rush	1.00
<i>Juncus effusus</i>	Common Rush	1.00
<i>Leersia oryzoides</i>	Rice Cut Grass	3.00
<i>Schoenoplectus acutus</i>	Hard-Stemmed Bulrush	1.50
<i>Schoenoplectus pungens</i>	Chairmaker's Rush	1.50
<i>Schoenoplectus tabernaemontani</i>	Great Bulrush	6.00
Total		26.00
Temporary Cover		
<i>Avena sativa</i>	Common Oat	512.00
Total		512.00
Forbs		
<i>Acorus americanus</i>	Sweet Flag	1.00
<i>Alisma subcordatum</i>	Common Water Plantain	2.00
<i>Asclepias incarnata</i>	Swamp Milkweed	1.00
<i>Boehmeria cylindrica</i>	False Nettle	2.00
<i>Cephalanthus occidentalis</i>	Buttonbush	1.00
<i>Decodon verticillatus</i>	Swamp Loosestrife	0.50
<i>Eutrochium maculatum</i>	Spotted Joe-Pye Weed	0.50
<i>Hibiscus spp.</i>	Rose Mallow Species	4.00
<i>Iris spp.</i>	Blue Flag Species	6.00
<i>Lobelia cardinalis</i>	Cardinal Flower	0.25
<i>Lobelia siphilitica</i>	Great Blue Lobelia	0.25
<i>Lycopus americanus</i>	Common Water Horehound	1.00
<i>Mimulus ringens</i>	Monkey Flower	1.00
<i>Peltandra virginica</i>	Arrow Arum	12.00
<i>Penthorum sedoides</i>	Ditch Stonecrop	0.50
<i>Persicaria spp.</i>	Pinkweed Species	2.00
<i>Pontederia cordata</i>	Pickereel Weed	8.00
<i>Sagittaria latifolia</i>	Common Arrowhead	2.00
<i>Sparganium eurycarpum</i>	Common Bur Reed	6.00
<i>Verbena hastata</i>	Blue Vervain	1.00
Total		52.00

Emergent Wetland and Flowering Plugs

Botanical Name	Common Name
Permanent Grasses/Sedges	
<i>Bolboschoenus fluviatilis</i>	River Bulrush
<i>Carex stricta</i>	Common Tussock Sedge
<i>Carex vulpinoidea</i>	Brown Fox Sedge
<i>Eleocharis palustris</i>	Great Spike Rush
<i>Glyceria striata</i>	Fowl Manna Grass
<i>Juncus effusus</i>	Common Rush
<i>Leersia oryzoides</i>	Rice Cut Grass
Forbs	
<i>Acorus americanus</i>	Sweet Flag
<i>Alisma subcordatum</i>	Common Water Plantain
<i>Asclepias incarnata</i>	Swamp Milkweed
<i>Bidens spp.</i>	Bidens Species
<i>Boehmeria cylindrica</i>	False Nettle
<i>Doellingeria umbellata</i>	Flat-Top Aster
<i>Eupatorium perfoliatum</i>	Common Boneset
<i>Helenium autumnale</i>	Sneezeweed
<i>Lobelia cardinalis</i>	Cardinal Flower
<i>Lobelia siphilitica</i>	Great Blue Lobelia
<i>Mimulus ringens</i>	Monkey Flower
<i>Penthorum sedoides</i>	Ditch Stonecrop
<i>Sagittaria latifolia</i>	Common Arrowhead
<i>Senna hebecarpa</i>	Wild Senna
<i>Sparganium eurycarpum</i>	Common Bur Reed
<i>Symphotrichum lanceolatum</i>	Panicked Aster
<i>Symphotrichum puniceum</i>	Bristly Aster
<i>Thalictrum dasycarpum</i>	Purple Meadow Rue
<i>Verbena hastata</i>	Blue Vervain

Upland Flowering Mix

This seed mix includes quick-blooming native wildflowers to provide initial color during native prairie establishment, especially on restoration sites. This mix contains many species beneficial to native bees and pollinators and can be used to supplement other seed mixes or existing natural areas. This seed mix includes at least 10 of 12 native forb species. Apply at 4.63 PLS pounds per acre.

Botanical Name	Common Name	PLS Oz/Acre
Permanent Native Species:		
<i>Asclepias syriaca</i>	Common Milkweed	4.00
<i>Chamaecrista fasciculata</i>	Partridge Pea	16.00
<i>Coreopsis lanceolata</i>	Sand Coreopsis	8.00
<i>Desmanthus illinoensis</i>	Illinois Sensitive Plant	12.00
<i>Echinacea purpurea</i>	Broad-Leaved Purple Coneflower	12.00
<i>Lupinus perennis v. occidentalis</i>	Wild Lupine	4.00
<i>Monarda fistulosa</i>	Wild Bergamot	1.50
<i>Penstemon digitalis</i>	Foxglove Beard Tongue	1.00
<i>Ratibida pinnata</i>	Yellow Coneflower	4.00
<i>Rudbeckia hirta</i>	Black-Eyed Susan	10.00
<i>Solidago speciosa</i>	Showy Goldenrod	0.50
<i>Symphotrichum laeve</i>	Smooth Blue Aster	1.00
Total		74.00

Wet Meadow/Sedge and Flowering Mix

A grass and sedge mix for level sites with saturated soil conditions (although it will tolerate drier soils late in the year), this meadow seed mix creates a diverse habitat, offering a variety of cover and food options for wildlife. Many of the plants attract pollinators, such as butterflies and hummingbirds. This seed mix includes at least 14 of 17 native permanent grass and sedge species and 27 of 31 native forb and shrub species. Apply at a rate of 37.75 PLS pounds per acre.

Botanical Name	Common Name	PLS Oz/Acre
Permanent Grasses/Sedges		
<i>Calamagrostis canadensis</i>	Bluejoint Grass	1.00
<i>Carex comosa</i>	Bristly Sedge	2.00
<i>Carex cristatella</i>	Crested Oval Sedge	2.00
<i>Carex frankii</i>	Bristly Cattail Sedge	2.00
<i>Carex lurida</i>	Bottlebrush Sedge	2.00
<i>Carex stipata</i>	Common Fox Sedge	2.00
<i>Carex stricta</i>	Common Tussock Sedge	1.00
<i>Carex vulpinoidea</i>	Brown Fox Sedge	3.00
<i>Elymus virginicus</i>	Virginia Wild Rye	24.00
<i>Glyceria striata</i>	Fowl Manna Grass	0.50
<i>Juncus effusus</i>	Common Rush	0.50
<i>Leersia oryzoides</i>	Rice Cut Grass	1.00
<i>Schoenoplectus tabernaemontani</i>	Great Bulrush	1.00
<i>Scirpus atrovirens</i>	Dark Green Rush	1.00
<i>Scirpus cyperinus</i>	Wool Grass	0.50
<i>Scirpus pendulus</i>	Red Bulrush	0.50
<i>Spartina pectinata</i>	Prairie Cord Grass	2.00
Total		46.00
Temporary Cover		
<i>Avena sativa</i>	Common Oat	512.00
Total		512.00
Forbs		
<i>Alisma subcordatum</i>	Common Water Plantain	1.00
<i>Angelica atropurpurea</i>	Great Angelica	4.00
<i>Asclepias incarnata</i>	Swamp Milkweed	4.00
<i>Bidens cernua</i>	Nodding Bur Marigold	2.00
<i>Boehmeria cylindrica</i>	False Nettle	1.00
<i>Coreopsis tripteris</i>	Tall Coreopsis	1.00
<i>Doellingeria umbellata</i>	Flat-Top Aster	0.25
<i>Eupatorium perfoliatum</i>	Common Boneset	0.50
<i>Eutrochium maculatum</i>	Spotted Joe-Pye Weed	0.50
<i>Helenium autumnale</i>	Sneezeweed	1.00
<i>Hibiscus spp.</i>	Rose Mallow Species	4.00
<i>Iris spp.</i>	Blue Flag Species	3.00
<i>Liatris spicata</i>	Marsh Blazing Star	2.00
<i>Lobelia cardinalis</i>	Cardinal Flower	0.25
<i>Lobelia siphilitica</i>	Great Blue Lobelia	0.25
<i>Lycopus americanus</i>	Common Water Horehound	0.50
<i>Penthorum sedoides</i>	Ditch Stonecrop	1.00
<i>Persicaria spp.</i>	Pinkweed Species	2.00
<i>Physostegia virginiana</i>	Obedient Plant	0.50
<i>Pycnanthemum virginianum</i>	Common Mountain Mint	0.50
<i>Sagittaria latifolia</i>	Common Arrowhead	1.00
<i>Senna hebecarpa</i>	Wild Senna	4.00
<i>Silphium perfoliatum</i>	Cup Plant	1.00
<i>Sparganium eurycarpum</i>	Common Bur Reed	4.00
<i>Symphotrichum lanceolatum</i>	Panicled Aster	0.75
<i>Symphotrichum novae-angliae</i>	New England Aster	0.50
<i>Symphotrichum puniceum</i>	Bristly Aster	0.50
<i>Thalictrum dasycarpum</i>	Purple Meadow Rue	1.00
<i>Verbena hastata</i>	Blue Vervain	2.00
<i>Vernonia fasciculata</i>	Common Ironweed	1.00
<i>Zizia aurea</i>	Golden Alexanders	1.00
Total		46.00

Hardwood Swamp Herbaceous Mix

Use this wetland seed mix in partially shaded riparian corridors and saturated, newly reforested areas to reduce weed competition and stabilize soil. As the tree canopy fills in, some of the species in this seed mix will establish a permanent herbaceous understory layer and help to fill out the maturing wooded wetland. This seed mix includes at least 12 of 16 native permanent grass and sedge species and 17 of 22 native forb and shrub species. Apply at 37.03 PLS pounds per acre.

Botanical Name	Common Name	PLS Oz/Acre
Permanent Grasses/Sedges		
<i>Calamagrostis canadensis</i>	Bluejoint Grass	1.00
<i>Carex crinita</i>	Fringed Sedge	1.00
<i>Carex frankii</i>	Bristly Cattail Sedge	3.00
<i>Carex lupulina</i>	Common Hop Sedge	3.00
<i>Carex lurida</i>	Bottlebrush Sedge	2.00
<i>Carex muskingumensis</i>	Swamp Oval Sedge	1.00
<i>Carex squarrosa</i>	Narrow-Leaved Cattail Sedge	1.00
<i>Carex typhina</i>	Common Cattail Sedge	3.00
<i>Carex vulpinoidea</i>	Brown Fox Sedge	2.00
<i>Cinna arundinacea</i>	Common Wood Reed	0.50
<i>Elymus virginicus</i>	Virginia Wild Rye	32.00
<i>Glyceria striata</i>	Fowl Manna Grass	2.00
<i>Juncus effusus</i>	Common Rush	0.50
<i>Leersia oryzoides</i>	Rice Cut Grass	2.00
<i>Scirpus atrovirens</i>	Dark Green Rush	1.00
<i>Spartina pectinata</i>	Prairie Cord Grass	1.00
Total		56.00
Temporary Cover		
<i>Avena sativa</i>	Common Oat	512.00
Total		512.00
Forbs		
<i>Alisma subcordatum</i>	Common Water Plantain	1.00
<i>Angelica atropurpurea</i>	Great Angelica	1.00
<i>Asclepias incarnata</i>	Swamp Milkweed	0.50
<i>Bidens spp.</i>	Bidens Species	2.50
<i>Boehmeria cylindrica</i>	False Nettle	2.00
<i>Campanulastrum americanum</i>	Tall Bellflower	0.25
<i>Cephalanthus occidentalis</i>	Buttonbush	0.50
<i>Doellingeria umbellata</i>	Flat-Top Aster	0.25
<i>Helenium autumnale</i>	Sneezeweed	1.00
<i>Heracleum maximum</i>	Cow Parsnip	1.00
<i>Lobelia siphilitica</i>	Great Blue Lobelia	0.50
<i>Lycopus americanus</i>	Common Water Horehound	0.50
<i>Mimulus ringens</i>	Monkey Flower	0.50
<i>Penthorum sedoides</i>	Ditch Stonecrop	0.50
<i>Persicaria spp.</i>	Pinkweed Species	2.00
<i>Rudbeckia laciniata</i>	Wild Golden Glow	2.00
<i>Senna hebecarpa</i>	Wild Senna	2.00
<i>Solidago patula</i>	Swamp Goldenrod	1.00
<i>Symphotrichum lanceolatum</i>	Panicled Aster	0.50
<i>Symphotrichum puniceum</i>	Bristly Aster	0.50
<i>Thalictrum dasycarpum</i>	Purple Meadow Rue	2.00
<i>Verbesina alternifolia</i>	Wingstem	4.00
Total		26.00