

**Contract Documents  
for the  
Mason Farm WWTP Digester 4 Steel Cap Coating and Repair  
CIP Number:278-97**

**Prepared for:  
Orange Water and Sewer Authority  
Carrboro, North Carolina**

**Prepared By:  
Orange Water And Sewer Authority  
400 Jones Ferry Rd, Carrboro, NC 27510**

**This Bid Opportunity is a re-advertisement.**

**February, 2024**

## SECTION 00 41 43a

## Bidder's Checklist

This checklist shall be included as the first page of the submitted bidding documents. As outlined in Section 00 41 43 Article 7.01 of the Proposal the following items shall be included with the fully executed Section 00 41 43 Proposal:

		<b>BID FORMS, including:</b>
	A.	Executed Bid Form
	B.	Certified List of Equipment/Material Manufacturers and Subcontractors/Suppliers
	C.	Certification Affidavit
	D.	Bid Certification
	E.	Contractor Experience
	F.	Qualifications of Bidders
	G.	Appropriate Bid Form Signature Page
	H.	Proposal Signature Page
	I.	Contractor's Affidavit of Organization and Authority
	J.	Non-Collusion Affidavit of Bidder*
	K.	Equal Employment Opportunity Certification
	L.	Acknowledgement for Equal Employment Opportunity Certification
	M.	Bidder's North Carolina General Contractor's License
		<b>M/WBE Forms, including:</b>
	N.	Identification of Minority Business Participation
	O.	Affidavit A or B**

\*Within five (5) day of bid opening, Contractor shall file a Non-Collusion Affidavit for Sub-Contractors.

\*\*After bid opening, the Contractor shall file Affidavits C or D within 72 hours of being informed of low bid.

Bidder's Checklist  
00 41 43a-1



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DOCUMENT 00 11 16

ADVERTISEMENT FOR BIDS

CIP No.: 278-97

Project: Mason Farm WWTP Digester 4 Steel Cap Coating and Repair

Owner: ORANGE WATER AND SEWER AUTHORITY  
400 JONES FERRY ROAD  
CARRBORO, NORTH CAROLINA 27510

Date: March 6, 2024

Pursuant to Section 143-129 of the General Statutes of North Carolina, sealed Bids will be received by Orange Water and Sewer Authority from Bidders until 2:00 P.M., local time, on March 21, 2024 for CIP No. 278-97, Project: Mason Farm WWTP Digester 4 Steel Cap Coating and Repair at the OWASA, in the Administrative Offices, 400 Jones Ferry Road, Carrboro, North Carolina 27510, at which time the Bids received will opened and read aloud.

Bids will be received for a [Unit Price General Construction Contract]. The Contractor and all Subcontractors shall have valid North Carolina General Contractor's Licenses for the type and value of the work to be performed.

The Project consists of furnishing all materials, labor, equipment, tools, etc. unless otherwise specified, for the complete and operable installation of:

Furnish all labor, materials, equipment, expertise, and incidentals necessary to remove all existing coating/linings, prepare the surface and apply a new protective coating/lining system to the digester steel cover and on the top 12 feet of the concrete walls on the digester interior. This includes the underside of the roof of the interior of the digester and the floor of the attic space, all supporting steel and the underside of the galvanized corrugated deck materials, and all associated appurtenances as described in the Specifications and as shown on the Drawings.

The foregoing description shall not be construed as a complete description of all work required.

~~Beginning on Friday, February 2, 2024, the Contract Documents will be available to prospective bidders. Printed copies of the Contract Documents are not available. Electronic copies will be transmitted to bidders by request through email, free of charge, by emailing [amiller@owasa.org](mailto:amiller@owasa.org).~~

Orange Water and Sewer Authority has adopted a minimum ten (10%) percent goal for participation by minority businesses in the total value of the work for this project in accordance with Section 143-128.2 of the General Statutes of North Carolina.

Invitation To Bid

00 11 16-1



Orange Water & Sewer Authority

Mason Farm WWTP Digester 4 Steel Cap Coating and Repair

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Each Bidder shall be licensed under Chapter 87 of the North Carolina General Statutes. Bidders are notified that "An Act to Regulate the Practice of General Contracting," was ratified by the General Assembly of North Carolina on March 10, 1925, and that this Act and subsequent Amendments, will be observed in receiving and awarding Contracts.

Each bidder is required to submit a Non-Collusion Affidavit pursuant to Section 133-30 of the General Statutes of North Carolina.

To ensure that all Bidders are kept up to date on any Addenda, changes, or information notices, please send an e-mail to: amiller@owasa.org indicating your intention to prepare a Bid for the Project. Failure to complete this step may render your Bid as non-responsive.

Each Bidder is advised that the Work may be inspected and supervised by an Engineer or firm under the direction of Orange Water and Sewer Authority. The Engineer or firm may also be involved in the identification of specific repair areas and the proposed method of repairs for the Work.

Orange Water and Sewer Authority requires the Project to be at Substantial Completion within 140 consecutive calendar days from date of Notice to Proceed and at Final Completion 180 consecutive calendar days from date of Notice to Proceed

No Bid shall be considered or accepted unless at the time of its filing the same shall be accompanied by a deposit of a certified or cashier's check drawn on a bank or trust company insured by the Federal Deposit Insurance Corporation (FDIC), in an amount equal to five percent (5%) of the amount of the Bid. The check shall be made payable to Orange Water and Sewer Authority. Said deposit shall guarantee that the Contract will be entered into by the successful Bidder if the Award is made. Such deposit of certified or cashier's check may be held by Orange Water and Sewer Authority until the successful Bidder has executed and delivered the Contract Documents, including performance and payment bond, to Orange Water and Sewer Authority and returned or kept in accordance with North Carolina General Statute 143-129.

In lieu of the certified or cashier's check deposit mentioned above, the Bidder may file a Bid Bond in the same amount executed by a corporate surety authorized to execute such bonds in North Carolina and conditioned as provided by North Carolina General Statute 143-129 and on the form(s) found in the Proposal section, or on file with the Engineer. Bid Bond forms enclosed as part of the Bidding Documents must be properly executed at the time Bids are submitted before a Bid will be considered. Properly executed Power of Attorney of the corporate surety's agent shall accompany such bond and be attached to the page provided therefore in the Bidding Documents.

Bids shall be submitted under a condition of irrevocability, except as required by law, for a period of ninety (90) calendar days after the Bid opening.

Invitation To Bid

00 11 16-2



Orange Water & Sewer Authority

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Orange Water and Sewer Authority reserves the right to accept or reject any or all Bids, to waive any and all informalities, and to disregard all nonconforming or conditional Bids or counter Bids, and to accept the Bid that will be in the best interest of Orange Water and Sewer Authority.

ORANGE WATER AND SEWER AUTHORITY

March 5, 2024

-END OF DOCUMENT-



Orange Water & Sewer Authority

Invitation To Bid

00 11 16-3

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## DOCUMENT 00 21 15

### INSTRUCTIONS TO BIDDERS

#### ARTICLE 1 - DEFINED TERMS

- 1.01 Terms used in these Instructions to Bidders which are defined in the Standard General Conditions of the Construction Contract, EJCDC C-700 (2013 edition) and modified by Orange Water and Sewer Authority (Copyright 2013) shall have the meanings assigned to them in the General Conditions as modified, changed, added to or deleted by the General Conditions.
- A. Issuing Office - The office at which the Bidding Documents are to be received.
- B. The term "Successful Bidder" means the lowest, qualified, responsive and responsible Bidder to whom Owner (on the basis of Owner's evaluation as hereinafter provided) makes an Award.

#### ARTICLE 2 - COPIES OF BIDDING DOCUMENTS

- 2.01 The Bidding Documents are identified as "Project Manual including Bidding Documents, Contract Documents, and Technical Specifications for CIP No. 278-97 Project: "Mason Farm WWTP Digester 4 Steel Cap Coating and Repair."
- 2.02 Beginning on Friday , February 2 , 2024 , the Contract Documents will be available to prospective bidders. Printed copies of the Contract Documents are not available. Electronic copies will be transmitted to bidders by request through email, free of charge, by emailing [amiller@owasa.org](mailto:amiller@owasa.org)
- 2.03 Not Used
- 2.04 To ensure that all Bidders are kept up-to-date on any Addenda, changes, or information notices, please send an e-mail to: [amiller@owasa.org](mailto:amiller@owasa.org) indicating your intention to prepare a Bid for the Project. Failure to complete this step may render your Bid as non-responsive.
- 2.05 Complete sets of Bidding Documents shall be used in preparing Bids; neither Orange Water and Sewer Authority nor the Engineer assumes any responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.
- 2.06 Upon receipt of Bidding Documents, Bidder shall verify that the Bidding Documents are complete. The Bidder shall notify the Engineer if they have received incomplete Bidding Documents.



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- 2.07 Orange Water and Sewer Authority and Engineer, in making copies of the Bidding Documents available on the above terms, do so only for the purpose of obtaining Bids for the Work and do not confer a license or grant for any other use.

### ARTICLE 3 - QUALIFICATIONS OF BIDDERS

- 3.01 The Bidder shall demonstrate the ability to complete a majority of all portions of the Contract using equipment and personnel owned and employed by the Bidder. The Bidder shall include the following information as an attachment, as specified in the Document 00 41 44:
1. That the Bidder will have available to do the Work at the proper time or times, adequate equipment and facilities listing such equipment and facilities in such detail that they can be quickly and accurately checked.
  2. That the Bidder has ample repair parts and supplies to maintain all equipment and facilities properly and with a minimum of delay.
  3. If the Bidder is a corporation, the names of all corporate officers and the name of the executive who will give their personal attention to the Work.
  4. The bidder shall include a list of at least three (3) projects they have completed with their equipment and personnel within the past five (5) years that involves similar scope of work as described for this project.
  5. **The Bidder shall perform Work amounting to at least 60% of the Contract, using its own personnel and equipment (owned or rented). No portion of the Contract shall be sublet, assigned, or otherwise disposed of without with the expressed written consent of Orange Water and Sewer Authority. If the Bidder fails to demonstrate to Orange Water and Sewer Authority in its Bid submittal information that it has the ability to perform the specified percentage of the Work with its own personnel and equipment, its Bid may be considered non-responsive. The Bidder shall submit with its Bid, data supporting its ability to comply with this requirement.**
- 3.02 Not used
- 3.03 If the Bidder fails to demonstrate the ability to complete a majority of all portions of the Contract with equipment and personnel owned and employed by the Bidder, the Bid may be considered non-responsive.
- 3.03 The Bidder shall be licensed under Chapter 87 of the North Carolina General Statutes as a General Contractor.



ARTICLE 4 - SITE AND OTHER AREAS; EXISTING SITE CONDITIONS; EXAMINATION OF SITE; OWNER'S SAFETY PROGRAM; OTHER WORK AT THE SITE

4.01 Site and Other Areas

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

4.02 Existing Site Conditions

A. Subsurface and Physical Conditions; Hazardous Environmental Conditions

- 1. Article 5 of the General Conditions identifies:
  - a. Those reports known to Orange Water and Sewer Authority of explorations and tests of subsurface conditions at or adjacent to the Site.
  - b. Those drawings known to Orange Water and Sewer Authority of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities).
  - c. Those reports and drawings known to Orange Water and Sewer Authority relating to Hazardous Environmental Conditions that have been identified at or adjacent to the Site.
  - d. Technical Data contained in such reports and drawings.
- 2. Owner will make copies of reports and drawings referenced above available to any Bidder upon request. These reports and drawings are not to be considered part of the Contract Documents, but the Technical Data contained therein upon whose accuracy Bidder is entitled to rely as provided in the General Conditions, has been identified and established in the General Conditions. Bidder is responsible for any interpretation or conclusion Bidder draws from any Technical Data or any other data, interpretations, opinions, or information contained in such reports or shown or indicated in such drawings.
- 3. If the General Conditions do not identify Technical Data, the default definition of Technical Data set forth in Article 1 of the General Conditions shall apply.

- B. Underground Facilities: Information and data shown or indicated in the Bidding Documents with respect to existing Underground Facilities at or contiguous to the Site are set forth in the Contract Documents and are based upon information and data furnished to Orange Water and Sewer Authority and Engineer by owners of such Underground Facilities, including Orange Water and Sewer Authority, or others

- C. Adequacy of Data: Provisions concerning responsibilities for the adequacy of data furnished to prospective Bidders with respect to subsurface conditions, other physical conditions, and Underground Facilities, and possible changes in the Bidding





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Documents due to differing or unanticipated subsurface or physical conditions appear in Paragraphs 5.03, 5.04, and 5.05 of the General Conditions. Provisions concerning responsibilities for the adequacy of data furnished to prospective Bidders with respect to a Hazardous Environmental Condition at the Site, if any, and possible changes in the Contract Documents due to any Hazardous Environmental Condition uncovered or revealed at the Site which was not shown or indicated in the Drawings or Specifications or identified in the Contract Documents to be within the Scope of Work, appear in Paragraph 5.06 of the General Conditions.

#### 4.03 Site Visit and Testing by Bidders

- A. Bidder shall conduct the required Site visit during normal working hours, (9:00 a.m. to 4:00 p.m., Monday through Friday) and shall not disturb any ongoing operations at the Site.
- B. On request, and to the extent Orange Water and Sewer Authority has control over the Site, and schedule permitting, Orange Water and Sewer Authority will provide Bidder access to the Site to conduct such additional 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.
- C. Orange Water and Sewer Authority will not have any obligation to grant such access if doing so is not practical because of existing operations, security, or safety concerns, or restraints on Orange Water and Sewer Authority's authority regarding the Site.
- D. Bidder shall comply with all applicable Laws and Regulations regarding excavation and location of utilities, obtain all permits, and comply with all terms and conditions established by Owner or by property owners or other entities controlling the Site with respect to schedule, access, existing operations, security, liability insurance, and applicable safety programs.
- E. All requests for access to the Site must be received forty-eight (48) hours prior to the preferred time of access. **All Site access requests must be made to and coordinated by the Orange Water and Sewer Authority Project Manager (amiller@owasa.org)**
- F. The Bidder shall not access any Site without written permission from Orange Water and Sewer Authority. The Bidder shall be responsible for any damage (including damage to any underground utility and acceptable restoration) as a result of additional subsurface investigations.



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#### 4.04 Orange Water and Sewer Authority's Safety Program

- A. Site visits and Work at the Site are to be in accordance with Orange Water and Sewer Authority's safety program. As the General Conditions indicate, an Owner's safety program exists.

#### 4.05 Other Work at the Site

- A. Reference is made to the General Conditions for the identification of the general nature of other Work of which Orange Water and Sewer Authority is aware (if any) that is to be performed at the Site by Orange Water and Sewer Authority or others (such as utilities and other prime contractors) and relates to the Work contemplated by these Bidding Documents. Subsurface data are offered in good faith solely for the purpose of placing the Bidder in receipt of all information available to Orange Water and Sewer Authority and Engineer, and in no event is to be considered part of the Contract Documents.

### ARTICLE 5 – BIDDER'S REPRESENTATIONS

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

- A. examine and carefully study the Bidding Documents, and any data and reference items identified in the Bidding Documents;
- B. visit the Site, conduct a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and satisfy itself 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, ordinances or rules that may affect cost, progress, and performance of the Work;
- D. carefully study all: (1) reports of explorations and tests of subsurface conditions at or adjacent to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the General Conditions, especially with respect to Technical Data in such reports and drawings, and (2) reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings;
- E. consider the information known to Bidder itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Bidding Documents; and the 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; and (3) Bidder's safety precautions and programs;



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- F. obtain and carefully study (or accept consequences of 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 and specific means, methods, techniques, sequences, and procedures of construction expressly required by the Bidding Documents, and safety precautions and programs incident thereto;
- G. agree based on the information and observations referred to in the preceding paragraph, that at the time of submitting its Bid 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 bid and within the times required, and in accordance with the other terms and conditions of the Bidding Documents;
- H. become aware of the general nature of the Work to be performed by Orange Water and Sewer Authority and others at the Site that relates to the Work as indicated in the Bidding Documents;
- I. promptly give Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder discovers in the Bidding Documents and confirm that the written resolution thereof by Engineer is acceptable to Bidder;
- J. determine that the Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance and furnishing of the Work; and
- K. correlate 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;
- L. the submission of a Bid will constitute an incontrovertible representation by the Bidder that Bidder has complied with every requirement of this Article 5, 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 Engineer are acceptable to Bidder, and that the Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performing and furnishing of the Work.

ARTICLE 6 – Not used



**Orange Water & Sewer Authority**

Mason Farm WWTP Digester 4 Steel Cap Coating and Repair

Instructions To Bidders - EJCDC

00 21 15-6

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#### ARTICLE 7 - INTERPRETATIONS AND ADDENDA

- 7.01 All questions about the meaning or intent of the Bidding Documents shall be submitted in writing to the Engineer via email only to: [amiller@owasa.org](mailto:amiller@owasa.org). Interpretations or clarifications considered necessary by Engineer in response to such questions will be issued by Addenda emailed or delivered to all parties recorded by Engineer as having received the Bidding Documents. All Addenda will also be posted at least twenty-four (24) hours before Bids are opened. Questions received less than five (5) days prior to the date for opening of Bids may not be answered. Only questions answered by Addenda will be binding. Oral and other interpretations or clarifications shall be without legal effect.
- 7.02 Addenda may be issued to clarify, correct, or change the Bidding Documents as deemed advisable by Orange Water and Sewer Authority or Engineer.
- 7.03 **It shall be the Bidder's sole responsibility to make inquiry as to the Addenda issued.** All Addenda shall be bound and securely attached to the Bidding Documents and submitted with the Bid. All such Addenda shall become a part of the Contract Documents and Bidder shall be bound by such Addenda, whether or not received by the Bidder.



## ARTICLE 8 - BID SECURITY

- 8.01 A Bid must be accompanied by a Bid security made payable to Orange Water and Sewer Authority in an amount equal to five (5%) percent of Bidder's maximum Bid price (if alternates determined by adding the base bid and all alternates), and in the form of a certified check, or bank money order, drawn on a bank or trust company insured by the Federal Deposit Insurance Corporation (FDIC), or a Bid Bond (on the form included in the Bidding Documents) issued by a Surety meeting the requirements of Article 6 of the General Conditions and Article 8.02 herein-below. No Bid shall be considered or accepted unless at the time of its filing the same shall be accompanied by a Bid security. Said Bid security shall guarantee that the Contract shall be entered into by the successful Bidder if the Award is made.
- 8.02 In lieu of the certified check, bank money order deposit mentioned above, the Bidder may file a Bid Bond in the same amount executed by a corporate surety authorized to execute such bonds in North Carolina and conditioned as provided by North Carolina General Statute 143-129 and in the Bid Bond form found in the Proposal section, or on file with the Engineer. Bid Bond forms shall be properly executed at the time Bids are submitted before Bid will be considered. Properly executed Power of Attorney of the corporate surety's agent shall accompany such Bid Bond, and be attached to the page provided therefore in the Contract Documents.
- 8.03 The Bid security of the apparent Successful Bidder shall be retained until Orange Water and Sewer Authority officially Awards Contract to such Bidder, and such Bidder has executed the Contract Documents, furnished the required Contract security and met the other conditions of the Notice to Award, whereupon the Bid Security will be released. If the successful Bidder fails to execute and deliver the Contract Documents and furnish the required Contract security within fifteen (15) calendar days after the Notice of Award, Orange Water and Sewer Authority may consider Bidder to be in default, annul the Notice of Award, and the Bid Security of that Bidder will be forfeited. The Bid security of other Bidders whom Orange Water and Sewer Authority believes to have a reasonable chance of receiving the Award may be retained by Orange Water and Sewer Authority until the earlier of seven (7) days after the Effective Date of the Agreement or ninety-one (91) calendar days after the Bid opening, whereupon Bid security furnished by such Bidders will be returned.
- 8.04 Bid security of other Bidders that Orange Water and Sewer Authority believes to have a reasonable chance of receiving the Award may be retained by Orange Water and Sewer Authority until the earlier of seven (7) calendar day after the after the Effective Date of the Contract or ninety-one (91) calendar days after the Bid opening, whereupon the Bid security furnished by such Bidders will be released.



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## ARTICLE 9 - CONTRACT TIMES

- 9.01 The number of days within which, or the dates by which, the Work is to be substantially completed (Contract Time) and ready for final payment are set forth in the Agreement. The Bidder shall commence Work on the date specified in the Notice to Proceed, and shall complete the Work within the stipulated Contract Time.

## ARTICLE 10 - LIQUIDATED DAMAGES

- 10.01 Provisions for liquidated damages, if any, for failure to timely attain a Milestone, Substantial Completion, or completion of the Work in readiness for final payment, are set forth in the Agreement.

## ARTICLE 11 - SUBSTITUTE AND "OR-EQUAL" ITEMS

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

## ARTICLE 12 - SUBCONTRACTORS, SUPPLIERS, AND OTHERS

- 12.01 A Non-Collusion Affidavit Form for all Subcontractors shall be filed with Orange Water and Sewer Authority within five (5) days after the Bid opening.
- 12.02 All Bidders are required to complete the M/WBE Participation Documents and submit the completed forms with its Bid.
- 12.03 All questions regarding M/WBE documents or requirements may be directed to the Andre Miller, P.E. at (949) 273-9775.
- 12.04 Orange Water and Sewer Authority reserves the right to reject a proposed Subcontractor for reasonable cause.
- 12.05 A Bidder shall be prepared to retain specific Subcontractors, Suppliers, or other individuals or entities for the performance of the Work, if required by the Bidding Documents to do so. If a prospective Bidder objects to retaining any such Subcontractor, Supplier, or other individual or entity, and the concern is not relieved by an Addendum, then the prospective Bidder should refrain from submitting a Bid.
- 12.05 Article 7 of the General Conditions and/or the Proposal section, require the identity of certain Subcontractors, Suppliers, individuals, or entities to be submitted to Orange Water and Sewer Authority in advance of a specified date prior to the Effective Date of the





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Agreement, the apparent Successful Bidder, and any other Bidder so requested, shall within five (5) days after Bid opening, submit to Orange Water and Sewer Authority 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 Orange Water and Sewer Authority. If Orange Water and Sewer Authority or Engineer, after due investigation, has reasonable objection to any proposed Subcontractor, Supplier, individual, or entity, Orange Water and Sewer Authority may, before the Notice of Award is given, request apparent Successful Bidder to submit an acceptable substitute, without an increase in the Bid price.

- 12.06 If apparent Successful Bidder declines to make any such substitution, Orange Water and Sewer Authority may Award the Contract to the next lowest Bidder that proposes to use acceptable Subcontractors, Suppliers, or other individuals, or entities. Declining to make requested substitutions will not constitute grounds of forfeiture of the Bid security of any Bidder. Any Subcontractor, Supplier, individual, or entity so listed and against which Orange Water and Sewer Authority or Engineer makes no written objection prior to giving of the Notice of Award will be deemed acceptable to Orange Water and Sewer Authority and Engineer subject to revocation of such acceptance after the Effective Date of the Agreement as provided in Article 7 of the General Conditions.
- 12.07 Subsequent to the submittal of the Bid, Orange Water and Sewer Authority may not require the Successful Bidder or Contractor to retain any Subcontractor, Supplier, individual, or entity against which Contractor has reasonable objection.

#### ARTICLE 13 - PREPARATION OF BID

- 13.01 The Bid Form is included with the Bidding Documents. All Bids must be submitted on the approved Bid Form furnished in the Bidding Documents. **DO NOT REMOVE ANY PAGES FROM THE BOUND DOCUMENTS.**
- A. The Lump Sum and/or Unit Price for specific items shall reflect all costs associated with furnishing, installing all items of Work as indicated on the Drawings and Technical Specifications, complete, in place and accepted, per the Engineer's Contract Documents, and any other agency having jurisdiction over the Project such as: Federal Aviation Administration (FAA), North Carolina Department of Transportation (NCDOT) Standards and Specifications, North Carolina Department of Environment and Natural Resources (NCDENR) Erosion and Sediment Control Planning and Design Manual, NCDENR – Public Water Supply (PWS), and Orange Water and Sewer Authority.
- B. All blank spaces on the Bid Form shall be completed by printing in ink or by typewriter in both words and numerals, and the Bid Form signed in ink. Erasures or alterations shall be clearly initialed also in ink by the person signing the Bid Form. In case of a conflict between the price in words and its equivalent shown in numerals, the price in words shall take precedence. **PROPOSALS SHALL NOT BE CONDITIONAL, LIMITED OR RESTRICTED IN ANY WAY.**



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- C. A Bid Price shall be indicated for each lump sum or unit price bid item listed therein, or the words "No Bid," "No Change," or "Not Applicable" shall be entered.
  - D. The omission of prices for any item on the Bid Form, or the tendering of any unbalanced Bid, as determined by Orange Water and Sewer Authority, may be the cause for the rejection of the submitted Bid.
  - E. The estimated quantities contained on the Bid Form are for the purpose of comparing Bids. While the quantities are close approximations, they are not guaranteed. Payment will be made on the basis of the Work as actually executed at the unit prices set forth in the executed Agreement and under the provisions of such Agreement.
  - F. There shall be no additional compensation to the Bidder for materials, equipment, or Work that is incidental to the successful completion of the Contract. Incidental costs include the costs inherent to the complete installation of those individual items included on the Bid Form. For example, those costs associated with temporary electrical services, surveying, staking, deliveries and storage are incidental to the Project, and no additional payment will be made unless specifically indicated in the Bidding Documents.
  - G. Item values on the Bid Form shall be given as numerals (i.e. \$23,000.00) and in writing (i.e. Twenty-three thousand and no/100's dollars).
- 13.02 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. Insert the corporate officer's capacity under each signature. The corporate address and state of incorporation shall be shown below the signatures.
- 13.03 A Bid by a limited liability company shall be executed in the name of the firm by a member in the presence of a witness with signature, 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 below the signature. Affix the limited liability company seal adjacent to the signatures.
- 13.04 A Bid by an individual or sole proprietorship shall be executed with a signature of the individual/sole proprietor in the presence of a witness with signature. Insert the words "Individual/Sole Proprietor" under the signature and show the Bidder's name and official address. Affix the individual/sole proprietor seal adjacent to the signature.
- 13.05 A Bid by a partnership shall be executed in the partnership name and signed by all partners (whose title must appear under the signature) in the presence of a witness with signature, accompanied by evidence of authority to sign. The official address of the partnership shall be shown below the signatures. Affix the partnership seal adjacent to the each partner signature.
- 13.06 A Bid by a joint venture shall be executed by each party of the joint venture under their respective seals in a manner appropriate to each such party as described above for each party type. Provide a single signature sheet for each party to the joint venture.
- 13.07 All names shall be typed or printed in ink below the signatures.





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- 13.08 The Bid shall contain an acknowledgment of all Addenda, the numbers of which shall be filled in on the Bid Form.
- 13.09 The Postal and email address and telephone number for communication regarding the Bid shall be shown.
- 13.10 The Bid shall contain evidence of the Bidder's authority and qualification to do business in the State of North Carolina or covenant to obtain such qualification prior to the award of the Contract. Bidders shall be licensed under Chapter 87 of the North Carolina General Statutes as a General Contractor. Bidder's State of North Carolina contractor license number shall also be shown on the Bid Form.
- 13.11 Minority and Women Business Enterprise Ordinance (M/WBE) Forms shall be submitted with the Bid, or the Bid may be considered non-responsive. Orange Water and Sewer Authority has adopted a minimum ten (10%) percent goal for participation by minority businesses in the total value of the Work for this Project in accordance with Section 143-128.2 of the General Statutes of North Carolina.

#### ARTICLE 14 - BASIS OF BID; COMPARISON OF BIDS

##### 14.01 Lump Sum

- A. Bidders shall submit a Bid on a Lump Sum basis as set forth in the Bid Form.

##### 14.02 Unit Price

- A. Bidders shall submit a Bid on a unit price basis for each item of Work listed on the unit price section of the Bid Form.
- B. The "Bid Price" for each unit price Bid item will be the product of the "Estimated Quantity" for the item and the corresponding "Bid Unit Price" offered by the Bidder. The total of all unit price Bid items will be the sum of these "Bid Prices"; such total will be used by Owner for Bid comparison purposes. The final quantities and Contract Price will be determined in accordance with Paragraph 13.03 of the General Conditions.
- C. Discrepancies between the multiplication of units of Work and unit prices will be resolved in favor of the unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum. Discrepancies between words and numerals will be resolved in favor of the words.
- D. The Bid Price shall include such amounts as the Bidder deems proper for overhead and profit on account of cash allowances, if any, named in the Contract Documents as provided in Article 13 of the General Conditions.
- E. Bid prices will be compared after adjusting for differences in the time designated by Bidders for Substantial Completion. The adjusting amount will be determined at the rate set forth in the Contract Documents as Liquidated Damages for failing to achieve Substantial Completion and/or Final Completion for each and every day after the time allowed, as set forth in the Agreement.

#### ARTICLE 15 - SUBMITTAL OF BID



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- 15.01 Bidders shall be solely responsible for delivery of Bids in the required manner and time.
- 15.02 No Bid shall be accepted or considered unless the complete set of required and executed documents is included with the Bidder's submittal.
- 15.03 Each Bid shall include Non-Collusion Affidavits for the Bidder. Affidavits for all Subcontractors of the apparent Successful Bidder, and those Bidders requested by Orange Water and Sewer Authority, must be filed within five (5) days after the Bid opening. Blank Non-Collusion Affidavit Forms can be found in the Proposal section.
- 15.04 A Bid shall be received no later than the date and time prescribed and at the place indicated in the Section 00 11 16 - Advertisement for Bids, and shall be enclosed in an opaque sealed envelope plainly marked with the following information:
1. CIP No.: \_\_\_\_\_
  2. Project: \_\_\_\_\_
  3. Name of Bidder: \_\_\_\_\_
  4. Address of Bidder: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  5. Phone Number of Bidder: \_\_\_\_\_
  6. Contact Person for Bidder: \_\_\_\_\_
  7. Phone Number of Contact: \_\_\_\_\_
  8. Bidder's North Carolina General Contractor's License Number: \_\_\_\_\_
  9. The above-name Bidder has enclosed, and checked as appropriate, the following items in the Bid (check all):
    1. \_\_\_\_\_ Bid Form
    2. \_\_\_\_\_ M/WBE Forms
    3. \_\_\_\_\_ Non-Collusion Affidavit of Bidder
    4. \_\_\_\_\_ Bid Security
    5. \_\_\_\_\_ List of Bidder's Equipment and Personnel
- 15.05 Incorrect information, incomplete information, or irregularities on the Bid envelope may be cause for a Bid to be declared invalid or non-responsive. Invalid or non-responsive Bids will not be opened.
- 15.06 Bids received after the time listed in the Advertisement for Bids or Proposal will be returned to the Bidder unopened.
- 15.07 If a Bid is sent by mail it should be registered mail. The sealed envelope containing the Bid shall be enclosed in a separate mailing/delivery envelope plainly marked on the outside with the notation "BID ENCLOSED." A mailed Bid shall be addressed to:

Andre Miller, P.E.

Instructions To Bidders - EJCDC

00 21 15-13



**Orange Water & Sewer Authority**

Mason Farm WWTP Digester 4 Steel Cap Coating and Repair

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Utilities Engineer  
Orange Water and Sewer Authority  
400 Jones Ferry Road  
Carrboro, North Carolina 27510

If a Bid is sent by air/ground special delivery, express delivery, etc. (e.g. FEDEX, UPS, etc.) shall be marked as indicated above and should be addressed to:

Andre Miller, P.E.  
Utilities Engineer  
Orange Water and Sewer Authority  
400 Jones Ferry Road  
Carrboro, North Carolina 27510

Mark envelope with the Project title and Contract number in the lower left-hand corner. Bids sent by mail or express air/ground delivery and arriving after the time for opening of Bids shall not be considered as valid Bids. **SPECIAL NOTE: If the Bidder chooses delivery of the Bid by means other than in person, neither Orange Water and Sewer Authority nor the Engineer assumes responsibility for delivery to the Bid opening.** In such instances, the Bidder shall have no claim against Orange Water and Sewer Authority or Engineer.

- 15.08 Bids that are unsigned, improperly signed or sealed, conditional, illegible, obscure, contain arithmetical errors, erasures, alterations, or irregularities of any kind, may be declared unacceptable at Orange Water and Sewer Authority's sole discretion.
- 15.09 Bid Forms, appendices, and enclosures which are improperly prepared may be declared unacceptable at Orange Water and Sewer Authority's sole discretion.
- 15.10 Failure to provide security deposit, bonds, or insurance requirements will invalidate the Bid and therefore be considered non-responsive at Orange Water and Sewer Authority's sole discretion.

#### ARTICLE 16 - MODIFICATION AND WITHDRAWAL OF BID

- 16.01 A Bid may be withdrawn by an appropriate document duly executed in the same manner that a Bid must be executed and delivered to the place where Bids are to be submitted prior to the date and time for the opening of Bids. Upon receipt of such notice, the unopened Bid will be returned to the Bidder.
- 16.02 If a Bidder wishes to modify its Bid prior to Bid opening, Bidder must withdraw its initial Bid in the manner specified in Paragraph 16.01, and submit a new Bid prior to the date and time for the opening of Bids.
- 16.03 No Bidder may withdraw a Bid after Bid opening and prior to the conclusion to the period of time stated in the Bid Form except to the extent, if any, that may be required by law. Negligence on the part of the Bidder in preparing its Bid confers no right for the withdrawal of the Bid, after it has been opened.

Instructions To Bidders - EJCDC

00 21 15-14



Orange Water & Sewer Authority

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## ARTICLE 17 - OPENING OF BIDS

- 17.01 Bids shall be opened, unless obviously non-responsive, at the time and place indicated in the Advertisement for Bids or Proposal, unless obviously non-responsive, and read aloud publicly. An abstract of the amounts of the Bids, and major alternates, if any, will be made available to Bidders after the opening of Bids.
- 17.02 Bidders may be present at the opening of Bids, but it is not required.

## 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 Orange Water and Sewer Authority 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 Orange Water and Sewer Authority reserves the right to reject any or all Bids, including without limitation, nonconforming, non-responsive, unbalanced, or conditional Bids. Orange Water and Sewer Authority further reserves the right to reject the Bid of any Bidder whom it finds, after reasonable inquiry and evaluation, to not be responsible. Orange Water and Sewer Authority may also reject the Bid of any Bidder if Orange Water and Sewer Authority believes that it would not be in the best interest of the Project to make an Award to that Bidder. Orange Water and Sewer Authority also reserves the right to waive any or all informalities not involving price, time, or changes in the Work, and to negotiate terms with the Successful Bidder.
- 19.02 More than one Bid for the same Work from an individual or entity under the same or different names will not be considered. Reasonable grounds for believing any Bidder has an interest in more than one 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.
- 19.03 In evaluating Bids, Orange Water and Sewer Authority will consider whether or not the Bids comply with the prescribed requirements, and such alternates, unit prices, and other data, as may be requested in the Bid form or prior to the Notice of Award.
- 19.04 In evaluating whether a Bidders is responsible, Orange Water and Sewer Authority 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, Supplies, and other individuals or entities must be provided as provided in the Bidding Documents.
- 19.05 Orange Water and Sewer Authority may conduct such investigations as it deems necessary to establish the responsibility, qualifications, and financial ability of Bidders, proposed Subcontractors, Suppliers, individuals, or entities to perform the Work in accordance with the Contract Documents.



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- 19.06 If the Contract is to be Awarded, Orange Water and Sewer Authority will award the Contract to the Bidder whose Bid is determined by Orange Water and Sewer Authority to be in the best interest of the Project.
- 19.07 Notice of Award or notice of intent to Award will not constitute a Contract binding on Orange Water and Sewer Authority and will not obligate Orange Water and Sewer Authority to enter into a Contract with the Bidder. Orange Water and Sewer Authority will not be legally bound before Orange Water and Sewer Authority executes and delivers to the Bidder a written Contract.

## ARTICLE 20 – BONDS AND INSURANCE

- 20.01 Article 6 of the General Conditions sets forth Orange Water and Sewer Authority requirements as to performance and payment bonds and insurance. When the Successful Bidder delivers the executed Agreement to Orange Water and Sewer Authority, it shall be accompanied by such required bonds and insurance documentation.

## ARTICLE 21 - SIGNING OF AGREEMENT

- 21.01 After Orange Water and Sewer Authority has identified the Successful Bidder, Orange Water and Sewer Authority will issue to the Successful Bidder, a written Notice to Award.
- 21.02 Orange Water and Sewer Authority will give the apparent successful Bidder a Notice of Award within or ninety (90) calendar days after the day of the Bid opening. When Orange Water and Sewer Authority gives a Notice of Award to the Successful Bidder, it shall be accompanied by the required number of unsigned counterparts to the Agreement with the other Contract Documents which are identified in the Agreement as attached thereto. Within fifteen (15) calendar days thereafter, Successful Bidder shall execute and deliver the required number of counterparts of the Agreement and attached documents to Orange Water and Sewer Authority. Within ten (10) days after execution of the Agreement by the Orange Water and Sewer Authority Board of Directors, Orange Water and Sewer Authority will deliver one fully executed counterpart to Successful Bidder.
- 21.03 Failure or refusal of the Bidder whose Bid is accepted to execute the Contract as hereinbefore provided shall constitute a breach by such Bidder of the Contract created by the acceptance of the Bid, and in such event, Orange Water and Sewer Authority at its option, may determine that such Bidder has abandoned the Contract. Thereupon such Bidder's Bid and the acceptance thereof shall be null and void. It is understood by the Bidder, in the event of the annulment of the Award, that the amount of the Bid security submitted with the Bid shall be forfeited to Orange Water and Sewer Authority, not as a penalty, but as Liquidated Damages.

## ARTICLE 22 - SALES AND USE TAXES

- 22.01 The North Carolina General Assembly adopted legislation which required that Contractors pay North Carolina Sale and Use Tax on materials, supplies, fixtures, and



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equipment used by the Bidder in the performance of contracts with cities, counties, and towns on Contracts dated July 1, 1961 or later. This requirement also applies to Orange Water and Sewer Authority in order that Orange Water and Sewer Authority may recover the amount of tax permitted under the law.

22.02 The following procedure in handling the North Carolina Sales Tax is applicable to this Contract. Contractor(s) shall comply fully with the requirements outlined hereinafter, in order that the Orange Water and Sewer Authority may recover the amount of tax permitted under the law.

- A. It shall be the Contractor's responsibility to furnish Orange Water and Sewer Authority documentary evidence showing the materials used and sales tax paid by the Contractor and each of its Subcontractors with each payment request in a format approved by Orange Water and Sewer Authority.
- B. The documentary evidence shall consist of a certified statement, by the Contractor and each of his Subcontractors individually, showing total purchases of materials from each separate vendor and total sales taxes paid each vendor. Certified statements must show the invoice number or numbers, covered and inclusive dates of such invoices.
- C. Materials used from the Contractor's or Subcontractor's warehouse stock shall be shown in a certified statement at warehouse stock prices.
- D. The Contractor shall not be required to certify the Subcontractor's statements.
- E. The documentary evidence to be furnished to Orange Water and Sewer Authority eligible for sales or use tax refunds covers sales and/or use taxes paid on building materials used by Contractor(s) and Subcontractors in the performance of Contracts with churches, orphanages, hospitals not operated for profit and other charitable or religious institutions or organizations not operated for profit and, incorporated cities, towns, and counties in this State. The documentary evidence is to be submitted to the above-named institutions, organizations and governmental units to be included in claims for refunds to be prepared and submitted by them to obtain refunds provided by G.S. 105-164.14(2) and (3) of the 1961 Statute, and is to include the purchases of building materials, supplies, fixtures, and equipment which become a part of or annex to buildings or structures being erected, altered or repaired under Contracts with such institutions, organizations or governmental units.

22.03 The Bidder shall include North Carolina Sales and Use Tax in its Bid.

-END OF DOCUMENT-



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DOCUMENT 00 41 44

PROPOSAL

(UNIT PRICE CONTRACT - BID FORM)

ARTICLE 1 – BID RECIPIENT

1.01 This Bid is submitted to:

EXECUTIVE DIRECTOR  
ORANGE WATER AND SEWER AUTHORITY  
400 JONES FERRY ROAD  
CARRBORO, NORTH CAROLINA 27510  
(919) 968-4421

Date: \_\_\_\_\_, 20\_\_

OWASA CIP: **#278-97**

Project: **Mason Farm WWTP Digester 4 Steel Cap Coating and Repair**

Name of Bidder: \_\_\_\_\_

Address of Bidder: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Phone Number of Bidder: \_\_\_\_\_

Contact Person for Bidder: \_\_\_\_\_

Phone Number of Contact: \_\_\_\_\_

Bidder's NC General Contractor's License Number (required): \_\_\_\_\_

1.02 The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an Agreement with Orange Water and Sewer Authority 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.

1.03 The undersigned Bidder hereby declares that the names of all persons interested in this Bid as principals appear in the blank spaces hereinafter provided for such purpose, that this Bid is in all respects fair and without collusion, that the Bidder has examined the locations of the proposed Work, the Advertisement to Bidders, the Instructions to Bidders, Technical Specifications, M/WBE requirements of Orange Water and Sewer Authority, the Contract Documents and Bond forms, and the Drawings therein referred to and fully understands the same and agrees and accepts the terms

Proposal – Unit Price Contract Bid Form  
00 41 44-1



Mason Farm WWTP Digester 4 Steel Cap Coating and Repair  
**Orange Water & Sewer Authority**



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and conditions thereof, that it is understood that the estimated quantities are approximate only and are given for the purpose of comparing Bids upon a uniform basis, and that said estimate shall in no way affect the unit prices for the Work.

- 1.04 The undersigned Bidder hereby agrees to furnish at the Bidder's cost the expense of all the necessary labor, tools, apparatus, machinery, equipment, transportation, and all other things which may be required to fully and properly perform all the terms, covenants, provisions, and agreements of this Contract.
- 1.05 The undersigned Bidder hereby agrees to do said Work and furnish said materials as prescribed in the Contract Documents and Technical Specifications, and, according to the Drawings and requirements of the Engineer under said Contract Documents and Technical Specifications, in a first-class manner and to the best of the undersigned's ability at the following lump sum or unit prices.
- 1.06 The undersigned Bidder has examined the Site of the Work and all matters referred to in the Instructions to Bidders and the Contract Documents prepared by the Engineer for the Project, we, the undersigned Bidder, hereby offers to enter into a Contract to perform the Work for the lump sum or unit prices listed in this Bid Form in lawful money of the United States of America.
- 1.07 The undersigned Bidder acknowledges that it is the intent of these Contract Documents to obtain a Contract based on a **Unit Price Bid**, unless Lump Sum Prices are applied to the various portions of the Work and are specifically requested. In the event of errors in the arithmetical extension of unit prices to total prices, the unit price bid shall govern, and the Award of the Contract shall be based on the recomputed total prices. Where discrepancy exists between words and numerals, the written words shall govern. If a Bidder submits a Bid showing a unit price for a particular item and omits an extended total for that item, or a Bidder submits a Bid showing an extended total for a particular item and omits a unit price for that item, the omitted numbers shall be computed using the equation "Estimated Quantity x Unit Bid Price = Extended Total", so that the omission shall not render the Bid non-responsive or incomplete. If the Bidder leaves blank any lines or spaces indicated for the dollar amount of any item in the Bid, that omission will be understood and treated as if the Bidder had written in zero dollars (\$0.00) for that particular item in the Bid. Before applying the preceding two (2) sentences this paragraph, the following rule shall apply in the special case that it describes: In places where it is indicated that a Bid should show both words and numerals for a particular dollar amount, if the Bid shows the dollar amount in numerals but omits to show any dollar amount in words (or vice versa), the Bid shall be treated as if it had shown the indicated dollar amount in both numerals and words.
- 1.08 The undersigned Bidder shall be required to submit a complete detailed cost breakdown of Lump Sum Bid items for payment purposes, for approval by the Engineer, prior to the Award of the Contract.
- 1.09 The undersigned Bidder acknowledges that all costs for mobilization, demobilization, bonds, insurance, etc. shall be included in the Unit Price Bid indicated. There shall be no additional compensation for mobilization, demobilization, bonds, insurance, etc and no adjustments to the Bid based on changes in the Scope of Work, including but not limited to, any additions to the Work on the Contract.

Proposal – Unit Price Contract Bid Form

00 41 44-2



Mason Farm WWTP Digester 4 Steel Cap Coating and Repair  
Orange Water & Sewer Authority



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DATE: March 6, 2024

- 1.10 The undersigned Bidder acknowledges that the Project will be Awarded to the lowest responsible, responsive Bidder for the Project, as selected by Orange Water and Sewer Authority whose evaluation indicates that the Award will be in the best interest of the Project.
- 1.11 The undersigned Bidder acknowledges that all blanks on the Bid Form shall be completed by printing in ink or by typewriter and the Bid signed in ink. Erasures or alterations shall be initialed in ink by the person signing the Bid Form. A Bid Price shall be indicated for the Lump Sum or each Unit Price item listed therein, or the words, "No Bid", "No Change", or "Not Applicable" entered."
- 1.12 The undersigned Bidder acknowledges that the omission of prices for any item on the Bid Form, or the tendering of any unbalanced Bid may be the cause for the rejection of the submitted Bid.
- 1.13 The undersigned Bidder acknowledges that the payment will be made on the basis of the Work as actually executed at the Unit Prices or Lump Sum Prices set forth in the executed Contract and under the provisions of such Contract.
- 1.14 The undersigned Bidder acknowledges that there shall be no additional compensation to the Bidder for materials, equipment, or Work that is incidental to the successful completion of the Contract. Incidental costs include the costs inherent to the complete installation of those individual items included on the Bid Form.
- 1.15 The undersigned Bidder acknowledges that the Non-Collusive Affidavit for the Contractor shall be submitted with the Bid, and Non-Collusive Affidavit(s) for all Subcontractors (all tiers) for the apparent low Bidder shall be submitted within five (5) calendar days of the Bid Opening.
- 1.16 The undersigned Bidder acknowledges that it has included the Bid security as required by the Instruction to Bidders.
- 1.17 The undersigned Bidder agrees to comply with all requirements of local, State, or Federal permits that may be required for the completion of the Work.
- 1.18 The undersigned Bidder shall have all proper Contractors licenses and privilege licenses required under State and local laws governing their respective trade(s).
- 1.19 The undersigned agrees that the rights of Orange Water and Sewer Authority and the recommendations of the Engineer are not to be questioned in the Award of a Contract.
- 1.20 The undersigned Bidder certifies compliance with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes ("E-Verify"), and represents that it will require any subcontractors to comply with the requirements of Article 2 of Chapter 64 of the General Statutes.
- 1.21 The undersigned Bidder certifies compliance with the requirements of Article 6 of Chapter 143 of the North Carolina General Statutes ("Iran Divestment") and that it is not listed on the State Treasurer's Final Divestment List found at the website address [www.nctreasurer.com/iran](http://www.nctreasurer.com/iran) and updated every 180 days, and represents that it will require any subcontractors to comply with the requirements of Article 6 of Chapter 143 of the General Statutes.

Proposal – Unit Price Contract Bid Form

00 41 44-3



Mason Farm WWTP Digester 4 Steel Cap Coating and Repair  
Orange Water & Sewer Authority

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PROJECT: Mason Farm WWTP Digester 4 Steel Cap Coating and Repair

DATE: March 6, 2024

## ARTICLE 2 – BIDDER'S ACKNOWLEDGEMENTS

- 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. This Bid shall remain open and remain subject to acceptance, and is irrevocable, except as required by law, for ninety (90) calendar days from the Bid opening date, or for such longer period of time that Bidder may agree to in writing upon request of Orange Water and Sewer Authority.
- 2.02 If this Bid is accepted by Orange Water and Sewer Authority within the time period stated above, the Bidder will:
- Execute the Agreement within fifteen (15) days of receipt of Notice of Award.
  - Furnish the required Bonds within fifteen (15) days of receipt of Notice of Award.
  - Commence Work within ten (10) days after written Notice to Proceed.
- 2.03 If this Bid is accepted by Orange Water and Sewer Authority within the time stated, and the Bidder fails to commence the Work or fails to provide the required bonds, the Bid security shall be forfeited as damages to Orange Water and Sewer Authority by reason of our failure, limited in amount to the lesser of the face value of the security deposit or the difference between this Bid and the Bid upon which a Contract is signed.
- 2.04 In the event Bid is not accepted by Orange Water and Sewer Authority within the time stated above, the required Bid security will be returned to the undersigned, in accordance with the provisions of the Instructions to Bidders; unless a mutually satisfactory arrangement is made for its retention and validity for an extended period of time.

## ARTICLE 3 - BIDDER'S REPRESENTATIONS

3.01 In submitting this Bid, Bidder represents that:

- A. Bidder has examined and carefully studied the Bidding Documents, and any data and reference items identified in the Bidding Documents, and hereby acknowledges receipt of the following Addenda:

**Addendum No.:**

**Addendum Date:**

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- B. Bidder has visited the Site, conducted a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and satisfied itself as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.

Proposal – Unit Price Contract Bid Form

00 41 44-4



Mason Farm WWTP Digester 4 Steel Cap Coating and Repair  
Orange Water & Sewer Authority

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- C. Bidder is familiar with and has satisfied itself as to all 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 adjacent to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings, and (2) reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings.
- E. Bidder has considered the information known to Bidder itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Bidding Documents; and any 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; and (3) Bidder's safety precautions and programs.
- F. Bidder agrees, based on the information and observations referred to in the preceding paragraph, that no further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of this Bid for performance of the Work at the price bid and within the times required, 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 given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bidding Documents, and confirms that the written resolution thereof by Engineer is acceptable to Bidder.
- I. The Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance and furnishing of the Work.
- J. The submission of this Bid constitutes an incontrovertible representation by Bidder that Bidder has complied with every requirement of this Article, and that without exception the Bid and all prices in the Bid are premised upon performing and furnishing the Work required by the Bidding Documents.

#### ARTICLE 4 - BIDDER'S CERTIFICATION

##### 4.01 Bidder certifies that:

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

Proposal – Unit Price Contract Bid Form  
00 41 44-5



Mason Farm WWTP Digester 4 Steel Cap Coating and Repair  
Orange Water & Sewer Authority

CIP NO.: 278-97

PROJECT: Mason Farm WWTP Digester 4 Steel Cap Coating and Repair

DATE: March 6, 2024

D. Bidder has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the Contract. For the purposes of this Paragraph 4.01.D:

“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;

“fraudulent practice” means an intentional misrepresentation of facts made (a) to influence the bidding process to the detriment of Orange Water and Sewer Authority, (b) to establish bid prices at artificial non-competitive levels, or (c) to deprive Orange Water and Sewer Authority of the benefits of free and open competition;

“collusive practice” means a scheme or arrangement between two or more Bidders, with or without the knowledge of Orange Water and Sewer Authority, a purpose of which is to establish bid prices at artificial, non-competitive levels; and

“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.

## ARTICLE 5 – BASIS OF BID (UNIT PRICE BID)

5.01 CIP: #278-97

Project: Mason Farm WWTP Digester 4 Steel Cap Coating and Repair

Project Description:

### UNIT PRICE BID SHALL INCLUDE:

Furnish all labor, materials, equipment, expertise, and incidentals necessary to remove all existing coating/linings, prepare the surface and apply a new protective coating/lining system to the digester steel cover and on the top 12 feet of the concrete walls on the digester interior. This includes the underside of the roof of the interior of the digester and the floor of the attic space, all supporting steel and the underside of the galvanized corrugated deck materials and as described in the specifications.

**CONTINGENCY ALLOWANCE:** The Contractor shall include in its Bid a contingency allowance in the amount of **\$35,000**. The contingency allowance shall only be used at the specific direction and written approval of the Engineer.

The foregoing description shall not be construed as a complete description of all Work required.

The Unit Price Bid shall reflect all costs associated with furnishing and installing, and placing into service all items of Work as indicated on the Drawings and in the Technical Specifications, complete, in place, operable and accepted by Orange Water and Sewer Authority, per the Engineer’s Contract Documents.

Proposal – Unit Price Contract Bid Form

00 41 44-6



Mason Farm WWTP Digester 4 Steel Cap Coating and Repair  
Orange Water & Sewer Authority

CIP NO.: 278-97

PROJECT: Mason Farm WWTP Digester 4 Steel Cap Coating and Repair

DATE: March 6, 2024

- 5.02 Orange Water and Sewer Authority has established a "Contingency Allowance" for this project. The contingency allowance is intended to provide adequate budget to cover items not precisely determined by Orange Water and Sewer Authority, and unforeseeable conditions prior to the Bid. Orange Water and Sewer Authority has provided for a contingency allowance of \$35,000 as indicated in the Proposal. Funds allocated as part of the allowance will be used *at the sole discretion of Orange Water and Sewer Authority*. This allowance is included on the Bid Form in the Proposal, and will be included in the total amount of each Bid. Orange Water and Sewer Authority shall approve use of the contingency allowance funds prior to any Work associated with a contingency allowance being performed. The Contractor shall invoice items authorized for payment under the Contingency Allowance with its monthly pay applications. The amount invoiced will be deducted from the indicated amount.
- 5.03 Bidder shall complete the Work in accordance with the Contract Documents for the following  
TOTAL UNIT PRICE BID:

\*\*\*REMAINDER OF PAGE LEFT BLANK INTENTIONALLY\*\*\*

Proposal – Unit Price Contract Bid Form  
00 41 44-7



Mason Farm WWTP Digester 4 Steel Cap Coating and Repair  
Orange Water & Sewer Authority

CIP NO.: 278-97

PROJECT: Mason Farm WWTP Digester 4 Steel Cap Coating and Repair

DATE: March 6, 2024

BID FORM

NOTE TO BIDDERS: DO NOT REMOVE THIS BID FORM  
FROM THE CONTRACT DOCUMENTS

**UNIT PRICE BID CONTRACT**

Item No.	Description	Units	Estimated Quantity	Bid Unit Price	Extended Total
1	Mobilization/Demobilization	1	1		
2	Abrasive Blasting and Surface Preparation	SF	5550		
3	Abrasive Blasting and Surface Preparation within attic	SF	9150		
4	Coating and Repair of Exposed Steel cap and appurtenances within digester	SF	3000		
5	Pit repair – per ounce of installed material	Per gallon kit <sup>2</sup>	10		
6	Repair plate welds - (6"x6" minimum) – to include all surface prep, welding, materials. Assumed no more than 12"x12" size repairs	SF	40		
7	Allowance for additional services (perform minor repairs, exterior coating, roof repairs, etc.)	Allowance	1	\$35,000	\$35,000
8	Concrete Surface 14' x 182 (circumference)	SF	2550		
9	Attic Space Structural Steel (Floor/Cap)	SF	2650		
10	Corrugated Galvanized Deck	SF	4000		
11	Structural Steel (Attic)	SF	2500		
<b>Total of All Unit Price Bid Items</b>					<b>\$</b>

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

Proposal – Unit Price Contract Bid Form  
00 41 44-8



Mason Farm WWTP Digester 4 Steel Cap Coating and Repair  
**Orange Water & Sewer Authority**

CIP NO.: 278-97

PROJECT: Mason Farm WWTP Digester 4 Steel Cap Coating and Repair

DATE: March 6, 2024

---

**TOTAL UNIT PRICE BID** for the Project described in Sub-Article 5.01, complete as indicated by the Contract Documents (in words and numerals):

\_\_\_\_\_ Dollars  
and \_\_\_\_\_ Cents (\$ \_\_\_\_\_ )

Bidder \_\_\_\_\_  
(Print Name)

Bidder \_\_\_\_\_  
(Signature)

Proposal – Unit Price Contract Bid Form  
00 41 44-9



Mason Farm WWTP Digester 4 Steel Cap Coating and Repair  
**Orange Water & Sewer Authority**

CIP NO.: 278-97

PROJECT: Mason Farm WWTP Digester 4 Steel Cap Coating and Repair

DATE: March 6, 2024

**CERTIFIED LIST OF EQUIPMENT/MATERIAL  
MANUFACTURERS AND SUBCONTRACTORS**

The Bidder, \_\_\_\_\_, as part of the procedure for the submission of Bids on this Project, submits the following list of Equipment/Material Manufacturers and Subcontractors to be used in the performance of Work to be done on said Project. The list of Manufacturers and all equipment/materials furnished and Subcontractors shall be based on requirements of the Contract Documents. Changes to this list after the Bid opening shall only be as approved by Orange Water and Sewer Authority upon request by the Contractor or as required by Orange Water and Sewer Authority based upon review of Contractor's submittals:

<b>EQUIPMENT/MATERIALS</b>	<b>MANUFACTURER</b>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

<b>WORK TASK</b>	<b>SUBCONTRACTOR</b>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

It is understood and agreed that, if awarded a Contract, the Contractor will not make any additions, deletions or substitutions to this certified list without the written consent of Orange Water and Sewer Authority.





CIP NO.: 278-97

PROJECT: Mason Farm WWTP Digester 4 Steel Cap Coating and Repair

DATE: March 6, 2024

### **CERTIFICATION AFFIDAVIT**

THE ABOVE INFORMATION IS TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I FURTHER UNDERSTAND AND AGREE THAT, IF AWARDED A CONTRACT, THIS CERTIFICATION SHALL BE ATTACHED THERETO AND BECOME A PART THEREOF.

NAME OF SIGNER: \_\_\_\_\_  
(Please Print or Type)

TITLE OF SIGNER: \_\_\_\_\_  
(Please Print or Type)

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

SIGNATURE: \_\_\_\_\_

-END OF CERTIFICATION-

\*\*\*REMAINDER OF PAGE LEFT BLANK INTENTIONALLY\*\*\*

Proposal – Unit Price Contract Bid Form  
00 41 44-11



Mason Farm WWTP Digester 4 Steel Cap Coating and Repair  
**Orange Water & Sewer Authority**

CIP NO.: 278-97

PROJECT: Mason Farm WWTP Digester 4 Steel Cap Coating and Repair

DATE: March 6, 2024

#### ARTICLE 6 – TIME OF COMPLETION

6.01 Bidder agrees that the Work will be Substantially Complete within **140 CONSECUTIVE CALENDAR DAYS**, after the date when the Contract Time commences to run as provided in Paragraph 4.01 of the General Conditions and will be completed and ready for final payment in accordance with Paragraph 15.03 of the General Conditions within **180 CONSECUTIVE CALENDAR DAYS**, of the date when the Contract Time commences to run.

6.02 Bidder accepts the provisions of the Agreement as to Liquidated Damages.

#### ARTICLE 7 - ATTACHMENTS TO THIS BID

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

- A. Required Bid Security;
- B. List of Proposed Subcontractors;
- C. List of Proposed Suppliers;
- D. List of Project References;
- E. Evidence of authority to do business in the State of North Carolina; or a written covenant to obtain such license within the time for acceptance of Bids;
- F. Required Bidder Qualification Statement with supporting data;

#### ARTICLE 8 – BID CERTIFICATION

8.01 THE ABOVE INFORMATION IS TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I FURTHER UNDERSTAND AND AGREE THAT, IF AWARDED A CONTRACT, THIS CERTIFICATION SHALL BE ATTACHED THERETO AND BECOME A PART THEREOF.

SIGNATURE: \_\_\_\_\_

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

8.02 We agree to diligently perform the Work in accordance with all Contract Documents, to complete such Work within the period as outlined in the Contract, and to begin Work within ten (10) consecutive calendar days after receipt of the Notice to Proceed from Orange Water and Sewer Authority.



CIP NO.: 278-97

PROJECT: Mason Farm WWTP Digester 4 Steel Cap Coating and Repair

DATE: March 6, 2024

#### ARTICLE 9 - CONTRACTOR EXPERIENCE

9.01 Not Used

9.02 Not Used

9.03 Not Used

#### ARTICLE 10 - BID FORM SIGNATURES

10.01 Refer to Document 00 21 15 for specific Bid Form signature requirements for corporations, partnerships, limited liability companies, individuals, or sole proprietorships.

#### ARTICLE 11 - QUALIFICATIONS OF BIDDERS

11.01 The Bidder shall submit detailed information required for above items 1 through 4 with his Bid package and at the discretion of the Bidder the information required under Item 5 can be furnished after Bids are received if required by the Owner and Engineer to evaluate the financial qualifications of a prospective Bidder.

**Please attach additional sheets as necessary to complete the items above.**

#### ARTICLE 12 – SEQUENCE OF WORK Not Used

12.01 Not Used

12.02 Not Used

12.03 Not Used

12.04 Not Used

12.05 Not Used

Proposal – Unit Price Contract Bid Form  
00 41 44-13



Mason Farm WWTP Digester 4 Steel Cap Coating and Repair  
**Orange Water & Sewer Authority**

CIP NO.: 278-97

PROJECT: Mason Farm WWTP Digester 4 Steel Cap Coating and Repair

DATE: March 6, 2024

12.06 Not Used

ARTICLE 13 - INTERIM COMPLETION DATES Not Used

13.01 Not Used

CORPORATION

The Corporate Seal of

\_\_\_\_\_  
(Bidder - print the full legal corporate name of firm)

\_\_\_\_\_  
(President/Vice President/Authorized Corporate Officer)

(Seal)

was hereunto affixed in the presence of:

\_\_\_\_\_  
(Secretary/Assistant Secretary)

(Seal)

Corporate Address:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
(State of Incorporation)

Proposal – Unit Price Contract Bid Form  
00 41 44-14



Mason Farm WWTP Digester 4 Steel Cap Coating and Repair  
**Orange Water & Sewer Authority**

CIP NO.: 278-97

PROJECT: Mason Farm WWTP Digester 4 Steel Cap Coating and Repair

DATE: March 6, 2024

LIMITED LIABILITY COMPANY

\_\_\_\_\_  
(Bidder - print the full legal name of firm)

\_\_\_\_\_  
(Authorized Firm Member)

(Seal)

was hereunto affixed in the presence of:

\_\_\_\_\_  
(Witness)

(Seal)

Firm Address:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
(State of Formation)

Proposal – Unit Price Contract Bid Form  
00 41 44-15



Mason Farm WWTP Digester 4 Steel Cap Coating and Repair  
**Orange Water & Sewer Authority**

CIP NO.: 278-97

PROJECT: Mason Farm WWTP Digester 4 Steel Cap Coating and Repair

DATE: March 6, 2024

INDIVIDUAL OR SOLE PROPRIETORSHIP

\_\_\_\_\_  
(Bidder - print the full name of individual or sole proprietorship)

(Seal)

Individual or Sole Proprietorship Address:

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

Proposal – Unit Price Contract Bid Form  
00 41 44-16



Mason Farm WWTP Digester 4 Steel Cap Coating and Repair  
**Orange Water & Sewer Authority**

CIP NO.: 278-97

PROJECT: Mason Farm WWTP Digester 4 Steel Cap Coating and Repair

DATE: March 6, 2024

PARTNERSHIP

\_\_\_\_\_  
(Bidder - print the full legal corporate name of partnership)

\_\_\_\_\_  
(Partner and Title)

(Seal)

\_\_\_\_\_  
(Partner and Title)

(Seal)

\_\_\_\_\_  
(Partner and Title)

(Seal)

\_\_\_\_\_  
(Partner and Title)

(Seal)

\_\_\_\_\_  
(Partner and Title)

(Seal)

\_\_\_\_\_  
(Partner and Title)

(Seal)

\_\_\_\_\_  
(Partner and Title)

(Seal)

\_\_\_\_\_  
(Partner and Title)

(Seal)

\_\_\_\_\_  
(Partner and Title)

(Seal)

\_\_\_\_\_  
(Partner and Title)

(Seal)

(All Partners shall sign, additional signatures with titles and seals may be added below.)

was hereunto affixed in the presence of:

\_\_\_\_\_  
(Witness)

(Seal)

Partnership Address:

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

Proposal – Unit Price Contract Bid Form  
00 41 44-17



Mason Farm WWTP Digester 4 Steel Cap Coating and Repair  
**Orange Water & Sewer Authority**

CIP NO.: 278-97

PROJECT: Mason Farm WWTP Digester 4 Steel Cap Coating and Repair

DATE: March 6, 2024

JOINT VENTURE

If the Bid is a joint venture, add additional forms of execution for each member of the joint venture in the appropriate manner using the forms from above.

Proposal – Unit Price Contract Bid Form  
00 41 44-18



Mason Farm WWTP Digester 4 Steel Cap Coating and Repair  
**Orange Water & Sewer Authority**



CIP NO.: 278-97

PROJECT: Mason Farm WWTP Digester 4 Steel Cap Coating and Repair

DATE: March 6, 2024

## BID BOND

This is a Bid Bond that is subject to the provisions of G.S. 143-129 (b) of the North Carolina General statutes.

This Bond is executed on \_\_\_\_\_, 20\_\_\_\_

The name of the Principal is \_\_\_\_\_

(Correct name of Contractor)

\_\_\_\_\_  
(A Corporation, a Partnership, or an Individual, as the case may be)

The name of the Surety is \_\_\_\_\_

Orange Water and Sewer Authority is the Owner.

The amount of the Bond is \_\_\_\_\_

\_\_\_\_\_  
(Dollars)    \$ \_\_\_\_\_

KNOW BY ALL MEN BY THESE PRESENTS, the Principal and Surety above named are hereby held and firmly bound unto the above named Owner hereinafter called the Owner in the penal sum of the amount stated above in lawful money of the United States, for the payment of which, well and truly to be made, we hereby jointly and severally bind ourselves, our heirs, executors, administrators, successors and assigns.

The condition of the above obligation is such that whereas the Principal has submitted to the Owner a certain Bid attached hereto and hereby made a part hereof to enter into a Contract in writing, for the construction of:

### MASON FARM WWTP DIGESTER 4 STEEL CAP COATING AND REPAIR

NOW, THEREFORE

- (a) If said Bid shall be rejected, or in the alternate,
- (b) If said Bid shall be accepted and the Principal shall execute and deliver a Contract in the Form of Contract attached hereto (properly completed in accordance with said Bid) and shall furnish a bond for its faithful performance of said Contract, and for the payment of all persons performing labor or furnishing materials in connection therewith, and shall in all other respects perform the agreement created by the acceptance of said Bid;
- (c) Then this obligation shall be void, otherwise the same shall remain in force and effect; it being expressly understood and agreed that the liability of the Surety for any and all claims hereunder shall, in no event, exceed the penal amount of this obligation as herein stated.

**BID BOND (CONTINUED)**

Proposal – Unit Price Contract Bid Form  
00 41 44-19



Mason Farm WWTP Digester 4 Steel Cap Coating and Repair  
Orange Water & Sewer Authority

CIP NO.: 278-97

PROJECT: Mason Farm WWTP Digester 4 Steel Cap Coating and Repair

DATE: March 6, 2024

The Surety, for value received, hereby stipulates and agrees that the obligations of said Surety and its Bond shall be in no way impaired or affected by any extension of the time within which the Owner may accept such Bid; and said Surety does hereby waive notice of any such extension.

IN WITNESS WHEREOF, the Principal and the Surety have hereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers, the day and year first set forth above.

Execution by Principal:

**(If Contractor is a Partnership, all  
partners should execute Bond below)**

ATTEST:

\_\_\_\_\_  
Principal Secretary  
(SEAL)

BY: \_\_\_\_\_  
Principal

\_\_\_\_\_  
Principal

\_\_\_\_\_  
Principal

\_\_\_\_\_  
Witness as to Principal

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Phone Number)

Execution by Surety:

ATTEST:

\_\_\_\_\_  
N. C. Resident Agent  
(SEAL)

\_\_\_\_\_  
Surety

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
Witness as to Surety

\_\_\_\_\_  
(Phone Number)

Proposal – Unit Price Contract Bid Form  
00 41 44-20



Mason Farm WWTP Digester 4 Steel Cap Coating and Repair  
**Orange Water & Sewer Authority**

CIP NO.: 278-97

PROJECT: Mason Farm WWTP Digester 4 Steel Cap Coating and Repair

DATE: March 6, 2024

## **POWER OF ATTORNEY**

(Attach)

Proposal – Unit Price Contract Bid Form  
00 41 44-21



Mason Farm WWTP Digester 4 Steel Cap Coating and Repair  
**Orange Water & Sewer Authority**

CIP NO.: 278-97

PROJECT: Mason Farm WWTP Digester 4 Steel Cap Coating and Repair

DATE: March 6, 2024

## PROPOSAL SIGNATURE

Bidder operates under the legal name of \_\_\_\_\_

### BIDDERS COMPLETE THE APPROPRIATE SECTION\*

**CORPORATION\*** The Bidder is a corporation, has a corporate seal and the full names of its officers are:

President \_\_\_\_\_

Secretary \_\_\_\_\_

Vice President \_\_\_\_\_

Treasurer \_\_\_\_\_

The \_\_\_\_\_ (officer's title) is authorized to sign construction proposals and contracts for the company by action of its Board of Directors taken on \_\_\_\_\_, 20\_\_\_\_ a certified copy of which is attached. (Strike out previous sentence if not applicable. This section must be completed if President or Vice President is not the signatory party.)

**PARTNERSHIP\*** The Bidder is a partnership consisting of individual partners whose full names are:

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

**INDIVIDUAL\*** The Bidder is an individual whose full name is:

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

\_\_\_\_\_  
\_\_\_\_\_  
Print Name of Legal Entity

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

\_\_\_\_\_  
Print name and title of signatory

CORPORATIONS ONLY – Secretary or Assistant  
Secretary attest and affix corporate Seal:

\_\_\_\_\_  
Circle one: Secretary or Assistant Secretary

\_\_\_\_\_  
State of Incorporation

\_\_\_\_\_  
Address and telephone number

Subscribe and sworn to me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
(Seal)  
Notary Public

My Commission Expires: \_\_\_\_\_

Proposal – Unit Price Contract Bid Form  
00 41 44-22



Mason Farm WWTP Digester 4 Steel Cap Coating and Repair  
Orange Water & Sewer Authority

CIP NO.: 278-97

PROJECT: Mason Farm WWTP Digester 4 Steel Cap Coating and Repair

DATE: March 6, 2024

## CONTRACTOR'S AFFIDAVIT OF ORGANIZATION AND AUTHORITY

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

\_\_\_\_\_ being the first duly sworn on oath deposes and says that the Bidder on the attached Bid proposal is organized as indicated below and that all statements herein made are made on behalf of such Bidder and that this deponent is authorized to make them.

(Fill Out Applicable Paragraph)

### 1. CORPORATION:

The Bidder is a corporation organized and existing under the laws of the State of \_\_\_\_\_ and its President is \_\_\_\_\_;

its Secretary is \_\_\_\_\_,

and it does have a corporate seal. The \_\_\_\_\_ (officer's title) is authorized to sign construction Contracts and Bids for the company by action of its Board of Directors taken on \_\_\_\_\_, 20\_\_\_\_, a certified copy of which is hereto attached. (Strike out last sentence if not applicable.)

### 2. PARTNERSHIP:

The Bidder is a partnership consisting of \_\_\_\_\_ and \_\_\_\_\_, partners doing business under the name of \_\_\_\_\_.

### 3. INDIVIDUAL / SOLE TRADER:

The Bidder is an individual and if operating under a trade name, such trade name is as follows:

### 4. ADDRESS:

The business address of the Bidder is as follows: \_\_\_\_\_

Its phone number is \_\_\_\_\_.

\_\_\_\_\_  
Bidder

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

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

My commission expires: \_\_\_\_\_

Notary Public

(SEAL)

Proposal – Unit Price Contract Bid Form  
00 41 44-23



Mason Farm WWTP Digester 4 Steel Cap Coating and Repair  
Orange Water & Sewer Authority

CIP NO.: 278-97

PROJECT: Mason Farm WWTP Digester 4 Steel Cap Coating and Repair

DATE: March 6, 2024

## NON-COLLUSION AFFIDAVIT FOR CONTRACTOR'S

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

\_\_\_\_\_, being first duly sworn,  
deposes and says that:

- (1) He/She is the: \_\_\_\_\_  
Owner, Partner, President, Vice President or other officer with evidence of authority attached  
of \_\_\_\_\_  
the Bidder that has submitted the attached BID;
- (2) He/She is fully informed respecting the preparation and contents of the attached Bid and of all pertinent circumstances respecting such Bid;
- (3) Such BID is genuine and is not a collusive or sham Bid;
- (4) Neither the said Bidder nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, have in any way colluded, conspired; connived or agreed, directly or indirectly, with any other Bidder, firm, or person to submit a collusive or sham Bid in connection with the Contract for which the attached Bid has been submitted; or to refrain from bidding in connection with such Contract; or have in any manner, directly or indirectly, sought by agreement or collusion, or communication, or conference with any Bidder, firm, or person to fix the price or prices in the attached Bid or of any other Bidder, or to fix any overhead, profit, or cost elements of the Bid price or the Bid price of any other Bidder, or to secure through any collusion, conspiracy, connivance, or unlawful agreement any advantage against (Recipient), or any person interested in the proposed Contract;
- (5) The price or prices quoted in the attached Bid are fair and proper and are not tainted by any collusion, conspiracy, connivance, or unlawful agreement on the part of the Bidder or any other of its agents, representatives, owners, employees or parties in interest, including this affidavit.

BY: \_\_\_\_\_

**CORPORATIONS ONLY**

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

\_\_\_\_\_  
Secretary or Assistant, attest & affix corporate seal

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_ My commission expires: \_\_\_\_\_

Notary Public (SEAL)

Proposal – Unit Price Contract Bid Form  
00 41 44-24



Mason Farm WWTP Digester 4 Steel Cap Coating and Repair  
Orange Water & Sewer Authority

CIP NO.: 278-97

PROJECT: Mason Farm WWTP Digester 4 Steel Cap Coating and Repair

DATE: March 6, 2024

**NON-COLLUSION AFFIDAVIT FOR SUBCONTRACTOR(S)**  
(DUE WITHIN 5 DAYS OF THE BID OPENING)

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

\_\_\_\_\_ being first duly sworn,  
deposes and says that:

- (1) He/She is \_\_\_\_\_ of \_\_\_\_\_, hereinafter referred to as the "Subcontractor";
- (2) He/She is fully informed respecting the preparation and contents of the Subcontractor's Proposal submitted by the Subcontractor to \_\_\_\_\_, the Contractor for certain work in connection with the \_\_\_\_\_ Contract pertaining to the Project in \_\_\_\_\_ (City or County, and State);
- (3) Such Subcontractor's Proposal is genuine and is not a collusive or sham proposal;
- (4) Neither the Subcontractor nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly with any other Bidder, firm or person to submit a collusive or sham Proposal in connection with such Contract or to refrain from submitting a Proposal in connection with such Contract, or has in any manner, directly or indirectly, sought by unlawful agreement or connivance with any other Bidder, firm or person to fix the price or prices in said Contractor's Proposal, or to fix any overhead, profit or cost element of the price or prices in said Contractor's Proposal, or to secure through collusion, conspiracy connivance or unlawful agreement any advantage against the \_\_\_\_\_ (Local Public Agency) or any person interested in the proposed Contract; and
- (5) The price or prices quoted in the Subcontractor's Proposal are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Bidder or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

(Signed) \_\_\_\_\_

\_\_\_\_\_  
Title

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_ My commission expires: \_\_\_\_\_

Notary Public

(Seal)

Proposal – Unit Price Contract Bid Form  
00 41 44-25



Mason Farm WWTP Digester 4 Steel Cap Coating and Repair  
**Orange Water & Sewer Authority**

CIP NO.: 278-97

PROJECT: Mason Farm WWTP Digester 4 Steel Cap Coating and Repair

DATE: March 6, 2024

## EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

During the performance of this Contract the Contractor agrees as follows:

- a. The Contractor will not discriminate against any employee or applicant because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to race, color, religion, sex, or national origin. Such action shall include but not be limited to the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of the nondiscrimination clause.
- b. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- c. The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other Contract understanding, a notice; to be provided, advising the labor union or worker's representative of the Contractor's commitments under the Equal Employment Opportunity Section of this Contract, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- d. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Contract or with any of such rules, regulations, or orders, this Contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Owner Contracts,
- e. The Contractor will include the provisions of this section in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Owner so that such provisions will be binding upon each Subcontractor or vendor.

---

(Complete this section for signatures by a CORPORATION):

(CORPORATE SEAL)

\_\_\_\_\_  
Corporate Name

ATTEST:

\_\_\_\_\_  
Secretary\* or Assistant Secretary\*

BY:

\_\_\_\_\_  
President\* or Vice President\*

\*choose one

---

(Complete this section for signatures by PARTNERSHIP and INDIVIDUAL):

WITNESS:

BY: \_\_\_\_\_ (Seal)

(ACKNOWLEDGEMENT OF THE ABOVE SIGNATURE MUST BE NOTARIZED USING THE FORM  
ON THE FOLLOWING PAGE)

Proposal – Unit Price Contract Bid Form  
00 41 44-26



Mason Farm WWTP Digester 4 Steel Cap Coating and Repair  
Orange Water & Sewer Authority



CIP NO.: 278-97

PROJECT: Mason Farm WWTP Digester 4 Steel Cap Coating and Repair

DATE: March 6, 2024

**ACKNOWLEDGEMENT FOR  
EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION**

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---

***Corporate Acknowledgement***

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(Use this portion of the form for acknowledgement of signature by a Corporation):

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

I, the undersigned notary public, do hereby certify that \_\_\_\_\_  
personally appeared before me this day and acknowledged that he/she is *Secretary\* or Assistant Secretary\** of \_\_\_\_\_,  
a corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument  
was signed in its name by its *President\* or Vice President\**, sealed with its corporate seal, and attested  
by himself as its *Secretary\* or Assistant Secretary\**.

*\*choose one*

WITNESS my hand and notarial seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

My commission expires \_\_\_\_\_.  
(SEAL)

\_\_\_\_\_  
Notary Public

---

---

***Individual or Partnership Acknowledgement***

---

---

(Use this portion of the form for acknowledgement of signature by a partnership or an individual.)

NORTH CAROLINA

(Enter correct State and County if different than  
shown.)

\_\_\_\_\_ COUNTY

I, the undersigned Notary Public, do hereby certify that, \_\_\_\_\_  
personally appeared before me this day and acknowledged the due execution of the foregoing  
instrument.

WITNESS my hand and notarial seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

My commission expires: \_\_\_\_\_.

\_\_\_\_\_  
Notary Public (SEAL)

Proposal – Unit Price Contract Bid Form  
00 41 44-27



Mason Farm WWTP Digester 4 Steel Cap Coating and Repair  
**Orange Water & Sewer Authority**

CIP NO.: 278-97

PROJECT: Mason Farm WWTP Digester 4 Steel Cap Coating and Repair

DATE: March 6, 2024

## MINORITY BUSINESS PARTICIPATION

### Provide with the Bid:

Under GS 143-128.2(c) the undersigned Bidder shall identify on its Bid Proposal the minority businesses that it will use on the Project and the total dollar value of the bid that will be performed by the minority businesses and list the good faith efforts (**Affidavit A**) made to solicit participation. A Contractor that performs all of the Work with its own workforce may submit an **Affidavit B** to that effect in lieu of **Affidavit A** required above.

### After the Bid opening:

Orange Water and Sewer Authority will consider all bids and alternates, and determine the lowest responsible, responsive Bidder. Upon notification of being the apparent low Bidder, the Bidder shall then file within 72 hours of the notification of being the apparent lowest Bidder, the following:

An **Affidavit C** that includes a description of the portion of Work to be executed by minority businesses, expressed as a percentage of the total Contract Price, which is equal to or more than the 10% goal established. This affidavit shall give rise to the presumption that the Bidder has made the required good faith effort; or **Affidavit D** of its good faith effort to meet the goal. The document must include evidence of all good faith efforts that were implemented, including any advertisements, solicitations and other specific actions demonstrating recruitment and selection of minority businesses for participation in the contract.

These forms are included herein:

- (1) Identification of Minority Business Participation
- (2) Affidavit A – Listing of the Good Faith Effort
- (3) Affidavit B – Intent to Perform Contract with Own Workforce
- (4) Affidavit C – Portion of Work to be Performed by Minority Firms
- (5) Affidavit D – Good Faith Efforts

Proposal – Unit Price Contract Bid Form  
00 41 44-28



Mason Farm WWTP Digester 4 Steel Cap Coating and Repair  
Orange Water & Sewer Authority

CIP NO.: 278-97

PROJECT: Mason Farm WWTP Digester 4 Steel Cap Coating and Repair

DATE: March 6, 2024

## Identification of Minority Business Participation

I, \_\_\_\_\_

(Name of Bidder)

do hereby certify that on this Project, we will use the following minority business enterprises as construction subcontractors, vendors, suppliers or providers of professional services.

[illegible]

\*Minority categories: Black, African American (**B**), Hispanic (**H**), Asian American (**A**) American Indian (**I**), Female (**F**) Socially and Economically Disadvantaged (**D**)

**The total value of minority business contracting will be (\$)**\_\_\_\_\_

## Proposal – Unit Price Contract Bid Form

00 41 44-29



Mason Farm WWTP Digester 4 Steel Cap Coating and Repair  
Orange Water & Sewer Authority

# State of North Carolina AFFIDAVIT A – Listing of the Good Faith Efforts

County of \_\_\_\_\_

Affidavit of \_\_\_\_\_ (Name of Bidder)

I have made a good faith effort to comply under the following areas checked:

**Bidders must earn at least 50 points from the good faith efforts listed for their bid to be considered responsive** (NC Administrative Code 01 NCAC 30I .0102)

- ☐ **1 – (10 pts)** Contacting minority businesses that reasonably could have been expected to submit a quote and that were known to the contractor or available on State or local government maintained lists at least 10 days before the bid or proposal date and notifying them of the nature and scope of the work to be performed.
- ☐ **2 – (10 pts)** Making the construction plans, specifications and requirements available for review by prospective minority businesses, or providing these documents to them at least 10 days before the bid or proposals are due.
- ☐ **3 – (15 pts)** Breaking down or combining elements of work into economically feasible units to facilitate minority participation.
- ☐ **4 – (10 pts)** Working with minority trade, community, or contractor organizations identified by the Office for Historically Underutilized Businesses and included in the bid documents that provide assistance in recruitment of minority businesses.
- ☐ **5 – (10 pts)** Attending any prebid meetings scheduled by the public owner.
- ☐ **6 – (20 pts)** Providing assistance in getting required bonding or insurance or providing alternatives to bonding or insurance for subcontractors.
- ☐ **7 – (15 pts)** Negotiating in good faith with interested minority businesses and not rejecting them as unqualified without sound reasons based on their capabilities. Any rejection of a minority business based on lack of qualification should have the reasons documented in writing.
- ☐ **8 – (25 pts)** Providing assistance to an otherwise qualified minority business in need of equipment, loan capital, lines of credit, or joint pay agreements to secure loans, supplies, or letters of credit, including waiving credit that is ordinarily required. Assisting minority businesses in obtaining the same unit pricing with the bidder's suppliers in order to help minority businesses in establishing credit.
- ☐ **9 – (20 pts)** Negotiating joint venture and partnership arrangements with minority businesses in order to increase opportunities for minority business participation on a public construction or repair project when possible.
- ☐ **10 – (20 pts)** Providing quick pay agreements and policies to enable minority contractors and suppliers to meet cash-flow demands.

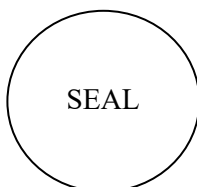
The undersigned, if apparent low bidder, will enter into a formal agreement with the firms listed in the Identification of Minority Business Participation schedule conditional upon scope of contract to be executed with the OWNER. Substitution of contractors must be in accordance with GS 143-128.2(d). Failure to abide by this statutory provision will constitute a breach of the contract.

The undersigned hereby certifies that he or she has read the terms of the minority business commitment and is authorized to bind the BIDDER to the commitment herein set forth.

Date: \_\_\_\_\_ Name of Authorized Officer: \_\_\_\_\_

Signature: \_\_\_\_\_

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



State of North Carolina, County of \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

Notary Public \_\_\_\_\_ My commission expires \_\_\_\_\_

Proposal – Unit Price Contract Bid Form  
00 41 44-30



Mason Farm WWTP Digester 4 Steel Cap Coating and Repair  
Orange Water & Sewer Authority

## AFFIDAVIT B – Intent to Perform Contract with Own Workforce

County of \_\_\_\_\_

Affidavit of \_\_\_\_\_  
(Name of Bidder)

I hereby certify that it is our intent to perform 100% of the work required for the \_\_\_\_\_  
\_\_\_\_\_  
(Name of Project)

In making this certification, the Bidder states that the Bidder does not customarily subcontract elements of this type project, and normally performs and has the capability to perform and will perform all elements of the work on this project with his/her own current work forces; and

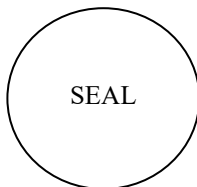
The Bidder agrees to provide any additional information or documentation requested by the Owner in support of the above statement.

The undersigned hereby certifies that he or she has read this certification and is authorized to bind the Bidder to the commitments herein contained.

Date: \_\_\_\_\_ Name of Authorized Officer: \_\_\_\_\_

Signature: \_\_\_\_\_

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



State of North Carolina, County of \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

Notary Public \_\_\_\_\_

My commission expires \_\_\_\_\_

Proposal – Unit Price Contract Bid Form  
00 41 44-31



Mason Farm WWTP Digester 4 Steel Cap Coating and Repair  
**Orange Water & Sewer Authority**

## AFFIDAVIT C – Portion of the Work to be Performed by Minority Firms

County of \_\_\_\_\_

\*\*\*\*\* (NOTE: THIS FORM IS NOT TO BE SUBMITTED WITH THE BID PROPOSAL) \*\*\*\*\*

If the portion of the Work to be executed by minority businesses as defined in G. S. 143-128.2(g) is **equal to or greater than 10%** of the Bidders Total Contract Price, then the Bidder must complete this affidavit. This affidavit shall be provided by the apparent lowest responsible, responsive Bidder within **72 hours** after notification of being low Bidder.

Affidavit of \_\_\_\_\_ I do hereby certify that on the  
(Name of Bidder)

(Project Name)  
Project ID# \_\_\_\_\_ Amount of Bid \$ \_\_\_\_\_  
I will expend a minimum of \_\_\_\_\_ % of the total dollar amount of the contract with minority business enterprises. Minority businesses will be employed as construction subcontractors, vendors, suppliers or providers of professional services. Such work will be subcontracted to the following firms listed below.

Attach additional sheets if required

Name and Phone Number	*Minority Category	Work description	Dollar Value

\*Minority categories: Black, African American (B), Hispanic (H), Asian American (A) American Indian (I), Female (F) Socially and Economically Disadvantaged (D)

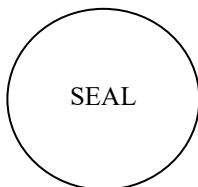
Pursuant to G. S. 143-128.2(d), the undersigned will enter into a formal agreement with Minority Firms for work listed in this schedule conditional upon execution of a contract with the Owner. Failure to fulfill this commitment may constitute a breach of the contract.

The undersigned hereby certifies that he or she has read the terms of this commitment and is authorized to bind the Bidder to the commitment herein set forth.

Date: \_\_\_\_\_ Name of Authorized Officer: \_\_\_\_\_

Signature: \_\_\_\_\_

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



State of North Carolina, County of \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

Notary Public \_\_\_\_\_

My commission expires \_\_\_\_\_

Proposal – Unit Price Contract Bid Form  
00 41 44-32



Mason Farm WWTP Digester 4 Steel Cap Coating and Repair  
Orange Water & Sewer Authority

CIP NO.: 278-97

PROJECT: Mason Farm WWTP Digester 4 Steel Cap Coating and Repair

DATE: March 6, 2024

## AFFIDAVIT D – Good Faith Efforts

County of \_\_\_\_\_

\*\*\*\*\* (NOTE: THIS FORM IS NOT TO BE SUBMITTED WITH THE BID PROPOSAL) \*\*\*\*\*

If the goal of 10% participation by minority business **is not** achieved, the Bidder shall provide the following documentation to the Owner of his good faith efforts:

Affidavit of: \_\_\_\_\_

(Name of Bidder)

I do certify the attached documentation as true and accurate representation of my good faith efforts.

(Attach additional sheets if required)

Name and Phone Number	*Minority Category	Work description	Dollar Value

\*Minority categories: Black, African American (**B**), Hispanic (**H**), Asian American (**A**) American, Indian (**I**), Female (**F**) Socially and Economically Disadvantaged (**D**)

Documentation of the Bidder's good faith efforts to meet the goals set forth in these provisions.

Examples of documentation include, but are not limited to, the following evidence:

- A. Copies of solicitations for quotes to at least three (3) minority business firms from the source list provided by the State for each subcontract to be let under this contract (if 3 or more firms are shown on the source list). Each solicitation shall contain a specific description of the work to be subcontracted, location where bid documents can be reviewed, representative of the Prime Bidder to contact, and location, date and time when quotes must be received.
- B. Copies of quotes or responses received from each firm responding to the solicitation.
- C. A telephone log of follow-up calls to each firm sent a solicitation.
- D. For subcontracts where a minority business firm is not considered the lowest responsible sub-bidder, copies of quotes received from all firms submitting quotes for that particular subcontract.
- E. Documentation of any contacts or correspondence to minority business, community, or contractor organizations in an attempt to meet the goal.
- F. Copy of pre-bid roster.
- G. Letter documenting efforts to provide assistance in obtaining required bonding or insurance for minority business.
- H. Letter detailing reasons for rejection of minority business due to lack of qualification.
- I. Letter documenting proposed assistance offered to minority business in need of equipment, loan capital, lines of credit, or joint pay agreements to secure loans, supplies, or letter of credit, including waiving credit that is ordinarily required.

Proposal – Unit Price Contract Bid Form

00 41 44-33



Mason Farm WWTP Digester 4 Steel Cap Coating and Repair

Orange Water & Sewer Authority

CIP NO.: 278-97

PROJECT: Mason Farm WWTP Digester 4 Steel Cap Coating and Repair

DATE: March 6, 2024

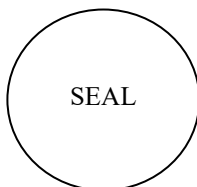
## AFFIDAVIT D – Good Faith Efforts (continued)

Failure to provide the documentation as listed in these provisions may result in rejection of the bid and award to the next lowest responsible and responsive bidder.

Date: \_\_\_\_\_ Name of Authorized Officer: \_\_\_\_\_

Signature: \_\_\_\_\_

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



State of North Carolina, County of \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

Notary Public \_\_\_\_\_

My commission expires \_\_\_\_\_

-END OF DOCUMENT-

Proposal – Unit Price Contract Bid Form  
00 41 44-34



Mason Farm WWTP Digester 4 Steel Cap Coating and Repair  
Orange Water & Sewer Authority



CIP NO.: 278-97

PROJECT: Mason Farm WWTP Digester 4 Steel Cap Coating and Repair

DATE: March 6, 2024

DOCUMENT 00 52 15

## AGREEMENT

THIS AGREEMENT is dated as of the \_\_\_\_\_ day of \_\_\_\_\_, in the year 20\_\_\_\_ by and between Orange Water and Sewer Authority, Carrboro, North Carolina, party of the first part, and \_\_\_\_\_ party of the second part, (Contractor).

Orange Water and Sewer Authority and Contractor, in consideration of the mutual covenants set forth herein, 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:

**Furnish all labor, materials, equipment, expertise, and incidentals necessary to remove all existing coating/linings, prepare the surface and apply a new protective coating/lining system to the digester steel cover and on the top 12 feet of the concrete walls on the digester interior. This includes the underside of the roof of the interior of the digester and the floor of the attic space, all supporting steel and the underside of the galvanized corrugated deck materials.** and all associated appurtenances as described in the Specifications and as shown on the Drawings.

The foregoing description shall not be construed as a complete description of all work required.

### ARTICLE 2 - THE PROJECT

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

OWASA CIP: #278-97, Project: **“Mason Farm WWTP Digester 4 Steel Cap Coating and Repair”**

### ARTICLE 3 - ENGINEER

- 3.01 The Project has been designed by [Corrosion Probe, Inc], who is to act as Orange Water and Sewer Authority’s representative assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

Agreement Form – Lump Sum Single-Prime Contract  
00 52 15-1



Mason Farm WWTP Digester 4 Steel Cap Coating and Repair  
Orange Water & Sewer Authority

CIP NO.: 278-97

PROJECT: Mason Farm WWTP Digester 4 Steel Cap Coating and Repair

DATE: March 6, 2024

#### ARTICLE 4 - CONTRACT TIME

##### 4.01 Time of the Essence

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

##### 4.02 Contract Times: (Consecutive Calendar Days)

- A. Days to achieve Substantial Completion, Final Completion, and Final Payment:

The Work shall be Substantially Complete in accordance with Paragraph 15.03 of the General Conditions within **[140] CONSECUTIVE CALENDAR DAYS**, after the date when the Contract Time commences to run (Notice to Proceed), and Finally Complete and ready for final payment in accordance with Paragraph 15.06 of the General Conditions within **[180] CONSECUTIVE CALENDAR DAYS** after the date when the Contract Times commence to run (Notice to Proceed).

- B. Parts of the Work shall be substantially completed on or before the following Milestone(s): Milestones are not included in this contract
- C. Bidder accepts the provisions of the Agreement as to Liquidated Damage.

##### 4.03 Liquidated Damages

- A. The Contractor and Orange Water and Sewer Authority recognize that time is of the essence for this Agreement and that the Orange Water and Sewer Authority will suffer financial and other losses if the Work is not completed within either or both the time of Substantial Completion and the time of Final Completion as specified in Paragraph 4.02 above, plus any extensions thereof allowed in accordance with the Contract. The parties also recognize the delays, expenses, and difficulties to both parties involved in proving or contesting in a legal or mediation preceding the actual loss suffered by Orange Water and Sewer Authority, if the Work is not completed on time. Accordingly, instead of requiring any such proof of losses, it is agreed that the Contractor shall be liable for and pay the following amounts to Orange Water and Sewer Authority as Liquidated Damages, and not as a penalty:

Completion Milestone Date	Liquidated Damages (per day)
Date of Substantial Completion	\$1,000
Date of Final Completion	\$1,000



CIP NO.: 278-97

PROJECT: Mason Farm WWTP Digester 4 Steel Cap Coating and Repair

DATE: March 6, 2024

- B. Liquidated damages will be assessed for the above listed amounts for each and every day the Work remains incomplete beyond the date of Substantial Completion and the date of Final Completion, either date being independent of the other.
- C. Not Used

4.04 Failure of the Contractor to commence construction within ten (10) consecutive calendar days of the Notice to Proceed shall begin a daily penalty to the Contractor at a rate of fifty percent (50%) of the daily Liquidated Damages specified in Paragraph 4.03.A.

Agreement Form – Lump Sum Single-Prime Contract  
00 52 15-3



Mason Farm WWTP Digester 4 Steel Cap Coating and Repair  
Orange Water & Sewer Authority

DATE: March 6, 2024

## 4.05 Weather Related Delays

- A. Contractor's requests to extend Contract Time based on weather related delays shall be made in writing and shall be made with reference to the table below as the reasonably expected weather conditions for a given month. Contractor will still need to demonstrate the adverse effect on the construction schedule. Unless Orange Water and Sewer Authority agrees otherwise, the weather conditions must be shown by use of data, submitted by the Contractor, from either the National Weather Service (NWS) for Carrboro, North Carolina or NWS readings from a location closer to the site than Carrboro, North Carolina, and not by use of weather readings on the Site or by the Contractor. Notwithstanding the General Conditions, in order to request an extension of Contract Time for abnormal weather conditions the form must be submitted by the tenth (10<sup>th</sup>) day of the month after the month as to which the request is made.

Month	Expected number of days with 0.1 or more inches precipitation
January	10
February	10
March	10
April	9
May	10
June	9
July	11
August	10
September	8
October	7
November	8
December	9

## 4.06 Work Related to Weekends or Orange Water and Sewer Authority Holiday

- A. The Contractor shall have notified the Resident Project Representative by 3:30 PM, three (3) days in advance of the day of the Contractor's request to Work on a specific Saturday, Sunday, or holiday. Notwithstanding the General Conditions, if the day on which the notice is to be given is a Saturday, Sunday, or Orange Water and Sewer Authority holiday, the request shall be made by the first day



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DATE: March 6, 2024

before that Saturday, Sunday, or holiday that is not a Saturday, Sunday, or Orange Water and Sewer Authority holiday.

#### ARTICLE 5 - CONTRACT PRICE

5.01 Orange Water and Sewer Authority shall pay Contractor for completion of the Work in accordance with the Contract Documents the amounts that follow, subject to adjustment under the Contract:

- A. For all Work other than Unit Price Work, a Lump Sum of: \_\_\_\_\_  
\_\_\_\_\_ (words), (\$ \_\_\_\_\_ (numerals)).
- B. All specific cash allowances are included in the above price in accordance with Paragraph 13.02 of the General Conditions.
- C. For all Work, at the price(s) stated in Contractor's Bid, attached hereto as an exhibit.

#### ARTICLE 6 - PAYMENT PROCEDURES

6.01 Submittal and Processing of Payments

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

6.02 Progress Payments; Retainage

- A. Orange Water and Sewer Authority shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment on or about the twenty-fifth (25<sup>th</sup>) day of each month during performance of the Work as provided in Paragraphs 6.02.A.1 below provided that such Applications for Payment have been submitted in a timely manner and otherwise meet the requirements of the Contract. All such payments will be measured by the Schedule of Values established as provided in the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no Schedule of Values, as provided in the General Requirements:
  - 1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts Orange Water and Sewer Authority may withhold, including but not limited to liquidated damages, in accordance with the Contract.
  - 2. Orange Water and Sewer Authority will retain five (5%) percent of the amount of each estimate until Work covered by the Contract is fifty percent (50%) complete (50% of the Total Contract Amount). If after the Project is deemed fifty percent (50%) complete based upon the Contractor's gross Project invoices, excluding

Agreement Form – Lump Sum Single-Prime Contract  
00 52 15-5



Mason Farm WWTP Digester 4 Steel Cap Coating and Repair  
Orange Water & Sewer Authority

DATE: March 6, 2024

the value of materials stored on and off-site, and the Contractor provides Orange Water and Sewer Authority the following:

- a. Written verification evidencing fifty percent (50%) completion of the Project; and,
- b. Written consent of the surety named in the Project performance and payment bonds agreeing that Orange Water and Sewer Authority shall not retain more than two and one-half percent (2½%) of the Total Bid Price in retainage from periodic payments due to the Contractor;
- c. Orange Water and Sewer Authority shall reduce retainage to two and one-half percent (2½%) of the Total Bid Price from future periodic payments if Orange Water and Sewer Authority finds that the Contractor is performing satisfactorily, and any nonconforming Work identified in writing by the Engineer or Orange Water and Sewer Authority (prior to the point of fifty percent (50%) Project completion) has been corrected by the Contractor and accepted by the Engineer or Orange Water and Sewer Authority, whoever provided such prior notice of nonconforming Work. If, however, Orange Water and Sewer Authority determines the Contractor's performance is unsatisfactory, Orange Water and Sewer Authority may reinstate the specified retainage for each subsequent periodic payment.
- d. In addition to the retainage amounts allowed to be held by Orange Water and Sewer Authority, it shall also retain all rights allowed under this Agreement to withhold payment to the Contractor in accordance with the General Conditions and for unsatisfactory job progress, defective or nonconforming construction not remedied, disputed Work, or third-party claims filed against Orange Water and Sewer Authority or reasonable evidence that a third-party claim will be filed.
- e. Within sixty (60) days of receipt by Orange Water and Sewer Authority of (1) an Application for Payment and (2) written consent of the surety, and after City has either (1) received a certificate of Substantial Completion or (2) received beneficial occupancy or use of the Project (if applicable), Orange Water and Sewer Authority shall pay an amount sufficient to increase total payment to Contractor to the Contract Price, less such amounts as Engineer shall determine in accordance with the General Conditions, including up to two hundred fifty percent (250%) of Engineer's estimate of the value of Work to be completed or corrected as shown on the tentative list of items to be completed or corrected attached to the certificate of Substantial Completion.

#### 6.03 *Final Payment*

- A. Upon final completion and acceptance of the Work in accordance with Paragraph 15.06 of the General Conditions, Orange Water and Sewer Authority shall pay the

Agreement Form – Lump Sum Single-Prime Contract  
00 52 15-6



Mason Farm WWTP Digester 4 Steel Cap Coating and Repair  
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remainder of the Contract Price as recommended by Engineer as provided in said Paragraph 15.06.

- B. Prior to issuing final payment, the Contractor will furnish to Orange Water and Sewer Authority certification that: All Subcontractors and vendors associated with this Contract have been paid; no liens and/or lawsuits have been placed against the Contractor for this Work; and the total dollar amount has been paid to all Subcontractors, Suppliers, and others associated with this project.
- C. Upon final completion and acceptance of the Work in accordance with the General Conditions, Orange Water and Sewer Authority shall pay the remainder of the Contract price as recommended by Engineer.

#### ARTICLE 7 – INTEREST [NOT IN CONTRACT]

#### ARTICLE 8 - CONTRACTOR'S REPRESENTATIONS

8.01 In order to induce Orange Water and Sewer Authority to enter into this Agreement Contractor makes the following representations:

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

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00 52 15-7



Mason Farm WWTP Digester 4 Steel Cap Coating and Repair  
Orange Water & Sewer Authority

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

## ARTICLE 9 - CONTRACT DOCUMENTS

### 9.01 Contents

- A. The Contract Documents consist of all of the items listed in the Table of Contents, exclusive of [Appendix B – SUBSURFACE EXPLORATIONS], which is not to be considered, in any way, a part of these Contract Documents. See the Article 5 of the General Conditions.
- B. The documents listed in Paragraph 9.01 are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in Paragraph 9.01.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in Paragraph 3.04 of the General Conditions.
- E. Coordination of General Conditions, Agreement, and Technical Specifications.
  - 1. All components of the Contract Documents are essential elements of the Contract between the Owner and Contractor, and notwithstanding the requirements of Article 3.03 of the General Conditions, in case of a conflict or contradiction among the General Conditions, Agreement, and Technical Specifications, the following shall be the order of controlling authority as among these documents: The Technical Specifications shall control over the Agreement and the Agreement shall control over the General Conditions.





CIP NO.: 278-97

PROJECT: Mason Farm WWTP Digester 4 Steel Cap Coating and Repair

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## ARTICLE 10 - MISCELLANEOUS

### 10.01 Terms

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

### 10.02 Assignment of Contract

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

### 10.03 Successors and Assigns

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

### 10.04 Severability

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Orange Water and Sewer Authority and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

### 10.05 Notices and Communications

- A. All notices and other communications required or permitted by Contract shall be in writing and shall be given by personal delivery, email, or certified United States mail (return receipt requested) addressed/email as follows:

Agreement Form – Lump Sum Single-Prime Contract  
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Mason Farm WWTP Digester 4 Steel Cap Coating and Repair  
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PROJECT: Mason Farm WWTP Digester 4 Steel Cap Coating and Repair

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To Orange Water and Sewer Authority:  
Attention: Andre Miller, P.E.  
Project Manager  
Orange Water and Sewer Authority  
400 Jones Ferry Road  
Carrboro, North Carolina 27510

To the Contractor:  
Attention: \_\_\_\_\_  
Firm Name: \_\_\_\_\_  
Street Address: \_\_\_\_\_  
City, State Zip Code: \_\_\_\_\_  
Phone Number: \_\_\_\_\_  
Email: \_\_\_\_\_

- B. A change of address, email, or person to receive notices or communications may be made by either party by notice given to the other party. Any notices or communications under Contract shall be deemed given at the time of actual delivery, if it is personally delivered or faxed. If the notices or communications are sent by United States mail, it shall be deemed given upon the third calendar day following the day on which the notices or communications were postmarked, or upon actual delivery, whichever first occurs.

#### 10.06 Technical Data and Other Work

- A. Subsurface and Physical Conditions  
No reports of explorations or tests of subsurface conditions at or contiguous to the Site are known to Orange Water and Sewer Authority or Engineer, that are not included with these documents as an Appendix.
- B. Hazardous Environmental Condition  
No reports or drawings related to Hazardous Environmental Condition are known to Orange Water and Sewer Authority or Engineer.
- C. Other Work  
Orange Water and Sewer Authority and Engineer are unaware of any other work on the Site at the time of Notice to Proceed.

#### 10.07 Contractor's Liability Insurance

- A. Workers compensation insurance shall cover employers' liability, \$1,000,000.
- B. Automobile liability insurance shall have a combined single limit not less than \$1,000,000 per occurrence; aggregate limit not less than \$2,000,000 per year.
- C. The policies of insurance required by the General Conditions shall have a combined single limit not less than \$1,000,000 per occurrence; aggregate limit not less than \$2,000,000 per year.

Agreement Form – Lump Sum Single-Prime Contract  
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Mason Farm WWTP Digester 4 Steel Cap Coating and Repair  
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- D. An Excess Liability Policy naming the contractor or other person who will be performing the activity as insured and also naming Orange Water and Sewer Authority and the Engineer as an additional insured in an amount not less than **[\$10,000,000.00]** for bodily injury, personal injury, property damage and products completed operations. (Coverage shall be at least as broad as provided for in the most current version of the Insurance Services Office Form applicable to such policy.)
- E. Professional liability insurance coverage self-insured retentions/deductibles in excess of \$10,000 must be approved by Orange Water and Sewer Authority's Finance Director.
- F. Professional liability insurance coverage shall have a combined single limit not less than \$2,000,000 per claim applicable to this Contract.
- G. Wherever in this Article the terms "The Insured" and OWNER occurs with respect to coverage in a policy, it shall mean Orange Water and Sewer Authority and its agent and agencies, all municipalities where work is being performed under the Contract, the Engineer, and any other parties specifically designated herein, who shall be named as insured in each policy issued. The insurance policies required herein shall not contain any Third Party Beneficiary Exclusion.

Agreement Form – Lump Sum Single-Prime Contract  
00 52 15-11



Mason Farm WWTP Digester 4 Steel Cap Coating and Repair  
Orange Water & Sewer Authority

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PROJECT: Mason Farm WWTP Digester 4 Steel Cap Coating and Repair

DATE: March 6, 2024

**CERTIFICATE OF INSURANCE  
(Attach)**

See Article 5 of the General Conditions and Article 10.07 herein above for specific requirements.

Agreement Form – Lump Sum Single-Prime Contract  
00 52 15-12



Mason Farm WWTP Digester 4 Steel Cap Coating and Repair  
**Orange Water & Sewer Authority**

CIP NO.: 278-97

PROJECT: Mason Farm WWTP Digester 4 Steel Cap Coating and Repair

DATE: March 6, 2024

POWER OF ATTORNEY  
(Attach)

Agreement Form – Lump Sum Single-Prime Contract  
00 52 15-13



Mason Farm WWTP Digester 4 Steel Cap Coating and Repair  
Orange Water & Sewer Authority

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PROJECT: Mason Farm WWTP Digester 4 Steel Cap Coating and Repair

DATE: March 6, 2024

#### ARTICLE 11 - CERTIFICATE OF ATTORNEY

I hereby certify that I am the duly appointed attorney for Orange Water and Sewer Authority and that I have examined the foregoing instrument and Bond, and insurance documents and I have approved the same as being legal and in proper form.

This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
AUTHORITY GENERAL COUNSEL

#### ARTICLE 12 - CERTIFICATE OF PAYMENTS

I hereby certify that I am the legal and duly appointed Financial Officer for Orange Water and Sewer Authority and that provision for the payment of the moneys to fall due under this agreement has been made by appropriation duly made or by Bonds or notes duly authorized, as required by the Local Government and Fiscal Control Act.

This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

BY:

\_\_\_\_\_  
DIRECTOR OF FINANCE AND  
CUSTOMER SERVICE

Agreement Form – Lump Sum Single-Prime Contract  
00 52 15-14



Mason Farm WWTP Digester 4 Steel Cap Coating and Repair  
Orange Water & Sewer Authority

CIP NO.: 278-97

PROJECT: Mason Farm WWTP Digester 4 Steel Cap Coating and Repair

DATE: March 6, 2024

ARTICLE 13 - CONTRACTOR'S AFFIDAVIT

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

FOR CORPORATIONS:

THIS IS TO CERTIFY that on this day \_\_\_\_\_ appeared before me, with whom I am personally acquainted, who, being duly sworn, says that he or she\* is the \_\_\_\_\_ (title of signatory party) and that \_\_\_\_\_ (name of attesting party) is the Assistant\* Secretary of \_\_\_\_\_, the Corporation described in and which executed the foregoing Contract; that he or she\* knows the common seal of said corporation; that the seal affixed to the said instrument is said common seal; that the name of the corporation was subscribed thereto by the said Vice\* President and that the said Vice\* President and Assistant\* Secretary-subscribed their names thereto and said common seal was affixed, all by order of the Board of Directors of said Corporation, and said instrument is the act and Deed of said Corporation.

FOR PARTNERSHIPS AND INDIVIDUALS:

THIS IS TO CERTIFY that on this day \_\_\_\_\_ appeared before me, with whom I am personally acquainted, who, being duly sworn, says that he or she\* is the Owner or Partner\* of \_\_\_\_\_, the entity described in and which executed the foregoing Contract; and that if a Partner, he or she\* attests that the consent of all partners was attained before executing said Contract.

Witness my hand and notarial seal, this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

\* Strike as needed

Agreement Form – Lump Sum Single-Prime Contract  
00 52 15-15



Mason Farm WWTP Digester 4 Steel Cap Coating and Repair  
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PROJECT: Mason Farm WWTP Digester 4 Steel Cap Coating and Repair

DATE: March 6, 2024

ARTICLE 14 - OWNER'S AFFIDAVIT

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

THIS IS TO CERTIFY that on this day (Todd Taylor\* or Mary Darr\*)  
\_\_\_\_\_ personally appeared, and acknowledged before me that  
(he or she\*) is the \_\_\_\_\_, of Orange Water and Sewer Authority, and  
that, by authority of the Board of its Directors, (he or she\*) executed the foregoing document on  
its behalf, as its act and deed.

Witness my hand and notarial seal, this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_

\* Strike as needed

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

Agreement Form – Lump Sum Single-Prime Contract  
00 52 15-16



Mason Farm WWTP Digester 4 Steel Cap Coating and Repair  
Orange Water & Sewer Authority



CIP NO.: 278-97

PROJECT: Mason Farm WWTP Digester 4 Steel Cap Coating and Repair

DATE: March 6, 2024

#### ARTICLE 15 - CONTRACT SIGNATURES

IN WITNESS WHEREOF, said Individual, Partnership or Corporation (circle one) has caused these presents to be signed in its corporate name, its corporate seal to be hereto affixed and attested by its secretary, and the Owner has caused these presents to be executed in its name by the Executive Director, attested by its Secretary and its Official Corporate Seal to be affixed all by order of its Board of Directors as of the day and year first above written.

##### Individuals or Partnerships Sign Below

Printed Legal Name of Individual or Partners: \_\_\_\_\_ Signature(s): \_\_\_\_\_

\_\_\_\_\_  
(SEAL)

\_\_\_\_\_  
(SEAL)

\_\_\_\_\_  
(SEAL)

ATTEST:

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Partnership Name (if applicable)

##### Corporations Sign Below

Name of Corporation: \_\_\_\_\_

ATTEST \_\_\_\_\_ Signature: \_\_\_\_\_

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

\_\_\_\_\_  
Corporate Secretary or Assistant Secretary

(SEAL)

Officer's Printed Name: \_\_\_\_\_

##### OWASA Sign Below

ORANGE WATER AND SEWER AUTHORITY

By: \_\_\_\_\_  
Ed Kerwin, Executive Director

Agreement Form – Lump Sum Single-Prime Contract  
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Mason Farm WWTP Digester 4 Steel Cap Coating and Repair  
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DATE: March 6, 2024

**IMPORTANT:** If the Contractor is a Corporation, the legal name of the Corporation shall be set forth above, together with the signature of the officer or officers authorized to sign Contracts on behalf of the Corporation; if Contractor is a partnership, the true name of the firm shall be set forth above, together with the signatures of all the partners; and if Contractor is an individual, his signature shall be placed above. If signature is by an agent other than an officer of a Corporation or a member of a partnership, a Power of Attorney must be attached hereto. Signature of Owner and Contractor shall also be acknowledged before a Notary Public or other person authorized by law to execute such acknowledgment on the Owner's and Contractor's Affidavits which are found under Article 13 and Article 14 herein above this page.

Agreement Form – Lump Sum Single-Prime Contract  
00 52 15-18



Mason Farm WWTP Digester 4 Steel Cap Coating and Repair  
Orange Water & Sewer Authority

CIP NO.: 278-97

PROJECT: Mason Farm WWTP Digester 4 Steel Cap Coating and Repair

DATE: March 6, 2024

**PERFORMANCE BOND AND PAYMENT BOND**

Date of Contract: \_\_\_\_\_

Contract Name and Number: "Mason Farm WWTP Digester 4 Steel Cap Coating and Repair #278-97"

Name of Principal (Name of Contractor): \_\_\_\_\_

\_\_\_\_\_

Name of Surety: \_\_\_\_\_

\_\_\_\_\_

Name and Address of Surety's NC Resident Agent: \_\_\_\_\_

\_\_\_\_\_

Contracting Body: Orange Water and Sewer Authority

Amount of Performance Bond (in words and numerals): \_\_\_\_\_  
\_\_\_\_\_ dollars (\$\_\_\_\_\_)

Amount of Payment Bond: same dollar amount as the dollar amount of Performance Bond.

Date of Execution of these Bonds: \_\_\_\_\_

\* \* \* \* \*

KNOW ALL PERSONS BY THESE PRESENTS, that we, the PRINCIPAL AND SURETY above named, are held and firmly bound unto the above named Contracting Body, hereinafter called the Contracting Body, in the penal sum of the amount stated above for the payment of which sum well and truly to be made, we bind ourselves, our heirs, administrators, and successors, jointly and severally, by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas the Principal entered into a certain Contract with the Contracting Body, numbered as shown above and hereto attached:

NOW THEREFORE, if the Principal shall well and truly perform and fulfill all the undertakings, covenants, terms, conditions, and agreements of said Contract during the original term of said Contract and any extensions thereof that may be granted by the Contracting Body, with or without notice to the Surety, and during the life of any guaranty required under the

Agreement Form – Lump Sum Single-Prime Contract  
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Mason Farm WWTP Digester 4 Steel Cap Coating and Repair  
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CIP NO.: 278-97

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DATE: March 6, 2024

Contract, and shall also well and truly perform and fulfill all the undertakings, covenants, terms, conditions, and agreements of any and all duly authorized modifications of said Contract that may hereafter be made, notice of which modifications to the Surety being hereby waived, then this obligation to be void; otherwise to remain in full force and virtue. As used hereinabove, "modifications" shall include, without limitation, changes (including, without limitation, changes granting extensions of time) and additions to with respect to the Work, scope of work, and specifications.

\* \* \* \* \*

KNOW ALL PERSONS BY THESE PRESENTS, that we, the PRINCIPAL AND SURETY above named, are held and firmly bound unto the above named Contracting Body, hereinafter called the Contracting Body, in the penal sum of the amount stated above for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally, by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas the Principal entered into a certain Contract with the Contracting Body, numbered as shown above and hereto attached:

NOW THEREFORE, if the Principal shall promptly make payment to all persons supplying labor and material in the prosecution of the Work provided for in said Contract, and any and all duly authorized modifications of said Contract that may hereafter be made, notice of which modifications to the Surety being hereby waived, then this obligation to be void; otherwise to remain in full force and virtue. As used hereinabove, "modifications" shall include, without limitation, changes (including, without limitation, changes granting extensions of time) and additions to or with respect to the Work, scope of work, and specifications.

\* \* \* \* \*

The Performance Bond and the Payment Bond are being combined here only for purposes of convenience in signing and acknowledging and the obligations of the Principal and of the Surety are the same as if the bonds were on separate documents. Each bond is in the dollar amount stated above, and the amounts of these bonds are not combined. The Surety agrees that both of these bonds are fully binding on it whether or not the Principal executes these bonds. These bonds are given pursuant to Article 3 of Chapter 44A of the NC General Statutes.

Agreement Form – Lump Sum Single-Prime Contract  
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Mason Farm WWTP Digester 4 Steel Cap Coating and Repair  
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DATE: March 6, 2024

IN WITNESS WHEREOF, the above-bounden parties have executed this instrument (for both the Performance Bond and the Payment Bond) under their several seals on the date of execution indicated above, the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

ATTEST:

\_\_\_\_\_  
Principal Secretary  
(SEAL)

\_\_\_\_\_  
Principal

By: \_\_\_\_\_(1)

By: \_\_\_\_\_(1)

By: \_\_\_\_\_(1)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
Witness as to Principal

\_\_\_\_\_  
(Phone Number)

\_\_\_\_\_  
(Surety)

ATTEST:

\_\_\_\_\_  
N. C. Resident Agent  
(SEAL)

By: \_\_\_\_\_  
Attorney-in-Fact

\_\_\_\_\_  
Witness as to Surety

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Phone Number)

(1) If Contractor is a Partnership, all partners should execute Bond

(Note: If you use a raised corporate seal, press hard enough to make it legible.)

Agreement Form – Lump Sum Single-Prime Contract  
00 52 15-21



Mason Farm WWTP Digester 4 Steel Cap Coating and Repair  
Orange Water & Sewer Authority

CIP NO.: 278-97

PROJECT: Mason Farm WWTP Digester 4 Steel Cap Coating and Repair

DATE: March 6, 2024

**PERFORMANCE AND PAYMENT BOND - POWER OF ATTORNEY**

**(Attach)**

Agreement Form – Lump Sum Single-Prime Contract  
00 52 15-22



Mason Farm WWTP Digester 4 Steel Cap Coating and Repair  
**Orange Water & Sewer Authority**

CIP NO.: 278-97

PROJECT: Mason Farm WWTP Digester 4 Steel Cap Coating and Repair

DATE: March 6, 2024

**ACKNOWLEDGEMENT OF CONTRACTOR'S EXECUTION OF CONTRACT,  
PERFORMANCE BOND AND PAYMENT BOND**

State of \_\_\_\_\_ County of \_\_\_\_\_

I, \_\_\_\_\_, a notary public for the aforesaid county and state, certify that personally appeared before me this day, and acknowledged that he or she is \_\_\_\_\_ Secretary of \_\_\_\_\_, a corporation, and that by authority duly given and as the act of the corporation, the foregoing (1) Contract with Orange Water and Sewer Authority and (2) Performance Bond and Payment Bond with respect to the Contract, were signed in its name by its \_\_\_\_\_ President, whose name is \_\_\_\_\_, sealed with its corporate seal, and attested by him/herself as its said Secretary or Assistant Secretary.

This the \_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

My commission expires: \_\_\_\_\_

**ACKNOWLEDGEMENT OF SURETY'S EXECUTION OF  
PERFORMANCE BOND AND PAYMENT BOND**

State of \_\_\_\_\_ County of \_\_\_\_\_

I, \_\_\_\_\_, a Notary Public for said county and state, certify that \_\_\_\_\_, personally appeared before me this day and acknowledged that he or she is Attorney in Fact for \_\_\_\_\_, the Surety named in the foregoing Performance Bond and Payment Bond, in both of which bonds the contracting body is Orange Water and Sewer Authority, and that he or she executed said bonds, under the seal of said Surety, on behalf of said Surety.

This the \_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

My commission expires: \_\_\_\_\_

Agreement Form – Lump Sum Single-Prime Contract  
00 52 15-23



Mason Farm WWTP Digester 4 Steel Cap Coating and Repair  
Orange Water & Sewer Authority

CIP NO.: 278-97

PROJECT: Mason Farm WWTP Digester 4 Steel Cap Coating and Repair

DATE: March 6, 2024

### **NON-DISCRIMINATION CLAUSE**

It is specifically agreed as part of the consideration of the signing of this Contract that the parties hereto, their agents, officials, employees or servants will not discriminate in any manner on the basis of age, handicap, race, color, creed, sexual orientation or national origin with reference to the subject matter of this Contract, no matter how remote.

This provision being incorporated for the benefit of the Orange Water and Sewer Authority and its residents may be enforced as set out in said ordinances; enforcement of this provision shall be by action for specific performance, injunctive relief, or other remedy as by law provided.

This provision shall be binding on the successors and assigns of the parties hereto with reference to the subject matter of this Contract.

#### *SIGNATURE FOR CORPORATION*

\_\_\_\_\_  
Corporate Name

ATTEST:

\_\_\_\_\_  
Secretary\* / Assistant Secretary\*

\_\_\_\_\_  
(Printed Name)

(Corporate Seal)

BY: \_\_\_\_\_

\_\_\_\_\_  
President\* / Vice President\*

\_\_\_\_\_  
(Printed Name)

#### *INDIVIDUAL OR PARTNERSHIP SIGNATURE*

BY: \_\_\_\_\_(SEAL)  
(Printed Name)

WITNESS:

\_\_\_\_\_  
\_\_\_\_\_  
(Printed Name)

\*choose one

-END OF DOCUMENT-

Agreement Form – Lump Sum Single-Prime Contract  
00 52 15-24



Mason Farm WWTP Digester 4 Steel Cap Coating and Repair  
Orange Water & Sewer Authority





# AIA<sup>®</sup> Document G706A<sup>™</sup> – 1994

## Contractor's Affidavit of Release of Liens

OWNER	<input type="checkbox"/>
ARCHITECT	<input type="checkbox"/>
CONTRACTOR	<input type="checkbox"/>
SURETY	<input type="checkbox"/>
OTHER	<input type="checkbox"/>

PROJECT: *(Name and address)*

ARCHITECT'S PROJECT NUMBER:

CONTRACT FOR: General Construction

TO OWNER: *(Name and address)*

CONTRACT DATED:

STATE OF:  
COUNTY OF:

The undersigned hereby certifies that to the best of the undersigned's knowledge, information and belief, except as listed below, the Releases or Waivers of Lien attached hereto include the Contractor, all Subcontractors, all suppliers of materials and equipment, and all performers of Work, labor or services who have or may have liens or encumbrances or the right to assert liens or encumbrances against any property of the Owner arising in any manner out of the performance of the Contract referenced above.

### EXCEPTIONS:

#### SUPPORTING DOCUMENTS ATTACHED HERETO:

1. Contractor's Release or Waiver of Liens, conditional upon receipt of final payment.
2. Separate Releases or Waivers of Liens from Subcontractors and material and equipment suppliers, to the extent required by the Owner, accompanied by a list thereof.

CONTRACTOR: *(Name and address)*

BY:

*(Signature of authorized representative)*

*(Printed name and title)*

Subscribed and sworn to before me on this date:

Notary Public:  
My Commission Expires:

# Instructions for AIA Document G706A™

Contractor's Affidavit of Release of Liens - 1994 Edition

## A. General Information

### 1. Purpose

This document is intended for use as companion to AIA Document G706, Contractor's Affidavit of Payment of Debts and Claims.

### 2. Related Documents

This document may be used with most of AIA's Owner-Contractor agreements and general conditions, such as A201 and its related family of documents. As noted above, this is a companion document to AIA Document G706.

### 3. Use of Current Documents

Prior to using any AIA document, the user should consult the AIA, an AIA component chapter or a current AIA Documents List to determine the current edition of each document.

### 4. Reproductions

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## B. Changes From the Previous Edition

A cross reference to AIA Document A201 has been deleted to permit the use of G706A with other families of AIA documents, including construction management, interiors and design/build.

## C. Completing the G706A Form

**GENERAL:** The Owner-Contractor Agreement is the usual source of required information such as the contract date and the names and addresses of the Owner, Project and Contractor.

**ARCHITECT'S PROJECT NO.:** This information is typically supplied by the Architect and entered on the form by the Contractor.

**CONTRACT FOR:** This refers to the scope of the contract, such as "General Construction" or "Mechanical Work".

**AFFIDAVIT:** Indicate the state and county where the Affidavit is made. This is not necessarily the same location as the Project, but should be the location where the notary is authorized to administer sworn oaths. If there are any EXCEPTIONS to the statement, these should be listed in the space provided; otherwise enter as "None". It may be a stipulation of the Contract Documents that the Owner has the right to require the Contractor to furnish a bond to cover each exception listed on the Affidavit.

**SUPPORTING DOCUMENTS:** The AIA does not publish a "Release or Waiver of Liens" for contractors or subcontractors because of the great diversity of releases or waivers permitted by various state mechanics lien laws. Forms for such purposes may be available from local contractors' associations or may be written with the assistance of legal counsel.

#### **D. Execution of the Document**

The Notary Public should administer a sworn oath to the Contractor in reference to the written statements appearing on G706A, and should duly sign and seal this document containing the Contractor's signature. G706A should be signed by the Contractor or the Contractor's authorized representative.

# **AIA** Document G706™ – 1994

## **Contractor's Affidavit of Payment of Debts and Claims**

OWNER	<input type="checkbox"/>
ARCHITECT	<input type="checkbox"/>
CONTRACTOR	<input type="checkbox"/>
SURETY	<input type="checkbox"/>
OTHER	<input type="checkbox"/>

**PROJECT:** *(Name and address)*

**ARCHITECT'S PROJECT NUMBER:**

**CONTRACT FOR:** General Construction

**TO OWNER:** *(Name and address)*

**CONTRACT DATED:** \_\_\_\_\_

**STATE OF:**  
**COUNTY OF:**

The undersigned hereby certifies that, except as listed below, payment has been made in full and all obligations have otherwise been satisfied for all materials and equipment furnished, for all work, labor, and services performed, and for all known indebtedness and claims against the Contractor for damages arising in any manner in connection with the performance of the Contract referenced above for which the Owner or Owner's property might in any way be held responsible or encumbered.

### **EXCEPTIONS:**

#### **SUPPORTING DOCUMENTS ATTACHED HERETO:**

1. Consent of Surety to Final Payment. Whenever Surety is involved, Consent of Surety is required. AIA Document G707, Consent of Surety, may be used for this purpose

Indicate Attachment ☐ Yes ☐ No

*The following supporting documents should be attached hereto if required by the Owner:*

1. Contractor's Release or Waiver of Liens, conditional upon receipt of final payment.
2. Separate Releases or Waivers of Liens from Subcontractors and material and equipment suppliers, to the extent required by the Owner, accompanied by a list thereof.
3. Contractor's Affidavit of Release of Liens (AIA Document G706A).

**CONTRACTOR:** *(Name and address)*

**BY:** \_\_\_\_\_  
*(Signature of authorized representative)*

\_\_\_\_\_  
*(Printed name and title)*

Subscribed and sworn to before me on this date:

Notary Public:  
My Commission Expires:

# Instructions for AIA Document G706™

Contractor's Affidavit of Payment of Debts and Claims - 1994 Edition

## A. General Information

### 1. Purpose

This document is intended for use when the Contractor is required to provide a sworn statement verifying that debts and claims have been settled, except for those listed by the Contractor under "EXCEPTIONS" in the document. G706 is typically executed as a condition of final payment.

### 2. Related Documents

This document may be used with most of the AIA's Owner-Contractor agreements and general conditions, such as A201 and its related family of documents. G706 also requires the attachment of several supporting documents, including G706A, Contractor's Affidavit of Release of Liens, and G707, Consent of Surety to Reduction in or Release of Retainage.

### 3. Use of Current Documents

Prior to using any AIA document, the user should consult the AIA, an AIA component chapter or a current AIA Documents List to determine the current edition of each document.

### 4. Reproductions

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## B. Changes from the Previous Edition

A cross-reference to AIA Document A201 has been deleted to permit the use of G706 with other families of AIA documents, including construction management, interiors and design/build.

## C. Completing the G706 Form

**GENERAL:** The Owner-Contractor Agreement is the usual source of required information such as the contract date and the names and addresses of the Owner, Project and Contractor.

**ARCHITECT'S PROJECT NO.:** This information is typically supplied by the Architect and entered on the form by the Contractor.

**CONTRACT FOR:** This refers to the scope of the contract, such as General Construction or Mechanical Work.

**AFFIDAVIT:** Indicate the state and county where the Affidavit is made. This is not necessarily the same location as the Project, but should be the location where the notary is authorized to administer sworn oaths. If there are any **EXCEPTIONS** to the statement, these should be listed in the space provided; otherwise enter as "None". It may be a stipulation of the Contract Documents that the Owner has the right to require the Contractor to furnish a bond to cover each exception listed on the Affidavit.

**SUPPORTING DOCUMENTS:** The AIA documents listed as attachments to the G706 form should be of the same (current) edition date as G706. The AIA does not publish a "Release or Waiver of Liens" for contractors or subcontractors because of the great diversity of releases or waivers permitted by various state mechanics lien laws. Forms for such purposes may be available from local contractors' associations or may be written with the assistance of legal counsel.

#### **D. Execution of the Document**

The Notary Public should administer a sworn oath to the Contractor referencing the written statements appearing on G706, and should duly sign and seal this document containing the Contractor's signature. G706 should be signed by the Contractor or the Contractor's authorized representative.

# AIA<sup>®</sup> Document G707<sup>™</sup> – 1994

## Consent Of Surety to Final Payment

OWNER	<input type="checkbox"/>
ARCHITECT	<input type="checkbox"/>
CONTRACTOR	<input type="checkbox"/>
SURETY	<input type="checkbox"/>
OTHER	<input type="checkbox"/>

PROJECT: *(Name and address)*

ARCHITECT'S PROJECT NUMBER:

CONTRACT FOR: General Construction

TO OWNER: *(Name and address)*

CONTRACT DATED:

In accordance with the provisions of the Contract between the Owner and the Contractor as indicated above, the  
*(Insert name and address of Surety)*

on bond of  
*(Insert name and address of Contractor)*

, SURETY,

hereby approves of the final payment to the Contractor, and agrees that final payment to the Contractor shall not relieve the Surety of  
any of its obligations to  
*(Insert name and address of Owner)*

, CONTRACTOR,

as set forth in said Surety's bond.

, OWNER,

IN WITNESS WHEREOF, the Surety has hereunto set its hand on this date:  
*(Insert in writing the month followed by the numeric date and year.)*

\_\_\_\_\_  
*(Surety)*

\_\_\_\_\_  
*(Signature of authorized representative)*

Attest:  
(Seal):

\_\_\_\_\_  
*(Printed name and title)*

# Instructions for AIA Document G707™

Consent of Surety to Final Payment - 1994 Edition

## A. General Information

### 1. Purpose

This document is intended for use as a companion to AIA Document G706, Contractor's Affidavit of Payment of Debts and Claims, on construction projects where the Contractor is required to furnish a bond. By obtaining the Surety's approval of final payment to the Contractor and its agreement that final payment will not relieve the Surety of any of its obligations, the Owner may preserve its rights under the bond.

### 2. Related Documents

This document may be used with most of the AIA's Owner-Contractor agreements and general conditions, such as A201 and its related family of documents. As noted above, this is a companion document to AIA Document G706.

### 3. Use of Current Documents

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## B. Changes from the Previous Edition

Changes in the location of various items of information were made, without revision to the substance of the document.

## C. Completing the G707 Form

**GENERAL:** The bond form is the usual source of required information such as the contract date and the names and addresses of the Surety, Owner, Contractor and Project.

**ARCHITECT'S PROJECT NO.:** This information is typically supplied by the Architect and entered on the form by the Contractor.



**CONTRACT FOR:** This refers to the scope of the contract, such as "General Construction" or "Mechanical Work".

#### **D. Execution of the Document**

The G707 form requires both the Surety's seal and the signature of the Surety's authorized representative.

CIP NO.: **278-97**

PROJECT: Mason Farm WWTP Digester 4 Steel Cap Coating and Repair

DATE: March 6, 2024

DOCUMENT 00 52 16

## FORM OF SUBMITTALS

The forms listed below and included in this Section are to be used in accordance with the requirements noted in other Sections and included herein. The first five digits of the form number generally refers to the Section number which would provide the most information or instruction regarding that form. Forms such as the Bid Form are included in the Section to which it pertains.

Any form referred to in the Contract Documents but not contained in the Project Manual should be requested from Orange Water and Sewer Authority and the failure to include a required form herein does not excuse the Contractor from the requirement to use that form.

Form #	Title
00300-A	Notice of Award
00500-A	Notice to Proceed
00700-A	Certificate of Substantial Completion
00700-B	MBE Documentation for Contract Payments
00700-F	Application and Certification for Progress Payment
00700-G	Work Change Directive
00700-H	Field Order
00700-I	Change Order
00700-C	AIA Document G706 Contractor's Affidavit of Payments of Debts & Claims
00700-D	AIA Document G706A Contractor's Affidavit or Release of Liens
00700-E	AIA Document G707 Consent of Surety Company to Final Payment
	NC Sales & Use Tax Affidavit



**Orange Water & Sewer Authority**

Mason Farm WWTP Digester 4 Steel Cap Coating and Repair

CIP NO.: **278-97**

PROJECT: Mason Farm WWTP Digester 4 Steel Cap Coating and Repair

DATE: March 6, 2024

## NOTICE OF AWARD

CIP # 278-97

To: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

From: Orange Water and Sewer Authority  
400 Jones Ferry Road  
Carrboro, NC 27510

Project: Mason Farm WWTP Digester 4 Steel Cap Coating and Repair

Contract Amount: \$ \_\_\_\_\_

You are hereby notified that Orange Water and Sewer Authority has accepted your Bid dated \_\_\_\_\_ for the above named project in response to its Advertisement for Bids.

You are required by the Instructions to Bidders to execute the formal Contract with Orange Water and Sewer Authority and to furnish Performance and Payment Bonds and evidence of insurance (per Article 6 of the General Conditions and Agreement Section 10.07) within 10 calendar days from the date of delivery of this Notice.

If you fail to execute said Contract and to furnish said bonds and insurance within 10 calendar days from the date of delivery of this Notice, Orange Water and Sewer Authority shall be entitled to consider all of your rights arising out of its acceptance of your Bid as abandoned and to award the Work covered by the Advertisement to Bids to another, to re-advertise the Work, or otherwise dispose thereof as Orange Water and Sewer Authority sees fit.

Dated this \_\_\_\_ day of \_\_\_\_\_, **2024**

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

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

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Title: Finance Officer

Title: Director of Engineering & Planning

This Instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act

Orange Water and Sewer Authority

### ACCEPTANCE OF NOTICE BY CONTRACTOR

Receipt of this Notice of Award is hereby acknowledged.

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

Date: \_\_\_\_\_

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



Orange Water & Sewer Authority

CIP NO.: 278-97

PROJECT: Mason Farm WWTP Digester 4 Steel Cap Coating and Repair

DATE: March 6, 2024

## NOTICE TO PROCEED

PO # \_\_\_\_\_

CIP # 278-97

To: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**From:** Orange Water and Sewer Authority  
400 Jones Ferry Road  
Carrboro, NC 27510

**Project:** \_\_\_\_\_

**Contract Amount:** \_\_\_\_\_

You are hereby notified that the Contract Time(s) for the above Project will commence to run on \_\_\_\_\_. You are directed to commence work on the referenced Project by that date. You are to complete the Work on or before the completion dates noted below.

The Contract Time(s) based on the durations set forth in Article 4 of the Agreement are:

Substantial Completion of All Work: 140 calendar days \_\_\_\_\_

Final Completion of All Work: 180 calendar days \_\_\_\_\_

Article 4 of the Agreement provides for the assessment of Liquidated Damages for each consecutive calendar day the Work remains incomplete after the above completion dates.

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

**Title:** Director of Engineering and Planning

**Date:** \_\_\_\_\_

CIP NO.: 278-97

PROJECT: Mason Farm WWTP Digester 4 Steel Cap Coating and Repair

DATE: March 6, 2024

## **CERTIFICATE OF SUBSTANTIAL COMPLETION**

CIP # \_\_\_\_\_

To: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

From: Orange Water and Sewer Authority  
400 Jones Ferry Road  
Carrboro, NC 27510

**Project: Mason Farm WWTP Digester 4 Steel Cap Coating and Repair** \_\_\_\_\_

The Work to which this Certificate applies has been inspected by authorized representatives of Owner, Contractor and Engineer and the Work is hereby declared to be substantially complete in accordance with the Contract Documents on \_\_\_\_\_.

A tentative list of items to be completed or corrected will be issued as the punch list. This list may not be all-inclusive, and the failure to include an item in it does not alter the responsibility of Contractor to complete all the Work in accordance with the Contract Documents.

The responsibilities between Owner and Contractor for security, operation, safety, maintenance, heat, utilities and warranties shall be as follows:

**Owner** \_\_\_\_\_

**Contractor** \_\_\_\_\_

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

### **RECOMMENDATION OF ENGINEER**

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

Firm: \_\_\_\_\_ Date: \_\_\_\_\_

### **ACCEPTANCE BY CONTRACTOR**

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

Firm: \_\_\_\_\_ Date: \_\_\_\_\_

### **APPROVAL BY OWNER**

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

Firm: Orange Water and Sewer Authority Date: \_\_\_\_\_



CIP NO.: 278-97

PROJECT: Mason Farm WWTP Digester 4 Steel Cap Coating and Repair

DATE: March 6, 2024

---

## MBE DOCUMENTATION FOR CONTRACT PAYMENTS

Prime Contractor: \_\_\_\_\_

Address & Phone: \_\_\_\_\_

Project Name: \_\_\_\_\_

Pay Application #: \_\_\_\_\_ Period: \_\_\_\_\_

The following is a list of payments made to Minority Business Enterprises on this project for the above-mentioned period.

MBE FIRM NAME	* INDICATE TYPE OF MBE	AMOUNT PAID THIS MONTH	TOTAL PAYMENTS TO DATE	TOTAL AMOUNT COMMITTED

\*Minority categories: Black, African American (B), Hispanic (H), Asian American (A), American Indian (I), Female (F), Social and Economically Disadvantage (D)

Date: \_\_\_\_\_ Approved/Certified By: \_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature

**SUBMIT WITH EACH PAY REQUEST & FINAL PAYMENT**



Orange Water & Sewer Authority

CIP NO.: 278-97

PROJECT: Mason Farm WWTP Digester 4 Steel Cap Coating and Repair

DATE: March 6, 2024

## APPLICATION AND CERTIFICATION FOR PROGRESS PAYMENT

CIP # \_\_\_\_\_

To: Orange Water & Sewer Authority (Owner) Application #: \_\_\_\_\_

Project: \_\_\_\_\_

Period Covered: From: \_\_\_\_\_ To: \_\_\_\_\_

### Application for Payment:

This Application for Progress Payment is submitted in accordance with the General Conditions of the Contract Documents. Application is hereby made for the progress payment in the amount indicated below:

A.	<u>Original Contract Price (Schedule of Values)</u>	\$ 0.00
B.	Net Total Value of Executed Change Orders to Date	0.00
C.	<u>CONTRACT VALUE TO DATE (A+B)</u>	0.00
D.	<b>Value of Completed Change Order Work</b>	0.00
E.	Value of Completed Original Contract Work and Stored Materials to Date	0.00
F.	<u>TOTAL VALUE OF COMPLETED WORK AND STORED MATERIALS TO DATE (D+E)</u>	0.00
G.	Retainage Amount (5% x F)	0.00
H.	Retainage Held this Request	0.00
I.	Other Withholding (if any)	0.00
J.	Total Value of Previous Progress Payments	0.00
K.	<u>TOTAL VALUE OF DEDUCTIONS (G+I+J)</u>	0.00
L.	<u>AMOUNT DUE THIS APPLICATION (F-K)</u>	\$ 0.00

### CONTRACTOR CERTIFICATION:

The undersigned Contractor certifies that (1) all previous payments received from Owner on account of Work done under the Contract referred to above have been applied to discharge, in full, obligations of Contractor incurred in connection with Work covered by prior Applications for Payment numbered 1 through \_\_\_\_ inclusive and (2) title to all materials and equipment incorporated in said Work or otherwise listed in, or covered by, this Application for Progress Payment will pass to Owner at time of payment free and clear of all liens, claims, security interests and encumbrances (except such as covered by Bond acceptable to Owner).

Firm: \_\_\_\_\_

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

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

Date: \_\_\_\_\_

### ENGINEER CERTIFICATION:

Payment of the above AMOUNT DUE THIS APPLICATION is hereby recommended.

Firm: \_\_\_\_\_

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

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

Date: \_\_\_\_\_

### OWASA APPROVAL:

Payment of the above AMOUNT DUE THIS APPLICATION is hereby approved.

OWASA Account #: 6000

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

PO #: \_\_\_\_\_

Date: \_\_\_\_\_



Orange Water & Sewer Authority

CIP NO.: 278-97

PROJECT: Mason Farm WWTP Digester 4 Steel Cap Coating and Repair

DATE: March 6, 2024

## WORK CHANGE DIRECTIVE

PO # \_\_\_\_\_

WCD # \_\_\_\_\_

Project: \_\_\_\_\_ Date: \_\_\_\_\_

Owner: Orange Water and Sewer Authority Engineer: \_\_\_\_\_

Contractor: \_\_\_\_\_

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

You are directed to proceed promptly with the following change(s):

If a claim is made that the above change(s) have affected Contract Price or Contract Time, any claim for a Change Order based thereon will involve one of the following methods of determining the effect of the change(s).

### Method of determining change in Contract Price:

\_\_\_\_\_ Time and materials  
\_\_\_\_\_ Unit Prices  
\_\_\_\_\_ Cost plus fixed fee  
\_\_\_\_\_ Other: \_\_\_\_\_

### Method of determining change in Contract Time:

\_\_\_\_\_ Contractor's records  
\_\_\_\_\_ Inspector's records  
\_\_\_\_\_ Other: \_\_\_\_\_

### Estimated change in Contract Price:

\$ \_\_\_\_\_. This estimated change in Contract Price is not to be exceeded without further authorization.

### Estimated change in Contract Time:

\_\_\_\_\_ days. This estimated change in Contract Time is not to be exceeded without further authorization.

### RECOMMENDATION OF WORK CHANGE DIRECTIVE

By: \_\_\_\_\_  
Firm: \_\_\_\_\_  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Firm: \_\_\_\_\_  
Date: \_\_\_\_\_

### OWASA APPROVAL OF WORK CHANGE DIRECTIVE

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

Date: \_\_\_\_\_



Orange Water & Sewer Authority



CIP NO.: 278-97

PROJECT: Mason Farm WWTP Digester 4 Steel Cap Coating and Repair

DATE: March 6, 2024

---

**FIELD ORDER**

PO # \_\_\_\_\_

FO # \_\_\_\_\_

---

**Project:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Owner:** Orange Water and Sewer Authority **Engineer:** \_\_\_\_\_

**Contractor:** \_\_\_\_\_

---

This Field Order is issued to interpret/clarify the Contractor Documents, order minor changes in the Work, and/or to documents trade-off agreements. Owner and Contractor hereby agree that the work described in this Field Order is to be accomplished without changes in Contract Price, Contract Time, claim or other costs. Contractor is to execute this Field Order and return it to Owner for execution within 48 hours.

---

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

---

**Description:**

**Attachments:**

**Owner:** \_\_\_\_\_

**Contractor:** \_\_\_\_\_

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

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

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

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

**Date:** \_\_\_\_\_

**Date:** \_\_\_\_\_

---



Orange Water & Sewer Authority

CIP NO.: 278-97

PROJECT: Mason Farm WWTP Digester 4 Steel Cap Coating and Repair

DATE: March 6, 2024

## CHANGE ORDER

PO # \_\_\_\_\_

CO # \_\_\_\_\_

To: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

From: Orange Water and Sewer Authority  
400 Jones Ferry Road  
Carrboro, NC 27510

PROJECT: \_\_\_\_\_

You are hereby notified that OWASA is issuing **Change Order #** \_\_\_\_\_ for the above referenced contract under the provisions of Article 10 of the General Conditions. This change is subject to all the terms, conditions and provisions of the original contract.

Item #	Description Of Changes (Increases)	Amount
a.	Insert descriptions here	\$0,000.00
b.	Insert descriptions here	\$0,000.00
c.	Insert descriptions here	\$0,000.00
<b>Subtotal of these changes</b>		<b>\$000,000.00</b>
<b>Contract Amount before modified</b>		<b>\$000,000.00</b>
<b>Contract Amount as modified</b>		<b>\$000,000.00</b>

**Description of Change:** Description of each increase and associated cost breakdowns are attached, along with all related project communications.

**Contract performance period changes:** \_\_\_\_\_ (Unchanged / Increased / Decreased)

### RECOMMENDATION OF CHANGE ORDER (BY CONSULTANT)

The change described above is hereby recommended:

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

Firm: \_\_\_\_\_ Date: \_\_\_\_\_

### ACCEPTANCE OF CHANGE ORDER (BY CONTRACTOR)

The change described above is accepted and hereby acknowledged:

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

Firm: \_\_\_\_\_ Date: \_\_\_\_\_

### APPROVAL OF CHANGE ORDER (BY OWNER)

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

Date: \_\_\_\_\_ Date: \_\_\_\_\_ Date: \_\_\_\_\_

Title: Finance Officer Title: Executive Director Title: Director of Engineering & Planning

This Instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act

Orange Water and Sewer Authority

Orange Water and Sewer Authority



Orange Water & Sewer Authority

**\*\*\*THIS DOCUMENT HAS BEEN EDITED AND REVISED BY ORANGE WATER AND SEWER  
AUTHORITY UNDER PERMISSION FROM THE ENGINEERS JOINT CONTRACT DOCUMENTS  
COMMITTEE, MAY 5, 2014\*\*\***

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

## **STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT**

Prepared by



Issued and Published Jointly by



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

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

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# STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

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## ARTICLE 1 – DEFINITIONS AND TERMINOLOGY

### 1.01 *Defined Terms*

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

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

11. *Constituent of Concern*—Asbestos, petroleum, radioactive materials, polychlorinated biphenyls (PCBs), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. (“CERCLA”); (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§5501 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. (“RCRA”); (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; or (g) any other federal, state, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.
12. *Contract*—The entire and integrated written contract between the Owner and Contractor concerning the Work.
13. *Contract Documents*—Those items so designated in the Agreement, and which together comprise the Contract.
14. *Contract Price*—The money that Owner has agreed to pay Contractor for completion of the Work in accordance with the Contract Documents. .
15. *Contract Times*—The number of days or the dates by which Contractor shall: (a) achieve Milestones, if any; (b) achieve Substantial Completion; and (c) complete the Work.
16. *Contractor*—The individual or entity with which Owner has contracted for performance of the Work.
17. *Cost of the Work*—See Paragraph 13.01 for definition.
18. *Drawings*—The part of the Contract that graphically shows the scope, extent, and character of the Work to be performed by Contractor.
19. ***Document* – A specific section of the Project Manual or a reference to a specific section of the Project Manual as noted with the accompanying numeric reference.**
20. *Effective Date of the Contract*—The date, indicated in the Agreement, on which the Contract becomes effective.
21. *Engineer*—The individual or entity named as such in the Agreement.
22. *Field Order*—A written order issued by Engineer which requires minor changes in the Work but does not change the Contract Price or the Contract Times.
23. ***Geotechnical Data Report (GDR) — The factual report that collects and presents data regarding actual subsurface conditions at or adjacent to the Site, including Technical Data and other geotechnical data, prepared by or for Owner in support of the Geotechnical Baseline Report. The GDR’s content may include logs of borings, trenches, and other site investigations, recorded measurements of subsurface water levels, the results of field and laboratory testing, and descriptions of the investigative and testing programs. The GDR does not include an interpretation of the data. If opinions, or interpretive or speculative non-factual comments or statements appear in a document that is labeled a GDR, such opinions, comments, or statements are not***

**operative parts of the GDR and do not have contractual standing. Subject to that exception, the GDR is a Contract Document.**

24. *Hazardous Environmental Condition*—The presence at the Site of Constituents of Concern in such quantities or circumstances that may present a danger to persons or property exposed thereto. The presence at the Site of materials that are necessary for the execution of the Work, or that are to be incorporated in the Work, and that are controlled and contained pursuant to industry practices, Laws and Regulations, and the requirements of the Contract, does not establish a Hazardous Environmental Condition.
25. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
26. *Liens*—Charges, security interests, or encumbrances upon Contract-related funds, real property, or personal property.
27. *Milestone*—A principal event in the performance of the Work that the Contract requires Contractor to achieve by an intermediate completion date or by a time prior to Substantial Completion of all the Work.
28. *Notice of Award*—The written notice by Owner to a Bidder of Owner's acceptance of the Bid.
29. *Notice to Proceed*—A written notice by Owner to Contractor fixing the date on which the Contract Times will commence to run and on which Contractor shall start to perform the Work.
30. *Owner*—The individual or entity with which Contractor has contracted regarding the Work, and which has agreed to pay Contractor for the performance of the Work, pursuant to the terms of the Contract.
31. *Progress Schedule*—A schedule, prepared and maintained by Contractor, describing the sequence and duration of the activities comprising the Contractor's plan to accomplish the Work within the Contract Times.
32. *Project*—The total undertaking to be accomplished for Owner by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the Work to be performed under the Contract Documents is a part.
33. *Project Manual*—The written documents prepared for, or made available for, procuring and constructing the Work, including but not limited to the Bidding Documents or other construction procurement documents, geotechnical and existing conditions information, the Agreement, bond forms, General Conditions, ~~Supplementary Conditions~~, and Specifications. The contents of the Project Manual may be bound in one or more volumes.
34. **Property Owner – The individual, partnership, co-partnership, limited liability corporation firm, company, corporation, unincorporated association, organization, joint stock company, trust, estate, institution, governmental entity, or any other entity that owns the property, or controls management or activities of the property where Work or a portion of the Work is performed.**
35. *Resident Project Representative*—The authorized representative of Engineer assigned to assist Engineer at the Site, **or any part thereof to make any and all observations of the Work performed, acting under direct supervision of the Engineer.** As used herein,

the term Resident Project Representative or “RPR” includes any assistants or field staff of Resident Project Representative.

36. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work will be judged.
37. *Schedule of Submittals*—A schedule, prepared and maintained by Contractor, of required submittals and the time requirements for Engineer’s review of the submittals and the performance of related construction activities.
38. *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.
39. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Contract Documents.
40. *Site*—Lands or areas indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements, and such other lands furnished by Owner which are designated for the use of Contractor.
41. *Specifications*—The part of the Contract that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.
42. *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.
43. *Substantial Completion*—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, **and approved by the Owner**, 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.
44. *Successful Bidder*—The Bidder whose Bid the Owner accepts, and to which the Owner makes an award of contract, subject to stated conditions.
45. **Superintendent – The authorized representative of the Contractor who is assigned to oversee the work forces responsible for performing the Work in accordance with the Contract Documents.**
46. *Supplementary Conditions*—The part of the Contract that amends or supplements these General Conditions. **[Supplementary Conditions have been inserted in the EJCDC General Conditions. Any deletions to the standard C-700 language are noted by having a line drawn through them (i.e. interlining; ex. Supplementary. Any added (supplementary) language is noted by the text being in bold font and underlined (this sentence being an example).]**
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 a Subcontractor.

48. *Technical Data*—Those items expressly identified as Technical Data in the ~~Supplementary~~ **General** Conditions, with respect to either (a) subsurface conditions at the Site, or physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities) or (b) Hazardous Environmental Conditions at the Site. If no such express identifications of Technical Data have been made with respect to conditions at the Site, then the data contained in boring logs, recorded measurements of subsurface water levels, laboratory test results, and other factual, objective information regarding conditions at the Site that are set forth in any geotechnical or environmental report prepared for the Project and made available to Contractor are hereby defined as Technical Data with respect to conditions at the Site under Paragraphs 5.03, 5.04, and 5.06.
49. *Underground Facilities*—All underground pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or attachments, and any encasements containing such facilities, including but not limited to those that convey electricity, gases, steam, liquid petroleum products, telephone or other communications, fiber optic transmissions, cable television, water, wastewater, storm water, other liquids or chemicals, or traffic or other control systems.
50. *Unit Price Work*—Work to be paid for on the basis of unit prices.
51. *Work*—The entire construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction; furnishing, installing, and incorporating all materials and equipment into such construction; and may include related services such as testing, start-up, and commissioning, all as required by the Contract Documents.
52. *Work Change Directive*—A written directive to Contractor issued on or after the Effective Date of the Contract, signed by Owner and recommended by Engineer, ordering an addition, deletion, or revision in the Work.

## 1.02 Terminology

- A. The words and terms discussed in the following paragraphs are not defined but, when used in the Bidding Requirements or Contract Documents, have the indicated meaning.
- B. *Intent of Certain Terms or Adjectives:*
1. The Contract Documents include the terms “as allowed,” “as approved,” “as ordered,” “as directed” or terms of like effect or import to authorize an exercise of professional judgment by Engineer. In addition, the adjectives “reasonable,” “suitable,” “acceptable,” “proper,” “satisfactory,” or adjectives of like effect or import are used to describe an action or determination of Engineer as to the Work. It is intended that such exercise of professional judgment, action, or determination will be solely to evaluate, in general, the Work for compliance with the information in the Contract Documents and with the design concept of the Project as a functioning whole as shown or indicated in the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective is not intended to and shall not be effective to assign to Engineer any duty or authority to supervise or direct the performance of the Work, or any duty or authority to undertake responsibility contrary to the provisions of Article 10 or any other provision of the Contract Documents.

C. *Day:*

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

D. *Defective:*

1. The word “defective,” when modifying the word “Work,” refers to Work that is unsatisfactory, faulty, or deficient in that it:
  - a. does not conform to the Contract Documents; or
  - b. does not meet the requirements of any applicable inspection, reference standard, test, or approval referred to in the Contract Documents; or
  - c. has been damaged prior to Engineer’s recommendation of final payment (unless responsibility for the protection thereof has been assumed by Owner at Substantial Completion in accordance with Paragraph 15.03 or 15.04).

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

1. The word “furnish,” when used in connection with services, materials, or equipment, shall mean to supply and deliver said services, materials, or equipment to the Site (or some other specified location) ready for use or installation and in usable or operable condition.
2. The word “install,” when used in connection with services, materials, or equipment, shall mean to put into use or place in final position said services, materials, or equipment complete and ready for intended use.
3. The words “perform” or “provide,” when used in connection with services, materials, or equipment, shall mean to furnish and install said services, materials, or equipment complete and ready for intended use.
4. If the Contract Documents establish an obligation of Contractor with respect to specific services, materials, or equipment, but do not expressly use any of the four words “furnish,” “install,” “perform,” or “provide,” then Contractor shall furnish and install said services, materials, or equipment complete and ready for intended use.

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

G. **Include:**

1. **The word “include” in its various forms and derivatives shall mean ‘without limitation’ unless the context otherwise requires.**

H. **Persistently Fails:**

1. **The expression ‘persistently fails’ and other similar expressions, as used in reference to the Contractor, shall mean any act or omission which causes Owner or Engineer to reasonably conclude that Contractor will not complete the Work within the Contract Times or Contract Price, or in substantial compliance with the requirements of the Contract Documents.**

G. **Pronouns, Numbers, and Titles:**

1. **Unless the context otherwise requires all personal pronouns used in the Contract Documents shall include all other genders, and the singular shall include the plural**

and vice versa. Titles and headings of articles, paragraphs, subparagraphs, sections, subsections, parts, subparts, etc., in the Contract Documents are for convenience only, and neither limit nor amplify the provisions.

## ARTICLE 2 – PRELIMINARY MATTERS

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

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

***Evidence of Contractor's Insurance*: When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner copies of the policies of insurance (including all endorsements, and identification of applicable self-insured retentions and deductibles) required to be provided by Contractor in Article 6. Contractor may block out (redact) any confidential premium or pricing information contained in any policy or endorsement furnished under this provision.**

- C. *Evidence of Owner's Insurance*: After receipt of the executed counterparts of the Agreement and all required bonds and insurance documentation, Owner shall promptly deliver to Contractor, with copies to each named insured and additional insured (as identified in the ~~Supplementary~~ **General** Conditions or otherwise), the certificates and other evidence of insurance required to be provided by Owner under Article 6.

### 2.02 *Copies of Documents*

- A. Owner shall furnish to Contractor ~~four printed copies of the Contract~~ **free of charge, 10 copies of the Contract Documents** (including one fully executed counterpart of the Agreement), and one copy in electronic portable document format (PDF). Additional printed copies will be furnished upon request at the cost of reproduction.
- B. Owner shall maintain and safeguard at least one original printed record version of the Contract, including Drawings and Specifications signed and sealed by Engineer and other design professionals. Owner shall make such original printed record version of the Contract available to Contractor for review. Owner may delegate the responsibilities under this provision to Engineer.

### 2.03 *Before Starting Construction*

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



into component parts in sufficient detail to serve as the basis for progress payments during performance of the Work. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work.

- B. **Priority List of Sites: The priority list of Sites for the Project shall be approved by the Engineer or the Resident Project Representative. Orange Water and Sewer Authority reserves the right to alter the priority list of Sites. The Contractor will be given notice in writing of any change in the priority list of Sites.**

#### 2.04 *Preconstruction Conference; Designation of Authorized Representatives*

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

#### 2.05 *Initial Acceptance of Schedules*

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

#### 2.06 *Electronic Transmittals*

- A. Except as otherwise stated elsewhere in the Contract, the Owner, Engineer, and Contractor may transmit, and shall accept, Project-related correspondence, text, data, documents, drawings, information, and graphics, including but not limited to Shop Drawings and other submittals, in electronic media or digital format, either directly, or through access to a secure Project website.
- B. If the Contract does not establish protocols for electronic or digital transmittals, then Owner, Engineer, and Contractor shall jointly develop such protocols.

- C. When transmitting items in electronic media or digital format, the transmitting party makes no representations as to long term compatibility, usability, or readability of the items resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the items, or from those established in applicable transmittal protocols.

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

#### **3.01 *Intent***

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

#### **3.02 *Reference Standards***

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

#### **3.03 *Reporting and Resolving Discrepancies***

- A. *Reporting Discrepancies:*
  - 1. *Contractor's Verification of Figures and Field Measurements:* Before undertaking each part of the Work, Contractor shall carefully study the Contract Documents, and check and verify pertinent figures and dimensions therein, particularly with respect to

applicable field measurements. Contractor shall promptly report in writing to Engineer any conflict, error, ambiguity, or discrepancy that Contractor discovers, or has actual knowledge of, and shall not proceed with any Work affected thereby until the conflict, error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract Documents issued pursuant to Paragraph 11.01.

- a. The accuracy or exactness of grades, elevations, dimensions, or locations given or any Drawings or the Work installed by other contractors, is not guaranteed by Owner.
- b. Included under Contractor's duty under the first sentence of Paragraph 3.03.A.1 are:
  - 1) to satisfy itself as to the accuracy of all grades, elevations, dimensions, and locations, and
  - 2) in all cases of interconnection of the Work to be done by Contractor with the rest of the Project, it shall verify at the Site all dimensions needed to make proper interconnections.
- c. Contractor shall promptly rectify all errors due to its failure to so verify all such grades, elevations, locations, or dimensions without additional cost to Owner. No extra charges or compensation shall be allowed on account of differences between actual dimensions and the dimensions indicated on the Drawings.
- d. Contractor acknowledges:
  - 1) the Contract Documents are sufficient to determine the cost of the Work;
  - 2) it has had sufficient opportunity to visit the Site and to examine all conditions, including subsurface and physical conditions affecting the Work;
  - 3) it has had sufficient opportunity to examine the Contract Documents for errors, inconsistencies, and omissions;
  - 4) the Contract Documents are complete and unambiguous;
  - 5) the Contract Times are reasonable and sufficient to complete the Work.
- e. If the statements in Paragraph 3.03.A.1.d are not accurate, Contractor accepts any risk in connection with making them.
- f. Contractor shall evaluate and satisfy itself as to the conditions and limitations under which the Work is to be performed, including (to the extent they are pertinent):
  - 1) the location, condition, layout, and nature of the Site and surrounding area;
  - 2) generally prevailing climatic conditions;
  - 3) anticipated labor supply costs;
  - 4) availability and cost of materials, tools, and equipment, and
  - 5) other similar issues.
- g. To the extent that it may be appropriate for the proper execution of its subcontract, Contractor shall cause each Subcontractor to do the evaluation described in Paragraph 3.03.A.1.f.

- h. **Owner will not be required to make any adjustment in the Contract Times or the Contract Price in connection with any failure by Contractor to comply with Paragraph 3.03.A.**

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

B. *Resolving Discrepancies:*

- 1. Except as may be otherwise specifically stated in the Contract Documents, the provisions of the part of the Contract Documents prepared by or for Engineer shall take precedence in resolving any conflict, error, ambiguity, or discrepancy between such provisions of the Contract Documents and:
  - a. the provisions of any standard specification, manual, reference standard, or code, or the instruction of any Supplier (whether or not specifically incorporated by reference as a Contract Document); or
  - b. the provisions of any Laws or Regulations applicable to the performance of the Work (unless such an interpretation of the provisions of the Contract Documents would result in violation of such Law or Regulation).
- 2. **Owner and Contractor shall do all acts, and shall make, execute, and deliver such written instruments, as shall from time to time be reasonably required to carry out the provisions of the Contract Documents, or between the Contract Documents and applicable standards, specifications, manuals, or Laws or Regulations cannot be resolved by use of provisions of the Contract Documents as described in Paragraph 3.03.B.1, Contractor shall:**
  - a. **provide the better quality or greater quantity of Work or**
  - b. **comply with the more stringent requirement**
- 3. **Paragraph 3.03.B.2 shall not relieve the Contractor of any obligations otherwise imposed on it.**

3.04 *Requirements of the Contract Documents*

- A. During the performance of the Work and until final payment, Contractor and Owner shall submit to the Engineer all matters in question concerning the requirements of the Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Contract Documents, as soon as possible after such matters arise. Engineer will be the initial interpreter of the requirements of the Contract Documents, and judge of the acceptability of the Work thereunder.

- B. Engineer will, with reasonable promptness, render a written clarification, interpretation, or decision on the issue submitted, or initiate an amendment or supplement to the Contract Documents. Engineer's written clarification, interpretation, or decision will be final and binding on Contractor, unless it appeals by submitting a Change Proposal, and on Owner, unless it appeals by filing a Claim.
- C. If a submitted matter in question concerns terms and conditions of the Contract Documents that do not involve (1) the performance or acceptability of the Work under the Contract Documents, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, then Engineer will promptly give written notice to Owner and Contractor that Engineer is unable to provide a decision or interpretation. If Owner and Contractor are unable to agree on resolution of such a matter in question, either party may pursue resolution as provided in Article 12.

### 3.05 *Reuse of Documents*

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

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

### 4.01 *Commencement of Contract Times; Notice to Proceed*

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

### 4.02 *Starting the Work*

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

### 4.03 *Reference Points*

- A. Owner shall provide engineering surveys to establish reference points for construction which in Engineer's judgment are necessary to enable Contractor to proceed with the Work. Contractor shall be responsible for laying out the Work, shall protect and preserve the established reference points and property monuments, and shall make no changes or relocations without the prior written approval of Owner. Contractor shall report to Engineer

whenever any reference point or property monument is lost or destroyed or requires relocation because of necessary changes in grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points or property monuments by professionally qualified personnel.

#### 4.04 *Progress Schedule*

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

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

- A. If Owner, Engineer, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress of the Work, then Contractor shall be entitled to an equitable adjustment in the Contract Times and Contract Price. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.
- B. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delay, disruption, or interference caused by or within the control of Contractor. Delay, disruption, and interference attributable to and within the control of a Subcontractor or Supplier shall be deemed to be within the control of Contractor.
- C. If Contractor's performance or progress is delayed, disrupted, or interfered with by unanticipated causes not the fault of and beyond the control of Owner, Contractor, and those for which they are responsible, then Contractor shall be entitled to an equitable adjustment in Contract Times. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times. Such an adjustment shall be Contractor's sole and exclusive remedy for the delays, disruption, and interference described in this paragraph. Causes of delay, disruption, or interference that may give rise to an adjustment in Contract Times under this paragraph include but are not limited to the following:
  - 1. severe and unavoidable natural catastrophes such as fires, floods, epidemics, and earthquakes;
  - 2. abnormal weather conditions;
  - 3. acts or failures to act of utility owners (other than those performing other work at or adjacent to the Site by arrangement with the Owner, as contemplated in Article 8); and
  - 4. acts of war or terrorism.
- D. Delays, disruption, and interference to the performance or progress of the Work resulting from the existence of a differing subsurface or physical condition, an Underground Facility that was not shown or indicated by the Contract Documents, or not shown or indicated with

reasonable accuracy, and those resulting from Hazardous Environmental Conditions, are governed by Article 5.

- E. Paragraph 8.03 governs delays, disruption, and interference to the performance or progress of the Work resulting from the performance of certain other work at or adjacent to the Site.
- F. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for any delay, disruption, or interference if such delay is concurrent with a delay, disruption, or interference caused by or within the control of Contractor.
- G. Contractor must submit any Change Proposal seeking an adjustment in Contract Price or Contract Times under this paragraph within 30 days of the commencement of the delaying, disrupting, or interfering event.

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

### **5.01 *Availability of Lands***

- A. Owner shall furnish the Site. Owner shall notify Contractor of any encumbrances or restrictions not of general application but specifically related to use of the Site with which Contractor must comply in performing the Work.
- B. Upon reasonable written request, Owner shall furnish Contractor with a current statement of record legal title and legal description of the lands upon which permanent improvements are to be made and Owner's interest therein as necessary for giving notice of or filing a mechanic's or construction lien against such lands in accordance with applicable Laws and Regulations.
- C. Contractor shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.
- D. **The Owner will obtain a right-of-entry for each Site located on private property. No Work shall commence on a private property Site until the Contractor has been given a copy of the executed right-of-entry for that Site and the Contractor has been given permission to begin Work on the Site from the Engineer or Resident Project Representative. The Owner is solely responsible for obtaining rights-of-entry.**
- E. **The Contractor shall have no more than one (1) uncompleted Site ongoing at any time, unless authorized by the Engineer or Resident Project Representative. Prior to moving to the next Site, the Contractor shall receive permission from the Engineer or Resident Project Representative.**
- F. **The Owner will obtain all encroachment agreements necessary for the completion of the Work. The Contractor shall become familiarized with all the provisions of the encroachment agreements, if any, required for the Contract. The Engineer or Resident Project Representative will provide copies of the encroachment agreements. The Owner is solely responsible for obtaining encroachment agreements.**
- G. **Public Notice and Advisory: The Contractor shall notify individual or entities anticipated to be affected by the Work. Notice shall be written and provided to the recipient no less than two (2) days prior to commencing Site construction. Notice shall be delivered in person, door knob hanger, or letter and shall include the following information:**
  - 1. **nature and schedule of the Work;**
  - 2. **name and telephone number of a contact person; and**

3. any additional necessary information or instructions.

H. The Engineer or Resident Project Representative will approve any notice prior to commencement of construction.

5.02 *Use of Site and Other Areas*

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

1. Contractor shall confine construction equipment, temporary construction facilities, the storage of materials and equipment, and the operations of workers to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and such other adjacent areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility for (a) damage to the Site; (b) damage to any such other adjacent areas used for Contractor's operations; (c) damage to any other adjacent land or areas; and (d) for injuries and losses sustained by the owners or occupants of any such land or areas; provided that such damage or injuries result from the performance of the Work or from other actions or conduct of the Contractor or those for which Contractor is responsible.

2. If a damage or injury claim is made by the owner or occupant of any such land or area because of the performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible, Contractor shall (a) take immediate corrective or remedial action as required by Paragraph 7.12, or otherwise; (b) promptly attempt to settle the claim as to all parties through negotiations with such owner or occupant, or otherwise resolve the claim by arbitration or other dispute resolution proceeding, or at law; and (c) to the fullest extent permitted by Laws and Regulations, indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against any such claim, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable, brought by any such owner or occupant against Owner, Engineer, or any other party indemnified hereunder to the extent caused directly or indirectly, in whole or in part by, or based upon, Contractor's performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible.

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

C. *Cleaning:* Prior to Substantial Completion of the Work Contractor shall clean the Site and the Work and make it ready for utilization by Owner. At the completion of the Work Contractor shall remove from the Site and adjacent areas all tools, appliances, construction equipment and machinery, and surplus materials and shall restore to original condition all property not designated for alteration by the Contract Documents.

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



### 5.03 *Subsurface and Physical Conditions*

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

1. those reports known to Owner of explorations and tests of subsurface conditions at or adjacent to the Site;
2. those drawings known to Owner of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities); and
3. Technical Data contained in such reports and drawings.

B. *Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the accuracy of the Technical Data expressly identified in the ~~Supplementary~~ **General** Conditions with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely upon the accuracy of the Technical Data (as defined in Article 1) contained in any geotechnical or environmental report prepared for the Project and made available to Contractor. Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, with respect to:

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

C. **The following reports of explorations and tests of subsurface conditions at or adjacent to the Site are known to Owner:**

1. **Not Used.**

D. **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. Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, with respect to:**

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

#### 5.04 *Differing Subsurface or Physical Conditions*

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

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

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

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

#### 5.05 *Underground Facilities*

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

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

#### 5.06 *Hazardous Environmental Conditions at Site*

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

**No reports or drawings related to Hazardous Environmental Conditions at the Site are known to Owner.**

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

and any affected area is or has been rendered safe for the resumption of Work, or (2) specifying any special conditions under which such Work may be resumed safely.

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

## **ARTICLE 6 – BONDS AND INSURANCE**

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

- A. Contractor shall furnish a performance bond and a payment bond, each in an amount at least equal to the Contract Price, as security for the faithful performance and payment of all of Contractor's obligations under the Contract. These bonds shall remain in effect until one year after the date when final payment becomes due or until completion of the correction period

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specified in Paragraph 15.08, whichever is later, except as provided otherwise by Laws or Regulations, ~~the Supplementary Conditions~~, or other specific provisions of the Contract. Contractor shall also furnish such other bonds as are required by the ~~Supplementary~~ **General** Conditions or other specific provisions of the Contract.

- B. All bonds shall be in the form prescribed by the Contract except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (as amended and supplemented) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. A bond signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual's authority to bind the surety. The evidence of authority shall show that it is effective on the date the agent or attorney-in-fact signed the accompanying bond.
- C. Contractor shall obtain the required bonds from surety companies that are duly licensed or authorized in the jurisdiction in which the Project is located to issue bonds in the required amounts.
- D. If the surety on a bond furnished by Contractor is declared bankrupt or becomes insolvent, or its right to do business is terminated in any state or jurisdiction where any part of the Project is located, or the surety ceases to meet the requirements above, then Contractor shall promptly notify Owner and Engineer and shall, within ~~20~~ **five (5)** days after the event giving rise to such notification, provide another bond and surety, both of which shall comply with the bond and surety requirements above.
- E. If Contractor has failed to obtain a required bond, Owner may exclude the Contractor from the Site and exercise Owner's termination rights under Article 16.
- F. Upon request, Owner shall provide a copy of the payment bond to any Subcontractor, Supplier, or other person or entity claiming to have furnished labor or materials used in the performance of the Work.

#### 6.02 Insurance—General Provisions

- A. ~~Owner and Contractor shall obtain and maintain insurance as required in this Article and in the Supplementary Conditions.~~ **Wherever in this Article the terms "The Insured" and Owner occurs with respect to coverage in a policy, it shall mean the Owner and its agent and agencies, all municipalities where Work is being performed under the Contract, the Engineer, and any other parties specifically designated herein, who shall be named as insured in each policy issued. The insurance policies required herein shall not contain any Third Party Beneficiary Exclusion.**
- B. All insurance required by the Contract to be purchased and maintained by ~~Owner or Contractor~~ shall be obtained from insurance companies that are duly licensed or authorized, in the state **of North Carolina**, or jurisdiction in which the Project is located, to issue insurance policies for the required limits and coverages. Unless a different standard is indicated in the ~~Supplementary~~ **General** Conditions, all companies that provide insurance policies required under this Contract shall have an A.M. Best rating of A-VII or better.
  - 1. **Contractor may obtain worker's compensation insurance from an insurance company that has not been rated by A.M. Best, provided that such company (a) is domiciled in the state in which the project is located, (b) is certified or authorized as a worker's compensation insurance provider by the appropriate state agency, and (c) has been accepted to provide worker's compensation insurance for similar projects by the state within the last 12 months.**

2. **Both the certificates of insurance and additional insured endorsement shall be originals and shall be approved by the Owner's Finance Director before Contractor can begin Work under this Contract.**
- C. Contractor shall deliver to Owner, with copies to each named insured and additional insured (as identified in this Article, ~~in the Supplementary Conditions, or elsewhere in the Contract~~), certificates of insurance establishing that Contractor has obtained and is maintaining the policies, coverages, and endorsements required by the Contract. Upon request by Owner or any other insured, Contractor shall also furnish other evidence of such required insurance, including but not limited to copies of policies and endorsements, and documentation of applicable self-insured retentions and deductibles. Contractor may block out (redact) any confidential premium or pricing information contained in any policy or endorsement furnished under this provision.
- D. ~~Owner shall deliver to Contractor, with copies to each named insured and additional insured (as identified in this Article, the Supplementary Conditions, or elsewhere in the Contract), certificates of insurance establishing that Owner has obtained and is maintaining the policies, coverages, and endorsements required of Owner by the Contract (if any). Upon request by Contractor or any other insured, Owner shall also provide other evidence of such required insurance (if any), including but not limited to copies of policies and endorsements, and documentation of applicable self-insured retentions and deductibles. Owner may block out (redact) any confidential premium or pricing information contained in any policy or endorsement furnished under this provision.~~
- E. Failure of Owner ~~or Contractor~~ to demand such certificates or other evidence of the ~~other party's~~ Contractor's full compliance with these insurance requirements, or failure of Owner ~~or Contractor~~ to identify a deficiency in compliance from the evidence provided, shall not be construed as a waiver of the Contractor's ~~other party's~~ obligation to obtain and maintain such insurance.
- F. If ~~either party~~ Contractor does not purchase or maintain all of the insurance required ~~of such party by~~ the Contract, ~~such party~~ Contractor shall notify the ~~other party~~ Owner in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage.
- G. If Contractor has failed to obtain and maintain required insurance, Owner may exclude the Contractor from the Site, impose an appropriate set-off against payment, and exercise Owner's termination rights under Article 16.
- H. Without prejudice to any other right or remedy, if a party has failed to obtain required insurance, the other party may elect to obtain equivalent insurance to protect such other party's interests at the expense of the party who was required to provide such coverage, and the Contract Price shall be adjusted accordingly.
- I. Owner does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect Contractor or Contractor's interests.
- J. The insurance and insurance limits required herein shall not be deemed as a limitation on Contractor's liability under the indemnities granted to Owner and other individuals and entities in the Contract.
- K. **The Contractor shall not commence Work under the Contract until it has obtained all insurance required under this Article and the Owner has approved such insurance, nor shall the Contractor allow any Subcontractor to commence Work on its Subcontract until all similar insurance required of the Subcontractor has been so obtained and approved.**



Evidence of the required coverage shall be submitted not later than fifteen (15) days from delivery of the Notice of Award to Contractor.

- L. Provision of some types of insurance by a Subcontractor may be waived, at the option of the Owner, where it is deemed that adequate coverage is provided by the Contractor's insurance.
- M. Subcontractors must, in all cases, provide Workers' Compensation and Employer's Liability Insurance and Motor Vehicle Liability Insurance.
- N. One (1) copy of each such insurance policy and certificates indicating each type of coverage mentioned, and the correlation between the insurance furnished and that required, shall be filed with each of The Insured.
- O. All policies relating to this Contract shall be so written that each of The Insured shall be notified by the carrier of cancellation or change at least thirty (30) days prior to the effective date of such cancellation or change. Renewal certificates covering the renewal of all policies expiring during the life of the Contract shall be filed with each of The Insured not less than sixty days before the expiration of such policies.
- P. Contractor shall notify Owner of the filing of any claim arising from Work under the Contract within thirty (30) days of the filing of such claim.

6.03 *Contractor's Insurance*

- A. *Workers' Compensation:* Contractor shall purchase and maintain workers' compensation and employer's liability insurance for:
  - 1. claims under workers' compensation, disability benefits, and other similar employee benefit acts.
  - 2. ~~United States Longshoreman and Harbor Workers' Compensation Act and Jones Act coverage (if applicable).~~
  - 3. claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees (by stop-gap endorsement in monopolist worker's compensation states).
  - 4. Foreign voluntary worker compensation (if applicable).
- B. *Commercial General Liability—Claims Covered:* Contractor shall purchase and maintain commercial general liability insurance, covering all operations by or on behalf of Contractor, on an occurrence basis, against:
  - 1. claims for damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees.
  - 2. claims for damages insured by reasonably available personal injury liability coverage.
  - 3. claims for damages, other than to the Work itself, because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom.
- C. *Commercial General Liability—Form and Content:* Contractor's commercial liability policy shall be written on a 1996 (or later) ISO commercial general liability form (occurrence form) and include the following coverages and endorsements:
  - 1. Products and completed operations coverage:
    - a. ~~Such insurance shall be maintained for three years after final payment.~~

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EJCDC® C-700, Standard General Conditions of the Construction Contract.

- b. Contractor shall furnish Owner and each other additional insured (as identified in the Supplementary General Conditions or elsewhere in the Contract) evidence of continuation of such insurance at final payment and three years thereafter.
2. Blanket contractual liability coverage, to the extent permitted by law, including but not limited to coverage of Contractor's contractual indemnity obligations in Paragraph 7.18.
3. Broad form property damage coverage.
4. Severability of interest.
5. Underground, explosion, and collapse coverage.
6. Personal injury coverage.
- ~~7. Additional insured endorsements that include both ongoing operations and products and completed operations coverage through ISO Endorsements CG 20 10 10 01 and CG 20 37 10 01 (together); or CG 20 10 07 04 and CG 20 37 07 04 (together); or their equivalent.~~
- ~~8. For design professional additional insureds, ISO Endorsement CG 20 32 07 04, "Additional Insured—Engineers, Architects or Surveyors Not Engaged by the Named Insured" or its equivalent.~~
- D. *Automobile liability*: Contractor shall purchase and maintain automobile liability insurance against claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance, or use of any motor vehicle. The automobile liability policy shall be written on an occurrence basis.
- E. *Umbrella or excess liability*: Contractor shall purchase and maintain umbrella or excess liability insurance written over the underlying employer's liability, commercial general liability, and automobile liability insurance described in the paragraphs above. Subject to industry-standard exclusions, the coverage afforded shall follow form as to each and every one of the underlying policies.
- F. *Contractor's pollution liability insurance*: Contractor shall purchase and maintain a policy covering third-party injury and property damage claims, including clean-up costs, as a result of pollution conditions arising from Contractor's operations and completed operations. This insurance shall be maintained for no less than three years after final completion.
- G. *Additional insureds*: The Contractor's commercial general liability, automobile liability, umbrella or excess, and pollution liability policies shall include and list as additional insureds Owner and Engineer, and any individuals or entities identified in the Supplementary General Conditions; include coverage for the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of all such additional insureds; and the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby (including as applicable those arising from both ongoing and completed operations) on a non-contributory basis. Contractor shall obtain all necessary endorsements to support these requirements.
- H. *Contractor's professional liability insurance*: If Contractor will provide or furnish professional services under this Contract, through a delegation of professional design services or otherwise, then Contractor shall be responsible for purchasing and maintaining applicable professional liability insurance. This insurance shall provide protection against claims arising out of performance of professional design or related services, and caused by a negligent error, omission, or act for which the insured party is legally liable. It shall be maintained throughout the duration of the Contract and for a minimum of two years after Substantial

Completion. If such professional design services are performed by a Subcontractor, and not by Contractor itself, then the requirements of this paragraph may be satisfied through the purchasing and maintenance of such insurance by such Subcontractor.

- I. *General provisions:* The policies of insurance required by this Paragraph 6.03 shall:
  1. include at least the specific coverages provided in this Article.
  2. be written for not less than the limits of liability provided in this Article ~~and in the Supplementary Conditions~~, or required by Laws or Regulations, whichever is greater.
  3. contain a provision or endorsement that the coverage afforded will not be canceled, materially changed, or renewal refused until at least 10 days prior written notice has been given to Contractor. Within three days of receipt of any such written notice, Contractor shall provide a copy of the notice to Owner, Engineer, and each other insured under the policy.
  4. remain in effect at least until final payment (and longer if expressly required in this Article) and at all times thereafter when Contractor may be correcting, removing, or replacing defective Work as a warranty or correction obligation, or otherwise, or returning to the Site to conduct other tasks arising from the Contract Documents.
  5. be appropriate for the Work being performed and provide protection from claims that may arise out of or result from Contractor's performance of the Work and Contractor's other obligations under the Contract Documents, whether it is to be performed by Contractor, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable.
- J. The coverage requirements for specific policies of insurance must be met by such policies, and not by reference to excess or umbrella insurance provided in other policies.
- K. **The limits of liability for the insurance required by Paragraph 6.03 of the General Conditions shall provide coverage for not less than the following amounts or greater where required by Laws and Regulations:**
  1. **Workers' Compensation, and related coverages under Paragraphs 6.03.A.1 and A.2 of the General Conditions:**

<b><u>State:</u></b>	<b><u>Statutory</u></b>
<b><u>Federal, if applicable (e.g., Longshoreman's):</u></b>	<b><u>Statutory</u></b>
<b><u>Jones Act coverage, if applicable:</u></b>	
<b><u>Bodily injury by accident, each accident</u></b>	<b><u>\$ XXXXXXXXXXXXN/A</u></b>
<b><u>Bodily injury by disease, aggregate</u></b>	<b><u>\$ XXXXXXXXXXXXN/A</u></b>
<b><u>Employer's Liability:</u></b>	
<b><u>Bodily injury, each accident</u></b>	<b><u>\$ 500,000</u></b>
<b><u>Bodily injury by disease, each employee</u></b>	<b><u>\$ 500,000</u></b>
<b><u>Bodily injury/disease aggregate</u></b>	<b><u>\$ 500,000</u></b>
<b><u>For Work performed in monopolistic states, stop-gap liability coverage shall be endorsed</u></b>	<b><u>\$ XXXXXXXXXXXXN/A</u></b>

to either the worker's compensation or  
commercial general liability policy with a  
minimum limit of:

Foreign voluntary worker compensation

Statutory

**2. Contractor's Commercial General Liability under Paragraphs 6.03.B and 6.03.C of the  
General Conditions:**

General Aggregate \$ 2,000,000

Products - Completed Operations  
Aggregate \$ 2,000,000

Personal and Advertising Injury \$ 1,000,000

Each Occurrence (Bodily Injury and  
Property Damage) \$ 1,000,000

**3. Automobile Liability under Paragraph 6.03.D. of the General Conditions:**

Bodily Injury:

Each person \$ 1,000,000

Each accident \$ 1,000,000

Property Damage:

Each accident \$ 1,000,000

Combined Single Limit of \$ 2,000,000

**4. Excess or Umbrella Liability:**

Per Occurrence \$ 5,000,000

General Aggregate \$ 5,000,000

**5. Contractor's Pollution Liability:**

Each Occurrence \$ 1,000,000

General Aggregate \$ 1,000,000



If box is checked, Contractor is not required to provide  
Contractor's Pollution Liability insurance under this Contract

**6. Additional Insureds: In addition to Owner and Engineer, include as additional insured the following: [INSERT ADDITIONAL NAMES]**

**7. Contractor's Professional Liability:**

<u>Each Claim</u>	<u>\$ 500,000</u>
<u>Annual Aggregate</u>	<u>\$ 500,000</u>

#### 6.04 *Owner's Liability Insurance*

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

#### 6.05 *Property Insurance*

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

4. cover expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers and architects).
  5. extend to cover damage or loss to insured property while in temporary storage at the Site or in a storage location outside the Site (but not including property stored at the premises of a manufacturer or Supplier).
  6. extend to cover damage or loss to insured property while in transit.
  7. allow for partial occupation or use of the Work by Owner, such that those portions of the Work that are not yet occupied or used by Owner shall remain covered by the builder's risk insurance.
  8. allow for the waiver of the insurer's subrogation rights, as set forth below.
  9. provide primary coverage for all losses and damages caused by the perils or causes of loss covered.
  10. not include a co-insurance clause.
  11. include an exception for ensuing losses from physical damage or loss with respect to any defective workmanship, design, or materials exclusions.
  - ~~12. include performance/hot testing and start-up.~~
  13. be maintained in effect, subject to the provisions herein regarding Substantial Completion and partial occupancy or use of the Work by Owner, until the Work is complete.
  14. **include for the benefit of Owner loss of profits and soft cost coverage including, without limitation, fixed expenses and debt service for a minimum of 12 months with a maximum deductible of 30 days, plus attorney's fees and engineering or other consultants' fees, if not otherwise covered.**
- B. *Notice of Cancellation or Change:* All the policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained in accordance with this Paragraph 6.05 will contain a provision or endorsement that the coverage afforded will not be canceled or materially changed or renewal refused until at least **thirty (30)** ~~10~~ days prior written notice has been given to the purchasing policyholder. Within three days of receipt of any such written notice, the purchasing policyholder shall provide a copy of the notice to each other insured.
- C. *Deductibles:* The purchaser of any required builder's risk or property insurance shall pay for costs not covered because of the application of a policy deductible.
- D. *Partial Occupancy or Use by Owner:* If Owner will occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work as provided in Paragraph 15.04, then Owner (directly, if it is the purchaser of the builder's risk policy, or through Contractor) will provide notice of such occupancy or use to the builder's risk insurer. The builder's risk insurance shall not be canceled or permitted to lapse on account of any such partial use or occupancy; rather, those portions of the Work that are occupied or used by Owner may come off the builder's risk policy, while those portions of the Work not yet occupied or used by Owner shall remain covered by the builder's risk insurance.

- E. *Additional Insurance*: If Contractor elects to obtain other special insurance to be included in or supplement the builder's risk or property insurance policies provided under this Paragraph 6.05, it may do so at Contractor's expense.
- F. *Insurance of Other Property*: If the express insurance provisions of the Contract do not require or address the insurance of a property item or interest, such as tools, construction equipment, or other personal property owned by Contractor, a Subcontractor, or an employee of Contractor or a Subcontractor, then the entity or individual owning such property item will be responsible for deciding whether to insure it, and if so in what amount.

#### 6.06 *Waiver of Rights*

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



**General** Conditions as insureds, the Engineer and its consultants, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, relating to, or resulting from any of the perils or causes of loss covered by builder's risk insurance and any other property insurance applicable to the Work.

**6.07**    *Receipt and Application of Property Insurance Proceeds*

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

**ARTICLE 7 – CONTRACTOR'S RESPONSIBILITIES**

**7.01**    *Supervision and Superintendence*

- A. Contractor shall supervise, inspect, and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction.
- B. At all times during the progress of the Work, Contractor shall assign a competent resident superintendent who shall not be replaced without written notice to Owner and Engineer except under extraordinary circumstances.
- C. **Except as otherwise provided in the Contract Documents or when direct communications have been specifically authorized, Owner and Contractor shall communicate through Engineer. Communications by and with Engineer's consultants shall be through Engineer.**

**7.02**    *Labor; Working Hours*

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

1. Regular working hours will be Regular working hours shall not exceed 40 hours per week, 8 hours per day (between 7:00 a.m. and 6:00 p.m.), Monday through Friday. No Work shall be done between 6:00 p.m. and 7:00 a.m. without prior written permission from the Owner. Requests to Work during other than regular working hours or on legal holidays must be submitted to the Owner at least 48 hours in advance of the period proposed for such Work and shall set forth the proposed schedule for such Work to give the Owner ample time to arrange for appropriate personnel to be at the site of the Work.
  2. Owner's legal holidays are New Year's Day, Martin Luther King, Jr. Day, Good Friday, Memorial Day, Juneteenth, Independence Day, Labor Day, Thanksgiving (2 days) and Christmas (3 days) for a total of 12 holidays. However, emergency work may be done without prior permission.
- C. Contractor shall be responsible for the cost of any overtime pay or other expense incurred by the Owner for Engineer's services (including those of the Resident Project Representative, if any), Owner's representative, and construction observation services, occasioned by the performance of Work on Saturday, Sunday, any legal holiday, or as overtime on any regular work day. If Contractor is responsible but does not pay, or if the parties are unable to agree as to the amount owed, then Owner may impose a reasonable set-off against payments due under Article 15.
1. For purposes of administering the foregoing requirement, additional overtime costs are defined as charges calculated in accordance with the terms of Engineer's Agreements with Owner.

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

- A. Unless otherwise specified in the Contract Documents, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start up, and completion of the Work, whether or not such items are specifically called for in the Contract Documents.
- B. All materials and equipment incorporated into the Work shall be of good quality and new, except as otherwise provided in the Contract Documents. All special warranties and guarantees required by the Specifications shall expressly run to the benefit of Owner. If required by Engineer, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment. Engineer may reject any material and equipment delivered to the Site without the approval of satisfactory evidence required by the Contract Documents.
- C. All materials and equipment shall be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise may be provided in the Contract Documents.

#### 7.04 *"Or Equals"*

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

Contractor may request that Engineer authorize the use of other items of material or equipment, or items from other proposed suppliers under the circumstances described below.

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

#### 7.05 Substitutes

- A. Unless the specification or description of an item of material or equipment required to be furnished under the Contract Documents contains or is followed by words reading that no substitution is permitted, Contractor may request that Engineer authorize the use of other

items of material or equipment under the circumstances described below. To the extent possible such requests shall be made before commencement of related construction at the Site.

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

and all related impacts, including changes in Contract Price or Contract Times. Engineer will advise Contractor in writing of any negative determination.

- C. *Special Guarantee*: Owner may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute.
- D. *Reimbursement of Engineer's Cost*: Engineer will record Engineer's costs in evaluating a substitute proposed or submitted by Contractor. Whether or not Engineer approves a substitute so proposed or submitted by Contractor, Contractor shall reimburse Owner for the reasonable charges of Engineer for evaluating each such proposed substitute. Contractor shall also reimburse Owner for the reasonable charges of Engineer for making changes in the Contract Documents (or in the provisions of any other direct contract with Owner) resulting from the acceptance of each proposed substitute.
- E. *Contractor's Expense*: Contractor shall provide all data in support of any proposed substitute at Contractor's expense.
- F. *Effect of Engineer's Determination*: If Engineer approves the substitution request, Contractor shall execute the proposed Change Order and proceed with the substitution. The Engineer's denial of a substitution request shall be final and binding, and may not be reversed through an appeal under any provision of the Contract Documents. Contractor may challenge the scope of reimbursement costs imposed under Paragraph 7.05.D, by timely submittal of a Change Proposal.
- G. **Any materials and equipment required to be approved by the Engineer that is installed on the Project without such approval is subject to removal, disposal, and replacement by the Contractor as Contractor's expense.**

7.06 *Concerning Subcontractors, Suppliers, and Others*

- A. Contractor may retain Subcontractors and Suppliers for the performance of parts of the Work. Such Subcontractors and Suppliers must be acceptable to Owner.
- B. Contractor shall retain specific Subcontractors, Suppliers, or other individuals or entities for the performance of designated parts of the Work if required by the Contract to do so.
- C. Subsequent to the submittal of Contractor's Bid or final negotiation of the terms of the Contract, Owner may not require Contractor to retain any Subcontractor, Supplier, or other individual or entity to furnish or perform any of the Work against which Contractor has reasonable objection.
- D. Prior to entry into any binding subcontract or purchase order, Contractor shall submit to Owner the identity of the proposed Subcontractor or Supplier (unless Owner has already deemed such proposed Subcontractor or Supplier acceptable, during the bidding process or otherwise). Such proposed Subcontractor or Supplier shall be deemed acceptable to Owner unless Owner raises a substantive, reasonable objection within five days.
- E. Owner may require the replacement of any Subcontractor, Supplier, or other individual or entity retained by Contractor to perform any part of the Work. Owner also may require Contractor to retain specific replacements; provided, however, that Owner may not require a replacement to which Contractor has a reasonable objection. If Contractor has submitted the identity of certain Subcontractors, Suppliers, or other individuals or entities for acceptance by Owner, and Owner has accepted it (either in writing or by failing to make written objection thereto), then Owner may subsequently revoke the acceptance of any such Subcontractor, Supplier, or other individual or entity so identified solely on the basis of substantive, reasonable objection after due investigation. Contractor shall submit an

acceptable replacement for the rejected Subcontractor, Supplier, or other individual or entity.

- F. If Owner requires the replacement of any Subcontractor, Supplier, or other individual or entity retained by Contractor to perform any part of the Work, then Contractor shall be entitled to an adjustment in Contract Price or Contract Times, or both, with respect to the replacement; and Contractor shall initiate a Change Proposal for such adjustment within 30 days of Owner's requirement of replacement.
- G. No acceptance by Owner of any such Subcontractor, Supplier, or other individual or entity, whether initially or as a replacement, shall constitute a waiver of the right of Owner to the completion of the Work in accordance with the Contract Documents.
- H. On a monthly basis Contractor shall submit to Engineer a complete list of all Subcontractors and Suppliers having a direct contract with Contractor, and of all other Subcontractors and Suppliers known to Contractor at the time of submittal.
- I. Contractor shall be fully responsible to Owner and Engineer for all acts and omissions of the Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work just as Contractor is responsible for Contractor's own acts and omissions.
- J. Contractor shall be solely responsible for scheduling and coordinating the work of Subcontractors, Suppliers, and all other individuals or entities performing or furnishing any of the Work.
- K. Contractor shall restrict all Subcontractors, Suppliers, and such other individuals or entities performing or furnishing any of the Work from communicating with Engineer or Owner, except through Contractor or in case of an emergency, or as otherwise expressly allowed herein.
- L. The divisions and sections of the Specifications and the identifications of any Drawings shall not control Contractor in dividing the Work among Subcontractors or Suppliers or delineating the Work to be performed by any specific trade.
- M. All Work performed for Contractor by a Subcontractor or Supplier shall be pursuant to an appropriate **written** contractual agreement that specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract Documents for the benefit of Owner and Engineer.
- N. Owner may furnish to any Subcontractor or Supplier, to the extent practicable, information about amounts paid to Contractor on account of Work performed for Contractor by the particular Subcontractor or Supplier.
- O. Nothing in the Contract Documents:
  - 1. shall create for the benefit of any such Subcontractor, Supplier, or other individual or entity any contractual relationship between Owner or Engineer and any such Subcontractor, Supplier, or other individual or entity; nor
  - 2. shall create any obligation on the part of Owner or Engineer to pay or to see to the payment of any money due any such Subcontractor, Supplier, or other individual or entity except as may otherwise be required by Laws and Regulations.

#### 7.07 *Patent Fees and Royalties*

- A. Contractor shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product, or device which is the subject of patent rights, **trade secrets, proprietary**

information, or copyrights held by others, whether or not particular invention, design, process, product, or device is specified in the Contract Documents for use in the performance of the Work, and whether or not Engineer, or Owner, or consultants, contractors, agents, and employees of either of them are aware of such patent rights, trade secrets, proprietary information, and copyrights. If a particular invention, design, process, product, or device is specified in the Contract Documents for use in the performance of the Work and if, to the actual knowledge of Owner or Engineer, its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed by Owner in the Contract Documents.

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

#### 7.08 *Permits*

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

#### 7.09 *Taxes*

- A. Contractor shall pay all sales, consumer, use, and other similar taxes required to be paid by Contractor in accordance with the Laws and Regulations of the place of the Project which are applicable during the performance of the Work.
- B. Owner must comply with the "Procedures for Reporting North Carolina Sales Tax Expenditures. The following procedure in handling the North Carolina Sales Tax is applicable to this Project.**

  - 1. It shall be the Contractor's responsibility to furnish the Owner documentary evidence showing the materials used and sales tax paid by the Contractor and each of its Subcontractors with each payment request in a format approved by the Owner.**

2. The documentary evidence shall consist of a certified statement, by the Contractor and each of its Subcontractors individually, showing total purchases of materials from each separate vendor and total sales taxes paid each vendor. Certified statements must show the invoice number or numbers, covered and inclusive dates of such invoices.
3. Materials used from the Contractor's or Subcontractor's warehouse stock shall be shown in a certified statement at warehouse stock prices.
4. The Contractor shall not be required to certify the Subcontractor's statements.
5. The documentary evidence to be furnished to Owners eligible for sales or use tax refunds covers sales and/or use taxes paid on building materials used by Contractor(s) and Subcontractors in the performance of Contracts with churches, orphanages, hospitals not operated for profit and other charitable or religious institutions or organizations not operated for profit and, incorporated cities, towns, and counties in this State. The documentary evidence is to be submitted to the above-named institutions, organizations and governmental units to be included in claims for refunds to be prepared and submitted by them to obtain refunds provided by G.S. 105-164.14(2) and (3) of the 1961 Statute, and is to include the purchases of building materials, supplies, fixtures, and equipment which become a part of or annex to buildings or structures being erected, altered or repaired under Contracts with such institutions, organizations or governmental units.

#### 7.10 *Laws and Regulations*

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



#### 7.11 *Record Documents*

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

#### 7.12 *Safety and Protection*

- A. Contractor shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. Such responsibility does not relieve Subcontractors of their responsibility for the safety of persons or property in the performance of their work, nor for compliance with applicable safety Laws and Regulations. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to:
  - 1. all persons on the Site or who may be affected by the Work;
  - 2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and
  - 3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, other work in progress, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.
- B. Contractor shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection. Contractor shall notify Owner; the owners of adjacent property, Underground Facilities, and other utilities; and other contractors and utility owners performing Work at or adjacent to the Site, when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property or Work in progress.
- C. Contractor shall comply with the applicable requirements of Owner's safety programs, if any. The ~~Supplementary~~ **General** Conditions identify any Owner's safety programs that are applicable to the Work. **The following Owner safety programs are applicable to the Work: Orange Water and Sewer Authority Safety Manual.**
- D. Contractor shall inform Owner and Engineer of the specific requirements of Contractor's safety program with which Owner's and Engineer's employees and representatives must comply while at the Site.
- E. All damage, injury, or loss to any property referred to in Paragraph 7.12.A.2 or 7.12.A.3 caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by Contractor at its expense (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of Owner or Engineer or anyone employed by any of them, or anyone for whose acts any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them).

- F. Contractor's duties and responsibilities for safety and protection shall continue until such time as all the Work is completed and Engineer has issued a notice to Owner and Contractor in accordance with Paragraph 15.06.B that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion).
- G. Contractor's duties and responsibilities for safety and protection shall resume whenever Contractor or any Subcontractor or Supplier returns to the Site to fulfill warranty or correction obligations, or to conduct other tasks arising from the Contract Documents.
- H. **Existing Utilities**
  - 1. **The Owner and Engineer have, to the best of their ability, shown the existing utilities and obstructions (water, sewer, electrical, gas, telephone, cable TV, storm drainage, etc.) that may be affected by the Work. Contractor shall, at Contractor's expense, locate all existing utilities that may be encountered during the Work. Contractor shall make every effort to avoid damage or disruption of services during the Work.**
  - 2. **Contractor shall contact the North Carolina One-Call Center to coordinate existing utility location prior to commencement of any Work. North Carolina On-Call Center (800) 632-4949. [www.ncocc.org](http://www.ncocc.org)**

#### 7.13 *Safety Representative*

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

#### 7.14 *Hazard Communication Programs*

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

#### 7.15 *Emergencies*

- A. In emergencies affecting the safety or protection of persons or the Work or property at the Site or adjacent thereto, Contractor is obligated to act to prevent threatened damage, injury, or loss. Contractor shall give Engineer prompt written notice if Contractor believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby or are required as a result thereof. If Engineer determines that a change in the Contract Documents is required because of the action taken by Contractor in response to such an emergency, a Work Change Directive or Change Order will be issued.
- B. **Contractor shall promptly report in writing to Owner and Engineer all accidents or incidents arising out of or in connection with the Work which cause death, personal injury, or property damage, giving full details and statements of any witnessed. In addition, if death, serious personal injury, or serious property damage is caused, Contractor shall report the accident or incident immediately by telephone or messenger to Owner and Engineer. Contractor shall give Owner and Engineer reasonable advanced notice before using or placing explosives or other hazardous materials or equipment on Site.**
- C. **Notwithstanding anything else in this Contract, while federal, state, or local state(s) of emergency are in effect, or when a public health emergency has been declared, Contractor shall comply with all guidance and recommendations of the Centers for Disease Control, the**

State of North Carolina, Town of Carrboro, Town of Chapel Hill, or Orange County, unless mutually agreed to by Owner and Contractor.

7.16 *Shop Drawings, Samples, and Other Submittals*

A. *Shop Drawing and Sample Submittal Requirements:*

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

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

1. *Shop Drawings:*

- a. Contractor shall submit the number of copies required in the Specifications.
- b. Data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show Engineer the services, materials, and equipment Contractor proposes to provide and to enable Engineer to review the information for the limited purposes required by Paragraph 7.16.D.

2. *Samples:*

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

3. Where a Shop Drawing or Sample is required by the Contract Documents or the Schedule of Submittals, any related Work performed prior to Engineer's review and approval of the pertinent submittal will be at the sole expense and responsibility of Contractor.
- C. *Other Submittals:* Contractor shall submit other submittals to Engineer in accordance with the accepted Schedule of Submittals, and pursuant to the applicable terms of the Specifications.
- D. *Engineer's Review:*
1. Engineer will provide timely review of Shop Drawings and Samples in accordance with the Schedule of Submittals acceptable to Engineer. Engineer's review and approval will be only to determine if the items covered by the submittals will, after installation or incorporation in the Work, conform to the information given in the Contract Documents and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.
  2. Engineer's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions or programs incident thereto.
  3. Engineer's review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.
  4. Engineer's review and approval of a Shop Drawing or Sample shall not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirements of Paragraph 7.16.A.3 and Engineer has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample. Engineer will document any such approved variation from the requirements of the Contract Documents in a Field Order.
  5. Engineer's review and approval of a Shop Drawing or Sample shall not relieve Contractor from responsibility for complying with the requirements of Paragraph 7.16.A and B.
  6. Engineer's review and approval of a Shop Drawing or Sample, or of a variation from the requirements of the Contract Documents, shall not, under any circumstances, change the Contract Times or Contract Price, unless such changes are included in a Change Order.
  7. Neither Engineer's receipt, review, acceptance or approval of a Shop Drawing, Sample, or other submittal shall result in such item becoming a Contract Document.
  8. Contractor shall perform the Work in compliance with the requirements and commitments set forth in approved Shop Drawings and Samples, subject to the provisions of Paragraph 7.16.D.4.
- E. *Resubmittal Procedures:*
1. Contractor shall make corrections required by Engineer and shall return the required number of corrected copies of Shop Drawings and submit, as required, new Samples for review and approval. Contractor shall direct specific attention in writing to revisions other than the corrections called for by Engineer on previous submittals.
  2. Contractor shall furnish required submittals with sufficient information and accuracy to obtain required approval of an item with no more than three submittals. Engineer will

record Engineer's time for reviewing a fourth or subsequent submittal of a Shop Drawings, sample, or other item requiring approval, and Contractor shall be responsible for Engineer's charges to Owner for such time. Owner may impose a set-off against payments due to Contractor to secure reimbursement for such charges.

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

#### 7.17 *Contractor's General Warranty and Guarantee*

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

#### 7.18 *Indemnification*

- A. ~~To the fullest extent permitted by Laws and Regulations, and in addition to any other obligations of Contractor under the Contract or otherwise, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other~~

~~dispute resolution costs) arising out of or relating to the performance of the Work, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom but only to the extent caused by any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts any of them may be liable.~~

**To the maximum extent allowed by Laws and regulations, Contractor shall defend, indemnify, and save harmless Indemnitees from and against all Charges that arise in any manner from, in connection with, or out of, performance of the Work as a result of acts or omissions of Contractor, any Subcontractor, any Supplier, or any person or organization directly or indirectly employed by any of them or any entity for whose acts any of them may be liable. In performing its duties under Paragraph 7.18.A, Contractor shall at its sole expense defend Indemnitees with legal counsel reasonably acceptable to Owner.**

- B. ~~In any and all claims against Owner or Engineer or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors by any employee (or the survivor or personal representative of such employee) of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 7.18.A shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.~~

**Definitions: As used in Paragraph 7.18.A above and Paragraphs 7.18.C and 7.18.D below:**

1. **'Charges' means claims, judgments, costs, damages, losses, demands, liabilities, obligations, fines, penalties, royalties, settlements, and expenses. Included within 'Charges' are:**
    - a. **interest and reasonable attorney's fees assessed as part of any such item;**
    - b. **amounts for alleged violations of sedimentation pollution or other environmental or pollution laws or regulations – including any such alleged violations that arises out of the handling, transportation, deposit, or delivery of the items or materials that are involved in performance of the Work.**
    - c. **amounts related to Hazardous Environmental Conditions; and**
    - d. **amounts related to alleged infringement of patent rights, trade secrets, proprietary information, or copyrights.**
  2. **'Indemnitees' means Owner and Engineer and officers, officials, independent contractors, agents, and employees of Owner and Engineer, but does not include Contractor.**
- C. ~~The indemnification obligations of Contractor under Paragraph 7.18.A shall not extend to the liability of Engineer and Engineer's officers, directors, members, partners, employees, agents, consultants and subcontractors arising out of:~~
- ~~1. the preparation or approval of, or the failure to prepare or approve maps, Drawings, opinions, reports, surveys, Change Orders, designs, or Specifications; or~~
  - ~~2. giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage.~~

**Limitations of Contractor's Obligation:** Neither Paragraph 7.18.A nor any other provision of the Contract Documents shall be construed to require Contractor to indemnify or hold harmless Indemnitees against liability for damages arising out of bodily injury to persons or damage to property proximately caused by or resulting from the negligence, in whole or in part, of Indemnitees.

- D. **Nothing in Paragraphs 7.18.A, 7.18.B, or 7.18.C shall affect any warranties in favor of the Owner. This Paragraph 7.18.D is in addition to, and Paragraphs 7.18.A and 7.18.B above shall be construed separately from, any other indemnification provisions that may be in the Contract Documents. This Paragraph 7.18 shall remain in force despite termination of this Agreement (whether by expiration of the term or otherwise) and termination of the services of the Contractor under this Contract, but this sentence does not imply that other provisions in the Contract Documents do not survive termination.**

7.19 *Delegation of Professional Design Services*

- A. Contractor will not be required to provide professional design services unless such services are specifically required by the Contract Documents for a portion of the Work or unless such services are required to carry out Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. Contractor shall not be required to provide professional services in violation of applicable Laws and Regulations.
- B. If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of Contractor by the Contract Documents, Owner and Engineer will specify all performance and design criteria that such services must satisfy. Contractor shall cause such services or certifications to be provided by a properly licensed professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to Engineer.
- C. Owner and Engineer shall be entitled to rely upon the adequacy, accuracy, and completeness of the services, certifications, or approvals performed by such design professionals, provided Owner and Engineer have specified to Contractor all performance and design criteria that such services must satisfy.
- D. Pursuant to this paragraph, Engineer's review and approval of design calculations and design drawings will be only for the limited purpose of checking for conformance with performance and design criteria given and the design concept expressed in the Contract Documents. Engineer's review and approval of Shop Drawings and other submittals (except design calculations and design drawings) will be only for the purpose stated in Paragraph 7.16.D.1.
- E. Contractor shall not be responsible for the adequacy of the performance or design criteria specified by Owner or Engineer.

7.20 **NSF Requirements**

- A. **The following materials which will be in contact with water before or during the treatment process, water to be added, or returned to the treatment process, or potable water, shall have been tested and certified to meet the requirements of ANSI/NSF 60 or ANSI/NSF 61. The materials shall be guaranteed by the manufacturer to have the required certification and to be suitable for the intended service. Evidence of the certification shall be submitted to the Engineer with the appropriate drawings and data. Any materials which cannot be so**

guaranteed, whether or not specified by manufacturer and product designation, shall not be used.

1. Chemical treatment additives.
2. Pipes and related products (including coated and uncoated pipe, fittings, small storage devices, tubing, and screens).
3. Protective (barrier) materials (including paints, coatings, linings, and diaphragms).
4. Joints and sealing materials (including gaskets, sealing materials, and lubricants).
5. Process media (including media used in ion exchange, aeration, adsorption, oxidation, and filter operations).
6. Mechanical devices (including chemical feeders, pumps, valves, aeration equipment, clarifiers, mixers, strainers, and other water treatment process devices).
7. Mechanical plumbing products.

## ARTICLE 8 – OTHER WORK AT THE SITE

### 8.01 *Other Work*

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



## 8.02 *Coordination*

- A. If Owner intends to contract with others for the performance of other work at or adjacent to the Site, to perform other work at or adjacent to the Site with Owner's employees, or to arrange to have utility owners perform work at or adjacent to the Site, the following will be set forth in the ~~Supplementary Conditions~~ Article 8, or provided to Contractor prior to the start of any such other work:
1. the identity of the individual or entity that will have authority and responsibility for coordination of the activities among the various contractors;
  2. an itemization of the specific matters to be covered by such authority and responsibility; and
  3. the extent of such authority and responsibilities.
- B. Unless otherwise provided in the Article 8, Owner shall have sole authority and responsibility for such coordination.

## 8.03 *Legal Relationships*

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

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

## ARTICLE 9 – OWNER'S RESPONSIBILITIES

### 9.01 ~~Communications to Contractor~~

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

### 9.02 *Replacement of Engineer*

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

**If Owner appoints a substitute Engineer, the substitute Engineer shall have the same status under the Contract Documents as the former Engineer.**

### 9.03 *Furnish Data*

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

### 9.04 *Pay When Due*

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

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

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

### 9.06 *Insurance*

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

### 9.07 *Change Orders*

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

9.08 *Inspections, Tests, and Approvals*

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

9.09 *Limitations on Owner's Responsibilities*

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

9.10 *Undisclosed Hazardous Environmental Condition*

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

9.11 *Evidence of Financial Arrangements*

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

9.12 *Safety Programs*

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

9.13 **Owner will furnish an "Owner's Site Representative" to represent Owner at the Site and assist Owner in observing the progress and quality of the Work**

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

10.01 *Owner's Representative*

- A. Engineer will be Owner's representative during the construction period. The duties and responsibilities and the limitations of authority of Engineer as Owner's representative during construction are set forth in the Contract. **The action of the Engineer in performance of these duties shall not be construed to make the Engineer the agent for the Owner with respect to changes in the Cost of Work or changes in the Contract Documents.**

10.02 *Visits to Site*

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

- B. Engineer's visits and observations are subject to all the limitations on Engineer's authority and responsibility set forth in Paragraph 10.08. Particularly, but without limitation, during or as a result of Engineer's visits or observations of Contractor's Work, Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work.

#### 10.03 *Project Representative*

- A. If Owner and Engineer have agreed that Engineer will furnish a Resident Project Representative to represent Engineer at the Site and assist Engineer in observing the progress and quality of the Work, then the authority and responsibilities of any such Resident Project Representative will be as provided in the Supplementary General Conditions, and limitations on the responsibilities thereof will be as provided in Paragraph 10.08. If Owner designates another representative or agent to represent Owner at the Site who is not Engineer's consultant, agent, or employee, the responsibilities and authority and limitations thereon of such other individual or entity will be as provided in the General Conditions.
- B. **The Resident Project Representative (RPR) will be Engineer's representative at the Site, will act as directed by and under the supervision of Engineer, and will confer with Engineer regarding RPR's actions.**
- 1. General: RPR's dealings in matters pertaining to the Work in general shall be with Engineer and Contractor. RPR's dealings with Subcontractors shall only be through or with the full knowledge and approval of Contractor. RPR shall generally communicate with Owner only with the knowledge of and under the direction of Engineer.**
  - 2. 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.**
  - 3. 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.**
  - 4. Liaison:**
    - a. Serve as Engineer's liaison with Contractor. Working principally through Contractor's authorized representative or designee, assist in providing information regarding the provisions and 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.**
  - 5. 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.**
  - 6. Shop Drawings and Samples:**
    - a. Record date of receipt of Samples and Contractor-approved Shop Drawings.**
    - b. Receive Samples which are furnished at the Site by Contractor, and notify Engineer of availability of Samples for examination.**

- c. Advise Engineer and Contractor of the commencement of any portion of the Work requiring a Shop Drawing or Sample submittal for which RPR believes that the submittal has not been approved by Engineer.
- 7. Modifications: Consider and evaluate Contractor's suggestions for modifications in Drawings or Specifications and report such suggestions, together with RPR's recommendations, if any, to Engineer. Transmit to Contractor in writing decisions as issued by Engineer.
- 8. 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 is defective, 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.
- 9. Inspections, Tests, and System Start-ups:
  - 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.
- 10. Records:
  - a. Prepare a daily report or keep a diary or log book, recording Contractor's hours on the Site, Subcontractors present at the Site, weather conditions, data relative to questions of Change Orders, Field Orders, Work Change Directives, or changed conditions, Site visitors, deliveries of equipment or materials, daily activities, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures; and send copies to Engineer.
  - b. 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.
  - c. Maintain records for use in preparing Project documentation.
- 11. 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, force majeure or delay events, damage to property by fire or other causes, or the discovery of any Constituent of Concern or Hazardous Environmental Condition.

12. 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.

13. 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 Contract Documents 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.

14. Completion:

a. Participate in Engineer's visits to the Site to determine Substantial Completion, assist in the determination of Substantial Completion and the preparation of a punch list of items to be completed or corrected.

b. Participate in Engineer's final visit to the Site to determine completion of the Work, in the company of Owner and Contractor, and prepare a final punch 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. The RPR 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 Contract Documents.

3. Undertake any of the responsibilities of Contractor, Contractor's Superintendent, Subcontractors, Suppliers, or expedite the Work.

4. Advise on, issue directions relative to, or assume control over any aspect of the means, methods, techniques, sequences or procedures of Contractor's Work.

5. Advise on, issue directions regarding, or assume control over security or safety practices, precautions, and programs in connection with the activities or operations of Owner or Contractor.

6. Participate in specialized field or laboratory tests or inspections conducted off-site by others except as specifically authorized by Engineer.

7. Accept Shop Drawing or Sample submittals from anyone other than Contractor.

8. Authorize Owner to occupy the Project in whole or in part.

D. Paragraph 10.03.C shall not be construed to expand the Resident Project Representative's authority.

10.04 *Rejecting Defective Work*

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

10.05 *Shop Drawings, Change Orders and Payments*

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

10.06 *Determinations for Unit Price Work*

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

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

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

10.08 *Limitations on Engineer's Authority and Responsibilities*

- A. Neither Engineer's authority or responsibility under this Article 10 or under any other provision of the Contract, nor any decision made by Engineer in good faith either to exercise or not exercise such authority or responsibility or the undertaking, exercise, or performance of any authority or responsibility by Engineer, shall create, impose, or give rise to any duty in contract, tort, or otherwise owed by Engineer to Contractor, any Subcontractor, any Supplier, any other individual or entity, or to any surety for or employee or agent of any of them.
- B. Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Engineer will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.
- C. Engineer will not be responsible for the acts or omissions of Contractor or of any Subcontractor, any Supplier, or of any other individual or entity performing any of the Work.
- D. Engineer's review of the final Application for Payment and accompanying documentation and all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by Paragraph 15.06.A will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals, that the results certified indicate compliance with the Contract Documents.

- E. The limitations upon authority and responsibility set forth in this Paragraph 10.08 shall also apply to the Resident Project Representative, if any.

#### 10.09 *Compliance with Safety Program*

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

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

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

- A. The Contract Documents may be amended or supplemented by a Change Order, a Work Change Directive, or a Field Order.
  - 1. *Change Orders:*
    - a. If an amendment or supplement to the Contract Documents includes a change in the Contract Price or the Contract Times, such amendment or supplement must be set forth in a Change Order. A Change Order also may be used to establish amendments and supplements of the Contract Documents that do not affect the Contract Price or Contract Times.
    - b. Owner and Contractor may amend those terms and conditions of the Contract Documents that do not involve (1) the performance or acceptability of the Work, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, without the recommendation of the Engineer. Such an amendment shall be set forth in a Change Order.
  - 2. *Work Change Directives:* A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the modification ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order, following negotiations by the parties as to the Work Change Directive's effect, if any, on the Contract Price and Contract Times; or, if negotiations are unsuccessful, by a determination under the terms of the Contract Documents governing adjustments, expressly including Paragraph 11.04 regarding change of Contract Price. Contractor must submit any Change Proposal seeking an adjustment of the Contract Price or the Contract Times, or both, no later than 30 days after the completion of the Work set out in the Work Change Directive. Owner must submit any Claim seeking an adjustment of the Contract Price or the Contract Times, or both, no later than 60 days after issuance of the Work Change Directive.
  - 3. *Field Orders:* Engineer may authorize minor changes in the Work if the changes do not involve an adjustment in the Contract Price or the Contract Times and are compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Such changes will be accomplished by a Field Order and will be binding on Owner and also on Contractor, which shall perform the Work involved promptly. If Contractor believes that a Field Order justifies an adjustment in the Contract Price or Contract Times, or both, then before proceeding with the Work at issue, Contractor shall submit a Change Proposal as provided herein.

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

- A. Without invalidating the Contract and without notice to any surety, Owner may, at any time or from time to time, order additions, deletions, or revisions in the Work. Such changes shall



be supported by Engineer's recommendation, to the extent the change involves the design (as set forth in the Drawings, Specifications, or otherwise), or other engineering or technical matters. Such changes may be accomplished by a Change Order, if Owner and Contractor have agreed as to the effect, if any, of the changes on Contract Times or Contract Price; or by a Work Change Directive. Upon receipt of any such document, Contractor shall promptly proceed with the Work involved; or, in the case of a deletion in the Work, promptly cease construction activities with respect to such deleted Work. Added or revised Work shall be performed under the applicable conditions of the Contract Documents. Nothing in this paragraph shall obligate Contractor to undertake Work that Contractor reasonably concludes cannot be performed in a manner consistent with Contractor's safety obligations under the Contract Documents or Laws and Regulations.

- B. The Owner reserves the right to add to the original scope of Unit Price Work of the Contract upon the same terms and at the same unit prices included in the Agreement for all unit item additions, provided that such additions will not result in an increase of more than fifty percent (50%) of the Original Contract Price. The Contractor may be entitled to an extension in the Contract Times with the addition of Unit Price Work.
- C. The Contractor shall perform emergency Work as required by the Owner. In such instances, the Engineer or Resident Project Representative will give written notice to the Contractor for each instance of emergency Work. The Contractor shall perform all emergency Work within seventy-two (72) hours of the written notice. The Owner may perform (or engage another Contractor to perform) emergency Work, at the Contractor's expense, if the Contractor fails to perform emergency Work within the time limit. If the Owner performs (or engages another Contractor to perform) the following conditions apply:
  - 1. if emergency Work is not a Unit Price Work item, the Owner shall charge all costs and expenses of the emergency Work, plus the Owner's then-current overhead charge to the Contractor and deduct those amounts from any monies due to Contractor on the then-current or then-future Application for Payment; and
  - 2. if emergency Work is a Unit Price Work item, the Owner will charge all applicable emergency Work unit costs, plus an administrative and overhead charge of one hundred dollars (\$100.00) per instance to the Contractor and deduct those amounts from any monies due the Contractor on the then-current or then-future Application for Payment.

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

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

#### 11.04 *Change of Contract Price*

- A. The Contract Price may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Price shall comply with the provisions of Paragraph 11.06. Any Claim for an adjustment of Contract Price shall comply with the provisions of Article 12.
- B. An adjustment in the Contract Price will be determined as follows:
  - 1. where the Work involved is covered by unit prices contained in the Contract Documents, then by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 13.03); or

2. where the Work involved is not covered by unit prices contained in the Contract Documents, then by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 11.04.C.2); or
  3. where the Work involved is not covered by unit prices contained in the Contract Documents and the parties do not reach mutual agreement to a lump sum, then on the basis of the Cost of the Work (determined as provided in Paragraph 13.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 11.04.C).
- C. *Contractor's Fee*: When applicable, the Contractor's fee for overhead and profit shall be determined as follows:
1. a mutually acceptable fixed fee; or
  2. if a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:
    - a. for costs incurred under Paragraphs 13.01.B.1 and 13.01.B.2, the Contractor's fee shall be ~~15 percent~~ ten percent (10%) and shall not be applied to payroll taxes, social security contributions, or unemployment taxes;
    - b. for costs incurred under Paragraph 13.01.B.3, the Contractor's fee shall be five percent **(5%)**;
    - c. where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of Paragraphs 11.01.C.2.a and 11.01.C.2.b is that the Contractor's fee shall be based on: (1) a fee of ~~15 percent~~ **ten percent (10%)** of the costs incurred under Paragraphs 13.01.A.1 and 13.01.A.2 **(excluding payroll taxes, security contributions, or unemployment taxes)** by the Subcontractor that actually performs the Work, at whatever tier, and (2) with respect to Contractor itself and to any Subcontractors of a tier higher than that of the Subcontractor that actually performs the Work, a fee of five percent **(5%)** of the amount (fee plus underlying costs incurred) attributable to the next lower tier Subcontractor; ~~provided, however, that for any such subcontracted work the maximum total fee to be paid by Owner shall be no greater than 27 percent of the costs incurred by the Subcontractor that actually performs the Work;~~
    - d. no fee shall be payable on the basis of costs itemized under Paragraphs 13.01.B.4, 13.01.B.5, and 13.01.C;
    - e. the amount of credit to be allowed by Contractor to Owner for any change which results in a net decrease in cost will be the amount of the actual net decrease in cost plus a deduction in Contractor's fee by an amount equal to five percent of such net decrease; and
    - f. when both additions and credits are involved in any one change, the adjustment in Contractor's fee shall be computed on the basis of the net change in accordance with Paragraphs 11.04.C.2.a through 11.04.C.2.e, inclusive.

#### 11.05 *Change of Contract Times*

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

## 11.06 *Change Proposals*

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

## 11.07 *Execution of Change Orders*

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

involves the design (as set forth in the Drawings, Specifications, or otherwise), or other engineering or technical matters; and

4. changes in the Contract Price or Contract Times, or other changes, which embody the substance of any final and binding results under Paragraph 11.06, or Article 12.
- B. If Owner or Contractor refuses to execute a Change Order that is required to be executed under the terms of this Paragraph 11.07, it shall be deemed to be of full force and effect, as if fully executed.

#### 11.08 *Notification to Surety*

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

### ARTICLE 12 – CLAIMS

#### 12.01 *Claims*

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

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

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

### **13.01 Cost of the Work**

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

Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits, which shall include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, bonuses, sick leave, and vacation and holiday pay applicable thereto. The expenses of performing Work outside of regular working hours, on Saturday, Sunday, or legal holidays, shall be included in the above to the extent authorized by Owner.

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

**Construction Equipment and Machinery:**

- 1) Rentals of all construction equipment and machinery, and the parts thereof, 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.

2) Costs for equipment and machinery owned by Contractor will be paid at a rate shown for such equipment in the current edition of the 'Compilation' of Rental Rates for Construction Equipment as published by the Associated Equipment Distributors. An hourly rate will be computed by dividing the monthly rates by 176. These computed rates will include all operating costs. Costs will include the time the equipment or machinery is in use on the changed Work and the costs of transportation, loading, unloading, assembly, dismantling, and removal when directly attributable to the changed Work. The cost of any such equipment or machinery, or parts thereof, shall cease to accrue when the use thereof is no longer necessary for the changed Work. Equipment or machinery with a value of less than \$1,000 will be considered small tools.

- d. Sales, consumer, use, and other similar taxes related to the Work, and for which Contractor is liable, as imposed by Laws and Regulations.
- e. Deposits lost for causes other than negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.
- ~~f. Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by Contractor in connection with the performance of the Work (except losses and damages within the deductible amounts of property insurance established in accordance with Paragraph 6.05), provided such losses and damages have resulted from causes other than the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses shall include settlements made with the written consent and approval of Owner. No such losses, damages, and expenses shall be included in the Cost of the Work for the purpose of determining Contractor's fee.~~
- g. The cost of utilities, fuel, and sanitary facilities at the Site.
- ~~h. Minor expenses such as communication service at the Site, express and courier services, and similar petty cash items in connection with the Work.~~
- i. The costs of premiums for all bonds and insurance that Contractor is required by the Contract Documents to purchase and maintain.

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

- 1. Payroll costs and other compensation of Contractor's officers, executives, principals (of partnerships and sole proprietorships), general managers, safety managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks, and other personnel employed by Contractor, whether at the Site or in Contractor's principal or branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 13.01.B.1 or specifically covered by Paragraph 13.01.B.4. The payroll costs and other compensation excluded here are to be considered administrative costs covered by the Contractor's fee.
- 2. Expenses of Contractor's principal and branch offices other than Contractor's office at the Site.

3. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.
  4. Costs due to the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property.
  5. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraph 13.01.B.
- D. *Contractor's Fee*: When the Work as a whole is performed on the basis of cost-plus, Contractor's fee shall be determined as set forth in the Agreement. When the value of any Work covered by a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price is determined on the basis of Cost of the Work, Contractor's fee shall be determined as set forth in Paragraph 11.04.C.
- E. *Documentation*: Whenever the Cost of the Work for any purpose is to be determined pursuant to this Article 13, Contractor will establish and maintain records thereof in accordance with generally accepted accounting, **and in accordance with Owner's and Engineer's instructions**, practices and submit in a form acceptable to Engineer an itemized cost breakdown together with supporting data. **The Owner and Engineer may specify additional or different requirements in accordance with the preceding sentence, but unless they so specify, the following is required in order to support a determination of cost of Work pursuant to Paragraph 13.01:**
1. **for costs under Paragraph 13.01.B.1, for each person who worked on the additional Work: a statement showing their job title, hourly rate paid or other method of compensation, other amounts described under Paragraph 13.01.B.1 that were paid, and the net change in the number of hours worked attributable to the change in the Work;**
  2. **for costs under Paragraph 13.01.B.2, dated receipts from the Subcontractors and/or Sub-subcontractors. The receipts must acknowledge the Contractor's payment, identify the materials, supplies, equipment, and show the name of the Owner's Project.**
  3. **for costs under Paragraph 13.01.B.5.c, dated receipts from the rental the Subcontractors and/or Sub-subcontractors. The receipts must acknowledge the Contractor's payment, identify the machinery and equipment, and show the name of the Owner's Project, the rental rate, and the number of hours, days, miles, or other basis of the charge. If the Contractor supplies the machinery or equipment, the statement must show the rental rate and the number of hours, days, miles, or other basis of the charge, and the rental rate must not exceed the market rental rate.**
  4. **for costs under Paragraph 13.01.B.5.i, written proof of a net change in the amount paid by the Contractor attributable to the change in the Work. For bonds, the proof must include the invoice or statement for the surety or its agent showing that it is attributable to the change in the Work.**

### 13.02 Allowances

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



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

### 13.03 *Unit Price Work*

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

- F. Each unit price shall be deemed to include an amount considered by the Contractor to be adequate to cover all construction surveying and existing utility location required to complete the Work as specified, or as directed by the Engineer, for each separately identified item.
- G. This Paragraph 13.03.G applies except to the extent if any that the Contract Documents specify otherwise:
1. Unit prices, if any, shall apply to Work done pursuant to Change Orders and to Work Change Directives.
  2. In addition to Paragraph 13.03.G.1, it is agreed:
    - a. If unit price items are included in the Contract Documents for Work other than Work done pursuant to Change Orders and to Work Change Directives, it is also agreed that the Contract Price was calculated on the assumption that certain estimated quantities of unit price items will be used in the Work. Those estimated quantities are stated in the Contract Documents. The unit price multiplied by the quantity is referred to as the 'extension';
    - b. If the actual extension of a unit price item is less than the estimated extension, the Contract Price shall be reduced accordingly;
    - c. The actual extension of each unit price item shall not exceed the estimated extension for that item unless the Contractor has received advance written approval from the Engineer to exceed the estimated quantity for that item. That approval may be limited in the Engineer's discretion. If that approval is given, the Contract Price shall be adjusted as follows:
      1. If the actual quantity of a unit price item is more than the estimated quantity, the Contract Price shall be increased to reflect the difference between the actual and the estimated quantities.
      2. If approval is not given, the Contractor shall not be obligated to use the quantity of that unit price item that exceeds the approved quantity, and a Change Order or Work Change Directive shall be executed to reflect the changes in the Work resulting from the actual quantity of the item that is used.
      3. If the Contract Documents explicitly and clearly state that no further approval from the Engineer or the Owner is required for the Contractor to exceed the estimated quantity of specified unit price items, then it is agreed that the Contract Price shall be adjusted to reflect the actual quantities of those items without the necessity of further approval.

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

### 14.01 *Access to Work*

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

#### 14.02 Tests, Inspections, and Approvals

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

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

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

#### 14.03 Defective Work

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

- C. *Notice of Defects*: Prompt notice of all defective Work of which Owner or Engineer has actual knowledge will be given to Contractor.
- D. *Correction, or Removal and Replacement*: Promptly after receipt of written notice of defective Work, **but in any event commencing within thirty (30) days after receipt of said instruction and proceeding promptly to completion**, Contractor shall correct all such defective Work, whether or not fabricated, installed, or completed, or, if Engineer has rejected the defective Work, remove it from the Project and replace it with Work that is not defective. **Engineer and Owner may reject any defective Work, even if inspected and paid for, except to the extent accepted under Paragraph 14.04. A failure to disapprove or reject such defective Work does not constitute an acceptance.**
- E. *Preservation of Warranties*: When correcting defective Work, Contractor shall take no action that would void or otherwise impair Owner's special warranty and guarantee, if any, on said Work.
- F. *Costs and Damages*: In addition to its correction, removal, and replacement obligations with respect to defective Work, Contractor shall pay all claims, costs, losses, and damages arising out of or relating to defective Work, including but not limited to the cost of the inspection, testing, correction, removal, replacement, or reconstruction of such defective Work, fines levied against Owner by governmental authorities because the Work is defective, and the costs of repair or replacement of work of others resulting from defective Work. Prior to final payment, if Owner and Contractor are unable to agree as to the measure of such claims, costs, losses, and damages resulting from defective Work, then Owner may impose a reasonable set-off against payments due under Article 15.

#### 14.04 *Acceptance of Defective Work*

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

#### 14.05 *Uncovering Work*

- A. Engineer has the authority to require special inspection or testing of the Work, whether or not the Work is fabricated, installed, or completed.
- B. If any Work is covered contrary to the written request of Engineer, then Contractor shall, if requested by Engineer, **or contrary to the Contract Documents, or before required inspections, test, or approvals**, uncover such Work for Engineer's observation, and then replace the covering, all at Contractor's expense.

- C. If Engineer considers it necessary or advisable that covered Work be observed by Engineer or inspected or tested by others, then Contractor, at Engineer's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as Engineer may require, that portion of the Work in question, and provide all necessary labor, material, and equipment.
1. If it is found that the uncovered Work is defective, Contractor shall be responsible for all claims, costs, losses, and damages arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); **and Contractor shall not be entitled to any increase in Contract Times because of the time involved in such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction;** and pending Contractor's full discharge of this responsibility the Owner shall be entitled to impose a reasonable set-off against payments due under Article 15.
  2. If the uncovered Work is not found to be defective, Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Times, or both, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction. If the parties are unable to agree as to the amount or extent thereof, then Contractor may submit a Change Proposal within 30 days of the determination that the Work is not defective. **However, if such Work had been prematurely covered, the preceding sentence shall not apply, and Contractor shall have no such rights.**

#### 14.06 Owner May Stop the Work

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

#### 14.07 Owner May Correct Defective Work

- A. If Contractor fails ~~within a reasonable time~~ after written notice from Engineer to correct defective Work, or to remove and replace rejected Work as required by Engineer, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any other provision of the Contract Documents, then Owner may, after seven days written notice to Contractor, correct or remedy any such deficiency.
- B. In exercising the rights and remedies under this Paragraph 14.07, Owner shall proceed expeditiously. In connection with such corrective or remedial action, Owner may exclude Contractor from all or part of the Site, take possession of all or part of the Work and suspend Contractor's services related thereto, and incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere. Contractor shall allow **and provide** Owner, Owner's representatives, agents and employees, Owner's other contractors, and Engineer and Engineer's consultants access to the Site **and storage locations referred to in the preceding sentence** to enable Owner to exercise the rights and remedies under this paragraph.

- C. All claims, costs, losses, and damages incurred or sustained by Owner in exercising the rights and remedies under this Paragraph 14.07 will be charged against Contractor as set-offs against payments due under Article 15. Such claims, costs, losses and damages will include but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of Contractor's defective Work.
- D. Contractor shall not be allowed an extension of the Contract Times because of any delay in the performance of the Work attributable to the exercise by Owner of Owner's rights and remedies under this Paragraph 14.07.

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

### 15.01 *Progress Payments*

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

of the executed Work as an experienced and qualified design professional, and on Engineer's review of the Application for Payment and the accompanying data and schedules, that to the best of Engineer's knowledge, information and belief:

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

D. *Payment Becomes Due:*

- 1. ~~Ten~~**Thirty (30)** days after presentation of the Application for Payment to Owner with Engineer's recommendation, the amount recommended (subject to any Owner set-offs) will become due, and when due will be paid by Owner to Contractor.

E. *Reductions in Payment by Owner:*

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



- I. there are other items entitling Owner to a set off against the amount recommended.
2. If Owner imposes any set-off against payment, whether based on its own knowledge or on the written recommendations of Engineer, Owner will give Contractor immediate written notice (with a copy to Engineer) stating the reasons for such action and the specific amount of the reduction, and promptly pay Contractor any amount remaining after deduction of the amount so withheld. Owner shall promptly pay Contractor the amount so withheld, or any adjustment thereto agreed to by Owner and Contractor, if Contractor remedies the reasons for such action. The reduction imposed shall be binding on Contractor unless it duly submits a Change Proposal contesting the reduction.
3. Upon a subsequent determination that Owner's refusal of payment was not justified, the amount wrongfully withheld, **as determined in a competent jurisdiction having binding authority**, shall be treated as an amount due as determined by Paragraph 15.01.C.1 and subject to interest as provided in the Agreement.
4. **Failure of Owner to refuse to make payment does not waive Owner's rights under the Contract Documents.**

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

- A. Contractor warrants and guarantees that title to all Work, materials, and equipment furnished under the Contract will pass to Owner free and clear of (1) all Liens and other title defects, and (2) all patent, licensing, copyright, or royalty obligations, no later than seven days after the time of payment by Owner.
- B. **The Application of Payment shall be accompanied by such data, satisfactory to Owner, as will establish Owner's title to the material and equipment and protect its interest therein, including applicable insurance. Each subsequent Application for Payment shall include an Affidavit of Contractor stating that all previous progress payments received on account of the Work have been applied to discharge in full all of Contractor's obligations reflected in prior Applications for Payment.**

#### 15.03 *Substantial Completion*

- A. When Contractor considers the entire Work ready for its intended use Contractor shall notify Owner and Engineer in writing that the entire Work is substantially complete and request that Engineer issue a certificate of Substantial Completion. Contractor shall at the same time submit to Owner and Engineer an initial draft of punch list items to be completed or corrected before final payment.
- B. Promptly after Contractor's notification, Owner, Contractor, and Engineer shall make an inspection of the Work to determine the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify Contractor in writing giving the reasons therefor.
  1. **If some or all of the Work has been determined not to be at a point of Substantial Completion and will require re-inspection or re-testing by Engineer, the cost of such re-inspection or re-testing, including the cost of time, travel and living expenses, shall be paid by Contractor to Owner. If Contractor does not pay, or the parties are unable to agree as to the amount owed, then Owner may impose a reasonable set-off against payments due under Article 15.**

2. **“Substantial Completion” means that the Work is complete to the point that the facility can properly operate, to the satisfaction of Owner, and Engineer. All process equipment shall be installed and operational. All work such as architectural, painting, final cleaning, rough site grading, sidewalks, etc. shall also be complete. Manufacturer’s field services and performance testing shall have been provided in accordance with the contract requirements. The intent of “Substantial Completion” is for all contract work to be complete except for minor punch list work.**
  3. **Punch list work includes minor portions of the Work not essential to operation of the facility. Completion of this work can be accomplished without interruption to facility operations. Any such Work will be listed on an attachment to the certificate of Substantial Completion and could include such items as permanent fencing, finish grading, seeding and the removal of temporary access roads and contractor’s mobilization areas.**
- C. If Engineer considers the Work substantially complete, Engineer will deliver to Owner a preliminary certificate of Substantial Completion which shall fix the date of Substantial Completion. Engineer shall attach to the certificate a punch list of items to be completed or corrected before final payment. Owner shall have seven days after receipt of the preliminary certificate during which to make written objection to Engineer as to any provisions of the certificate or attached punch list. If, after considering the objections to the provisions of the preliminary certificate, Engineer concludes that the Work is not substantially complete, Engineer will, within 14 days after submission of the preliminary certificate to Owner, notify Contractor in writing that the Work is not substantially complete, stating the reasons therefor. If Owner does not object to the provisions of the certificate, or if despite consideration of Owner’s objections Engineer concludes that the Work is substantially complete, then Engineer will, within said 14 days, execute and deliver to Owner and Contractor a final certificate of Substantial Completion (with a revised punch list of items to be completed or corrected), **including the time within each of those items shall be completed or corrected**, reflecting such changes from the preliminary certificate as Engineer believes justified after consideration of any objections from Owner.
- D. At the time of receipt of the preliminary certificate of Substantial Completion, Owner and Contractor will confer regarding Owner’s use or occupancy of the Work following Substantial Completion, review the builder’s risk insurance policy with respect to the end of the builder’s risk coverage, and confirm the transition to coverage of the Work under a permanent property insurance policy held by Owner. Unless Owner and Contractor agree otherwise in writing, Owner shall bear responsibility for security, operation, protection of the Work, property insurance, maintenance, heat, and utilities upon Owner’s use or occupancy of the Work.
- E. After Substantial Completion the Contractor shall promptly begin Work on the punch list of items to be completed or corrected prior to final payment. In appropriate cases Contractor may submit monthly Applications for Payment for completed punch list items, following the progress payment procedures set forth above.
- F. Owner shall have the right to exclude Contractor from the Site after the date of Substantial Completion subject to allowing Contractor reasonable access to remove its property and complete or correct items on the punch list.

#### 15.04 *Partial Use or Occupancy*

- A. Prior to Substantial Completion of all the Work, Owner may use or occupy any substantially completed part of the Work which has specifically been identified in the Contract

Documents, or which Owner, Engineer, and Contractor agree constitutes a separately functioning and usable part of the Work that can be used by Owner for its intended purpose without significant interference with Contractor's performance of the remainder of the Work, subject to the following conditions:

1. At any time Owner may request in writing that Contractor permit Owner to use or occupy any such part of the Work that Owner believes to be substantially complete. If and when Contractor agrees that such part of the Work is substantially complete, Contractor, Owner, and Engineer will follow the procedures of Paragraph 15.03.A through E for that part of the Work.
2. At any time Contractor may notify Owner and Engineer in writing that Contractor considers any such part of the Work substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work.
3. Within a reasonable time after either such request, Owner, Contractor, and Engineer shall make an inspection of that part of the Work to determine its status of completion. If Engineer does not consider that part of the Work to be substantially complete, Engineer will notify Owner and Contractor in writing giving the reasons therefor. If Engineer considers that part of the Work to be substantially complete, the provisions of Paragraph 15.03 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.
4. No use or occupancy or separate operation of part of the Work may occur prior to compliance with the requirements of Paragraph 6.05 regarding builder's risk or other property insurance.

#### 15.05 *Final Inspection*

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

#### 15.06 *Final Payment*

##### A. *Application for Payment:*

1. After Contractor has, in the opinion of Engineer, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of inspection, annotated record documents (as provided in Paragraph 7.11), and other documents, Contractor may make application for final payment.
2. The final Application for Payment shall be accompanied (except as previously delivered) by:
  - a. all documentation called for in the Contract Documents;
  - b. consent of the surety, if any, to final payment;
  - c. satisfactory evidence that all title issues have been resolved such that title to all Work, materials, and equipment has passed to Owner free and clear of any Liens or other title defects, or will so pass upon final payment.
  - d. a list of all disputes that Contractor believes are unsettled; and

- e. complete and legally effective releases or waivers (satisfactory to Owner) of all Lien rights arising out of the Work, and of Liens filed in connection with the Work.
  3. In lieu of the releases or waivers of Liens specified in Paragraph 15.06.A.2 and as approved by Owner, Contractor may furnish receipts or releases in full and an affidavit of Contractor that: (a) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (b) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which Owner might in any way be responsible, or which might in any way result in liens or other burdens on Owner's property, have been paid or otherwise satisfied. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, Contractor may furnish a bond or other collateral satisfactory to Owner to indemnify Owner against any Lien, or Owner at its option may issue joint checks payable to Contractor and specified Subcontractors and Suppliers.
- B. *Engineer's Review of Application and Acceptance:*
1. If, on the basis of Engineer's observation of the Work during construction and final inspection, and Engineer's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, Engineer is satisfied that the Work has been completed and Contractor's other obligations under the Contract have been fulfilled, Engineer will, within ten days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of final payment and present the Application for Payment to Owner for payment. Such recommendation shall account for any set-offs against payment that are necessary in Engineer's opinion to protect Owner from loss for the reasons stated above with respect to progress payments. At the same time Engineer will also give written notice to Owner and Contractor that the Work is acceptable, subject to the provisions of Paragraph 15.07. Otherwise, Engineer will return the Application for Payment to Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case Contractor shall make the necessary corrections and resubmit the Application for Payment.
  2. **Without extra charge to Contractor, Engineer will make only two (2) such inspections to determine final completion. If Engineer is not able to make the representation and findings required to recommend final payment, successive inspections requested by Contractor shall be charged to Contractor.**
- C. *Completion of Work:* The Work is complete (subject to surviving obligations) when it is ready for final payment as established by the Engineer's written recommendation of final payment.
- D. *Payment Becomes Due:* Thirty days after the presentation to Owner of the final Application for Payment and accompanying documentation, the amount recommended by Engineer (less any further sum Owner is entitled to set off against Engineer's recommendation, including but not limited to set-offs for liquidated damages and set-offs allowed under the provisions above with respect to progress payments) will become due and shall be paid by Owner to Contractor.

#### 15.07 *Waiver of Claims*

- A. The making of final payment will not constitute a waiver by Owner of claims or rights against Contractor. Owner expressly reserves claims and rights arising from unsettled Liens, from defective Work appearing after final inspection pursuant to Paragraph 15.05, from Contractor's failure to comply with the Contract Documents or the terms of any special

guarantees specified therein, from outstanding Claims by Owner, or from Contractor's continuing obligations under the Contract Documents.

- B. The acceptance of final payment by Contractor will constitute a waiver by Contractor of all claims and rights against Owner other than those pending matters that have been duly submitted or appealed under the provisions of Article 17.

#### 15.08 *Correction Period*

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

### **ARTICLE 16 – SUSPENSION OF WORK AND TERMINATION**

#### 16.01 *Owner May Suspend Work*

- A. At any time and without cause, Owner may suspend the Work or any portion thereof for a period of not more than 90 consecutive days by written notice to Contractor and Engineer.

Such notice will fix the date on which, **or the event after which**, Work will be resumed. Contractor shall resume the Work on the date so fixed. Contractor shall be entitled to an adjustment in the Contract Price or an extension of the Contract Times, or both, directly attributable to any such suspension. Any Change Proposal seeking such adjustments shall be submitted no later than 30 days after the date fixed for resumption of Work.

- B. **No adjustment shall be made to the extent that performance is, was, or would have been suspended, delayed, or interrupted directly or indirectly by Contractor or any Entity for which Contractor is responsible. The Contract Price shall not be adjusted except to the extent that the total of such suspensions exceed thirty (30) days and after excluding such thirty (30) day period.**

16.02 *Owner May Terminate for Cause*

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

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

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

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

- A. Upon seven days written notice to Contractor and Engineer, Owner may, without cause and without prejudice to any other right or remedy of Owner, terminate the Contract. In such case, Contractor shall be paid for (without duplication of any items):
  - 1. completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, ~~including fair and reasonable sums for overhead and profit on such Work;~~ **as determined in Article 13;**
  - 2. expenses sustained prior to the effective date of termination in ~~performing services and furnishing labor,~~ **ordering** materials, ~~or equipment~~ as required by the Contract Documents in connection with uncompleted Work, ~~plus fair and reasonable sums for overhead and profit on such expenses; and,~~ **the Owner shall have the options detailed in Paragraphs 16.03.A.2.a through 16.03.A.2.d;**
    - a. **Upon seven (7) days of receipt of the notice of termination for convenience Contractor shall provide evidence of materials ordered as described in Paragraph 16.03.A.2, including an itemized list, cost, order, and delivery dates, and all terms or conditions (including ordering, canceling, or restocking charges).**
    - b. **Owner may direct Contractor to cancel any one or more orders, in which case the Owner shall be liable for cancellation and restocking charges and other charges properly attributable to the cancellation: or**
    - c. **Owner may direct the Contractor to keep any one or more orders in effect and/or to assign any one or more orders to the Owner, in which case the Owner shall be responsible for bearing the costs of the order.**
    - d. **Within ten (10) days of the Owner's receiving the evidence described in Paragraph 16.03.A.2.a, the Owner shall give the Contractor notice of which options it exercises under Paragraphs 16.03.A.2.b or 16.03.A.2.c.**
  - 3. ~~other reasonable expenses directly attributable to termination, including costs incurred to prepare a termination for convenience cost proposal.~~  
**The Owner shall pay the Contractor a termination fee of one hundred dollars (\$100.00) in addition to other amounts due pursuant to this Paragraph 16.03.**
- B. Contractor shall not be paid on account of loss of anticipated overhead, profits, or revenue, or other economic loss arising out of or resulting from such termination.

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

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

#### 16.05 **Protection and Preservation of the Work**

- A. **Upon suspension (Paragraph 16.01), termination (Paragraphs 16.02, 16.03 and 16.04), or stopping Work (Paragraph 16.04):**
  - 1. **Contractor shall take actions necessary for the protection and preservation of the Work, and Site, including those actions required by the Contract, except to the extent otherwise directed by the Engineer; and**
  - 2. **Contractor shall erect and leave in place barricades, lights, and other safety devices as are appropriate for the protection of the public, including those devices required by the Contract, except to the extent otherwise directed by the Engineer.**
- B. **If the Contractor performs Work pursuant to directions given by the Engineer as described in Paragraph 16.05.A for the protection and preservation of the Work or of the public, Owner shall pay the Contractor for such protection and preservation of Work to the extent that it is greater than the Contractor would have done during or at the end of a workday had the Contract not been suspended or terminated or the Work stopped.**

### ARTICLE 17 – FINAL RESOLUTION OF DISPUTES

#### 17.01 *Methods and Procedures*

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



- B. *Final Resolution of Disputes:* For any dispute subject to resolution under this Article, Owner or Contractor may:
- ~~1. elect in writing to invoke the dispute resolution process provided for in the Supplementary Conditions; or~~
  - ~~2. agree with the other party to submit the dispute to another dispute resolution process; or~~
  - ~~3. if no dispute resolution process is provided for in the Supplementary Conditions or mutually agreed to, give written notice to the other party of the intent to submit the dispute to a court of competent jurisdiction.~~
  4. **Any party allowed to use the dispute resolution process adopted by the State Building Commission pursuant to G.S. 143-135.26(11) and G.S. 143-128(F1) may participate in mediation pursuant to the dispute resolution process as a precondition to initiating litigation concerning the dispute. The amount of \$15,000 or more must be at issue before a party may require other parties to participate in the dispute resolution process. The costs of the dispute resolution process shall be divided between the parties to the dispute with at least one-third of the cost to be paid by the Owner, if Owner is a party to the dispute.**

## ARTICLE 18 – MISCELLANEOUS

### 18.01 Giving Notice

- A. Whenever any provision of the Contract Documents requires the giving of written notice, it will be deemed to have been validly given if:
1. delivered **by email**, in person, by a commercial courier service or otherwise, to the individual or to a member of the firm or to an officer of the corporation for which it is intended; or
  2. delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the sender of the notice.
- B. **If a party is notified of a replacement person for purpose of getting notice, then notices afterwards shall be directed to the replacement person. Written notices shall be deemed to have been duly served, made, and received, and receipt thereof completed, if:**
1. **delivered in person to the individual or to that individual's receptionist; or**
  2. **mailed by registered or certified mail to the last business address known to the party giving notice; or**
  3. **emailed to the last email address known to the party giving notice, provided that the email transmission must be completed.**
- C. **Written notices to the Owner must be directed to the Owner's representative, provided that if no individual is designated as the Owner's representative, then written notices must be directed to the Executive Director. As used in this Paragraph 18.01, the word 'notice' includes 'request'.**
- D. **The notice will be deemed served, made, and received, and receipt thereof completed, on the earlier of:**
1. **the date delivered in person: or**
  2. **three (3) days after placing in the custody of the U.S. Postal Service; or**

3. the date of the email transmission was completed.

- E. Address of Surety: Unless the surety provides a different address as provided in Paragraph 18.01, notice to a surety may be sent to the address shown on the performance bond; if no address for the surety's address provided by the N. C. Department of Insurance shall suffice; and if the Department of Insurance lacks an address, the last-known address of the attorney-in-fact who signed the performance bond shall suffice.

18.02 *Computation of Times*

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

18.03 *Cumulative Remedies*

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

18.04 *Limitation of Damages*

- A. With respect to any and all Change Proposals, Claims, disputes subject to final resolution, and other matters at issue, neither Owner nor Engineer, nor any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, shall be liable to Contractor for any claims, costs, losses, or damages sustained by Contractor on or in connection with any other project or anticipated project.

18.05 *No Waiver*

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

18.06 *Survival of Obligations*

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

18.07 *Controlling Law*

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

18.08 *Headings*

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

18.09 Effect on Other Rights

- A. The Contract Documents shall not be construed to create a cause of action against Owner and in favor of any person, firm, or corporation, other than Contractor. The Contract Documents shall not be construed to create a cause of action against Engineer and in favor of any person, firm or corporation, other than Owner. The Contract Documents are not intended to create a defense, except by Contractor, to any cause of action that may be brought by Owner. The recitation of duties, or limitations of duties, in the Contract Documents of Engineer or Engineer's consultants, representatives, and assistants, shall not be construed to reduce Owner's rights against Engineer, or to reduce Engineer's duties to Owner. No action or failure to act by Owner shall constitute a waiver of a right except to the extent specifically agreed in writing. If Owner waives a right, that waiver shall not imply other waivers of that right. If liquidated damages are assessable against the Contractor, Owner may, in its discretion, waive the imposition of some or all of the liquidated damages against the Contractor. That waiver shall be valid only if done by a writing signed by the Executive Director, and the waiver must refer specifically to 'liquidated damages'. That waiver shall not constitute an extension of the Contract Times.
- B. The agreement represents the entire and integrated agreement between the parties hereto and superseded prior negotiations and representations. Except as specifically otherwise provided, the Agreement is not intended to benefit, or to create a cause of action in favor of, any person, firm, or corporation, other than Owner and Contractor. Oral statements by anyone, including Owner's employees, agents, and Engineer, whether made before or after the execution of the Agreement, shall not be binding on Owner and shall not reduce Owner's rights under the Contract Documents.

18.10 Place of Project

- A. Choice of Law and Forum: The place of the Project is North Carolina. This Contract shall be deemed made in Carrboro, North Carolina. This Contract shall be governed by and construed in accordance with the laws of North Carolina. The exclusive forum and venue for all actions arising out of this Contract shall be the North Carolina General Court of Justice, in Orange County. Such actions shall neither be commenced in nor removed to federal court. This Paragraph shall not apply to subsequent actions to enforce a judgment entered in actions heard pursuant to this Paragraph.

\*\*\*END OF DOCUMENT\*\*\*

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**PART 1 GENERAL**

**1.01 SUMMARY**

**A. Scope of Work:**

1. Furnish all labor, materials, equipment, expertise, and incidentals necessary to remove all existing coating/linings, prepare the surface and apply a new protective coating/lining system to the digester steel cover and on the top 12 feet of the concrete walls on the digester interior. This includes the underside of the roof of the interior of the digester and the floor of the attic space, all supporting steel and the underside of the galvanized corrugated deck materials.
2. The scope of work also includes all coating/linings system terminations, necessary environmental controls and the legal collection, temporary storage, removal, and disposal of debris.
3. Refer to the System Thickness Requirements in 3.06 of this Section.
4. All surface preparation and coating/lining activities shall be thoroughly contained and performed in a manner that does not disrupt continued operation of the facility.

**1.02 REFERENCE STANDARDS**

*List of standards that may be referenced in this section, complete with designations and titles. These standards may be identified here and referenced in other parts of this section by their acronym and alpha/numeric designation only. This Section does not require compliance with these standards, but is merely a listing of those that may be referenced.*

**A. Publications listed are part of this specification to extent referenced.**

<b>REFERENCE STANDARDS</b>	
<b>Reference</b>	<b>Title</b>
<b>ANSI (American National Standards Institute)</b>	
ANSI/ASC 29.4 Exhaust Systems	Abrasive Blasting Operations – Ventilation and Safe Practice
ANSI B74.18	Grading of Certain Abrasive Grain on Coated Abrasive Material

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<b>REFERENCE STANDARDS</b>	
<b>Reference</b>	<b>Title</b>
ASTM D16	Standard Terminology for Paint, Related Coating/linings, Materials, and Applications
<b>American Concrete Institute (ACI)</b>	
ACI 308	Recommended Practice for Curing Concrete
ACI 318	Building Code Requirements for Reinforced Concrete and Commentary
ACI 350	Code Requirements for Environmental Engineering Structures
<b>ANSI (American National Standards Institute)</b>	
ANSI/ASC 29.4 Exhaust Systems	Abrasive Blasting Operations – Ventilation and Safe Practice
ANSI B74.18	Grading of Certain Abrasive Grain on Coated Abrasive Material
<b>ASTM (American Society for Testing and Materials)</b>	
ASTM D16	Standard Terminology for Paint, Related Coating/linings, Materials, and Applications
ASTM A615	Standard Specification for Deformed and Plain Billet Steel Bars for Concrete Reinforcement
ASTM A706	Standard Specification for Low Alloy Steel Deformed and Plain Bars for Concrete Reinforcement.
ASTM A775	Standard Specification for Epoxy-Coated Steel Reinforcing Bars
ASTM C42	Standard Test Method for Obtaining and Testing Drilled Cores and Sawed Beams of Concrete
ASTM C109	Standard Test Method for Compressive Strength of Hydraulic Cement Mortars
ASTM C348	Standard Test Method for Flexural Strength of Hydraulic-Cement Mortars
ASTM C496	Standard Test Method for Splitting Tensile Strength of Cylindrical Concrete Specimens
ASTM C882	Standard Test Method for Bond Strength of Epoxy-Resin Systems Used with Concrete by Slant Shear
ASTM C1107	Standard Specification for Packaged Dry, Hydraulic Cement Grout (Nonshrink)
ASTM C1583	Standard Test Method for Tensile Strength of Concrete Surfaces and the Bond Strength or Tensile Strength of Concrete Repair and Overlay Materials by Direct Tension (Pull-off Method)

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<b>REFERENCE STANDARDS</b>	
<b>Reference</b>	<b>Title</b>
ASTM D1752	Standard Specification for Preformed Sponge Rubber and Cork Expansion Joint Fillers for Concrete Paving and Structural Construction
ASTM D2200 (SSPC-VIS1)	Pictorial Surface Preparation Standards for Painting Steel Surfaces
ASTM D3960	Standard Practice for Determining Volatile Organic Compound (VOC) Content of Paints and Related Coating/linings
ASTM D4263	Standard Test Method for Indicating Moisture in Concrete by the Plastic Sheet Method
ASTM D4285	Standard Test Method for Indicating Oil or Water in Compressed Air
ASTM D4414	Standard Practice for Measurement of Wet Film Thickness by Notch Gages
ASTM D4417	Standard Test Methods for Field Measurement of Surface Profile of Blast Cleaned Steel
ASTM D4541	Standard Test Methods for Pull-Off Strength of Coating/linings on Metal Substrates Using Portable Adhesion Testers
ASTM D5162	Standard Practice for Discontinuity (Holiday) Testing of Nonconductive Protective Coating/lining on Metallic Substrates
ASTM D4787	Standard Practice for Continuity Verification of Liquid or Sheet Linings Applied to Concrete Substrates
ASTM D7091	Standard Practice for Nondestructive Measurement of Dry Film Thickness of Nonmagnetic Coating/linings Applied to Ferrous Metals
ASTM D7234	Standard Test Method for Pull-Off Adhesion Strength of Coating/linings on Concrete Using Portable Adhesion Testers.
ASTM E337	Standard Test Method for Measuring Humidity with a Psychrometer
ASTM F1869	Standard Test Method for Measuring Moisture Vapor Emission Rate of Concrete Subfloor Using Anhydrous Calcium Chloride
ASTM F2170	Determining Relative Humidity in Concrete Floor Slabs Using In-situ Probes
<b>ICRI (International Concrete Restoration Institute)</b>	
ICRI 310.2	Guideline for Selecting and Specifying Concrete Surface Preparation for Sealers, Coating/linings, Polymer Overlays, and Concrete Repair
<b>NACE (National Association of Corrosion Engineers)</b>	
NACE Publication 6D-163	A Manual for Painter Safety
NACE Standards	January 1988 Edition of the National Association of Corrosion Engineers, TPC.

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<b>REFERENCE STANDARDS</b>	
<b>Reference</b>	<b>Title</b>
NACE #1	White Metal Blast Cleaning
NACE #2	Near-White Blast Cleaning
NACE #3	Commercial Blast Cleaning
NACE #4	Brush-Off Blast Cleaning
NACE #6	Surface Preparation of Concrete
NACE #8	Industrial Blast Cleaning
NACE SP0188	Standard Practice – Discontinuity (Holiday) Testing of New Protective Coating/linings on Conductive Substrates
NACE SP0288	Standard Recommended Practice, Inspection of Coating/linings on Steel and Concrete
NACE SP0178	Design, Fabrication, and Surface Finish Practices for Tanks and Vessels to Be Lined for Immersion Service.
<b>OSHA (U.S. Occupational Safety and Health Administration)</b>	
OSHA 1915.35	Standards – 29CFR - Painting
<b>SSPC (The Society for Protective Coating/linings)</b>	
SSPC	Paint Application Specification No. 1.
SSPC-AB 1	Mineral and Slag Abrasives
SSPC-PA 1	Shop, Field, and Maintenance Painting of Steel
SSPC-PA 2	Measurement of Dry Coating/lining Thickness with Magnetic Gages
SSPC-PA 9	Measurement of Dry Coating/lining Thickness on Cementitious Substrates Using Ultrasonic Gages
SSPC-PA 10	Guide to Safety and Health Requirements for Industrial Painting Projects
SSPC-PA Guide 3	A Guide to Safety in Paint Application
SSPC-PA Guide 6	Guide for Containing Debris Generated During Paint Removal Operations
SSPC-PA Guide 11	Protecting Edges, Crevices, and Irregular Steel Surfaces by Stripe Coating/lining
SSPC-PA Guide 12	Guide for Illumination of Industrial Painting Project
SSPC-PA Guide 15	Field Methods for Retrieval and Analysis of Soluble Salts on Substrates.
SSPC SP1	Solvent Cleaning
SSPC SP2	Hand Tool Cleaning
SSPC SP3	Power Tool Cleaning
SSPC SP5	White Metal Blast Cleaning

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<b>REFERENCE STANDARDS</b>	
<b>Reference</b>	<b>Title</b>
SSPC SP6	Commercial Blast Cleaning
SSPC SP7	Brush-Off Blast Cleaning
SSPC SP10	Near-White Blast Cleaning
SSPC SP11	Power Tool Cleaning to Bare Metal
SSPC SP13	Surface Preparation of Concrete
SSPC SP14	Industrial Blast Cleaning
SSPC SP15	Commercial Power Tool Cleaning
SSPC SP16	Brush-Off Blast Cleaning of Coated and Uncoated Galvanized Steel, Stainless Steels, and Non-Ferrous Metals
SSPC-SP CAB#1	Thorough Abrasive Blast Cleaning of Concrete & Masonry Surfaces
SSPC WJ 1-4	Surface Preparation and Cleaning of Steel and Other Hard Materials by High and Ultra-High-Pressure Water Jetting Prior to Recoating/lining
SSPC-VIS 1	Visual Standard for Abrasive Blast Cleaned Steel
SSPC-VIS 3	Visual Standard for Power and Hand – Tool Cleaned Steel
SSPC-VIS 4	Visual Standards (Water Jetting)
SSPC-VIS 5	Visual Standards (Wet Abrasive Blast Cleaning)

### 1.03 DEFINITIONS

- A. The term COATING/LININGS shall refer to all coating/linings in immersion, or vapor space exposure including, primer, stripe, intermediate, and finish coats.
- B. DRY FILM THICKNESS (DFT): Thickness, measured in mils (1/1000 inch), of a coat of paint in cured state.
- C. Terminology used in this section is in accordance with definitions contained in ASTM D 16, ASTM D 3960, and the following definitions:
  - 1. Abrasive: Material used for blast cleaning, such as sand, grit or shot.
  - 2. Abrasive Blast Cleaning: Cleaning/surface preparation by abrasive propelled at high speed.
  - 3. Anchor Pattern: Profile of prepared surface(s).
  - 4. Bug Holes: Small cavities resulting from entrapment of air bubbles in the surface of formed concrete during placement and compaction.



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5. Coating/lining/Paint/Coating/linings Thickness: The total dry film thickness of primer, intermediate and/or finish coats.
6. Coating/lining Consultant: Corrosion Probe, Inc. (CPI)
7. Dew point: Temperature of a given air/water vapor mixture at which condensation starts.
8. Drying Time: Time interval between application and curing of material.
9. Dry to Recoat: Time interval between application of material and ability to receive next coat.
10. Dry to Touch: Time interval between application of material and ability to touch lightly without damage.
11. Feather Edging: Reducing the thickness of the edge of paint.
12. Feathering: Operation of tapering off the edge of a point with a comparatively dry brush.
13. Field Coat: The application or the completion of application of the coating/lining system after installation of the surface at the site of the work.
14. Filler/Surfacer: See Resurfacer/Resurfacing Material
15. Flash Report: A report submitted via email to the Owner, Owner's representative, and the Consultant/Engineer immediately upon finding any issue concerning quality control or quality assurance for the project.
16. Hold Point: A defined point at which work shall be halted for QC and/or QA related inspection.
17. Holiday: a discontinuity, skip, or void in coating/lining or coating/lining system film that results in low dielectric strength.
18. Honeycomb: Segregated condition of hardened concrete due to non-consolidation.
19. Hydro blast: A term meaning the same as high or ultra-high-pressure water jetting.
20. Incompatibility: Inability of a coating/lining to perform well over another coating/lining because of bleeding, poor bonding, or lifting of old coating/lining; inability of a coating/lining to perform well on a substrate.
21. Immersion: Refers to a service condition in which the substrate is below the waterline or submerged in water or wastewater at least intermittently if not constantly.
22. Inspection and Test Plan: A plan by the CSA that incorporates all of the required QC testing into the CSA's work plan for the project. The I&TP systematically lists the inspection hold points, test methods, and acceptance criteria for each procedure in each phase of the project Work.

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23. Laitance: A layer of weak, non-durable concrete containing cement fines that is brought to the surface through bleed water because of concrete finishing and/or over-finishing.
24. Mil: 0.001 inch.
25. Overspray: Dry spray, particularly such paint that failed to strike the intended surface.
26. Pinhole: A small diameter discontinuity in a coating/lining or coating/lining system film that is typically created by outgassing of air from a void in a concrete substrate resulting in exposure of the substrate or a void between coats.
27. Pit: A distinct area of metal depression/loss due to corrosion
28. Pit Filler: Material (Typically Epoxy) used to fill pits.
29. Pot Life: Time interval after mixing of components during which the coating/lining can be satisfactorily applied.
30. Process Control Procedure: Documents one process, such as mobilization and setup, abrasive blasting, coating/lining mixing, coating/lining application and curing, clean-up, etc. that together make up the work plan.
31. Quality Assurance: An audit process conducted to verify (after the fact) that the work performed meets the specifications and to validate the testing and measurements conducted through the QC program. QA includes visual observation along with various physical tests and measurements (many of the same tests performed in the QC program) at defined hold points. QA may be performed by the CSA, CSA, or Owner's representative.
32. Quality Control: The program, designed and managed by the CSA, to control the project execution parameters through visual observation, measurements, physical tests, policies, procedures, and training programs in order to produce a final product that complies with the project specifications. QC includes testing that identifies deficiencies while the work is progressing so that methods and techniques can be modified to meet the specification requirements.
33. Quality Requirements: General quality requirements that shall be met by the CSA and the CSA's work crew.
34. Resurfacer/Resurfacing Material: Also, filler/surfacer, a layer of cementitious and/or resin-base material used to fill or otherwise restore surface continuity to worn or damaged concrete surfaces.
35. Shelf Life: Maximum storage time for which a material may be stored without losing its usefulness.
36. Shop Coat: One or more coats applied in a shop or plant prior to shipment to the site of the work, where the field or finishing coat is applied.
37. Spreading Rate: Area covered by a unit volume of paint at a specific thickness.

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- 38. Stripe Coat: A separate coat of paint applied to all weld seems, pits, nuts/bolts/washers and edges by brush. This coat shall not be applied until any previous coat(s) have cured and, once applied, shall be allowed to cure prior to the application of the subsequent coat(s).
- 39. Tie Coat: An intermediate coat used to bond different types of paint coats. Coating/linings used to improve the adhesion of a succeeding coat.
- 40. Touch-Up Painting: The application of paint on areas of painted surfaces to repair marks, scratches, and areas where the coating/lining has deteriorated to restore the coating/lining film to an unbroken condition.
- 41. Ultrahigh-Pressure Water jetting (UHPWJ) – A method of surface preparation employing clean water as the media at or above 210 MPa (30,000 psi).
- 42. Weld Spatter: Beads of metal scattered near seam during welding.

D. The following abbreviations may be used herein:

- 43. ANSI - American National Standards Institute
- 44. CSM - Coating/lining System CSM. Refers to the acceptable coating/lining system CSM.
- 45. CSA – Coating/lining System Applicator. A generic reference to the specialty CSA to install the coating/lining systems specified in this Section.
- 46. CTR - Coating/lining System CSM's Technical Representative. Refers to the technical representative(s) of the acceptable Coating/lining System CSM and is abbreviated as CTR.
- 47. DFT - Dry Film Thickness. Thickness of cured film, usually expressed in mils (0.001 inch).
- 48. ITP – Inspection Testing Plan
- 49. ICRI - International Concrete Repair Institute
- 50. NACE - National Association of Corrosion Engineers
- 51. PCP – Process Control Procedure
- 52. QA – Quality Assurance
- 53. QC – Quality Control
- 54. SHT – Sludge Holding Tank
- 55. SSD - Surface Saturated Dry. Refers to concrete surface condition where the surface is saturated (damp) without the presence of standing water.
- 56. SSPC - The Society for Protective Coating/linings
- 57. TPC - Technical Practice Committee

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- 58. VOC - Volatile Organic Compound. The portion of the coating/lining that is a compound of carbon, is photochemically reactive, and evaporates during drying or curing, expressed in grams per liter (g/l) or pounds per gallon (lb./gal). VOC is determined by EPA Method 24.
- 59. WFT - Wet Film Thickness. The primer or coating/lining film's thickness immediately following application. Wet film thickness is measured in mils or thousandths of an inch (0.001 inch) and is abbreviated WFT.

**1.04 SUBMITTALS**

**A. Product Data:**

- 1. The method to be used and the size and type of abrasive media to be used for the abrasive blast cleaning at the site.
- 2. The containment system to be used including cut sheets and CSM's equipment specifications, and a working drawing.
- 3. A list of the coating/lining products proposed, giving brand, type and CSM. Include in the submittal all product data sheets, application instructions and Safety Data Sheets (SDS) for each coating/lining product.
- 4. A color chart for selection of a finish color.
- 5. Written certification from the CSM verifying that the paint system submitted is recommended for this application.
- 6. Submit technical data sheets for each coating/lining, giving descriptive data, curing times, mixing, thinning, and application requirements.
- 7. Submit safety data sheets (SDS) for each product being used on this project.
- 8. A Surface Preparation and Containment Plan, which clearly states how the Digester Cover surfaces will be prepared for coating/lining and the environment protected from contamination.
- 9. An air quality monitoring plan including protocol to be used, monitoring equipment, and calibration certificate.
- 10. Submit a rigging and scaffolding plan to the Owner for review and approval.

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**B. Quality Assurance Submittals:**

**1. Certificates:**

- a. Provide CSM's certification that products to be used comply with specified requirements and are suitable for intended application.
- b. Submit listing of not less than 5 of the CSAs most recent applications representing similar scope and complexity to Project requirements. List shall include information as follows:
  - i) Project name and address
  - ii) Name of owner
  - iii) Name of CSA
  - iv) Name of engineer
  - v) Date of completion

**2. CSM's Instructions:**

- a. Submit CSM's installation procedures, if not on product data sheets, which shall be basis for accepting or rejecting actual installation procedures.

**3. CSA's Inspection Testing Plan (ITP)**

- a. Submit the CSA's ITP to the Owner and Consultant/Engineer detailing all Quality Control testing that will be performed by the CSA to ensure compliance with this specification and contract documents.
- b. Submit CSA's Quality Control personnel's credentials who will be on site overseeing all QC activity.

**1.05 QUALITY REQUIREMENTS**

**A. Qualifications:**

- 1. CSA shall be trained in application techniques and procedures of coating/lining materials directly by the CSM and shall demonstrate a minimum of 5 years successful experience in such application.
  - a. Maintain, throughout duration of application, a crew of painters who are fully qualified.

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2. The CSA shall be an approved applicator of the interior coating/linings & coating/lining & exterior system by the CSM. This shall be documented in writing by the CSM.
3. The CSA shall Employ only supervisory and lead applicator trades people who have at least 5 years of experience performing similar work of coating/lining and coating/linings including performing any of the surface preparation and installation work as specified herein.
4. The CSA shall at all times have a competent superintendent or supervisor in charge who is thoroughly familiar with the work in progress. The superintendent or supervisor shall represent the CSA and shall have authority to receive and respond to all questions and non-conformance issues raised by the Owner or Consultant/Engineer.
5. The CSA shall be a firm with at least five (5) years of experience properly preparing and applying protective coating/linings and coating/linings on wastewater structures of similar size and scope. This experience requirement shall be documented with at least five (5) verifiable project references going back no more than 5 years with contact name, telephone numbers, and email addresses.
6. The CSA shall employ a SSPC/NACE/AMPP Certified Coating/lining Inspector with a minimum Level 2 Certification in good standing to oversee and perform all Quality Control inspection and testing. The CSA's Quality Control staff must have verifiable experience working on concrete substrates.
7. All the CSA's application crew to be assigned to the work covered by this Section shall be trained in the proper, hands-on application of the specified materials including all repair materials, interior coating/linings, and exterior coating/linings, by the CSM. This training to be performed off-site at the CSA's shop facilities or elsewhere shall ensure that the same application tools, equipment, and methods to be used on the Work are used by the CSA's application personnel during the training exercise. All application crew personnel shall have mixed and applied the specified materials during the training. This training shall be documented in writing by the CSM and the CSA in letters stating the employees' names, the dates of the training, the products applied, and certifying that all listed personnel received the training. All employees' signatures shall also be provided in these letters from both the CSM and the CSA. This can be done as a joint letter. The training provided shall be given by technical service personnel from the CSM experienced in the application of all of the specified materials. This training shall not be

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given by regional or national sales or marketing personnel from the CSM or its agents.

8. If Plural application equipment is the chosen method of application, the plural spray equipment shall be operated by someone fully trained in the operation of the specific plural component equipment being used in the application. The individual shall have an AMPP PLURAL Level 1 or 2 certificate with a minimum of 3 years' operating experience with plural component pumps or equivalent training.
9. Use adequate number of skilled workmen who are trained and experienced in the necessary crafts and who are completely familiar with the specified requirements and methods required for proper performance of the work in this Section.
10. The painting CSA shall have painted, with the paint systems specified (or equal), at least five structures similar to those being provided for this project under similar service conditions. The job location and person to contact for references shall be provided upon request of the OWNER.
11. A qualified technical representative (CTR) of the CSM (paint CSM) shall make at least one visit to the work site per coat to review surface preparation, material application procedures, and any other pertinent aspects of the CSA'S operations which could affect the quality of the completed paint systems. It is the responsibility of the CSA to see that the CSM is notified with sufficient time to schedule site visits and to coordinate the visits. The CSA and CSM's representative shall submit a written site visit report within 5 days after each visit.
12. Use equipment of adequate size, capacity, and quantity to accomplish the work of this Section in timely manner.
13. Field testing shall be performed as stated in Section 3.07.

**1.06 QUALITY CONTROL**

1. Minimum CSA Quality Control Requirements
  - a. The CSA is solely responsible for the workmanship and quality of the coating/lining system installation. Inspections by the Engineer, Coating/lining Consultant or the CTR will not relieve or limit the CSA's responsibilities.

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- b. The CSA shall at all times have trained and certified quality control inspectors performing quality control procedures. All persons performing quality control duties shall be NACE/SSPC/AMPP certified. Level 1 (Basic) with a minimum of 3 years' experience in quality control processes is acceptable, providing they are under the direct supervision of a NACE/SSPC/AMPP Level 2 (Certified) or NACE/SSPC/AMPP Level 3 (Senior) in good standing.
- c. The CSA shall prepare an Inspection Testing Plan (ITP) that complies with this Section for all aspects of the resurfacing and coating/linings application.
- d. A pre-job meeting shall be conducted with the CSA to review the quality program ITP and the production schedule. Coating/lining Inspection requirements shall be based on NACE SP0288.
- e. The CSA shall at all times have a competent superintendent or supervisor in charge who is thoroughly familiar with the work in progress. The superintendent or supervisor shall represent the CSA and shall have authority to receive and respond to all questions and non-conformance issues raised by the Engineer and the Owner.
- f. The CSA's methods shall conform to requirements of this specification and the standards referenced in this Section. Changes in the coating/lining system installation requirements will be allowed only with the written acceptance of the Engineer before work commences.
- g. Contaminated, outdated, diluted materials, and/or materials from previously opened containers shall not be used.
- h. The CSA shall provide all points of access for inspection by the Owner's Inspector or Consultant/Engineer. The CSA shall provide ventilation, ingress and egress, and other means necessary for the Owner's Inspector or Consultant/Engineer's personnel to access safely the work areas.
- i. The CSA shall conduct the work so that the coating/lining system is installed as specified and shall inspect the work continually to ensure that the coating/lining system is installed as specified. Coating/lining system work that does not conform to the specifications or is otherwise not acceptable shall be corrected as specified or as required in writing by the CSM at no additional cost to the Owner.
- j. The CSA shall prepare Process Control Procedures (PCP) for all processes to be utilized on this project and combine these in to a coherent Work Plan which describes in detail the CSAs schedule and plan to effectively execute these specifications and complete the Work.
- k. The CSA shall provide written daily QC reports that present, in summary form, test data, work progress, surfaces covered, ambient conditions,



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quality control inspection test findings, and other information pertinent to the coating/lining system installation. The CSA's QC manager shall certify the Work is in compliance with these specifications. QC reports for each day of Work shall be available for review by the Owner or any representative of the Owner and the Consultant/Engineer on the following day.

- l. The CSA shall immediately submit a "Flash Report" detailing quality control or quality assurance concerns that require the immediate attention of the Owner, Owner's Representative and the Consultant/Engineer.
- m. The CSA shall provide all the necessary environmental control required to complete the work and maintain the required environmental conditions (including air temperature and humidity) including, but not limited to, shelters, enclosures, dehumidification equipment, fans, heating equipment, and fuels for all equipment at no additional cost to the Owner.
- n. The CSA shall prepare 6 steel coupons of similar carbon steel material as the structure. All coupons shall be prepared using the same abrasive blasting equipment and blast media that will be used for preparation of the digester cover. The surface cleanliness and surface profile shall meet the minimum allowable value of this specification and the CSM product data sheets for the coating/lining system. One coupon will be prepared for the interior Coating/lining system by abrasive blasting to SSPC SP10/NACE #2 with a minimum jagged surface profile of 2.5 mils. This coupon shall be left uncoated and stored in a way to prevent severe rusting of the coupons. The uncoated coupon shall be used by both the Quality Control and Quality Assurance inspectors to verify their Type II Dry Film Thickness gages prior to each use to ensure consistency of the collected data. Two fully prepared coupons will be coated with the interior coating/lining system including Primer and 100% solids Novolac Epoxy finish coat.
- o. CSA shall Conduct adhesion testing in accordance with ASTM D4541 in 2 locations on each of the coupons of the applied coating/lining system in the presence of the Owner, Owner's Representative, Engineer/Consultant, or Independent Quality Assurance Inspector. Additional adhesion testing may be performed on the interior coating/lining system at the discretion of the owner once the application is complete and cured for a minimum of 72 hours. Adhesion testing may be performed as per ASTM D4541 in as many locations on the cover as deemed necessary by the owner to ensure compliance. The locations for adhesion testing shall be selected and agreed upon by the Owner, Owner's Representative, Engineer/Consultant. The results/values of adhesion testing shall be approved in writing as acceptable by the CTR/CSM. The CSA shall be responsible for repairing and relining areas where adhesion testing is performed at no additional cost to the owner. Any area that does not meet the adhesion requirements of the

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CTR/CSM and owner's representative shall require removal and replacement by the contractor at no additional cost to the owner.

- p. "Hold Point" inspection times and processes are to be established between the Contractor/CSA and the Owner's Quality Assurance Inspectors. The Owner's Quality Assurance inspector will not be on site in a full-time inspection capacity. The Quality Assurance Inspector will be conducting hold point inspections at critical points in the rehabilitation process at the owner and Quality Assurance Inspectors discretion. It is the responsibility of the Contractor/CSA to keep the Quality Assurance inspector apprised at all times of any difficulties, changes to processes, schedule changes and to submit their daily QC reports including photos for review, to enable the Quality Assurance inspector to monitor the application remotely. Failure of the CSA to provide the Quality Assurance inspection firm the necessary details could result in completed work being rejected, resulting in full removal and replacement of the full system in the affected area.
- q. The CSA shall notify the Quality Assurance Inspection Firm a minimum of 72 hours to schedule Hold Point inspection.
- r. The CSA shall provide the Quality Assurance inspection firm ample time and access to perform the necessary Hold Point inspections.
- s. If the CSA or its staff proceeds with surface preparation or application of primers or finish coats without hold point inspection sign off by the Owner, Owner's Representative or the Quality Assurance Inspection Firm the CSA is subject to complete removal of all installations that were not properly inspected at the discretion of the Owner.

**2. Minimum QC Inspection Requirements**

- A. As part of its overall Quality Control program, the CSA shall conduct Quality Control inspections during all surface preparation, concrete resurfacing, and concrete and steel coating system installation, and record the results from those inspections. These daily inspection reports shall be provided to the Owner and Quality Assurance Inspector daily. The CSA shall coordinate such inspections with the Owner's inspector such that the Owner's inspector may observe CSA's inspections or conduct separate independent Quality Assurance inspections on a scheduled basis. The minimum QC milestones shall be as follows:
  - a) Inspect all materials upon receipt to ensure that all are supplied by the approved manufacturer.

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- b) Provide specified storage conditions for the all materials, solvents, and abrasives.
- c) Conditions Prior to Surface Preparation - Prior to coating application all surfaces shall be inspected by the CSA and any issues or conditions that would prevent compliance with this Section shall be brought to the attention of the Owner in writing.
- d) A paper blotter test in accordance with ASTM D 4285 shall be performed by the CSA on each air compressor being used at the beginning of each work day and again once for every 4 hours worked to determine if the air is sufficiently free of oil to not produce detrimental effects on coating system adhesion.
- e) Post Surface Preparation Cementitious Surfaces – Upon completion of the surface preparation, the CSA shall inspect for proper degree of surface preparation as specified in this Section and in the CSM's written instructions. Degree of surface preparation shall be in accordance with this Section and ICRI 310.2. This shall include inspecting for the achievement of the specified concrete surface profile in accordance with ICRI 310.2.
- f) pH testing of the concrete by the CSA shall be performed at the minimum rate of one test per every 500 square feet (or any part thereof) of surface area using Hydrion Insta-Check Jumbo 0-13 or equal. The surface of the concrete shall be lightly abraded to expose loose cement paste particles. The paper shall be touched to the surface once using moderate pressure. The surface shall not be wiped or moved laterally to disturb the surface during pH testing. Following the exposure of the paper to the substrate which has been abraded, lift the paper vertically to not "wipe" the surface. Compare the color indicated with the scale provided and record the pH.

When a dry substrate is encountered, the surface where the pH test is to be performed shall be abraded as described above and sprayed lightly with distilled, de-ionized water from a commercially available spray bottle that has been properly rinsed to preclude any dissolved solids. The spray shall just wet the surface to a "shiny" appearance and water shall not run. Wait 30 seconds to allow chemical equilibrium to be established and then test the pH of the water on the surface and record the value.

- g) Post Surface Preparation Steel/Galvanized Surfaces- Upon completion of the surface preparation, the CSA shall inspect for proper degree of surface preparation as specified in this Section and in the CSM's written instructions. Degree of surface preparation shall be in accordance with this Section and SSPC-SP10/NACE #2 for carbon Steel surfaces as per SSPC Vis 1 comparators, and SSPC-SP 16 for all Galvanized steel surfaces. This shall include inspecting for the achievement of the specified surface profile in accordance with ASTM D4417 Method C.

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- h) Post Surface Preparation Metallic Surfaces – Following initial blast cleaning, test for the presence of soluble salts using the retrieval and analysis method designated as Method 4.2.2, Adhesively Bonded Latex Patch or Cell as described in SSPC-TG 15 (2013). Testing shall be in accordance with ISO 8502-6/8502-9 at the rate of one (1) test per metallic surface.
- i) Environment and Site Conditions - Prior to commencing an activity associated with coating system installation, the CSA shall measure, record, and confirm acceptability of ambient air temperature, substrate surface temperature and relative humidity as well as other conditions such as proper protective measures for surfaces not to be coated at a minimum of once prior to the start of coating application and thereafter every two hours during coating application. Perform relative humidity measurements in accordance with ASTM E337. The acceptability of the weather and/or environmental conditions within the structure shall be determined by the requirements specified by the CSM of the coating system being used.
- j) Provide correct mixing of all materials in accordance with the manufacturer instructions.
- k) Conduct adhesion testing in accordance with ASTM C1583 on 3 separate representative areas of the concrete structure that is part of this scope of work. Repair of these locations will be the Contractor's responsibility in accordance with the CSM's recommendations at no additional cost to the Owner. Each test location shall consist of three separate adhesion tests within a 300 mm by 300 mm (12 in. by 12 in.) area. The average of the three tests (excluding cohesive failure of the concrete) shall be reported as a single value. The Contractor shall be responsible for resurfacing material removal and replacement in areas demonstrating unacceptable adhesion. A minimum value of 200 psi shall be achieved for concrete adhesion testing.
- l) Sound the concrete repair material after installation and drying (typically 24 hours after installation) to ensure there are no hollow spots found in the concrete mortar. Hollow spots must be removed and repaired prior to the application of the lining materials.
- m) Monitoring of Coatings Application – The CSA shall inspect, measure, and record the wet film thickness and general film quality (visual inspection) for lack of runs, sags, pinholes, holidays, etc. as the application work proceeds. Perform WFT measurements in accordance with ASTM D4414 at a rate that will ensure the DFT requirements of the specification are met.

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- n) Monitor that the surfaces are kept in a constant state of SSD (saturated surface dry) during all concrete mortar repairs and that adequate protection is implemented to wet cure the repair mortar.
- o) Post Application Inspection – The CSA shall identify defects in application work including pinholes, holidays, excessive runs, or sags, inadequate or excessive film thickness and other problems as may be observed.
- p) Verify curing of the coating in accordance with the manufacturer's instructions.
- q) Post Cure Evaluation – Upon completion of the lining system installation, surfaces shall be cleaned and prepared to permit close visual inspection by the Consultant/Engineer at any given location. Any and all deficiencies or defective work (not in compliance with this section or related sections) will be marked for repair or removal/replacement by the CSA at no additional cost to the Owner. Following cure, coatings and linings shall be measured for dry film thickness by the CSA. The DFT shall be measured:
  - i. For carbon steel surfaces, this shall be performed in accordance with SSPC-PA 2. Please note that QC will be required to take as DFT many readings as necessary to ensure compliance to the specification.
  - ii. Method 1 for concrete surface shall be performed in accordance with SSPC-PA 9 using ultrasonic thickness gauges calibrated in accordance with the instrument manufacturer's instructions.
  - iii. Method 2 for concrete surfaces shall utilize either a Tooke Gage or by the removal of small core samples through the lining systemAny coating found to be below the specified DFT shall receive additional applications of the coating or lining or shall be removed or reapplied as required to meet the total DFT requirements specified in this Section at no additional cost to the Owner.
- r) Conduct high voltage holiday detection over 100% of coated concrete surfaces in accordance with ASTM D4787 and over the steel surfaces of the Digester roof cover and Attic Space Structural Steel. Follow the CSM's recommendations for appropriate voltage settings.
- s) Follow-up to corrective actions and Final Inspection. The CSA shall measure and re-inspect corrective coating work performed to repair defects identified at prior Hold Points. This activity also includes final visual inspection along with follow-up tests such as holiday detection, adhesion tests, and DFT surveys.

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**1.07 QUALITY ASSURANCE**

**A. General**

1. At the discretion of the Owner, an independent Engineering/Coating/lining Inspection firm may be retained to perform Quality Assurance Inspection and to provide auditing of the CSA's Quality Control Processes.
2. The Quality Assurance Firm shall provide a NACE Certified Level 2 or Level 3 Coating/lining Inspector to perform Quality Assurance Inspections.
3. The Quality Assurance firm is responsible for the safety training of the inspector and is responsible for supplying the Quality Assurance Inspector's Personal Protective Equipment (PPE).
4. The Quality Assurance Inspection frequency will be at the discretion of the Owner.
5. The CSA shall provide a minimum of 72 hours' notice to the Quality Assurance Inspection Firm to schedule any Hold Point inspections deemed required by the Owner to assure the quality requirements of the project are met.
6. The CSA shall provide full access to the project site and to all structures being worked on within this specification. Full access shall include any scaffolding, lifts, ladders, lighting, confined space entry (including hole watch) and any other means needed to perform Quality Assurance Inspections.
7. The Quality Assurance inspection firm shall have access to all areas of storage and areas where mixing and thinning operations are being performed.
8. The CSA shall make available all Quality Control reports and findings to the Quality Assurance Inspection firm, Owner, Owners Designated Representative and Engineer daily.
9. The Quality Assurance Inspector reserves the right to perform, or witness any and all testing that is a requirement of this specification separate or in addition to any Quality Control testing being performed as part of this contract.

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10. “Hold Point” inspection times and processes shall be adhered to by the CSA unless the Owner agrees to wave or suspend a Hold Point stage. Failure of the CSA to provide the Quality Assurance inspection firm the following details could result in completed work being rejected, resulting in full removal and replacement of the full system in the affected area.
  - a. The CSA shall notify the Quality Assurance Inspection Firm a minimum of 72 hours to schedule Hold Point inspection.
  - b. The CSA shall provide the Quality Assurance inspection firm reasonable and generous time and access to perform the necessary Hold Point inspections
  - c. If the CSA or its staff proceeds with surface preparation or application of primers or finish coats without hold point inspection sign off by the Owner, Owner’s Representative or the Quality Assurance Inspection Firm or written confirmation that the Hold Point is being waved or suspended.
11. For Dry Film Thickness Measurements, the Quality Assurance Inspector will perform all testing as per SSPC-PA2 standards.
12. The CSA shall provide constant environmental monitoring equipment (Data Loggers) 24 hours a day during all final surface preparation, priming, coating/lining application and curing times. The CSA is responsible for continuous monitoring of environmental conditions to ensure no flash rusting of the final blast occurs and the conditions for the application of priming and coating/lining application and curing meets the demands of the CSM products being installed.

**B. Recommended Hold Point Inspection Points**

1. Quality Assurance Inspection is a random audit of the CSA's QC processes and documentation at any time during the project's progress. Any inspections by the Owner, Engineer, or other owner related representatives do not relieve the Contractor from having sole responsibility for the quality of the installed coating system.
2. Quality Assurance Hold Point Inspections may include, but are not limited to the following processes
  - a. Conditions Prior to Surface Preparation
  - b. Environment and Site Conditions
  - c. Post Surface Preparation (Concrete & Steel)
  - d. Post Primer Application (if Applicable)

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- e. Post Intermediate Coat Application (if Applicable)
- f. Post Final Coat Application
- g. Final Cure and Testing (including Holiday Detection)
- h. Follow-up to Corrective Actions and Final Inspection

**1.08 COORDINATION OF WORK**

- 1. Work Areas:
  - a. The work areas on the job site will be designated by the Owner. The Contractor's personnel shall not be permitted in any area other than those expressly designated by the Owner.
- 2. 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.

**1.09 SAFETY**

- 1 Provide in accordance with the requirements of Division 00 and Division 01 and the requirements included herein.
- 2 General - Personnel safety is the responsibility of the CSA. The CSA is responsible for assuring compliance with all applicable federal, state, and local safety requirements and the CSA's own approved Safe Work Plan.
- 3 Safety Analysis Forms and Meetings: The CSA shall thoroughly review all phases of the project and complete and submit a "Job Safety Analysis" and "Construction Safety Checklist" prior to mobilizing to the site. The CSA shall update all safety documents in a timely manner as the project moves through the various phases, or if there is any new staff or change of personnel on site. Once the site work begins, the CSA's Safety Officer/Supervisor/or other Competent Person shall complete a "Daily Site Safety Report" and a submit to the owner or owner's representative each day. The CSA shall hold daily safety meetings to discuss specific operations or events scheduled for the day. This shall be recorded each day, with a list of the attendees and signatures of attendees.



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- 4        The Contractor's work forces should comply with any and all applicable federal, State, and local regulations and the provisions outlined in the following documents:
  - a.    SSPC-PA 10 - "Guide to Safety and Health Requirements for Industrial Painting Projects.
  - b.    NACE Publication - "A Manual for Painter Safety"
- 5        The Contractor shall provide personnel with all safety equipment necessary to protect them during any phase of the work. This shall include, but not be limited to safety glasses, face shields, fresh air breathing hoods, goggles, earplugs, hard hats, steel toed work shoes, appropriate protective clothing, gloves, and plant approved respirators where required.
- 6        Keep any flammable materials such as solvents, thinners, coating/lining, or sealant materials away from open flames, sparks, or temperatures higher than 38°C (100°F). Drums containing flammable materials will be properly grounded at all times. Only small quantities of solvents for smoothing the lining will be allowed inside containment enclosures or permitted confined spaces during installation work.
- 7        Power tools are to be in good working order to avoid open sparking. All electrical tools used on this project will be equipped with ground fault interrupters (GFIs).
- 8        The Contractor shall fireproof all work areas by maintaining a clean work area and having Underwriter's Laboratories approved fire extinguishers on-hand. The Contractor shall furnish these fire extinguishers.
- 9        Workers doing abrasive blasting or water jetting operations shall wear a fresh air supplied protective helmet and hood and personal protective clothing acceptable to industry standards and all government regulations.
- 10       Dispose of rags used for wiping up coating/lining materials, solvents, and thinners by drenching them with water and placing in a metal container with a tight-fitting metal cover. Complete this disposal process at the end of each day. Remove these materials from the plant site at the end of every shift. Final disposal of these materials is the Contractor's responsibility.

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- 11 Matches, flames, or sparks resulting from any source including welding, must be remote from the work area during coating/lining work. Smoking is only permitted in areas designated by the Owner.

**1.10 PRE-INSTALLATION MEETING:**

1. Schedule a meeting to be held on-site before field application of coating/lining systems begins.
2. Meeting shall be attended by the CSMs CTR, Owner's representative, Consultant/Engineer, Quality Assurance Inspection Firm and CSA's representative. The Quality Assurance inspector may attend the meeting in person or virtually.
3. Topics to be discussed at meeting shall include:
  - a. A review of Contract Documents and deviations or differences to be resolved.
  - b. A review of all Quality Control requirements.
  - c. Establish protocol and frequency of Quality Assurance "Hold Point" inspections.
  - d. Environmental conditions, surface conditions, surface preparation, application procedures, and protection following application.
  - e. Which areas on-site will be available for use as storage areas and working area
  - f. Disposal of waste and unused materials.
  - g. Reporting protocol for daily QC & QA reports
  - h. Establish a process for reporting and correcting any areas found to be in Non-Conformance to the specification.
4. Prepare and submit, to parties in attendance, a written report of pre-installation meeting. Report shall be submitted within 3 days following meeting.

**1.11 DELIVERY AND STORAGE**

**A. Packing and Shipping:**

1. Deliver products in CSM's original unopened containers. Each container shall have CSM's label, intact and legible.
2. Include on label for each container:
  - a. CSM's name

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- b. Type of paint
- c. CSM's stock number
- d. Color name and number
- e. Instructions for thinning, where applicable

**B. Storage and Protection:**

- 1. Store materials in a designated protected area, per CSM's printed data sheet instructions.

**1.12 JOBSITE CONDITIONS**

- 1. General Conditions- The jobsite is potentially an operating facility that will continue to operate prior to and during the work specified herein. No work performed by the Contractor shall interrupt facility operations without written approval from the owner or the owner's representative.
- 2. Subcontracting- Subcontracting for surface preparation and coating/lining and lining applications is NOT allowed without the written approval from the owner or the owner's representative. Subcontracting will be allowed for any welding operations needed to complete the scope of this contract.
- 3. Environmental Conditions- The CSA shall adhere to all environmental requirements of the CSM materials at all times. During final surface preparation, application of polymer fillers ABD coating/lining and application the steel surface shall be maintained at 5° F above the dew point and stabilized or improving at all times. Relative humidity shall not exceed 85% during final surface preparation, application of polymer fillers coating/lining and coating/lining application. All surfaces shall meet the minimum low threshold temperature of the filler or coating/lining materials as published by the CSM during all coating/lining application and curing processes.
- 4. Containing Debris and Particulate- The CSA shall take all precautions to ensure all dust, overspray, coating/lining spatter, abrasive media debris or other materials and emissions escape the containment.
- 5. The containment system shall conform to the requirements of Class 2, C1 System as per SSPC Guide 6-2021 Guide Section 4.2.2.2 for Containing Debris Generated During Paint Removal Operations.
- 6. The CSA is responsible for protecting the ground surrounding the structure from emissions and debris from the surface preparation and coating/lining and lining applications. The CSA shall protect the ground surrounding the

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Digester using impermeable tarps or other methods ensuring the surrounding area is fully protected.

7. The CSA is responsible for all attachments, components and materials of the containment structure including tarps and structural components of the containment apparatus. It is the responsibility of the CSA to provide a containment system that has been designed properly and meets all local, state and federal guidelines. The containment apparatus shall be designed in a manner that does not create excessive structural loading beyond the original design of the digester or its components due to wind or other factors. The containment design must be presented in full to the owner prior to erection of the containment system. The CSA is fully responsible for any damage that occurs to the Digester due to containment system loading. Special care shall be taken to reinforce the structure as necessary to ensure no damage occurs to the structure or any components of the structure. The CSA will be responsible for repair or replacement of part or component of the structure damaged by the containment system at no additional cost to the owner. Neither the Owner or Engineer assume any liability for the structural ability of the structure to support the containment system.
8. Tarps used as part of the containment system shall be solid, fiber reinforced, flame resistant and impermeable to outside moisture. The tarps design shall be such that they allow as much natural light as possible to pass through.
9. The CSA shall include all containment design details and costs as part of the bid package. The owner reserves the right to stop work, require additional containment methods should the containment prove ineffective or creates a nuisance outside of the property line of the project.

**1.13 DUST COLLECTION**

1. It is the direct responsibility of the CSA to supply, operate and maintain dust collection equipment suitable to handle all dust collection requirements and maintain negative pressure within the containment and airflow and dust collection inside the structure at all times during all abrasive blasting and blow down operations. Dust collection requirements must meet the minimum requirements as per Type J1 Air Filtration system- SSPC Guide 6 (2021) Guide for Containing Debris Generated During Paint Removal Operations. Dust collection shall remain operational during all abrasive blasting and blow down operations until the structure is suitably cleaned for application of the coating/lining or lining system. It is the responsibility of the CSA to ensure dust collection is properly designed and sized to address all dust collection

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requirements on site. It is the direct responsibility of the CSA to ensure that dust collection operation does not create a vacuum inside the structure as this could result in damage to the roof of the structure.

**1.14 WARRANTY**

**A. CSA's Warranty:**

1. For a period of two (2) years from the date of substantial completion, the CSA warrants to the Owner that the coating/lining installation work specified under Section 09 98 00 conforms to all specification requirements and shall be free from defects in materials and workmanship. The CSA shall repair or replace, at the sole option of and at no cost to the Owner, any work found to be defective within said warranty period. Such repair or replacement shall include the cost of containment, removal, ambient condition control, and reinstallation of a new coating/lining system and shall be performed at the Owner's convenience.

**B. Coating/lining CSM's Warranty:**

1. The CSA shall obtain from the CSM its warranty that the coating/lining products provided will be free from defects in formulated or manufactured material quality which could cause the installed work to fail. Said warranty, containing no exclusions or limitations, shall be in a form acceptable to, and for the benefit of the Owner, and shall be submitted by the CSA as a condition of final payment. The Coating/lining CSM's Warranty shall be provided on the CSM's letterhead and shall be signed and dated by a company officer of the CSM.

**C. Warranty Period Inspections:**

1. The Owner shall perform periodic inspections (as operating conditions permit) within the established warranty periods to determine the need for remedial work as required under paragraphs A. and B. above.
2. The CSA is encouraged to participate in each periodic inspection, however mandatory CSA attendance shall be required only one time, at a date to be established by the owner prior to expiration of the CSA warranty. The Owner shall notify the CSA thirty (30) days prior to the required mandatory inspection.

**PART 2 PRODUCTS**

**2.01 COATING/LINING PRODUCTS**

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A. General

1. All paint and related products shall meet North Carolina State requirements for VOC values.
2. All paint and paint products including thinners, used for each system, shall be the product of a single CSM. All materials shall be brought to the job site in original sealed, labeled and dated containers of the paint CSM and shall be subject to inspection by the OWNER or ENGINEER. The container label shall include the paint CSM's name, product description, solids content by volume in percent of total volume, and color.
3. All coating/linings used for coating/lining digester steel shall be 100% Solids High Temperature Novolac Epoxy coating/linings capable of withstanding 140F temperatures.
4. Stripe coating of steel will be performed using a high solids standard amine cured epoxy to maximize ease of application and a reasonable pot life.
5. Structural Steel in the attic space can also be primed using the high solids standard amine cured epoxy for the purpose of holding the blast.
6. Storage of materials shall be in accordance with the paint CSM's recommendations.
7. For interior surfaces of the structure, each coat applied shall be noticeably different in color than the preceding coat.
8. Surfaces to be repainted include:
  - a. All interior steel surfaces in the digester cover assembly that requires protection from corrosion, including structural steel and the galvanized roof deck in the attic space, the roof of the digester on the interior and the concrete walls of the digester to 14' below the roof to wall transition.
  - b. Interior structural supports, roof beams, roof stiffeners, stiffener flanges, and associated elements shall also be

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coated/lined.

- c. Non-insulated steel pipe.
- d. All exposed anchor bolts, nuts, washers, and associated hardware.

**B. Paint CSMs (In Alphabetical Order)**

- 1. PPG
- 2. Sauereisen
- 3. Sherwin-Williams

- C. This specification lists coating/lining products manufactured by the above CSM's. No substitutions shall be permitted.
- D. Acceptable products are listed in Section 3.06 Tables 1-5 09700 Paint System Schedule of this specification.

**2.02 ABRASIVE BLAST MEDIA**

**B. Abrasive Blast Media shall comply with SSPC AB1.**

- 1. The Contractor shall utilize blast media free of all chlorides or other materials which may contaminate or become imbedded in the profile of the metallic or concrete substrates.
- 2. The blast media shall be of a size and shape capable of producing the specified concrete surface profile on metallic and concrete substrates.
- 3. Blast media shall be single use. No recycling of blast media will be permitted on this project.

**2.03 SEALANT**

- A. Any required sealant shall be a Polysulfide sealant such as Polyspec Thiokol 2235M or equivalent approved by the owner.

**PART 3 EXECUTION**

**3.01 GENERAL REQUIREMENTS**

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**A. Verification of Conditions**

1. Examine areas and conditions under which application of coating/lining systems shall be performed for conditions that will adversely affect execution, permanence, or quality of coating/lining system application.
2. Prior to beginning Work, the Contractor shall remove all residue, sludge, and debris from the structures by pressure washing, vacuum cleaning or by other suitable means. Blow down cleaning will not be acceptable. The CSA is responsible for safe disposal of all debris removed from the structure in accordance with this specification and local and state regulations.
3. As the initial step, degrease all surfaces to be treated using a water-based, emulsifying, biodegradable, non-flammable, phosphate-free cleaning solution, followed by rinsing with clean, potable water until all traces of contaminants including detergent have been removed. Rinse concrete surfaces multiple times with high-pressure water per SSPC-SP12 - High-Pressure Water Cleaning (HP WC), using a minimum pressure of 5,000 psi and a minimum volume of 6 gallons per minute. Use only potable water. All traces of degreasing and cleaning solutions shall be completely removed.
4. Remove and dispose of all debris and spent cleaning water by pumping and/or by vacuum cleaning. The cleaning liquid and debris shall not be deposited in sumps or drains or elsewhere at the treatment facility and must be removed from the site and legally disposed of by the Contractor.
5. Correct conditions detrimental to timely and proper execution of work.
6. Do not proceed until unsatisfactory conditions have been corrected.
7. Commencement of installation constitutes acceptance of conditions and responsibility for satisfactory performance.

**B. Protection**

1. Cover or otherwise protect finish work or other surfaces not scheduled for coating/lining application.
2. If the structures include mechanical components. It is the CSA's responsibility, at his discretion, to protect all the mechanical components during the surface preparation and resurfacing/coating/linings work. Any damage to any mechanical component during the Work will be the sole responsibility of the CSA.
3. Cover or otherwise protect finish work or other surfaces not being coated.



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4. Do not coat over nameplates, tagging or other identification devices on equipment, piping, etc.
5. Erect and maintain protective tarps, enclosures and/or masking to contain debris generated during any and all work activities from adversely affecting personnel or property outside the work area. This includes, but is not limited to, the use of dust/debris collection apparatus as required.

**C. Environmental**

1. Comply with coating/lining manufactures recommendations regarding environmental conditions under which the specified materials may be applied and cured. The CSA shall provide and maintain heaters, ventilation equipment, and dehumidification equipment as necessary to ensure that all substrate and ambient condition requirements published by the coating/lining CSM are provided throughout the application and cure times for all materials installed.
2. Do not apply materials when dust is being generated or is in the immediate vicinity.
3. The CSA shall provide all temporary lighting during the work equivalent to 50-foot candles during surface preparation and material application and 200-foot candles during inspection activity as per SSPC Guide 12.

**D. Enclosures**

1. Provide enclosures to contain debris during surface preparation operations and to maintain environmental conditions suitable for application and cure of coating/lining materials.

**E. Initial Inspection of Surfaces to Be Lined:**

1. Contractor shall examine the areas and conditions under which the protective coating/linings Work is to be performed in accordance with NACE SP0178 and SSPC-SP10/NACE No. 2, and notify Owner in writing of conditions unfavorable to the proper and timely completion of the Work and/or compliance with these Specifications. It is the responsibility of the CSA to inspect and report unacceptable surface conditions to the Owner prior to the commencement of surface preparation activities. Unacceptable surface conditions are defined as the presence of deteriorated substrates with deep depressions or other substrate conditions not acceptable for quality coating/lining or coating/linings material application.

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2. Commencement of the Work of this Section shall indicate that the substrate and other conditions of installation are acceptable to the CSA and his CSA and will produce a finished product meeting the requirements of the Specifications. All defects resulting from accepted conditions shall be corrected by Contractor at his own expense.

**F. Thinners and Solvents**

1. The Contractor shall use only solvents and thinners approved by the CSM.

**G. Control of Ambient Conditions**

1. It shall be the Contractor's responsibility to control ambient conditions within the Digester via protective enclosures, heating/ventilation and/or dehumidification apparatus during surface preparation, application, and curing, to meet the specified conditions or conditions recommended by the CSM for application and curing of the specified materials.
2. The CSA shall maintain the following ambient conditions during all critical stages of the project including, final surface preparation, steel repair procedures, coating/linings installation and curing of the coating/linings system: The steel temperature shall be maintained at a minimum of 5 degrees F above the dew point and stabilized during all operations. Maximum allowable Relative humidity for coating/lining operations shall be 85%. This may include the need for environmental control equipment such as heating, dehumidification equipment or both.
3. The minimum ambient condition requirements for application work shall be in strict accordance with CSM's written recommendations.
4. The Contractor shall provide all means necessary to exhaust harmful gases/fumes, dust and odors during execution of the work specified herein. No dust generation shall be allowed during coating/linings or restoration material application.

**3.02 SURFACE PREPARATION**

**A. General Requirements**

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1. All specified surface preparation shall be performed in accordance with the latest version of the SSPC/NACE/AMPP standards referenced herein. Employ methods as specified herein to ensure that the degree of cleanliness and surface profile for all substrates, as specified herein, are attained.
2. The CSA shall perform field quality control inspection and testing as specified herein.
3. Remove all debris from the surfaces to be cleaned.
4. If between final surface preparation work and coating/lining system application, contamination of the prepared and cleaned substrates occurs, or if the prepared substrates' appearances darken or change color, re-cleaning shall be required until the specified degree of cleanliness is reclaimed at no additional cost to the owner.
5. The CSA is responsible for dust control and for protection of mechanical, electrical, and all other equipment adjacent to and surrounding the work area as specified. The CSA shall protect existing equipment and structures within the work area as specified.
6. Cleaning, surface preparation and coating/lining application shall be scheduled so that dust from the cleaning process will not fall on wet, newly coated surfaces.
7. The CSA shall be responsible for cleaning of only those surfaces to be coated or those surfaces on which its work has caused contamination.
8. All phases of surface preparation work specified herein must be approved by the Owner before the CSA proceeds with the subsequent phases of the surface preparation or any materials application work.
9. The compressed air used for blast cleaning will be filtered free of oil and moisture as per ASTM D4285. Traps will be cleaned at least once every two hours or more frequently as is appropriate.
10. Oil separators shall be installed just downstream of compressor discharge valves and at the inlet of the blast pots. Oil separators shall be cleaned at least once every four hours or more frequently as is appropriate.
11. A paper blotter test shall be performed as per ASTM D4285 by the CSA a minimum of twice pre shift; Once before work begins and one after 4 hours of use or as requested by the Owner, Owners Representative, or the Engineer to determine if the air is sufficiently free of oil to not produce detrimental effects on coating/lining system adhesion.

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12. Regulators, gauges, filters, and separators will be in good working order for all the compressor air lines to blasting nozzles at all times during this work.
13. The quality, volume, and velocity of life support and ventilation air used during surface preparation shall be in accordance with applicable safety standards to ensure adequate air volume, and dissipation of airborne debris that would adversely affect the health of the public or personnel working for the CSA, Owner, or anyone who may be affected by on-site work activities.
14. The abrasive blast nozzles used shall be the venturi or other high velocity type supplied with sufficient pressure and suitable volume to obtain the specified degrees of cleanliness and surface profiles.
15. The CSA must provide adequate ventilation for airborne particulate evacuation and lighting (meeting all pertinent safety standards) to optimize visibility for both blast cleaning and inspection of the substrates during surface preparation work.
16. Regulators, gauges, filters, and separators will be in good working order for all the compressor air lines to blasting nozzles at all times during this work.

**B. Inaccessible Areas**

1. There are areas inside the attic space that are deemed inaccessible. Inaccessibility is described as areas where the area to be blasted, cannot be reasonably accessed. In these areas the contractor shall make reasonable effort to prepare the areas and treat the areas using the specified methods described in this specification and discussion with the owner and Quality Assurance Inspector. Such areas include but are not limited to the following;
  - a) Attic floor where the floor plate meets the structural support structure. Gaps where the Contractor/CSA can demonstrate that their blast nozzle will not effectively deliver the necessary direct blast media stream to produce the minimum abrasive blast standard of this specification.
  - b) Areas of the structural steel where back-to-back angles or tight spaces, where it is impossible to reach with a blast hose and ricocheting blast media would be both impractical and ineffective to production.
  - c) Areas where the galvanized rood deck sits on the top of the structural steel beams and gaps are too small to effectively blast the surface to the specified abrasive blasting standard of this specification.
  - d) Any other areas that the contractor can demonstrate that abrasive blasting is either ineffective or impractical.
2. Surface Preparation of Inaccessible Areas

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- a) Areas deemed to be inaccessible for abrasive blasting shall be prepared to SSPC SP 2 Standards to prepare the surface to the best of the contractor's ability.
- b) The contractor shall ensure the inaccessible areas are blown down using clean, dry, oil free compressed air to remove residual dust from the surface.

3. Application of Coatings/Linings to Inaccessible Areas

- a) Inaccessible areas shall be primed with the specified 100% solids epoxy penetrating primer sealer at the specified DFT as per Section 3.06 Table 3 using appropriate sized application tools to reach the areas such as brushes, sausage roller, paint mitts or dauber pads.
- b) The Intermediate coats and finish coats shall be applied using the same application methods as the penetrating primer sealer from 3.02 B.3. a.
- c) The contractor shall make best efforts to ensure inaccessible areas have been adequately and reasonably coated and protected.

C. Substrate Contamination

- 1. Surfaces shall be reviewed each day by the OWNER and CSA prior to paint work commencing. If the OWNER determines the surfaces are found to be contaminated with oil, grease, or soil, they shall be cleaned in accordance with SSPC-SP1, "Solvent Cleaning", prior to abrasive blasting and prior to the application of any primer over freshly blasted steel.
- 2. The CSA shall test the abrasive material for ionic contamination in accordance with ASTM D4940. The Chloride content of the blast media shall be 0 PPM.
- 3. Testing for Soluble Salts (Chlorides) on Steel Surfaces: Prior to abrasive blasting and application of the prime coat, the surfaces shall be checked for the presence of soluble salts. Testing for the presence of soluble salts shall be done by the CSA in the presence of the Owner or Owner's Representative. The number and location of tests shall be in accordance with the following guidelines:
  - a. Five (5) tests shall be performed within the first 1,000 sq. ft.
  - b. For the next 3,000 sq. ft, two (2) tests shall be performed per 1,000 sq. ft.

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- c. One (1) test shall be performed per 1,000 sq. ft for the remaining area.
  - d. Tests shall be concentrated at areas of metal loss or along weld seams and shall provide a representative sample
- 4. Blasted steel surfaces found to have a high concentration of soluble salts, in excess of 25 mg/cm<sup>2</sup> shall require further surface preparation to lower this concentration at no extra expense to the owner. It is expected that the CSA will wash these areas with a suitable Chloride Removal solution to achieve this reduction unless otherwise approved by the OWNER.
- 5. The CSA shall a written letter from the CSM approving the use of the Chloride Reduction Solution for their system.
- 6. All abrasive materials shall be brought to the job site in the original packaging and stored in a clean dry environment.
- 7. All abrasive materials shall be maintained clean, dry and uncontaminated by soluble salts. If the abrasive material is suspected of being contaminated, it shall be tested by the CSA at the direction of the OWNER and at no additional cost to the OWNER.
- 8. All contaminated abrasive material shall be discarded and replaced at no additional cost to the OWNER.

**D. Surface Preparation Methods for Steel Surfaces**

- 1. Water-Jetting
  - a. Water Jetting as per SSPC/NACE WJ 1-4 standards will be allowed for the removal of the existing coating/lining if desired by the CSA.
  - b. Water-Jet cleaning as a final surface preparation method is not acceptable.
  - c. The necessary water pressure (psi), equipment needed and all safety measures required for safe water-jetting practices is the responsibility of the CSA.

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- d. If Water Jetting is used as a method of removal, it shall be followed by abrasive blasting for final surface preparation prior to application of the coating/linings system.

2. Abrasive Blast Cleaning

- a. For surfaces to be abrasive blast cleaned, use tools that are appropriate and sufficient to produce the degree of cleanliness and surface profile as specified.
- b. Used or spent blast abrasive shall not be reused on the work covered by this section.

E. Specific Steel/Metal Surface Preparation Requirements

1. Abrasive blasting of digester cover interior roof and Attic space structural carbon steel components.

- a. Abrasive Blast clean in accordance with SSPC – SP 10/NACE #2 Near White Metal Blast Standard verified as per SSPC Vis 1.
- b. Achieve a surface profile of no less than 2.5 mils as per ASTM D4417 Method C.

3 Abrasive blasting of Digester galvanized steel components.

- a. Clean in accordance with SSPC – SP 16 Brush-Off Blast Cleaning of Coated and Uncoated Galvanized Steel, Stainless Steels, and Non-Ferrous Metals
- b. Achieve a surface profile of 1.0 -1.5 mils as per ASTM D4417 Method C.

F. Surface Preparation of Concrete Surfaces

1. Water-Jetting

- a. Water Jetting as per AMPP SP21548-2022 Pressurized Water Cleaning of Concrete standards will be allowed for the removal of the existing coating/lining if desired by the CSA.
- b. Water-Jet cleaning as a final surface preparation method is not acceptable.

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- c. The necessary water pressure (psi), equipment needed and all safety measures required for safe water-jetting practices is the responsibility of the CSA.
- d. If Water Jetting is used as a method of removal, it shall be followed by abrasive blasting for final surface preparation prior to application of the coating/linings system.

**2. Abrasive Blast Cleaning**

- a. For surfaces to be abrasive blast cleaned, use tools that are appropriate and sufficient to produce the degree of cleanliness and surface profile as specified.
- b. Used or spent blast abrasive shall not be reused on the work covered by this section.

**3. Specific Concrete Surface Preparation Requirements**

- 1. Abrasive blasting of digester interior concrete walls from the Digester Steel Roof to Concrete Wall Transition down 14' on the digester wall.
  - a. Use methods as specified herein and as delineated in SSPC SP CAB#1, SSPC-SP 13/NACE 6 and ICRI Guideline No. 310.2 to prepare concrete surfaces to produce a sound, clean substrate free of all existing coatings, carbonated concrete, laitance, surface contaminants, loose materials, or substances otherwise deleterious to good resurfacing material or lining system adhesion. Leaving shelled over, hidden air voids ("bugholes") beneath the exposed concrete surface will not be acceptable. All bugholes are to be completely opened by surface preparation.
  - b. Surface profile required on the host concrete surface for the application of cementitious repair mortar is a minimum CSP#6
  - c. Surface profile required on the host concrete surface for the application of epoxy resin or epoxy mortar as a concrete repair method is a minimum CSP#4
  - d. The existing lining on the concrete shall be fully removed from the Digester Steel Roof to Concrete Wall Transition down 14' on the digester wall. The level of effort required to remove the existing coating is unknown, thus the level of surface profile of the concrete that is achieved is also unknown. Two potential scenarios are detailed below depending on



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the level of damage done to the concrete requiring repair after initial surface preparation is completed.

- e. Surface preparation shall produce a uniform minimum concrete surface profile of CSP 6 in accordance with ICRI 310.2 with a minimum surface pH of 9.0 as outlined in 3.08 of this Section. Follow the requirements in 1.06 of this Section for pH testing procedures.
- f. All abandoned, metallic components embedded in the concrete such as threaded rods, dowels, etc., shall be torch cut or ground below the existing concrete surface. These metallic components shall be cleaned to the equivalent of an SSPC SP 5 White Metal Blast Cleaning and coated with the specified epoxy filler/surfacer.

4. Concrete Lining Terminations

- a) The Contractor/CSA shall install a minimum ¼" x ¼" saw cut termination 14' down from the Digester Steel Roof to Concrete Wall Transition.
- b) The Contractor/CSA shall install a minimum ¼" x ¼" saw cut termination 2" below the Digester Steel Roof to Concrete Wall Transition.
- c) The interior lining shall terminate into saw cuts at all stopping points. The Contractor/CSA shall never leave a concrete lining terminated without a saw cut.
- d) The Contractor/CSA shall terminate concrete mortar repair materials via saw cut and chip back so the concrete mortar smoothly transitions to reasonably match the adjacent concrete surfaces that will not receive lining (areas below the 14' mark)
- e) All saw cuts shall be in accordance with the project construction detail drawings.

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A. General Requirements:

1. Apply all cementitious or epoxy repair materials, coating/lining systems and sealant in compliance with CSM's instructions and using application method best suited for obtaining full, uniform coverage and hide of surfaces to be coated.
2. Apply primer, stripe coats, and finish coats to comply with wet and dry film thicknesses and spreading rates for each type of material as recommended by CSM and Section 3.06 Tables measured in accordance with ASTM D4414 (WFT) at the specified DFT. The number of readings taken by the Contractor/CSA's QC shall ensure full compliance to the specification.
3. Number of coats specified shall be minimum number acceptable.
4. Apply additional coats as needed to provide a smooth, even application at no additional cost to the owner.
5. Closely adhere to re-coat times recommended by CSM. Allow each coat to dry thoroughly before applying next coat. Provide adequate ventilation to carry off solvents during drying phase.
5. Employ only application equipment that is clean, properly adjusted, and in good working order, and of type recommended by coating/lining CSM.
7. Stripe coat to be applied to all edges, outside corners, crevices, bolt heads, welds, and other irregular steel surfaces in accordance with SSPC Paint Application Guide No. 11.
8. Thinning: Thinning requirements for specified products are to be found in the paint CSM's printed data sheets and are to be strictly adhered to.
9. The CSA shall provide adequate ventilation and air movement to ensure proper curing of the coating/lining system and to remove fumes.
10. All sealant shall be installed after the completion of the finish coat and once it has sufficiently dried to accept the sealant application as per the CSM's written instructions.

**3.04 SPECIFIC APPLICATION REQUIREMENTS**

A. Pit Filling

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1. After an area of steel is abrasive blast cleaned, any pits with 1/8" or greater of metal/material loss or plate thickness reduction shall be repaired by filling pits with solventless polyamide epoxy seam sealer of the type recommended by the supplier of the interior coating/lining system and as shown in Table 09700-2 – Pit Filler Schedule. Epoxy seam sealer shall be applied to bring the surface flush with the original adjacent plate surface.
2. Order of application of primer, stripe coat, epoxy seam sealer, and top coat shall be per coating/lining CSM's recommendations.
3. CSA shall verify epoxy seam sealer product is acceptable to fill depth of pitting. If unacceptable based on pitting depth, then steel pit welding repair shall be performed in lieu of steel pit filling repair.
4. All filler materials shall be allowed to cure as per the CSM's specified cure time before recoating/lining.

**B. Steel Repairs**

1. Rehabilitation Welding: After the initial abrasive blast cleaning, any pits greater than 1/8" defined for pit welding by the Owner or Owner's representative shall be repaired by welding. All areas of apparent seam deterioration shall be initially abrasive blast cleaned, and any seam corrosion or undercut defined by the Owner or Owner's representative shall be repaired by arc- gouging or grinding the deteriorated weld seam (if determined necessary by the Owner or Owner's representative) and welding. Any areas of extensive metal loss or holes identified by the CSA and agreed to by the Owner or Owner's representative shall be repaired by welding a patch plate, the same thickness as the tank plate, over the area. Edges of holes shall be ground smooth prior to installation of the patch plate. No patch plate shall be smaller than 6 in. in diameter. Edges of the patch plate shall lap no less than 2 in. from the edge of a hole. Corners on the patch plate shall be rounded to 2 in. radius minimum or the plates shall be circular. All exposed edges of the patch plates shall be ground to 1/16 in. radius minimum. The plates shall be installed in accordance with API 653. Patch plates shall be a minimum of 3 in. from existing weld seams, or if an existing weld seam must be overlapped the patch plate shall be rectangular with radiused corners and extend a minimum of 6 in. beyond the existing weld seam. The patch plates shall be welded all around with continuous fillet welds. All welds shall be multi-pass welds. Note the steel is likely to be thin in the areas of the patch plates, and as such attachment welds and the weld procedures (e.g., electrode size and heat input) should account for this likelihood.

**C. Concrete Resurfacing**

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1. Depending on the level of concrete removed during the initial process of removing the existing liner on the digester walls, two separate methods of resurfacing/filling the concrete are being included. The following two methods can be implemented by the Contractor/CSA to resurface the concrete if required, as well as to fill bug holes, voids, and other concrete surface defects.
  - a) Option #1- Using one of the Waterbased Epoxy Modified Cementitious Mortars provided in section 3.06 Table 1.
  - b) Option #2- Using an epoxy-based filler provided in section 3.06 Table 2. Or by mixing the epoxy resin being used as a lining with the appropriate aggregate to create a mortar.
2. If the concrete surface preparation does not create deep profile in the host concrete the contractor may select one of the methods above to fill bugholes and voids and perform the necessary resurfacing to provide a uniform surface for the lining application.
3. If the profile created by the original blast is too deep to make Option#2 a viable choice, the entire surface shall be resurfaced using option #1 with the mortar applied from 1/16"- 1/2" depending on the need.
4. If using the Waterbased Epoxy Modified Cementitious Mortars in option #1, the surface will **not** require re-blasting before the application of the lining material.
5. All surfaces that will be repaired using Waterbased Epoxy Modified Cementitious Mortars shall be kept in an SSD state for the entirety of the application and wet cured.

**D. Sealant**

1. Upon completion of all coating/lining application seal all gaps and crevices, (i.e., back-to- back angles) using an approved polysulfide sealant as per Table 3-09700 Paint System Schedule of this specification.
2. All gaps up to 1" wide that could not be properly prepared and coated/lined shall be sealed using the specified sealant from section 3.06 Table 5.
3. The sealant shall not be installed at more than 1" x 3/4". For cavities deeper than 3/4" that Contractor/CSA shall first fill the area with suitable sized backer rod prior to installing the sealant.

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4. The sealant shall be installed to seal areas 360 degrees to the best of their ability in areas where gaps run out to larger spans. The installation of the sealant shall be in such a way as to eliminate ingress of moisture on all sides.

**3.05 REPAIR/RESTORATION**

**A. Defects in Finished Surfaces Include:**

1. Pin holes and holidays shall be repaired to ensure a monolithic coating/lining system.
2. Low film build areas, misses, translucency, and other defects in the film.
3. Touch-up of minor damage shall be acceptable where result is not visibly different from surrounding surfaces. Where result is visibly different, either in color, sheen, or texture, recoat entire surface.
4. Opening or voids of skip welding or back-to-back angles shall be sealed with the specified polysulfide sealant.

**3.06 COATING/LINING AND ASSOCIATED MATERIAL ACCEPTABLE PRODUCTS**

<b>Table 1- 9700 Coating/lining System Schedule</b>	
<b>WB Epoxy Reinforced Cementitious Mortar</b>	
<b>CSM</b>	<b>Pit Filler</b>
PPG	Raven 760 EMC
Sauereisen	Series F120 or F121
Sherwin Williams	Dura-Plate 2300

<b>Table 2- 9700 Coating/lining System Schedule</b>	
<b>100% Solids Epoxy Pit Filler</b>	
<b>CSM</b>	<b>Pit Filler</b>
PPG	Amercoat 114A
Sauereisen	RestoKrete 209 HB
Sherwin Williams	Steel Seam FT910

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<b>Table 3- 9700 Steel Surfaces Coating/Lining System Schedule</b>				
<b>100% Solids High Temperature Novolac Epoxy</b>				
<b>CSM</b>	<b>Penetrating Primer/Sealer (Inaccessible Areas)</b>	<b>Primer (Optional)</b>	<b>Stripe Coat</b>	<b>Finish Coat</b>
PPG	Amerlock Sealer @ 1.5-2.0 mils DFT	Amerlock 400 @ 4-8 mils DFT	Amerlock 400 @ 3-4 mils DFT	Novaguard 840 @ 15-20 mils DFT
Sauereisen	As-per Manufacturer	Conoweld 501 @ 5-10 mils DFT	Conoweld 501 @ 3-4 mils DFT	Sewergard 210TN @ 30-40 mils DFT
Sherwin Williams	Macropoxy 5000 or 920	Sher-Plate 600 @ 4-8 mils DFT	Sher-Plate 600 @ 3- 4 mils DFT	Dura-Plate 8200 @ 15-20 mils DFT

<b>Table 4- 9700 Concrete Surfaces Coating/Lining System Schedule</b>	
<b>100% Solids High Temperature Amine Epoxy</b>	
<b>CSM</b>	<b>Finish Coat</b>
PPG	Raven 405 @ 100-125 mils DFT
Sauereisen	Sewergard 210TN @ 100-125 mils DFT
Sherwin Williams	Dura-Plate 6100 @ 100-125 mils DFT

<b>Table - 9700 Coating/lining System Schedule</b>	
<b>Polysulfide Sealant</b>	
<b>CSM</b>	<b>Sealant</b>
Polyspec	Thiokol 2235M
Or Equal	Or Equal

**3.07 FIELD QUALITY CONTROL INSPECTION AND TESTING**

- A. Inspection by the Owner, Owner's Representative, Engineer or Independent Quality Assurance Inspectors, or others will not limit the CSA's responsibilities for quality control inspection and testing as specified herein or as required by the CSMs written instructions and recommendations.
- B. The quality control procedures listed below in conjunction with the requirements of this Section shall be performed by the CSA:

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1. Inspect materials upon receipt to ensure that all are supplied by the approved CSM.
2. Verify that specified storage conditions for the all materials, solvents, and abrasives are provided by the CSA.
3. Inspect and record findings for the degree of cleanliness of substrates using standards as referenced in this specification.
4. Measure and record ambient air temperature, relative humidity and surface temperature routinely on each shift a minimum of every two hours and more frequently when inclement weather is imminent, using an electronic hygrometer and measure and record substrate temperatures using a surface thermometer.
5. Verify correct mixing of all materials in accordance with the CSM instructions.
6. Measure and record the thickness of the coating/lining system using the following methods:
  - a. Use notched gauge in accordance with ASTM D 4414 for Wet Film Thickness.
  - b. Following cure, coating/linings shall be tested for dry film thickness as per ASTM D7091-22 in sufficient frequency to ensure compliance with the specification and applicable standards.
  - c. Following cure all coated surfaces shall be High Voltage Holiday tested as per ASTM D5162 for Steel surfaces and ASTM 4787 for concrete surfaces to ensure a pinhole free surface.
7. Verify curing of the coating/lining in accordance with the CSMs written instructions.
8. Upon completion of the coating/lining system installation, surfaces shall be cleaned and prepared to permit close visual inspection by the Owner at any given location. Any and all deficiencies or defective work (not in compliance with this section or related sections) will be marked for repair or removal/replacement by the CSA at no additional cost to the Owner.

C. Reports:

1. Submit daily Quality Control inspection reports describing work performed, area worked, and materials consumed / applied.

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D. CSM's Service:

1. A representative of the paint CSM shall be available to provide periodic on-site technical assistance, and guidance for application of the paint system as needed.

3.08 ACCEPTANCE CRITERIA

A. Surface Preparation Work

1. All surfaces shall be prepared in accordance with the specification and referenced standards herein.
2. A concrete surface shall have a min pH value of 9.0 prior to any resurfacing mortar or lining application.

B. Coating/lining System Application Work

1. Dry Film Thickness (DFT) by individual coats or layers must meet the requirements as detailed in Table 1- 9700 Coating/lining System Schedule.
2. Dry Film Thickness for this work shall be measured with calibrated Type II magnetic coating/lining thickness gages. Quality Control will measure with a frequency to ensure compliance with the specification using acceptance criteria of SSPC-PA2 Level 3. Quality Assurance inspection will perform measurements as per SSPC-PA2 Level 3.
3. Acceptable work will be based upon the following:
  - a. Complete hiding of previously applied coats.
  - b. No excessive runs, sags, or curtains.
  - c. No pinholes or holidays in either size or frequency.
  - d. Specified film thickness within specified tolerances.
  - e. No intercoat bond failures between coats.
  - f. No dry spray.
  - g. Proper curing.
  - h. Finish texture shall be uniform.
4. The Owner, Owner's Representative, Engineer, or Independent Quality Assurance Inspectors, will inspect, or witness the testing performed by the CSA's Quality Control personnel of the following aspects of surface preparation, prime coat, stripe coat and finish coat work.
  - a. Profile and degree of cleanliness of substrate.



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- b. Wet or dry film thickness.
  - c. Ambient temperature, humidity requirements, and substrate temperature.
  - d. Curing and recoat times.
  - e. Proper curing.
  - f. High Voltage Holiday Detection.
- 5. Rework required on any holidays or any other inadequacies found by the Owner, Owner's Representative, Engineer, or Independent Quality Assurance Inspectors in the quality of the coating/lining work shall be marked. Such areas shall be recleaned and recoated by the CSA according to these specifications and the CSM's recommendations at no additional cost to the Owner.
- 6. The CSA is responsible for keeping the Owner informed of all progress so that inspection for quality can be achieved in a productive and supportive manner.
- 7. No embedded dirt or debris will be allowed in the applied coating/linings. Any show-through of such dirt, etc. must be removed and the area recoated until the finish coating/lining meets acceptance criteria. Any such required rework shall not result in additional cost to the Owner.

**3.09 PROTECTION**

- A. Protect coated areas against damage until paint system is fully cured.

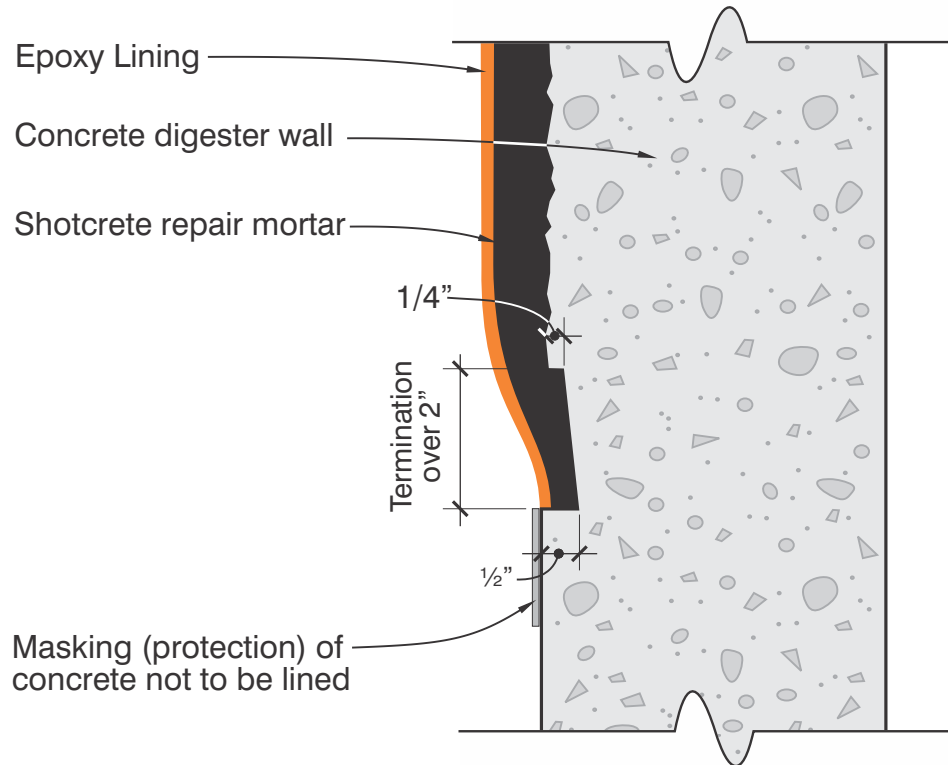
**3.10 WASTE MANAGEMENT**

- A. General Requirements:
  - 1. Place materials defined as hazardous or toxic waste in designated containers.
  - 2. Return solvent and oil-soaked rags for contaminant recovery and laundering or for proper disposal.
  - 3. Do not dispose of paints or solvents by pouring on ground. Place in designated containers for proper disposal.
- B. Containment/Disposal Requirements:
  - 1. Surface Preparation Debris Containment:

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- a. When required by federal, state or local regulation, the structure shall be enclosed and surface preparation debris contained.
  - b. Refer to SSPC Guide 6 for Containing Debris Generated during Paint Removal Operations.
- 2. Disposal of Surface Preparation Debris:
  - a. Surface preparation debris shall be disposed of in compliance with applicable federal, state and local regulations.
- 3. Containment/Disposal Costs:
  - a. CSA shall be responsible for costs associated with containment and waste disposal that may result from execution of this Project.

***- END OF SECTION -***



## **Standard Termination of Shotcrete Repair Mortar on Digester Wall**

N.T.S.

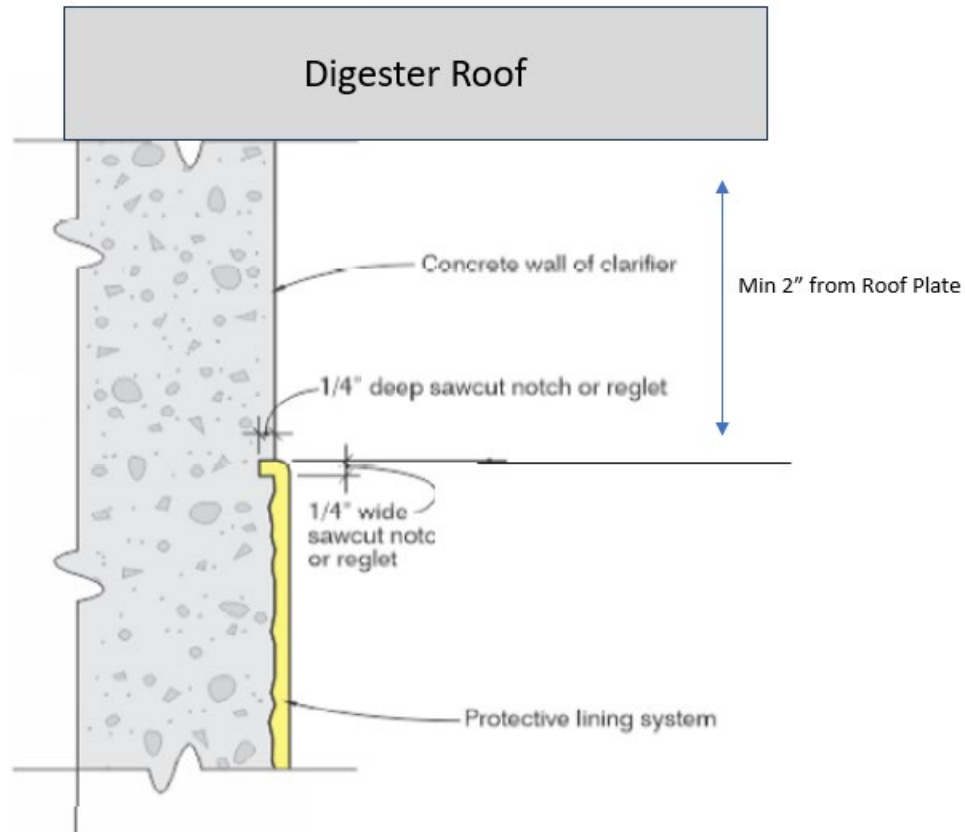
### **Notes:**

- ① Make vertical 1/4" and 1/2" sawcuts as shown at shotcrete repair mortar termination on Digester walls.
- ② Chip concrete out over 2" away from the 1/2" sawcut to the 1/4" sawcut to create the shotcrete repair mortar termination.
- ③ Install the shotcrete repair mortar as shown.



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**Standard Termination of Shotcrete  
Repair Mortar on Digester Wall**

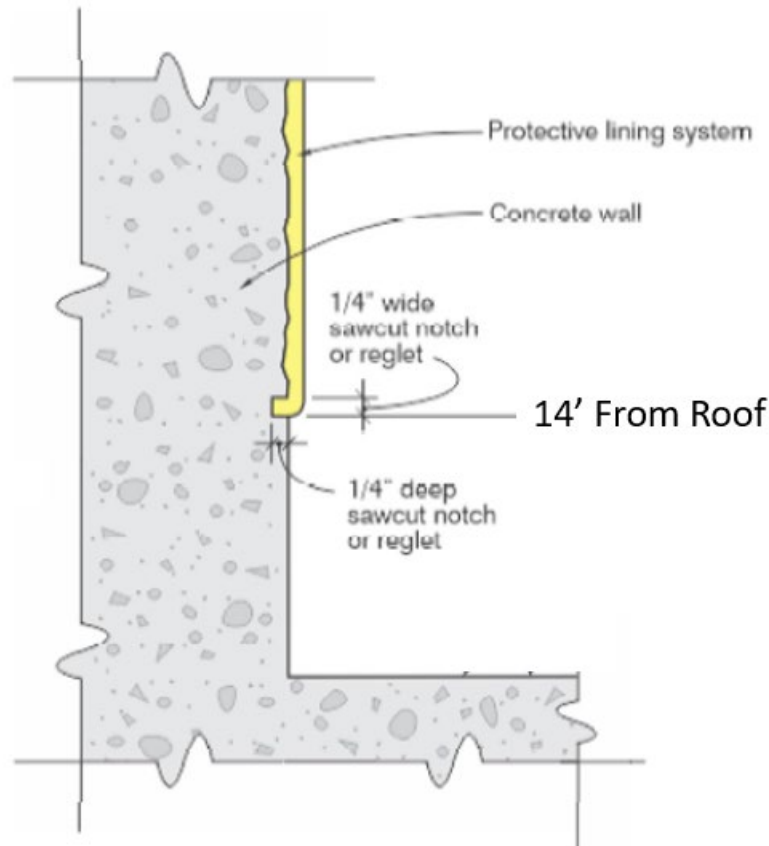


**Detail Drawing No. 2**  
**Standard Termination Detail**  
**for Protective Coating System**  
**Concrete Termination @ Roof**

**CORPORATE HEADQUARTERS:**

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**Detail Drawing No. 3**  
**Typical Protective Coating System Termination**  
**Lining Termination on**  
**Wall**

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