

# PROJECT MANUAL

**Acee's Neighborhood  
Market & Deli  
Golightly & Long Properties, LLC  
1000 Holiday Lane,  
Fulton, KY 42041**

**A/E Project No. 23-7038**

**Klingner & Associates, P.C.  
2150 West Main Street  
Carbondale, IL 62901  
(618) 331-4050**

**Civil Engineers  
MEP Engineers**

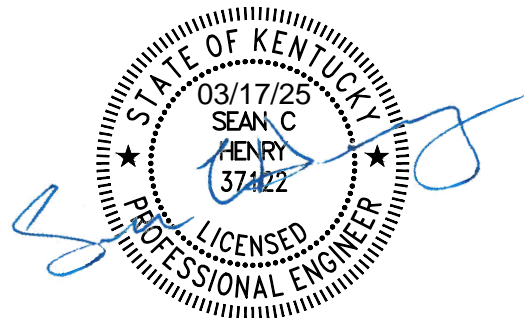
**Premier Architecture Design and Build, LLC  
347 S Williams St  
Murphysboro, IL 62966  
(314) 252-0455**

**Architects**

**Owner:  
Golightly & Long Properties, LLC  
5820 Cairo Rd  
Paducah, KY 42001**

**Issued Date: March 2025**

**KLINGNER**  
**& ASSOCIATES, P. C.**  
Engineers • Architects • Surveyors



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**Sean C. Henry, P.E.**  
Registered Professional Engineer  
State of Kentucky No. 37122  
Licenses expires: 06/30/2025



**SECTION 000103  
PROJECT DIRECTORY**

**OWNER:**

**GOLIGHTLY & LONG PROPERTIES, LLC**  
*5820 Cairo Road  
PADUCAH, KY 42001  
Nathan Long, President  
Office - (270) 443-6076  
Cell – (270) 559-0685  
Email – [nlong@acees.com](mailto:nlong@acees.com)*

**ENGINEER:**

**KLINGNER & ASSOCIATES, P.C.**  
*2150 West Main Street  
CARBONDALE, IL 62901  
Sean C. Henry, P.E., Project Manager  
(618) 331-4050*

**ARCHITECT:**

**PREMIER ARCHITECTURE DESIGN AND BUILD, LLC**  
*347 S Williams Street  
MURPHYSBORO, IL 62966  
Chad L. Hanson, A.I.A.  
(314) 242-0455*

END OF SECTION 000103





**SECTION 000110  
TABLE OF CONTENTS**

**DIVISION 00 – PROCUREMENT AND CONTRACTING REQUIREMENTS**

000101	Project Title Page
000103	Project Directory
000110	Table of Contents
001116	Invitation for Bid
002113	Instructions to Bidders
004200	Bid Proposal
004313	Bid Security Form
004513	Bidder's Qualifications
004519	Non-Collusion Affidavit
004550	Kentucky Employment Practices
005100	Notice of Award
005200	Agreement Forms
005500	Notice to Proceed
006113	Performance and Payment Bond Form
007200	Standard General Conditions
007300	Supplementary Conditions
007343	Wage Rate Requirements
007344	Labor Provisions

**DIVISION 01 – GENERAL REQUIREMENTS**

011100	Summary of Work
011419	Use of Site
012900	Payment Procedures
013100	Project Management and Coordination
013300	Submittal Procedures
014000	Quality Requirements
014100	Regulatory Requirements
014529	Testing Laboratory Services
016500	Closeout Forms
017400	Cleaning and Waste Management
017700	Closeout Procedures
017823	Operation and Maintenance Data
017839	Project Record Documents

END OF SECTION 000110



**SECTION 001116  
INVITATION TO BID**

**1.1 PROJECT INFORMATION**

- A. Notice to Bidders: Plans available to select contractors only after approval of project owner. Access code to plans and contract documents will be provided by owner/engineer to invited contractors.
- B. Project Identification: **23-7038 – Acee's Neighborhood Market & Deli**
  - 1. Project Location: **1000 Holiday Lane, Fulton, KY 42041**
- C. Owner: **Golightly & Long Properties, LLC – 5820 Cairo Road, Paducah, KY 42001**
  - 1. Owner's Representative: **Nathan Long, President**  
[nlong@acees.com](mailto:nlong@acees.com)
- D. Project Description: Project consists of construction of a truck stop and convenience store.
- E. Received for the following Work:
  - 1. General Contract (all trades)

**1.2 BID SUBMITTAL AND OPENING**

- A. Owner will receive sealed bids until the bid time and date at the location indicated below. Owner will consider bids prepared in compliance with the Instructions to Bidders issued by Owner, and delivered as follows:
  - 1. Bid Date: **April 23<sup>rd</sup>, 2025**
  - 2. Bid Time: **2 P.M.**, local time.
  - 3. Location: **Golightly & Long Properties, LLC – 5820 Cairo Road, Paducah, KY 42001**
- B. Bids will be opened privately by the Owner and/or Engineer.

**1.3 BID SECURITY**

- A. Bid security shall be submitted with each bid in the amount of 5 percent of the bid amount. No bids may be withdrawn for a period of 45 days after opening of bids. Owner reserves the right to reject any and all bids and to waive informalities and irregularities.

**1.4 PREBID CONFERENCE**

- A. A pre-bid conference is planned to be held at **The Meadows Hotel** located at **101 Commercial Avenue, Fulton, Kentucky 42041**, on **Monday, April 7<sup>th</sup>, 2025 at 10 A.M.** A site visit will follow the pre-bid meeting. This meeting is not mandatory, but highly encouraged and recommended.

## 1.5 DOCUMENTS

- A. Bidding documents including Drawings, Project Manual, Addenda, List of Plan Holders of Record, will be available (to invited contractors who receive an access code in) Adobe PDF format at [www.klingnerplanroom.com](http://www.klingnerplanroom.com) starting **Monday, March 17<sup>th</sup>, 2025** through City Blue Technologies, (Tel.: 800-747-6500). Bidders are strongly encouraged to register at [www.klingnerplanroom.com](http://www.klingnerplanroom.com) as a Prime Bidder or Sub-Contractor to ensure timely receipt of bidding documents and notices relative to this bid and be listed as a plan holder. The Owner and Engineer are NOT responsible for any incompleteness of bidding documents made available from sources other than [www.klingnerplanroom.com](http://www.klingnerplanroom.com). Printing and shipping fees for hard copies are the responsibility of the Contractor. There is no charge for bidding documents provided in Adobe PDF format. A full paper copy set of the bidding documents are available for review by prospective bidders by appointment at the offices of Klingner & Associates PC, **2150 W Main St, Carbondale, IL 62901**. Technical questions regarding interpretations of the bidding documents shall be directed to **Sean C. Henry, P.E.** of Klingner & Associates PC at **618-331-4050**; [shenry@klingner.com](mailto:shenry@klingner.com) **NOT** City Blue Technologies.

## 1.6 QUESTIONS AND REQUESTS FOR INFORMATION/CLARIFICATIONS

- A. Questions and RFI's (requests for information) are due by **April 16<sup>th</sup>, 2025 at 4 P.M.** All questions and requests for information shall be submitted to the project engineer, Sean C. Henry, via email at [shenry@klingner.com](mailto:shenry@klingner.com)

## 1.7 TIME OF COMPLETION AND LIQUIDATED DAMAGES

- A. Bidders shall begin the Work on receipt of the Notice to Proceed and shall complete the Work within the Contract Time. Work is subject to liquidated damages.

## 1.8 BIDDER'S QUALIFICATIONS

- A. Bidders must be prequalified by Owner.
- B. Bidders must be properly licensed under the laws governing their respective trades and be able to obtain insurance and bonds required for the Work. A Performance Bond, a separate Labor and Material Payment Bond, and Insurance in a form acceptable to Owner will be required of the successful Bidder.

END OF SECTION 001116

## SECTION 002113 INSTRUCTIONS TO BIDDERS

### 1.0 DEFINED TERMS

1.01 Terms used in these Instructions to Bidders will have the meanings indicated in the EJCDC General Conditions (C-700 2018 Edition) and Supplementary Conditions. Additional terms used in these Instructions to Bidders have the meanings indicated below which are applicable to both the singular and plural thereof:

- A. **Bidder**--The individual or entity who submits a Bid directly to OWNER.
- B. **Issuing Office**--The office from which the Bidding Documents are to be issued and where the bidding procedures are to be administered.
- C. **Successful Bidder**--The lowest responsible Bidder submitting a responsive Bid to whom OWNER (on the basis of OWNER's evaluation as hereinafter provided) makes an award.

### 2.0 COPIES OF BIDDING DOCUMENTS

2.01 Complete sets of the Bidding Documents in the number and for the deposit sum, if any, stated in the Advertisement or Invitation to Bid, may be obtained from the Issuing Office. The deposit will be refunded to document holders of record who return the bidding Documents in good condition within thirty days after opening of Bids unless otherwise noted in the Advertisement or Invitation to Bid.

2.02 Complete sets of Bidding Documents must be used in preparing Bids; neither OWNER nor ENGINEER/ARCHITECT assume any responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.

2.03 OWNER and ENGINEER/ARCHITECT in making copies of Bidding Documents available on the above terms do so only for the purpose of obtaining Bids on the Work and do not confer a license or grant for any other use.

### 3.0 QUALIFICATIONS OF BIDDERS

3.01 To demonstrate Bidder's qualifications to perform the Work, within five days of OWNER's request, Bidder shall submit written evidence such as financial data, previous experience, present commitments, and other such data as may be requested.

3.02 No requirement in this Article 3 to submit information will prejudice the right of Owner to seek additional pertinent information regarding Bidder's qualifications.

3.03 Bidder is advised to carefully review those portions of the Bid Form requiring Bidder's representations and certifications.

### 4.0 SITE AND OTHER AREAS; EXISTING SITE CONDITIONS; EXAMINATION OF SITE; OTHER WORK AT THE SITE

4.01 The Site is identified in the Bidding Documents. By definition, the Site includes rights-of-way, easements, and other lands furnished by Owner for the use of the Contractor. Any additional lands required for temporary construction facilities, construction equipment, or storage of materials and

equipment, and any access needed for such additional lands, are to be obtained and paid for by Contractor.

4.02 Reports of explorations and tests of subsurface conditions at or contiguous to the Site may have been used by the ENGINEER/ARCHITECT in preparing the Bidding Documents. Those reports and drawings are not part of the Contract Documents, but the "technical data" contained therein upon which Bidder is entitled to rely as provided 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.

4.03 Information and data shown or indicated in the Bidding Documents with respect to Underground Facilities at or contiguous to the Site is based upon data and information furnished to the OWNER and ENGINEER/ARCHITECT by owners of such Underground Facilities, including OWNER, or others.

## **5.0 BIDDER'S REPRESENTATIONS**

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 to become familiar with local and Site conditions that may affect cost, progress, performance or furnishing of the Work;
- C. Become familiar with and satisfy itself as to all Laws and Regulations 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, and (2) reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site.
- E. Become aware of the general nature of the work to be performed by OWNER and others at the Site that relates to the Work as indicated in the Bidding Documents;
- F. Promptly give ENGINEER/ARCHITECT 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;
- G. 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
- H. Agree that the submission of a Bid will constitute an incontrovertible representation by Bidder that Bidder has complied with every requirement of this Article, that without exception the Bid and all prices in the Bid are premised upon performing and furnishing the Work required by the Bidding Documents.

## **6.0 PREBID CONFERENCE**

- A. **6.01** A pre-bid conference is planned to be held at **The Meadows Hotel** located at **101 Commercial Avenue, Fulton, Kentucky 42041**, on **Monday, April 7<sup>th</sup>, 2025 at 10 A.M.**

## **7.0 INTERPRETATIONS AND ADDENDA**

7.01 All questions about the meaning or intent of the Bidding Documents are to be submitted to ENGINEER/ARCHITECT in writing. Interpretations or clarifications considered necessary by the ENGINEER/ARCHITECT in response to such questions will be issued by Addenda mailed or delivered to all parties recorded by the ENGINEER/ARCHITECT as having received the Bidding Documents. Questions received less than ten 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 will be without legal effect.

7.02 Addenda may also be issued to clarify, correct, or change the Bidding Documents as deemed advisable by OWNER or ENGINEER/ARCHITECT.

## **8.0 BID SECURITY**

8.01 A Bid must be accompanied by Bid security made payable to OWNER in an amount of five percent (5%) of Bidder's maximum Bid price (determined by adding the base bid and all alternates) and in the form of a certified check, bank money order, or a Bid bond (on the form included in the Bidding Documents) issued by a surety meeting the requirements of Paragraphs 6.01 and 6.02 of the General Conditions

8.02 The Bid security of the apparent Successful Bidder will be retained until OWNER awards the contract to such Bidder, and such Bidder has executed the Contract Documents, furnished the required contract security, and met the other conditions of the Notice of Award, whereupon the Bid security will be released. If the Successful Bidder fails to execute and deliver the Contract Documents and furnish the required contract security within 15 days after the Notice of Award, OWNER may consider Bidder to be in default, annul the Notice of Award, and the Bid security of that Bidder will be forfeited. Such forfeiture shall be OWNER's exclusive remedy if Bidder defaults.

8.03 The Bid security of other Bidders that OWNER believes to have a reasonable chance of receiving the award may be retained by OWNER until the earlier of seven days after the Effective Date of the Contract or 45 days after the Bid opening, whereupon Bid security furnished by such Bidders will be released

8.04 Bid security of other Bidders whom OWNER believes do not have a reasonable chance of receiving the award will be returned within seven (7) days after the Bid opening.

## **9.0 CONTRACT TIME**

9.01 The number of days within which, or the dates by which, the Work is to be substantially completed and completed and ready for final payment, are set forth in the Agreement.

## **10.0 LIQUIDATED DAMAGES**

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

## **11.0 SUBSTITUTE OR "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, and those "or-equal" or substitute or materials and equipment

subsequently approved by ENGINEER/ARCHITECT prior to the submittal of Bids and identified by Addendum. No item of material or equipment will be considered by ENGINEER/ARCHITECT as an "or-equal" or substitute unless written request for approval has been submitted by Bidder and has been received by ENGINEER/ARCHITECT at least 15 days prior to the date for receipt of Bids. Each such request shall comply with the requirements of Paragraphs 7.04 and 7.05 of the General Conditions. The burden of proof of the merit of the proposed item is upon Bidder. ENGINEER/ARCHITECT's decision of approval or disapproval of a proposed item will be final. If ENGINEER/ARCHITECT approves any such proposed item, such approval will be set forth in an Addendum issued to all prospective Bidders. Bidders shall not rely upon approvals made in any other manner.

11.02 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.

## **12.0 SUBCONTRACTORS, SUPPLIERS AND OTHERS**

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

12.02 If apparent Successful Bidder declines to make any such substitution, OWNER may award the Contract to the next lowest Bidder that proposes to use acceptable Subcontractors, Suppliers, individuals, or entities. Declining to make requested substitutions will not constitute grounds for forfeiture of the Bid security of any Bidder. Any Subcontractor, Supplier, individual, or entity so listed and against which OWNER or ENGINEER/ARCHITECT makes no written objection prior to the giving of the Notice of Award will be deemed acceptable to OWNER and ENGINEER/ARCHITECT subject to revocation of such acceptance after the Effective Date of the Agreement as provided in Paragraph 7.06 of the General Conditions.

12.03 CONTRACTOR shall not be required to employ any Subcontractor, Supplier, individual, or entity against whom CONTRACTOR has reasonable objection.

## **13.0 PREPARATION OF BID**

13.01 The Bid form is included with the Bidding Documents; additional copies may be obtained from the ENGINEER/ARCHITECT. Only specific portions of the Bidding Documents are required to be submitted with the Bid. These documents shall at minimum include:

- Bid Proposal, with Bidding Signature & Certification Form
- Bid Security (as specified)



For the convenience of the Bidder, the sheets to be returned are marked "Return with Bid". The Bidder may return the entire project manual if desired.

13.02 All blanks on the Bid Form shall be completed in ink and the Bid Form 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 each section, Bid item, alternate, unit price item, or other items listed therein.

13.03 If the Bid Form expressly indicates that submitting pricing on a specific alternate item is optional, and Bidder elects to not furnish pricing for such optional alternate item, then Bidder may enter the words "No Bid" or "Not Applicable."

13.04 A Bid by a corporation shall be executed in the corporate name by a corporate officer (whose title must appear under the signature), accompanied by evidence of authority to sign. The corporate address and state of incorporation shall be shown.

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

13.06 A Bid by a limited liability company shall be executed in the name of the firm by a member or other authorized person and accompanied by evidence of authority to sign. The state of formation of the firm and the firm's address for receiving notices shall be shown.

13.07 A Bid by an individual shall show the Bidder's name and address for receiving notices.

13.08 A Bid by a joint venture shall be executed by an authorized representative of each joint venturer in the manner indicated on the Bid Form. The joint venture's address for receiving notices shall be shown.

13.09 All names shall be printed in ink below the signatures.

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

13.11 Postal and e-mail addresses and telephone number for communications regarding the Bid shall be shown.

#### **14.0 BASIS OF BID**

##### **14.01 *Base Bid with Alternates***

- A. Bidders shall submit a Bid on a lump sum basis for the base Bid and include a separate price for each alternate described in the Bidding Documents and as provided for in the Bid Form. The price for each alternate will be the amount added to or deleted from the base Bid if OWNER selects the alternate.

#### **15.0 SUBMITTAL OF BID**

15.01 A Bid shall be submitted no later than the date and time prescribed and the place indicated in the Advertisement or Invitation to Bid and shall be enclosed in an opaque sealed envelope plainly marked with the Project title (and, if applicable, the designated portion of the Project for which the Bid is submitted), the name and address of the Bidder, and accompanied by the Bid security and other required documents. If a Bid is sent by mail or other delivery system, the sealed envelope containing the Bid shall be enclosed in a separate envelope plainly marked on the outside with the notation "BID ENCLOSED."

15.02 Bids received after the date and time prescribed for the opening of bids, or not submitted at the correct location or in the designated manner, will not be accepted and will be returned to the Bidder unopened.

## **16.0 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 If within 24 hours after Bids are opened any Bidder files a duly signed written notice with OWNER and promptly thereafter demonstrates to the reasonable satisfaction of OWNER that there was a material and substantial mistake in the preparation of its Bid, that Bidder may withdraw its Bid, and the Bid security will be returned. Thereafter, if the Work is rebid, that Bidder will be disqualified from further bidding on the Work.

## **17.0 OPENING OF BIDS**

17.01 Bids will be opened privately.

## **18.0 BIDS TO REMAIN SUBJECT TO ACCEPTANCE**

18.01 All Bids will remain subject to acceptance for forty-five (45) days after the day of the bid opening, but OWNER may, in its sole discretion, release any Bid and return the Bid security prior to that date.

## **19.0 EVALUATION OF BIDS AND AWARD OF CONTRACT**

19.01 Owner reserves the right to reject any or all Bids, including without limitation, nonconforming, nonresponsive, unbalanced, or conditional Bids. OWNER will reject the Bid of any Bidder that OWNER finds, after reasonable inquiry and evaluation, to not be responsible. If Bidder purports to add terms or conditions to its Bid, takes exception to any provision of the Bidding Documents, or attempts to alter the contents of the Contract Documents for purposes of the Bid, then the OWNER will reject the Bid as nonresponsive; provided that OWNER also reserves the right to waive all minor informalities not involving price, time, or changes in the Work.

### **19.02 *Evaluation of Bids***

- A. In evaluating Bids, OWNER 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.

19.03 In evaluating whether a Bidder is responsible, OWNER will consider the qualifications of the Bidder and may consider the qualifications and experience of Subcontractors and Suppliers proposed for those portions of the Work for which the identity of Subcontractors and Suppliers must be submitted as provided in the Bidding Documents.

19.04 OWNER may conduct such investigations as OWNER deems necessary to establish the responsibility, qualifications, and financial ability of Bidders and any proposed Subcontractors or Suppliers.

## **20.0 BONDS AND INSURANCE**

20.01 Article 6 of the General Conditions, as may be modified, sets forth OWNER's requirements as to performance and payment bonds and insurance. When the Successful Bidder delivers the executed Agreement to the OWNER, it must be accompanied by required bonds and insurance documentation.

## **21.0 SIGNING OF AGREEMENT**

21.01 When OWNER issues a Notice of Award to the Successful Bidder, it shall be accompanied by the unexecuted counterparts of the Agreement along with the other Contract Documents as identified in the Agreement. Within 15 days thereafter, Successful Bidder shall execute and deliver the required number of counterparts of the Agreement (and any bonds and insurance documentation required to be delivered by the Contract Documents) to OWNER. Within ten days thereafter, OWNER shall deliver one fully executed counterpart of the Agreement to Successful Bidder, together with printed and electronic copies of the Contract Documents as stated in Paragraph 2.02 of the General Conditions.

## **22.0 SALES AND USE TAXES**

22.01 Golightly & Long Properties, LLC is not exempt from Kentucky State Sales and Use taxes on materials and equipment to be incorporated in the Work. Said Taxes shall be included in the Bid.

## **23.0 RETAINAGE**

23.01 Provisions concerning retainage during the progress of the Work are set forth in the Agreement.

## **24.0 CONTRACT ADMINISTRATION**

24.01 For the purposes of administering this contract, the authorized representative of the OWNER will be **Nathan Long, President**.

END OF SECTION 002113



**RETURN WITH BID**

**SECTION 004200  
BID PROPOSAL**

TO: **Golightly & Long Properties, LLC** Hereinafter Called "OWNER"

PROPOSAL OF: \_\_\_\_\_  
(Name and Address of Bidder)

FOR: **Acee's Neighborhood Market & Deli**

1. The plans for the proposed improvement are those prepared by KLINGNER & ASSOCIATES, P.C., ENGINEERS, 2150 W MAIN STREET, CARBONDALE, IL 62901 and the architect sub-consultant as described in the Project Directory.
2. In submitting this proposal, the undersigned declares that the only persons or parties interested in the proposal as principals are those named herein; and that the proposal is made without collusion with any other person, firm, or corporation.
3. The undersigned further declares that the Bidding and Contract Documents, and the following Addenda, receipt of all which is hereby acknowledged,

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

have been carefully examined, the site(s) of the proposed work inspected in detail and the undersigned is familiar with all local conditions affecting the contract and the detailed requirements of construction, and understands that in making this proposal waives all right to plead any misunderstanding regarding the same.

4. The undersigned further understands and agrees, if this proposal is accepted, to furnish and provide all necessary machinery, tools, apparatus and other means of construction, and to do all of the work and to install all of the materials specified in the contract, in the manner and at the time prescribed, and in accordance with the requirements therein set forth.
5. The undersigned further understands and agrees that payment will be made on a **Lump Sum** bid basis for the work specified herein.
6. The undersigned further agrees to the fullest extent permitted by law, to waive any claim it has or may have against the OWNER, the Architect/Engineer, and their respective employees, arising out of or in connection with the administration, evaluation, or recommendation of any bid; waiver of any requirements under the Bid Documents; or the Contract Documents; acceptance or rejection of any bids; and award of the Contract.
7. The undersigned further agrees that the OWNER may at any time during the progress of the work covered by this contract order other work or materials incidental thereto and that all such work and materials as do not appear in the proposal or contract as a specific item and which are not

**RETURN WITH BID**

included under the bid price for other items in this contract, shall be performed as extra work, in accordance with ARTICLE 11 of the General Conditions.

8. The undersigned further agrees to execute a contract for this work and present the same to the OWNER within **fifteen (15)** days after the date of notice of the award of the contract to him.
9. The undersigned further agrees to execute and present within **fifteen (15)** days after the date of Notice of the Award, a performance and payment Bond or other specified Security, satisfactory to and in the form prescribed by the OWNER, in the penal sum of the full amount of the contract, guaranteeing the faithful performance of the work in accordance with the terms of the contract.
10. The undersigned further agrees to begin work not later than ten (10) days after the execution and approval of the contract and performance and payment Bonds or specified Securities, unless otherwise provided, and to prosecute the work in such manner and with sufficient materials, equipment, and labor as will ensure its completion within the time limit specified herein, it being understood and agreed that the completion within the time limit is an essential part of the contract. The undersigned agrees to complete the work within **(270) consecutive calendar days** after the "Notice to Proceed" date, unless additional time shall be granted by the OWNER in accordance with the provisions of the specifications. In case of failure to complete the work within the time named herein or within such extra time as may have been allowed by extensions, the undersigned agrees that the OWNER shall withhold, from such sums as may be due under the terms of this contract, the costs set forth in the specifications, which costs shall be considered and treated not as a penalty but as damages due the OWNER from the undersigned by reason of inconvenience to the public, added cost of engineering, and other items which have caused an expenditure of public funds resulting from the failure of the undersigned to complete the work within the time specified in the contract.
11. Accompanying this proposal is a bid bond, bank cashier's check, or certified check, in the penal sum of five percent (5%) of the total bid price, as provided in the Section titled "Bid Security" in the Instructions to Bidders, made payable to the **Golightly & Long Properties, LLC**. The amount of the bid deposit is:

\$ \_\_\_\_\_ DOLLARS (\$ \_\_\_\_\_ )  
Words Figures

If this proposal is accepted and the undersigned shall fail to execute a contract and performance and payment Bond or specified Security, as required herein, it is hereby agreed that the amount of the bid deposit shall become the property of the OWNER,, and shall be considered as payment of damages due to delay and other causes suffered by the OWNER because of the failure to execute said contract and contract securities, otherwise said check or draft, or bidder's bond substituted in lieu thereof shall be returned to the undersigned.

**ATTACH BANK CASHIER'S CHECK, OR  
CERTIFIED CHECK HERE  
OR INCLUDE BID BOND WITHIN PROPOSAL  
FORM**

**RETURN WITH BID**

12. The undersigned Contractor hereby proposes to furnish all labor, tools, materials, machinery and equipment necessary to complete the identified "Base Bid" Work in accordance with the Contract Documents for the following LUMP SUM PRICE:

\$ \_\_\_\_\_ DOLLARS (\$ \_\_\_\_\_ )  
Words Figures

Should the Owner decide to proceed with the portion of the Work identified as "ALTERNATE NO. A-1 (Provide Tile Flooring in Sales Floor & Vestibules), add to the "Base Bid" amount stated above the LUMP SUM PRICE of:

\$ \_\_\_\_\_ DOLLARS (\$ \_\_\_\_\_ )  
Words Figures

Should the Owner decide to proceed with the portion of the Work identified as "ALTERNATE NO. S-1 (Heavy Duty Concrete Paving), add (if deduct, clearly indicate a negative number) to the "Base Bid" amount stated above the LUMP SUM PRICE of:

\$ \_\_\_\_\_ DOLLARS (\$ \_\_\_\_\_ )  
Words Figures

Should the Owner decide to proceed with the portion of the Work identified as "ALTERNATE NO. S-2 (Light Duty Concrete Paving), add (if deduct, clearly indicate a negative number) to the "Base Bid" amount stated above the LUMP SUM PRICE of:

\$ \_\_\_\_\_ DOLLARS (\$ \_\_\_\_\_ )  
Words Figures

The undersigned Contractor hereby proposes to furnish all labor, tools, materials, machinery and equipment necessary to complete the identified "Base Bid" and All Alternate Bid Work (A-1, S-1, and S-2) in accordance with the Contract Documents for the following LUMP SUM PRICE:

\$ \_\_\_\_\_ DOLLARS (\$ \_\_\_\_\_ )  
Words Figures

**RETURN WITH BID**

BIDDING SIGNATURE

(If an individual) Signature of Bidder \_\_\_\_\_ (SEAL)

Business Address \_\_\_\_\_  
\_\_\_\_\_

(If a co-partnership)

Firm Name \_\_\_\_\_

Signed by \_\_\_\_\_ (SEAL)

Business Address \_\_\_\_\_  
\_\_\_\_\_

(Insert Names and \_\_\_\_\_  
Addresses of all \_\_\_\_\_  
Members of the \_\_\_\_\_  
Co-Partnership \_\_\_\_\_

(If a Corporation)

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

(Corporate  
(SEAL)

Signed by \_\_\_\_\_

Business Address \_\_\_\_\_  
\_\_\_\_\_

(Insert Names of \_\_\_\_\_ President  
Officers) \_\_\_\_\_ Secretary  
\_\_\_\_\_ Treasurer

SIGNED and SWORN to before me

this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

(NOTARY  
SEAL)

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



**RETURN WITH BID**

**SCHEDULE OF VALUES**

NO.	ITEM DESCRIPTION	VALUE OF WORK
1.	Mobilization	\$
2.	Demolition & Removals	\$
3.	Site Grading, Paving, Curbing, & Walks, etc.	\$
4.	Site Storm, Sanitary & Water Utilities	\$
5.	Site Electrical & Lighting	\$
6.	Fuel System Items (install tanks, provide trenching, conduits, conductors, etc.)	\$
7.	Building Footings, Foundations & Structure	\$
8.	Building Interior Framing, Walls, etc.	\$
9.	Doors, Windows and Hardware	\$
10.	Building Electrical	\$
11.	Building Plumbing (water, sewer, gas)	\$
12.	Building HVAC	\$
13.	Building Floor Coverings	\$
14.	Building Interior Walls, insulation, finishing, etc.	\$
15.	Building Cabinetry & Finish work.	\$
16.	Equipment Installation & Associates work.	\$
17.	Other Work Items not included above	\$

Lump Sum Base Bid Price:	\$	Add	Deduct
Alt Bid A-1 (Tile Floors in Sales Areas):	\$		
Alt Bid S-1 (Heavy Duty Conc Paving):	\$		
Alt Bid S-2 (Standard Duty Conc Paving):	\$		
Total cost with all Alternates:	\$		

END OF SECTION 004200



**RETURN WITH BID**

**SECTION 004313  
BID SECURITY FORM  
GOLIGHTLY & LONG PROPERTIES, LLC**

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

WE \_\_\_\_\_

\_\_\_\_\_ as PRINCIPAL, and \_\_\_\_\_

as SURETY, are held and firmly bound unto the **Golightly & Long Properties, LLC** hereinafter called "Owner" in the penal sum of 5% of the total bid price, or for the amount specified in the "Bid Proposal" in effect on the date of invitation for bids. We bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly to pay to the Owner this sum under the conditions of this instrument.

WHEREAS THE CONDITION OF THE FOREGOING OBLIGATION IS SUCH that, said PRINCIPAL is submitting a written proposal to the Owner for the construction of the work designated as the above section.

THEREFORE, if the proposal is accepted and a contract awarded to the PRINCIPAL by the Owner for the above-designated project, and the PRINCIPAL shall within fifteen (15) days after award enter into a formal contract, furnish surety or cash bond guaranteeing the faithful performance of the work, and furnish evidence of the required insurance coverage, all as provided in the "General Conditions" and applicable Supplemental Conditions, then this obligation shall become void; otherwise it shall remain in full force and effect.

IN THE EVENT **Golightly & Long Properties, LLC** determines the PRINCIPAL has failed to enter into a formal contract in compliance with any requirements set forth in the preceding paragraph, then **Golightly & Long Properties, LLC** shall immediately be entitled to recover the full penal sum set out above together with all court costs, all attorney fees, and any other expense of recovery.

IN TESTIMONY WHEREOF, the said PRINCIPAL and the said SURETY have caused this instrument to be signed by their respective officers and their corporate seals to be hereunto affixed this \_\_\_\_\_ day of \_\_\_\_\_ AD, 20 \_\_\_\_\_.

**PRINCIPAL**

\_\_\_\_\_  
(Company Name)

\_\_\_\_\_  
(Company Name)

By: \_\_\_\_\_  
(Signature & Title)

By: \_\_\_\_\_  
(Signature & Title)

(if PRINCIPAL is a joint venture of two or more contractors, the company names, seals and authorized signatures of each contractor must be affixed.)

**SURETY**

\_\_\_\_\_  
(Name of Surety)

By: \_\_\_\_\_  
(Signature of Attorney-in-Fact)

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

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

**RETURN WITH BID**

I, \_\_\_\_\_, a Notary Public in and for said County, do hereby  
certify that \_\_\_\_\_

(Insert names of individuals signing on behalf of PRINCIPAL & SURETY)

who are each personally known to me to be the same persons whose names are subscribed to the  
foregoing instrument on behalf of PRINCIPAL and SURETY, appeared before me this day in person and  
acknowledged respectively, that they signed, sealed, and delivered said instrument as their free and  
voluntary act for the uses and purposes therein set forth.

Given under my hand and notarial seal this \_\_\_\_\_ day of \_\_\_\_\_ A.D. 20\_\_\_\_.

My Commission expires \_\_\_\_\_

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

END OF SECTION 004313

**SECTION 004513**  
**BIDDERS QUALIFICATIONS**

If the Owner is not satisfied with the sufficiency of the answers to the Questionnaire and Finance Statements, it may reject the bid or disregard the same, or require additional information.

**STATEMENT OF BIDDERS QUALIFICATION**

1. Name of Bidder \_\_\_\_\_
2. Bidder's Address \_\_\_\_\_
3. When Organized? \_\_\_\_\_
4. Where Incorporated? \_\_\_\_\_
5. How many years have you been engaged in the Contracting business under the present firm name? \_\_\_\_\_
6. Contracts on hand (attach list of present contracts, including a schedule as to estimated completion date and gross amount of each contract).
7. General character of work performed by your firm \_\_\_\_\_  
\_\_\_\_\_
8. Have you ever failed to complete any work awarded to you: Yes\_\_\_No\_\_\_.
9. Have you ever defaulted on a Contract? Yes\_\_\_ No\_\_\_. If so, attach statement showing where and why.
10. Attach a list of the more important contracts completed by your firm, including kind of work and approximate cost.
11. Attach list of your major equipment.
12. Attach a list of the more important contracts that completed by your firm, including kind of work and approximate cost.
13. Attach a statement of your experience in the construction of work similar in importance to this project.
14. Attach statement of background and experience of the principal members of your personnel, including the officers.
15. Credit available. Furnish written evidence, preferably from banks.

16. Financial Statement.

TOTAL ASSETS \$ \_\_\_\_\_

TOTAL LIABILITIES \$ \_\_\_\_\_

NET WORTH \$ \_\_\_\_\_

17. Additional information may be submitted if desired.

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Name of Organization \_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

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

)

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

\_\_\_\_\_, being duly sworn says that he is

\_\_\_\_\_ of \_\_\_\_\_ and that the answers to  
(Name of Organization)

the foregoing questions and all statements contained are true and correct.

Signed \_\_\_\_\_

Subscribed and sworn to before me this

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

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

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

END OF SECTION 004513

**SECTION 004519**  
**NONCOLLUSION AFFIDAVIT**

**RETURN WITH BID**

State of \_\_\_\_\_)

County of \_\_\_\_\_) ss.

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

(1) He (she) is \_\_\_\_\_ 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, 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 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 has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other 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 element 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 the OWNER or any person interested in the proposed Contract; and

(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 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 \_\_\_\_.

\_\_\_\_\_

\_\_\_\_\_

(Title)

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

END OF SECTION 004519



## **SECTION 004550**

### **KENTUCKY EMPLOYMENT PRACTICES**

#### **PART 1 - GENERAL**

##### **1.1 SUMMARY**

- A. In addition to all other labor requirements set forth in this proposal and in the Standard Specifications, during the performance of this contract, the Contractor for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor") agrees as follows:

##### **1.2 SELECTION OF LABOR**

- A. The Contractor shall comply with all Kentucky statutes pertaining to the selection of labor.

##### **1.3 EQUAL EMPLOYMENT OPPORTUNITY**

- A. In the event of the Contractor's non-compliance with the provisions of the Equal Employment Opportunity Clause, the Kentucky Civil Rights Act, or the Rules and Regulations of the Kentucky Commission on Human Rights ("Department"), the Contractor may be declared ineligible for future contracts or subcontracts with the State of Kentucky or any of its political subdivisions or municipal corporations, and the contract may be cancelled or voided in whole or in part, and such other sanctions or penalties may be imposed or remedies invoked as provided by statute or regulation. During the performance of this contract, the Contractor agrees as follows:

1. That it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, ancestry, age, marital status, physical or mental handicap unrelated to ability, or unfavorable discharge from military service, and further that it will examine all job classifications to determine if minority persons or women are underutilized and will take appropriate affirmative action to rectify any such under utilization.
2. That, if it hires additional employees in order to perform this contract or any portion hereof, it will determine the availability of minorities and women in the area(s) from which it may reasonably recruit and it will hire for each job classification for which employees are hired in such a way that minorities and women are not underutilized.
3. That, in all solicitations or advertisements for employees placed by it or on its behalf, it will state that all applicants will be afforded equal opportunity without discrimination because of race, color, religion, sex, national origin, ancestry, age, marital status, physical or mental handicap unrelated to ability or unfavorable discharge from military service.
4. That it will send to each labor organization or representative of workers with which it has or is bound by a collective bargaining or other agreement or understanding, a notice advising such labor organization or representative of the Contractor's obligations under the Kentucky Commission on Human Rights and the Department's Rules and Regulations. If any such labor organization or representative fails or refuses to cooperate with the Contractor in its efforts to comply with such Act and Rules and Regulations, the Contractor will promptly so notify the Kentucky Commission on Human Rights and the Local Contracting Agency and will recruit employees from other sources when necessary to fulfill its obligations thereunder. That it will submit reports as required by the

Department of Human Rights Rules and Regulations, furnish all relevant information as may from time to time be requested by the Department or the Local Contracting Agency, and in all respects comply with the Kentucky Commission on Human Rights and the Department's Rules and Regulations.

5. That it will permit access to all relevant books, records, accounts and work sites by personnel of the Local Contracting Agency and the Kentucky Commission on Human Rights for purposes of Investigation to ascertain compliance with the Kentucky Commission on Human Rights and the Department's Rules and Regulations.
6. That it will include verbatim or by reference the provision of this clause in every subcontract so that such provisions will be binding upon every such subcontractor. In the same manner as with other provisions of this contract, the Contractor will be liable for compliance with applicable provisions of this clause by all its subcontractors; and further it will promptly notify the Local Contracting Agency and the Kentucky Commission on Human Rights in the event any subcontractor fails or refuses to comply therewith. In addition, the Contractor will not utilize any subcontractor declared by the Kentucky Commission on Human Rights to be ineligible for contracts or subcontracts with the State of Kentucky or any of its political subdivisions or municipal corporations.

END OF SECTION 004550

**SECTION 005100**  
**NOTICE OF AWARD**

Dated \_\_\_\_\_

TO: \_\_\_\_\_

(Bidder)

ADDRESS: \_\_\_\_\_

\_\_\_\_\_

Phone: \_\_\_\_\_

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

Contract: **Acee's Neighborhood Market & Deli**  
(Insert name of Contract as it appears in the Bidding Documents)

Project Location: **1000 Holiday Lane, Fulton, KY 42041**

Project No.: **23-7038**

Owner: **Golightly & Long Properties, LLC**

Architect/Engineer (A/E): **Klingner & Associates, P.C.**

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**NOTICE OF AWARD OF CONTRACT**

You are hereby notified that your Bid dated \_\_\_\_\_ for the above Contract has been considered. You are the apparent Successful Bidder and have been awarded a contract for:

\_\_\_\_\_

\_\_\_\_\_

(Indicate total Work, alternates or sections of Work awarded)

The Contract Lump Sum is \_\_\_\_\_

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

**Three (3)** copies of the proposed Contract Documents will be made available to you immediately. You must comply with the following conditions precedent within **fifteen (15)** days of the date on this Notice of Award.

1. You must deliver to the OWNER **two (2)** fully executed counterparts of the Contract Documents.
2. Deliver with the executed Contract Documents Bonds as specified in the Instructions to Bidders, General Conditions, and Supplementary Conditions.
3. (List other conditions/precedents).

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

Within ten days after you comply with the above conditions, OWNER will return to you one (1) fully signed counterpart of the Contract Documents.

**Golightly & Long Properties, LLC**  
*(OWNER)*

By: \_\_\_\_\_  
*(AUTHORIZED SIGNATURE)*

\_\_\_\_\_  
*(TITLE)*

END OF SECTION 005100

**SECTION 005200**  
**CONTRACT AGREEMENT**

This CONTRACT made and entered into this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_ by \_\_\_\_\_ and between \_\_\_\_\_ hereinafter called the CONTRACTOR and \_\_\_\_\_, hereinafter called the OWNER, WITNESSETH, that the CONTRACTOR and the OWNER for the consideration hereinafter named therefore contract and agree as follows:

1. Scope of Work:

The CONTRACTOR shall furnish all labor, equipment, and machinery and perform all of the work necessary to complete the specified, **Acee's Neighborhood Market & Deli** dated \_\_\_\_\_ all as shown on the plans and as described in the specifications, as prepared by Klingner and Associates, P.C., Engineers, all in accordance with the terms of the Contract Documents.

2. Time of Completion and Liquidated Damages:

The work as shown on the Plans and described in the Specifications shall be substantially completed as defined in Article 15 of the EJCDC General Conditions, on or before 60 consecutive calendar days. The Contractor agrees to pay as liquidated damages the OWNER a sum of \$100 for each consecutive calendar day thereafter for each day that expires after the specified time until the work is substantially complete.

3. Contract Sum:

The OWNER shall pay the CONTRACTOR for the performance of the Contract the sum of \_\_\_\_\_ DOLLARS \_\_\_\_\_ CENTS (\_\_\_\_\_)

4. Progress Payment: Retainage:

The OWNER shall make progress payments on the amount or percentage of Work completed to date, as requested on the basis of CONTRACTOR's Applications for Payment and in accordance with Article 15 of the General Conditions.

There shall be retained from the amount so determined, for the first 50% of the total Work, a sum of 10% until issuance of Substantial Completion. After 50% or more of the Work, the Owner may at his/her discretion reduce the retainage to 5% of the amount of Work completed. Upon issuance of Substantial Completion, the retainage shall be reduced to an amount equal to a maximum of 5% of the Work completed.

5. Acceptance and Final Payment:

Final Payment shall be due thirty (30) days after completion and acceptance of the work, provided the contract be then fully performed, subject to the provisions of Article 15 of the General Conditions.

6. Contract Documents:

Contract Documents are as noted in the General Conditions.

In Witness Whereof, the parties hereto execute this Contract this \_\_\_\_\_.

day of \_\_\_\_\_ A.D., 20\_\_ 25\_\_.

(If an individual, partnership, or non-incorporated organization)

Signature of Contractor \_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

Address \_\_\_\_\_

Names and Addresses of Members of the Firm \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(If a Corporation)

Signature of Contractor \_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

Business Address \_\_\_\_\_

Incorporated under the laws of the State of \_\_\_\_\_

President \_\_\_\_\_

Name

Address

Secretary \_\_\_\_\_

Name

Address

Treasurer \_\_\_\_\_

Name

Address

\*\*\*\*\*

OWNER:

By \_\_\_\_\_

Nathan Long

President \_\_\_\_\_

Title

(SEAL)

ATTEST:

By \_\_\_\_\_

(Clerk or Notary Public)

END OF SECTION 005200

**SECTION 005500**  
**NOTICE TO PROCEED**

Dated \_\_\_\_\_

TO: \_\_\_\_\_  
(CONTRACTOR)

ADDRESS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Contract: \_\_\_\_\_  
(Insert name of Contract as it appears in the Contract Documents)

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

OWNER'S CONTRACT NO: \_\_\_\_\_  
\_\_\_\_\_  
(Insert name of project as it appears in the Bidding Documents)

You are notified that the Contract Time under the above contract will commence to run on \_\_\_\_\_, 20 \_\_\_\_\_. By that date, you are to start performing your obligations under the Contract Documents. The date of Substantial Completion is \_\_\_\_\_ and the date of readiness for final payment is \_\_\_\_\_.

Before you may start any Work at the Site, the General Conditions provides that you and the Owner must each deliver to the other (with copies to the Engineer/Architect and other identified additional insured's) certificates of insurance which each is required to be purchased and maintained in accordance with the Contract Documents.

Also before you may start any Work at the site, you must:  
(add other requirements)

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

\_\_\_\_\_  
(OWNER)  
By: \_\_\_\_\_  
(AUTHORIZED SIGNATURE)  
\_\_\_\_\_  
(TITLE)

Copy to Engineer/Architect

\_\_\_\_\_  
<sup>1</sup> (Use Certified Mail, Return Receipt Requested)

END OF SECTION 005500





**SECTION 006113**  
**PERFORMANCE AND PAYMENT BOND**

KNOW ALL BY THESE PRESENTS:

That we \_\_\_\_\_ of \_\_\_\_\_

hereinafter called PRINCIPAL, and \_\_\_\_\_ of \_\_\_\_\_

\_\_\_\_\_ hereinafter called the SURETY,

are held and firmly bound unto **Golightly & Long Properties, LLC**

hereinafter called OWNER, and unto all persons, firms, and corporations who may furnish materials for, or

perform labor on the **Acee's Neighborhood Market & Deli**, dated **March 2025**

hereinafter referred to, in the penal sum of \_\_\_\_\_

\_\_\_\_\_ DOLLARS \_\_\_\_\_ CENTS (\$) \_\_\_\_\_ )  
in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas the Principal entered into a certain contract, dated \_\_\_\_\_ 20 with **Golightly & Long Properties, LLC**, the OWNER, a copy of which is attached and hereby is referred to and made a part hereof, as if written herein at length, and whereby the said Principal has promised and agreed to perform said work in accordance with the terms of said contract, and has promised to pay all sums of money due for labor, materials, apparatus, fixtures, or machinery furnished to such Principal for the purpose of performing such work and has further agreed to pay all direct and indirect damages to any person, firm, company, or corporation suffered or sustained on account of the performance of such work during the time thereof and until such work is completed and accepted, and has further agreed that this bond shall inure to the benefit of any person, firm, company or corporation, to whom any money may be due from the Principal, subcontractor or otherwise, for any such labor, materials, apparatus, fixtures or machinery so furnished and that suit may be maintained on such bond by any such person, firm, company, or corporation, for the recovery of any such money.

NOW THEREFORE, if the said Principal shall well and truly perform said work in accordance with the terms of said contract, and shall pay all sums of money due or to become due for any labor, materials, apparatus, fixtures or machinery furnished to him for the purpose of constructing such work, and shall commence and complete the work within the time prescribed in said contract, and shall pay and discharge all damages, direct and indirect, that may be suffered or sustained on account of said work during the time of the performance thereof and until the said work shall have been accepted, and shall hold the aforesaid Owner and its or his agents harmless on account of any such damages, and shall in all respects fully and faithfully comply with all the provisions, conditions, and requirements of said contract, then this obligation to be void; otherwise to remain in full force and effect.

IN WITNESS WHEREOF, this instrument is executed this \_\_\_\_ day of \_\_\_\_\_ A.D. 20\_\_.

In the presence of: \_\_\_\_\_  
Principal  
\_\_\_\_\_  
(Address)

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

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

SURETY: \_\_\_\_\_

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

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

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

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

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ before me personally appeared

\_\_\_\_\_, Principal, and

\_\_\_\_\_, Surety,

all personally known to me to be the persons described in and who executed the above bond, and severally and individually acknowledged to me that they executed the same.

Given under my hand and notary seal, this \_\_\_\_\_ day of \_\_\_\_\_ A.D., 20\_\_\_\_.

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

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

NOTE: DATE OF BOND MUST NOT BE PRIOR TO DATE OF CONTRACT

END OF SECTION 006113

**SECTION 007200  
GENERAL CONDITIONS**

**PART 1 - GENERAL**

**1.1 SUMMARY**

- A. EJCDC C-700 - Standard General Conditions of the Construction Contract is the General Conditions of the Contract.
- B. A copy of this document is included herein.

END OF SECTION 007200



**SECTION 007200**

**STANDARD GENERAL CONDITIONS  
OF THE CONSTRUCTION CONTRACT**

**TABLE OF CONTENTS**

	<b>Page</b>
Article 1—Definitions and Terminology.....	1
1.01 Defined Terms.....	1
1.02 Terminology .....	6
Article 2—Preliminary Matters .....	7
2.01 Delivery of Performance and Payment Bonds; Evidence of Insurance.....	7
2.02 Copies of Documents .....	7
2.03 Before Starting Construction .....	8
2.04 Preconstruction Conference; Designation of Authorized Representatives .....	8
2.05 Acceptance of Schedules .....	8
2.06 Electronic Transmittals .....	9
Article 3—Contract Documents: Intent, Requirements, Reuse .....	9
3.01 Intent.....	9
3.02 Reference Standards .....	10
3.03 Reporting and Resolving Discrepancies .....	10
3.04 Requirements of the Contract Documents .....	11
3.05 Reuse of Documents .....	11
Article 4—Commencement and Progress of the Work .....	12
4.01 Commencement of Contract Times; Notice to Proceed .....	12
4.02 Starting the Work.....	12
4.03 Reference Points .....	12
4.04 Progress Schedule .....	12
4.05 Delays in Contractor's Progress .....	12
Article 5—Site; Subsurface and Physical Conditions; Hazardous Environmental Conditions .....	14
5.01 Availability of Lands .....	14
5.02 Use of Site and Other Areas.....	14
5.03 Subsurface and Physical Conditions.....	15

5.04	Differing Subsurface or Physical Conditions .....	16
5.05	Underground Facilities.....	18
5.06	Hazardous Environmental Conditions at Site .....	20
Article 6—Bonds and Insurance.....		22
6.01	Performance, Payment, and Other Bonds.....	22
6.02	Insurance—General Provisions.....	23
6.03	Contractor’s Insurance.....	24
6.04	Builder’s Risk and Other Property Insurance.....	25
6.05	Property Losses; Subrogation .....	26
6.06	Receipt and Application of Property Insurance Proceeds .....	27
Article 7—Contractor’s Responsibilities .....		28
7.01	Contractor’s Means and Methods of Construction .....	28
7.02	Supervision and Superintendence .....	28
7.03	Labor; Working Hours .....	28
7.04	Services, Materials, and Equipment .....	28
7.05	“Or Equals” .....	29
7.06	Substitutes .....	30
7.07	Concerning Subcontractors and Suppliers.....	31
7.08	Patent Fees and Royalties.....	33
7.09	Permits .....	33
7.10	Taxes .....	33
7.11	Laws and Regulations.....	34
7.12	Record Documents.....	34
7.13	Safety and Protection .....	34
7.14	Hazard Communication Programs .....	35
7.15	Emergencies.....	36
7.16	Submittals .....	36
7.17	Contractor’s General Warranty and Guarantee .....	38
7.18	Indemnification .....	39
7.19	Delegation of Professional Design Services .....	40
Article 8—Other Work at the Site.....		41
8.01	Other Work .....	41
8.02	Coordination .....	42

8.03	Legal Relationships.....	42
Article 9—Owner’s Responsibilities .....		43
9.01	Communications to Contractor .....	43
9.02	Replacement of Engineer .....	43
9.03	Furnish Data .....	43
9.04	Pay When Due.....	43
9.05	Lands and Easements; Reports, Tests, and Drawings .....	43
9.06	Insurance.....	44
9.07	Change Orders .....	44
9.08	Inspections, Tests, and Approvals.....	44
9.09	Limitations on Owner’s Responsibilities .....	44
9.10	Undisclosed Hazardous Environmental Condition.....	44
9.11	Evidence of Financial Arrangements.....	44
9.12	Safety Programs .....	44
Article 10—Engineer’s Status During Construction .....		44
10.01	Owner’s Representative.....	44
10.02	Visits to Site.....	44
10.03	Resident Project Representative.....	45
10.04	Engineer’s Authority .....	45
10.05	Determinations for Unit Price Work .....	45
10.06	Decisions on Requirements of Contract Documents and Acceptability of Work .....	45
10.07	Limitations on Engineer’s Authority and Responsibilities .....	46
10.08	Compliance with Safety Program.....	46
Article 11—Changes to the Contract .....		46
11.01	Amending and Supplementing the Contract .....	46
11.02	Change Orders .....	47
11.03	Work Change Directives.....	47
11.04	Field Orders.....	47
11.05	Owner-Authorized Changes in the Work.....	48
11.06	Unauthorized Changes in the Work.....	48
11.07	Change of Contract Price .....	48
11.08	Change of Contract Times.....	49
11.09	Change Proposals.....	50

11.10	Notification to Surety.....	51
Article 12—Claims.....		51
12.01	Claims .....	51
Article 13—Cost of the Work; Allowances; Unit Price Work .....		52
13.01	Cost of the Work .....	52
13.02	Allowances .....	56
13.03	Unit Price Work .....	56
Article 14—Tests and Inspections; Correction, Removal, or Acceptance of Defective Work .....		57
14.01	Access to Work.....	57
14.02	Tests, Inspections, and Approvals.....	57
14.03	Defective Work .....	58
14.04	Acceptance of Defective Work.....	59
14.05	Uncovering Work .....	59
14.06	Owner May Stop the Work .....	59
14.07	Owner May Correct Defective Work.....	60
Article 15—Payments to Contractor; Set-Offs; Completion; Correction Period .....		60
15.01	Progress Payments.....	60
15.02	Contractor’s Warranty of Title .....	63
15.03	Substantial Completion.....	63
15.04	Partial Use or Occupancy .....	64
15.05	Final Inspection .....	65
15.06	Final Payment.....	65
15.07	Waiver of Claims .....	66
15.08	Correction Period .....	67
Article 16—Suspension of Work and Termination .....		68
16.01	Owner May Suspend Work .....	68
16.02	Owner May Terminate for Cause.....	68
16.03	Owner May Terminate for Convenience.....	69
16.04	Contractor May Stop Work or Terminate .....	69
Article 17—Final Resolution of Disputes .....		70
17.01	Methods and Procedures.....	70
Article 18—Miscellaneous .....		70
18.01	Giving Notice .....	70



18.02	Computation of Times.....	70
18.03	Cumulative Remedies .....	71
18.04	Limitation of Damages .....	71
18.05	No Waiver .....	71
18.06	Survival of Obligations .....	71
18.07	Controlling Law .....	71
18.08	Assignment of Contract.....	71
18.09	Successors and Assigns .....	71
18.10	Headings.....	71

## STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

### ARTICLE 1—DEFINITIONS AND TERMINOLOGY

#### 1.01 *Defined Terms*

- A. Wherever used in the Bidding Requirements or Contract Documents, a term printed with initial capital letters, including the term's singular and plural forms, will have the meaning indicated in the definitions below. In addition to terms specifically defined, terms with initial capital letters in the Contract Documents include references to identified articles and paragraphs, and the titles of other documents or forms.
1. *Addenda*—Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Requirements or the proposed Contract Documents.
  2. *Agreement*—The written instrument, executed by Owner and Contractor, that sets forth the Contract Price and Contract Times, identifies the parties and the Engineer, and designates the specific items that are Contract Documents.
  3. *Application for Payment*—The document prepared by Contractor, in a form acceptable to Engineer, to request progress or final payments, and which is to be accompanied by such supporting documentation as is required by the Contract Documents.
  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; contesting an initial decision by Engineer concerning the requirements of the Contract Documents or the acceptability of Work under the Contract Documents; challenging a set-off against payments due; or seeking other relief with respect to the terms of the Contract.
  10. *Claim*
    - a. A demand or assertion by Owner directly to Contractor, duly submitted in compliance with the procedural requirements set forth herein, seeking an adjustment of Contract

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

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

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

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

thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion of such Work.

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

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

## 1.02 Terminology

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

4. If the Contract Documents establish an obligation of Contractor with respect to specific services, materials, or equipment, but do not expressly use any of the four words "furnish," "install," "perform," or "provide," then Contractor shall furnish and install said services, materials, or equipment complete and ready for intended use.
- F. *Contract Price or Contract Times*: References to a change in "Contract Price or Contract Times" or "Contract Times or Contract Price" or similar, indicate that such change applies to (1) Contract Price, (2) Contract Times, or (3) both Contract Price and Contract Times, as warranted, even if the term "or both" is not expressed.
- G. Unless stated otherwise in the Contract Documents, words or phrases that have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with such recognized meaning.

## ARTICLE 2—PRELIMINARY MATTERS

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

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

### 2.02 *Copies of Documents*

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



### 2.03 *Before Starting Construction*

- A. *Preliminary Schedules:* Within 10 days after the Effective Date of the Contract (or as otherwise required by the Contract Documents), Contractor shall submit to Engineer for timely review:
1. a preliminary Progress Schedule indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract;
  2. a preliminary Schedule of Submittals; and
  3. a preliminary Schedule of Values for all of the Work which includes quantities and prices of items which when added together equal the Contract Price and subdivides the Work into component parts in sufficient detail to serve as the basis for progress payments during performance of the Work. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work.

### 2.04 *Preconstruction Conference; Designation of Authorized Representatives*

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

### 2.05 *Acceptance of Schedules*

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

## 2.06 *Electronic Transmittals*

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

## **ARTICLE 3—CONTRACT DOCUMENTS: INTENT, REQUIREMENTS, REUSE**

### 3.01 *Intent*

- A. The Contract Documents are complementary; what is required by one Contract Document is as binding as if required by all.
- B. It is the intent of the Contract Documents to describe a functionally complete Project (or part thereof) to be constructed in accordance with the Contract Documents.
- C. Unless otherwise stated in the Contract Documents, if there is a discrepancy between the electronic versions of the Contract Documents (including any printed copies derived from such electronic versions) and the printed record version, the printed record version will govern.
- D. The Contract supersedes prior negotiations, representations, and agreements, whether written or oral.
- E. Engineer will issue clarifications and interpretations of the Contract Documents as provided herein.
- F. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation will be deemed stricken, and all remaining provisions will continue to be valid and binding upon Owner and Contractor, which agree that the Contract Documents will be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.
- G. Nothing in the Contract Documents creates:
  - 1. any contractual relationship between Owner or Engineer and any Subcontractor, Supplier, or other individual or entity performing or furnishing any of the Work, for the benefit of such Subcontractor, Supplier, or other individual or entity; or
  - 2. any obligation on the part of Owner or Engineer to pay or to see to the payment of any money due any such Subcontractor, Supplier, or other individual or entity, except as may otherwise be required by Laws and Regulations.

### 3.02 *Reference Standards*

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

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

### 3.03 *Reporting and Resolving Discrepancies*

#### A. *Reporting Discrepancies*

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

#### B. *Resolving Discrepancies*

1. Except as may be otherwise specifically stated in the Contract Documents, the provisions of the part of the Contract Documents prepared by or for Engineer take precedence in

resolving any conflict, error, ambiguity, or discrepancy between such provisions of the Contract Documents and:

- a. the provisions of any standard specification, manual, reference standard, or code, or the instruction of any Supplier (whether or not specifically incorporated by reference as a Contract Document); or
- b. the provisions of any Laws or Regulations applicable to the performance of the Work (unless such an interpretation of the provisions of the Contract Documents would result in violation of such Law or Regulation).

### 3.04 *Requirements of the Contract Documents*

- A. During the performance of the Work and until final payment, Contractor and Owner shall submit to the Engineer in writing all matters in question concerning the requirements of the Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Contract Documents, as soon as possible after such matters arise. Engineer will be the initial interpreter of the requirements of the Contract Documents, and judge of the acceptability of the Work.
- B. Engineer will, with reasonable promptness, render a written 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 notify Owner and Contractor in writing that Engineer is unable to provide a decision or interpretation. If Owner and Contractor are unable to agree on resolution of such a matter in question, either party may pursue resolution as provided in Article 12.

### 3.05 *Reuse of Documents*

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

#### **ARTICLE 4—COMMENCEMENT AND PROGRESS OF THE WORK**

##### **4.01 Commencement of Contract Times; Notice to Proceed**

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

##### **4.02 Starting the Work**

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

##### **4.03 Reference Points**

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

##### **4.04 Progress Schedule**

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

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

- A. If Owner, Engineer, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress of the Work, then Contractor shall be entitled to an equitable adjustment in Contract Price or Contract Times.
- B. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delay, disruption, or interference caused by or within the control of Contractor. Delay, disruption,

- and interference attributable to and within the control of a Subcontractor or Supplier shall be deemed to be within the control of Contractor.
- C. If Contractor's performance or progress is delayed, disrupted, or interfered with by unanticipated causes not the fault of and beyond the control of Owner, Contractor, and those for which they are responsible, then Contractor shall be entitled to an equitable adjustment in Contract Times. Such an adjustment will be Contractor's sole and exclusive remedy for the delays, disruption, and interference described in this paragraph. Causes of delay, disruption, or interference that may give rise to an adjustment in Contract Times under this paragraph include but are not limited to the following:
1. Severe and unavoidable natural catastrophes such as fires, floods, epidemics, and earthquakes;
  2. Abnormal weather conditions;
  3. Acts or failures to act of third-party utility owners or other third-party entities (other than those third-party utility owners or other third-party entities performing other work at or adjacent to the Site as arranged by or under contract with Owner, as contemplated in Article 8); and
  4. Acts of war or terrorism.
- D. Contractor's entitlement to an adjustment of Contract Times or Contract Price is limited as follows:
1. Contractor's entitlement to an adjustment of the Contract Times is conditioned on the delay, disruption, or interference adversely affecting an activity on the critical path to completion of the Work, as of the time of the delay, disruption, or interference.
  2. Contractor shall not be entitled to an adjustment in Contract Price for any delay, disruption, or interference if such delay is concurrent with a delay, disruption, or interference caused by or within the control of Contractor. Such a concurrent delay by Contractor shall not preclude an adjustment of Contract Times to which Contractor is otherwise entitled.
  3. Adjustments of Contract Times or Contract Price are subject to the provisions of Article 11.
- E. Each Contractor request or Change Proposal seeking an increase in Contract Times or Contract Price must be supplemented by supporting data that sets forth in detail the following:
1. The circumstances that form the basis for the requested adjustment;
  2. The date upon which each cause of delay, disruption, or interference began to affect the progress of the Work;
  3. The date upon which each cause of delay, disruption, or interference ceased to affect the progress of the Work;
  4. The number of days' increase in Contract Times claimed as a consequence of each such cause of delay, disruption, or interference; and
  5. The impact on Contract Price, in accordance with the provisions of Paragraph 11.07.

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

- F. Delays, disruption, and interference to the performance or progress of the Work resulting from the existence of a differing subsurface or physical condition, an Underground Facility that was not shown or indicated by the Contract Documents, or not shown or indicated with reasonable accuracy, and those resulting from Hazardous Environmental Conditions, are governed by Article 5, together with the provisions of Paragraphs 4.05.D and 4.05.E.
- G. Paragraph 8.03 addresses delays, disruption, and interference to the performance or progress of the Work resulting from the performance of certain other work at or adjacent to the Site.

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

### **5.01 Availability of Lands**

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

### **5.02 Use of Site and Other Areas**

- A. *Limitation on Use of Site and Other Areas*
  - 1. Contractor shall confine construction equipment, temporary construction facilities, the storage of materials and equipment, and the operations of workers to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and such other adjacent areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility for (a) damage to the Site; (b) damage to any such other adjacent areas used for Contractor's operations; (c) damage to any other adjacent land or areas, or to improvements, structures, utilities, or similar facilities located at such adjacent lands or areas; and (d) for injuries and losses sustained by the owners or occupants of any such land or areas; provided that such damage or injuries result from the performance of the Work or from other actions or conduct of the Contractor or those for which Contractor is responsible.
  - 2. If a damage or injury claim is made by the owner or occupant of any such land or area because of the performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible, Contractor shall (a) take immediate corrective or remedial action as required by Paragraph 7.13, or otherwise; (b)

promptly attempt to settle the claim as to all parties through negotiations with such owner or occupant, or otherwise resolve the claim by arbitration or other dispute resolution proceeding, or in a court of competent jurisdiction; and (c) to the fullest extent permitted by Laws and Regulations, indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, from and against any such claim, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable, brought by any such owner or occupant against Owner, Engineer, or any other party indemnified hereunder to the extent caused directly or indirectly, in whole or in part by, or based upon, Contractor's performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible.

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

### 5.03 *Subsurface and Physical Conditions*

- A. *Reports and Drawings:* The Supplementary Conditions identify:
  - 1. Those reports of explorations and tests of subsurface conditions at or adjacent to the Site that contain Technical Data;
  - 2. Those drawings of existing physical conditions at or adjacent to the Site, including those drawings depicting existing surface or subsurface structures at or adjacent to the Site (except Underground Facilities), that contain Technical Data; and
  - 3. Technical Data contained in such reports and drawings.
- B. *Underground Facilities:* Underground Facilities are shown or indicated on the Drawings, pursuant to Paragraph 5.05, and not in the drawings referred to in Paragraph 5.03.A. Information and data regarding the presence or location of Underground Facilities are not intended to be categorized, identified, or defined as Technical Data.
- C. *Reliance by Contractor on Technical Data:* Contractor may rely upon the accuracy of the Technical Data expressly identified in the Supplementary Conditions with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely upon the accuracy of the Technical Data as defined in Paragraph 1.01.A.46.b.



- D. *Limitations of Other Data and Documents:* Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, with respect to:
1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto;
  2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings;
  3. the contents of other Site-related documents made available to Contractor, such as record drawings from other projects at or adjacent to the Site, or Owner's archival documents concerning the Site; or
  4. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions, or information.

5.04 *Differing Subsurface or Physical Conditions*

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

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

- B. *Engineer's Review:* After receipt of written notice as required by the preceding paragraph, Engineer will promptly review the subsurface or physical condition in question; determine whether it is necessary for Owner to obtain additional exploration or tests with respect to the condition; conclude whether the condition falls within any one or more of the differing site condition categories in Paragraph 5.04.A; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the Contractor's resumption of Work in connection with the subsurface or physical condition in question and the need for any change in the Drawings or Specifications; and advise Owner in writing of Engineer's findings, conclusions, and recommendations.

- C. *Owner's Statement to Contractor Regarding Site Condition:* After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the subsurface or physical condition in question, addressing the resumption of Work in connection with such condition, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations, in whole or in part.
- D. *Early Resumption of Work:* If at any time Engineer determines that Work in connection with the subsurface or physical condition in question may resume prior to completion of Engineer's review or Owner's issuance of its statement to Contractor, because the condition in question has been adequately documented, and analyzed on a preliminary basis, then the Engineer may at its discretion instruct Contractor to resume such Work.
- E. *Possible Price and Times Adjustments*
  - 1. Contractor shall be entitled to an equitable adjustment in Contract Price or Contract Times, to the extent that the existence of a differing subsurface or physical condition, or any related delay, disruption, or interference, causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:
    - a. Such condition must fall within any one or more of the categories described in Paragraph 5.04.A;
    - b. With respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03; and,
    - c. Contractor's entitlement to an adjustment of the Contract Times is subject to the provisions of Paragraphs 4.05.D and 4.05.E.
  - 2. Contractor shall not be entitled to any adjustment in the Contract Price or Contract Times with respect to a subsurface or physical condition if:
    - a. Contractor knew of the existence of such condition at the time Contractor made a commitment to Owner with respect to Contract Price and Contract Times by the submission of a Bid or becoming bound under a negotiated contract, or otherwise;
    - b. The existence of such condition reasonably could have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site and contiguous areas expressly required by the Bidding Requirements or Contract Documents to be conducted by or for Contractor prior to Contractor's making such commitment; or
    - c. Contractor failed to give the written notice required by Paragraph 5.04.A.
  - 3. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Price or Contract Times, then any such adjustment will be set forth in a Change Order.
  - 4. Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Price or Contract Times, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the subsurface or physical condition in question.

- F. *Underground Facilities; Hazardous Environmental Conditions*: Paragraph 5.05 governs rights and responsibilities regarding the presence or location of Underground Facilities. Paragraph 5.06 governs rights and responsibilities regarding Hazardous Environmental Conditions. The provisions of Paragraphs 5.03 and 5.04 are not applicable to the presence or location of Underground Facilities, or to Hazardous Environmental Conditions.

5.05 *Underground Facilities*

- A. *Contractor's Responsibilities*: Unless it is otherwise expressly provided in the Supplementary Conditions, the cost of all of the following are included in the Contract Price, and Contractor shall have full responsibility for:
1. reviewing and checking all information and data regarding existing Underground Facilities at the Site;
  2. complying with applicable state and local utility damage prevention Laws and Regulations;
  3. verifying the actual location of those Underground Facilities shown or indicated in the Contract Documents as being within the area affected by the Work, by exposing such Underground Facilities during the course of construction;
  4. coordination of the Work with the owners (including Owner) of such Underground Facilities, during construction; and
  5. the safety and protection of all existing Underground Facilities at the Site, and repairing any damage thereto resulting from the Work.
- B. *Notice by Contractor*: If Contractor believes that an Underground Facility that is uncovered or revealed at the Site was not shown or indicated on the Drawings, or was not shown or indicated on the Drawings with reasonable accuracy, then Contractor shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), notify Owner and Engineer in writing regarding such Underground Facility.
- C. *Engineer's Review*: Engineer will:
1. promptly review the Underground Facility and conclude whether such Underground Facility was not shown or indicated on the Drawings, or was not shown or indicated with reasonable accuracy;
  2. identify and communicate with the owner of the Underground Facility; prepare recommendations to Owner (and if necessary issue any preliminary instructions to Contractor) regarding the Contractor's resumption of Work in connection with the Underground Facility in question;
  3. obtain any pertinent cost or schedule information from Contractor; determine the extent, if any, to which a change is required in the Drawings or Specifications to reflect and document the consequences of the existence or location of the Underground Facility; and
  4. 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. *Early Resumption of Work:* If at any time Engineer determines that Work in connection with the Underground Facility may resume prior to completion of Engineer's review or Owner's issuance of its statement to Contractor, because the Underground Facility in question and conditions affected by its presence have been adequately documented, and analyzed on a preliminary basis, then the Engineer may at its discretion instruct Contractor to resume such Work.
- F. *Possible Price and Times Adjustments*
1. Contractor shall be entitled to an equitable adjustment in the Contract Price or Contract Times, to the extent that any existing Underground Facility at the Site that was not shown or indicated on the Drawings, or was not shown or indicated with reasonable accuracy, or any related delay, disruption, or interference, causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:
    - a. 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;
    - b. Contractor's entitlement to an adjustment of the Contract Times is subject to the provisions of Paragraphs 4.05.D and 4.05.E; and
    - c. 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, then any such adjustment will 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, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the Underground Facility in question.
  4. The information and data shown or indicated on the Drawings with respect to existing Underground Facilities at the Site is based on information and data (a) furnished by the owners of such Underground Facilities, or by others, (b) obtained from available records, or (c) gathered in an investigation conducted in accordance with the current edition of ASCE 38, Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data, by the American Society of Civil Engineers. If such information or data is incorrect or incomplete, Contractor's remedies are limited to those set forth in this Paragraph 5.05.F.

5.06 *Hazardous Environmental Conditions at Site*

- A. *Reports and Drawings:* The Supplementary Conditions identify:
1. those reports known to Owner relating to Hazardous Environmental Conditions that have been identified at or adjacent to the Site;
  2. drawings known to Owner relating to Hazardous Environmental Conditions that have been identified at or adjacent to the Site; and
  3. Technical Data contained in such reports and drawings.
- B. *Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the accuracy of the Technical Data expressly identified in the Supplementary Conditions with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely on the accuracy of the Technical Data as defined in Paragraph 1.01.A.46.b. Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, with respect to:
1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto;
  2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or
  3. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions or information.
- C. Contractor shall not be responsible for removing or remediating any Hazardous Environmental Condition encountered, uncovered, or revealed at the Site unless such removal or remediation is expressly identified in the Contract Documents to be within the scope of the Work.
- D. Contractor shall be responsible for controlling, containing, and duly removing all Constituents of Concern brought to the Site by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible, and for any associated costs; and for the costs of removing and remediating any Hazardous Environmental Condition created by the presence of any such Constituents of Concern.
- E. If Contractor encounters, uncovers, or reveals a Hazardous Environmental Condition whose removal or remediation is not expressly identified in the Contract Documents as being within the scope of the Work, or if Contractor or anyone for whom Contractor is responsible creates a Hazardous Environmental Condition, then Contractor shall immediately: (1) secure or otherwise isolate such condition; (2) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by Paragraph 7.15); and (3) notify Owner and Engineer (and promptly thereafter confirm such notice in writing). Owner shall promptly consult with Engineer concerning the necessity for Owner to retain a qualified expert to evaluate such condition or take corrective action, if any. Promptly after consulting with Engineer, Owner shall take such actions as are necessary to permit Owner to timely

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

indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

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

## **ARTICLE 6—BONDS AND INSURANCE**

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

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

**6.02 Insurance—General Provisions**

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



H. Contractor shall require:

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

6.03 *Contractor's Insurance*

- A. *Required Insurance:* Contractor shall purchase and maintain Worker's Compensation, Commercial General Liability, and other insurance pursuant to the specific requirements of the Supplementary Conditions.
- B. *General Provisions:* The policies of insurance required by this Paragraph 6.03 as supplemented must:
1. include at least the specific coverages required;

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

6.04 *Builder's Risk and Other Property Insurance*

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

- C. *Property Insurance for Substantially Complete Facilities:* Promptly after Substantial Completion, and before actual occupancy or use of the substantially completed Work, Owner will obtain property insurance for such substantially completed Work, and maintain such property insurance at least until the Work is complete, as set forth in Paragraph 15.06.D. Such property insurance will be written on a special perils (all-risk) form, on a replacement cost basis, and provide coverage consistent with that required for the builder's risk insurance. The builder's risk insurance may terminate upon written confirmation of Owner's procurement of such property insurance.
- D. *Partial Occupancy or Use by Owner:* If Owner will occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work, as provided in Paragraph 15.04, then Owner (directly, if it is the purchaser of the builder's risk policy, or through Contractor) will provide advance notice of such occupancy or use to the builder's risk insurer, and obtain an endorsement consenting to the continuation of coverage prior to commencing such partial occupancy or use.
- E. *Insurance of Other Property; Additional Insurance:* If the express insurance provisions of the Contract do not require or address the insurance of a property item or interest, then the entity or individual owning such property item will be responsible for insuring it. If Contractor elects to obtain other special insurance to be included in or supplement the builder's risk or property insurance policies provided under this Paragraph 6.04, it may do so at Contractor's expense.

6.05 *Property Losses; Subrogation*

- A. The builder's risk insurance policy purchased and maintained in accordance with Paragraph 6.04 (or an installation floater policy if authorized by the Supplementary Conditions), will contain provisions to the effect that in the event of payment of any loss or damage the insurer will have no rights of recovery against any insureds thereunder, or against Engineer or its consultants, or their officers, directors, members, partners, employees, agents, consultants, or subcontractors.
  - 1. Owner and Contractor waive all rights against each other and the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from any of the perils, risks, or causes of loss covered by such policies and any other property insurance applicable to the Work; and, in addition, waive all such rights against Engineer, its consultants, all individuals or entities identified in the Supplementary Conditions as builder's risk or installation floater insureds, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, under such policies for losses and damages so caused.
  - 2. None of the above waivers extends to the rights that any party making such waiver may have to the proceeds of insurance held by Owner or Contractor as trustee or fiduciary, or otherwise payable under any policy so issued.
- B. Any property insurance policy maintained by Owner covering any loss, damage, or consequential loss to Owner's existing structures, buildings, or facilities in which any part of the Work will occur, or to which any part of the Work will attach or adjoin; to adjacent structures, buildings, or facilities of Owner; or to part or all of the completed or substantially completed Work, during partial occupancy or use pursuant to Paragraph 15.04, after Substantial Completion pursuant to Paragraph 15.03, or after final payment pursuant to

Paragraph 15.06, will contain provisions to the effect that in the event of payment of any loss or damage the insurer will have no rights of recovery against any insureds thereunder, or against Contractor, Subcontractors, or Engineer, or the officers, directors, members, partners, employees, agents, consultants, or subcontractors of each and any of them, and that the insured is allowed to waive the insurer's rights of subrogation in a written contract executed prior to the loss, damage, or consequential loss.

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

6.06 *Receipt and Application of Property Insurance Proceeds*

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

## ARTICLE 7—CONTRACTOR'S RESPONSIBILITIES

### 7.01 *Contractor's Means and Methods of Construction*

- A. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction.
- B. If the Contract Documents note, or Contractor determines, that professional engineering or other design services are needed to carry out Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures, or for Site safety, then Contractor shall cause such services to be provided by a properly licensed design professional, at Contractor's expense. Such services are not Owner-delegated professional design services under this Contract, and neither Owner nor Engineer has any responsibility with respect to (1) Contractor's determination of the need for such services, (2) the qualifications or licensing of the design professionals retained or employed by Contractor, (3) the performance of such services, or (4) any errors, omissions, or defects in such services.

### 7.02 *Supervision and Superintendence*

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

### 7.03 *Labor; Working Hours*

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

### 7.04 *Services, Materials, and Equipment*

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

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

7.05 "Or Equals"

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

and Engineer determines that the proposed item is an "or-equal," which will be evidenced by an approved Shop Drawing or other written communication. Engineer will advise Contractor in writing of any negative determination.

- D. *Effect of Engineer's Determination:* Neither approval nor denial of an "or-equal" request will result in any change in Contract Price. The Engineer's denial of an "or-equal" request will be final and binding, and may not be reversed through an appeal under any provision of the Contract.
- E. *Treatment as a Substitution Request:* If Engineer determines that an item of equipment or material proposed by Contractor does not qualify as an "or-equal" item, Contractor may request that Engineer consider the item a proposed substitute pursuant to Paragraph 7.06.

#### 7.06 Substitutes

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

- 3) whether incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty.
  - c. will identify:
    - 1) all variations of the proposed substitute item from the item specified; and
    - 2) available engineering, sales, maintenance, repair, and replacement services.
  - d. will contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including but not limited to changes in Contract Price, shared savings, costs of redesign, and claims of other contractors affected by any resulting change.
- B. *Engineer's Evaluation and Determination*: Engineer will be allowed a reasonable time to evaluate each substitute request, and to obtain comments and direction from Owner. Engineer may require Contractor to furnish additional data about the proposed substitute item. Engineer will be the sole judge of acceptability. No substitute will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an acceptable substitute. Engineer's determination will be evidenced by a Field Order or a proposed Change Order accounting for the substitution itself and all related impacts, including changes in Contract Price or Contract Times. Engineer will advise Contractor in writing of any negative determination.
- C. *Special Guarantee*: Owner may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute.
- D. *Reimbursement of Engineer's Cost*: Engineer will record Engineer's costs in evaluating a substitute proposed or submitted by Contractor. Whether or not Engineer approves a substitute so proposed or submitted by Contractor, Contractor shall reimburse Owner for the reasonable charges of Engineer for evaluating each such proposed substitute. Contractor shall also reimburse Owner for the reasonable charges of Engineer for making changes in the Contract Documents (or in the provisions of any other direct contract with Owner) resulting from the acceptance of each proposed substitute.
- E. *Contractor's Expense*: Contractor shall provide all data in support of any proposed substitute at Contractor's expense.
- F. *Effect of Engineer's Determination*: If Engineer approves the substitution request, Contractor shall execute the proposed Change Order and proceed with the substitution. The Engineer's denial of a substitution request will be final and binding, and may not be reversed through an appeal under any provision of the Contract. Contractor may challenge the scope of reimbursement costs imposed under Paragraph 7.06.D, by timely submittal of a Change Proposal.

#### 7.07 Concerning Subcontractors and Suppliers

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



- B. Contractor shall retain specific Subcontractors and Suppliers for the performance of designated parts of the Work if required by the Contract to do so.
- C. Subsequent to the submittal of Contractor's Bid or final negotiation of the terms of the Contract, Owner may not require Contractor to retain any Subcontractor or Supplier to furnish or perform any of the Work against which Contractor has reasonable objection.
- D. Prior to entry into any binding subcontract or purchase order, Contractor shall submit to Owner the identity of the proposed Subcontractor or Supplier (unless Owner has already deemed such proposed Subcontractor or Supplier acceptable during the bidding process or otherwise). Such proposed Subcontractor or Supplier shall be deemed acceptable to Owner unless Owner raises a substantive, reasonable objection within 5 days.
- E. Owner may require the replacement of any Subcontractor or Supplier. Owner also may require Contractor to retain specific replacements; provided, however, that Owner may not require a replacement to which Contractor has a reasonable objection. If Contractor has submitted the identity of certain Subcontractors or Suppliers for acceptance by Owner, and Owner has accepted it (either in writing or by failing to make written objection thereto), then Owner may subsequently revoke the acceptance of any such Subcontractor or Supplier so identified solely on the basis of substantive, reasonable objection after due investigation. Contractor shall submit an acceptable replacement for the rejected Subcontractor or Supplier.
- F. If Owner requires the replacement of any Subcontractor or Supplier retained by Contractor to perform any part of the Work, then Contractor shall be entitled to an adjustment in Contract Price or Contract Times, with respect to the replacement; and Contractor shall initiate a Change Proposal for such adjustment within 30 days of Owner's requirement of replacement.
- G. No acceptance by Owner of any such Subcontractor or Supplier, whether initially or as a replacement, will constitute a waiver of the right of Owner to the completion of the Work in accordance with the Contract Documents.
- H. On a monthly basis, Contractor shall submit to Engineer a complete list of all Subcontractors and Suppliers having a direct contract with Contractor, and of all other Subcontractors and Suppliers known to Contractor at the time of submittal.
- I. Contractor shall be solely responsible for scheduling and coordinating the work of Subcontractors and Suppliers.
- J. The divisions and sections of the Specifications and the identifications of any Drawings do not control Contractor in dividing the Work among Subcontractors or Suppliers, or in delineating the Work to be performed by any specific trade.
- K. All Work performed for Contractor by a Subcontractor or Supplier must be pursuant to an appropriate contractual agreement that specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract for the benefit of Owner and Engineer.
- L. Owner may furnish to any Subcontractor or Supplier, to the extent practicable, information about amounts paid to Contractor for Work performed for Contractor by the Subcontractor or Supplier.

- M. Contractor shall restrict all Subcontractors and Suppliers from communicating with Engineer or Owner, except through Contractor or in case of an emergency, or as otherwise expressly allowed in this Contract.

#### 7.08 *Patent Fees and Royalties*

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

#### 7.09 *Permits*

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

#### 7.10 *Taxes*

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

#### 7.11 *Laws and Regulations*

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

#### 7.12 *Record Documents*

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

#### 7.13 *Safety and Protection*

- A. Contractor shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. Such responsibility does not relieve Subcontractors of their responsibility for the safety of persons or property in the performance of their work, nor for compliance with applicable safety Laws and Regulations.
- B. Contractor shall designate a qualified and experienced safety representative whose duties and responsibilities are the prevention of Work-related accidents and the maintenance and supervision of safety precautions and programs.
- C. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to:
  - 1. all persons on the Site or who may be affected by the Work;

2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and
  3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, other work in progress, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.
- D. All damage, injury, or loss to any property referred to in Paragraph 7.13.C.2 or 7.13.C.3 caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by Contractor at its expense (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of Owner or Engineer or anyone employed by any of them, or anyone for whose acts any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them).
- E. Contractor shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection.
- F. Contractor shall notify Owner; the owners of adjacent property; the owners of Underground Facilities and other utilities (if the identity of such owners is known to Contractor); and other contractors and utility owners performing work at or adjacent to the Site, in writing, when Contractor knows that prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property or work in progress.
- G. Contractor shall comply with the applicable requirements of Owner's safety programs, if any. Any Owner's safety programs that are applicable to the Work are identified or included in the Supplementary Conditions or Specifications.
- H. Contractor shall inform Owner and Engineer of the specific requirements of Contractor's safety program with which Owner's and Engineer's employees and representatives must comply while at the Site.
- I. Contractor's duties and responsibilities for safety and protection will continue until all the Work is completed, Engineer has issued a written notice to Owner and Contractor in accordance with Paragraph 15.06.C that the Work is acceptable, and Contractor has left the Site (except as otherwise expressly provided in connection with Substantial Completion).
- J. Contractor's duties and responsibilities for safety and protection will resume whenever Contractor or any Subcontractor or Supplier returns to the Site to fulfill warranty or correction obligations, or to conduct other tasks arising from the Contract Documents.

#### 7.14 Hazard Communication Programs

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

#### 7.15 *Emergencies*

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

#### 7.16 *Submittals*

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

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

- B. *Submittal Procedures for Shop Drawings and Samples:* Contractor shall label and submit Shop Drawings and Samples to Engineer for review and approval in accordance with the accepted Schedule of Submittals.

##### 1. *Shop Drawings*

- a. Contractor shall submit the number of copies required in the Specifications.

- b. Data shown on the Shop Drawings must be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show Engineer the services, materials, and equipment Contractor proposes to provide, and to enable Engineer to review the information for the limited purposes required by Paragraph 7.16.C.

2. *Samples*

- a. Contractor shall submit the number of Samples required in the Specifications.
  - b. Contractor shall clearly identify each Sample as to material, Supplier, pertinent data such as catalog numbers, the use for which intended and other data as Engineer may require to enable Engineer to review the Submittal for the limited purposes required by Paragraph 7.16.C.
3. Where a Shop Drawing or Sample is required by the Contract Documents or the Schedule of Submittals, any related Work performed prior to Engineer's review and approval of the pertinent submittal will be at the sole expense and responsibility of Contractor.

C. *Engineer's Review of Shop Drawings and Samples*

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

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

*D. Resubmittal Procedures for Shop Drawings and Samples*

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

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

1. The following provisions apply to all Submittals other than Shop Drawings, Samples, and Owner-delegated designs:
  - a. Contractor shall submit all such Submittals to the Engineer in accordance with the Schedule of Submittals and pursuant to the applicable terms of the Contract Documents.
  - b. Engineer will provide timely review of all such Submittals in accordance with the Schedule of Submittals and return such Submittals with a notation of either Accepted or Not Accepted. Any such Submittal that is not returned within the time established in the Schedule of Submittals will be deemed accepted.
  - c. Engineer's review will be only to determine if the Submittal is acceptable under the requirements of the Contract Documents as to general form and content of the Submittal.
  - d. If any such Submittal is not accepted, Contractor shall confer with Engineer regarding the reason for the non-acceptance, and resubmit an acceptable document.
2. Procedures for the submittal and acceptance of the Progress Schedule, the Schedule of Submittals, and the Schedule of Values are set forth in Paragraphs 2.03, 2.04, and 2.05.

- F. Owner-delegated Designs: Submittals pursuant to Owner-delegated designs are governed by the provisions of Paragraph 7.19.

**7.17 Contractor's General Warranty and Guarantee**

- A. Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective. Engineer is entitled to rely on Contractor's warranty and guarantee.

- B. Owner's rights under this warranty and guarantee are in addition to, and are not limited by, Owner's rights under the correction period provisions of Paragraph 15.08. The time in which Owner may enforce its warranty and guarantee rights under this Paragraph 7.17 is limited only by applicable Laws and Regulations restricting actions to enforce such rights; provided, however, that after the end of the correction period under Paragraph 15.08:
  - 1. Owner shall give Contractor written notice of any defective Work within 60 days of the discovery that such Work is defective; and
  - 2. Such notice will be deemed the start of an event giving rise to a Claim under Paragraph 12.01.B, such that any related Claim must be brought within 30 days of the notice.
- C. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:
  - 1. abuse, or improper modification, maintenance, or operation, by persons other than Contractor, Subcontractors, Suppliers, or any other individual or entity for whom Contractor is responsible; or
  - 2. normal wear and tear under normal usage.
- D. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents is absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents, a release of Contractor's obligation to perform the Work in accordance with the Contract Documents, or a release of Owner's warranty and guarantee rights under this Paragraph 7.17:
  - 1. Observations 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. The end of the correction period established in Paragraph 15.08;
  - 8. Any inspection, test, or approval by others; or
  - 9. Any correction of defective Work by Owner.
- E. If the Contract requires the Contractor to accept the assignment of a contract entered into by Owner, then the specific warranties, guarantees, and correction obligations contained in the assigned contract will govern with respect to Contractor's performance obligations to Owner for the Work described in the assigned contract.

#### 7.18 Indemnification

- A. To the fullest extent permitted by Laws and Regulations, and in addition to any other obligations of Contractor under the Contract or otherwise, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, from losses,



- damages, costs, and judgments (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) arising from third-party claims or actions relating to or resulting from the performance or furnishing of the Work, provided that any such claim, action, loss, cost, judgment or damage is attributable to bodily injury, sickness, disease, or death, or to damage to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, but only to the extent caused by any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable.
- B. In any and all claims against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, by any employee (or the survivor or personal representative of such employee) of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 7.18.A will not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.

7.19 *Delegation of Professional Design Services*

- A. Owner may require Contractor to provide professional design services for a portion of the Work by express delegation in the Contract Documents. Such delegation will specify the performance and design criteria that such services must satisfy, and the Submittals that Contractor must furnish to Engineer with respect to the Owner-delegated design.
- B. Contractor shall cause such Owner-delegated professional design services to be provided pursuant to the professional standard of care by a properly licensed design professional, whose signature and seal must appear on all drawings, calculations, specifications, certifications, and Submittals prepared by such design professional. Such design professional must issue all certifications of design required by Laws and Regulations.
- C. If a Shop Drawing or other Submittal related to the Owner-delegated design is prepared by Contractor, a Subcontractor, or others for submittal to Engineer, then such Shop Drawing or other Submittal must bear the written approval of Contractor's design professional when submitted by Contractor to Engineer.
- D. Owner and Engineer shall be entitled to rely upon the adequacy, accuracy, and completeness of the services, certifications, and approvals performed or provided by the design professionals retained or employed by Contractor under an Owner-delegated design, subject to the professional standard of care and the performance and design criteria stated in the Contract Documents.
- E. Pursuant to this Paragraph 7.19, Engineer's review, approval, and other determinations regarding design drawings, calculations, specifications, certifications, and other Submittals furnished by Contractor pursuant to an Owner-delegated design will be only for the following limited purposes:
1. Checking for conformance with the requirements of this Paragraph 7.19;

2. Confirming that Contractor (through its design professionals) has used the performance and design criteria specified in the Contract Documents; and
  3. Establishing that the design furnished by Contractor is consistent with the design concept expressed in the Contract Documents.
- F. Contractor shall not be responsible for the adequacy of performance or design criteria specified by Owner or Engineer.
- G. Contractor is not required to provide professional services in violation of applicable Laws and Regulations.

## **ARTICLE 8—OTHER WORK AT THE SITE**

### **8.01 Other Work**

- A. In addition to and apart from the Work under the Contract Documents, the Owner may perform other work at or adjacent to the Site. Such other work may be performed by Owner's employees, or through contracts between the Owner and third parties. Owner may also arrange to have third-party utility owners perform work on their utilities and facilities at or adjacent to the Site.
- B. If Owner performs other work at or adjacent to the Site with Owner's employees, or through contracts for such other work, then Owner shall give Contractor written notice thereof prior to starting any such other work. If Owner has advance information regarding the start of any third-party utility work that Owner has arranged to take place at or adjacent to the Site, Owner shall provide such information to Contractor.
- C. Contractor shall afford proper and safe access to the Site to each contractor that performs such other work, each utility owner performing other work, and Owner, if Owner is performing other work with Owner's employees, and provide a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work.
- D. Contractor shall do all cutting, fitting, and patching of the Work that may be required to properly connect or otherwise make its several parts come together and properly integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating, or otherwise altering such work; provided, however, that Contractor may cut or alter others' work with the written consent of Engineer and the others whose work will be affected.
- E. If the proper execution or results of any part of Contractor's Work depends upon work performed by others, Contractor shall inspect such other work and promptly report to Engineer in writing any delays, defects, or deficiencies in such other work that render it unavailable or unsuitable for the proper execution and results of Contractor's Work. Contractor's failure to so report will constitute an acceptance of such other work as fit and proper for integration with Contractor's Work except for latent defects and deficiencies in such other work.
- F. The provisions of this article are not applicable to work that is performed by third-party utilities or other third-party entities without a contract with Owner, or that is performed without having been arranged by Owner. If such work occurs, then any related delay,

disruption, or interference incurred by Contractor is governed by the provisions of Paragraph 4.05.C.3.

#### 8.02 *Coordination*

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

#### 8.03 *Legal Relationships*

- A. If, in the course of performing other work for Owner at or adjacent to the Site, the Owner's employees, any other contractor working for Owner, or any utility owner that Owner has arranged to perform work, causes damage to the Work or to the property of Contractor or its Subcontractors, or delays, disrupts, interferes with, or increases the scope or cost of the performance of the Work, through actions or inaction, then Contractor shall be entitled to an equitable adjustment in the Contract Price or the Contract Times. Contractor must submit any Change Proposal seeking an equitable adjustment in the Contract Price or the Contract Times under this paragraph within 30 days of the damaging, delaying, disrupting, or interfering event. The entitlement to, and extent of, any such equitable adjustment will take into account information (if any) regarding such other work that was provided to Contractor in the Contract Documents prior to the submittal of the Bid or the final negotiation of the terms of the Contract, and any remedies available to Contractor under Laws or Regulations concerning utility action or inaction. When applicable, any such equitable adjustment in Contract Price will be conditioned on Contractor assigning to Owner all Contractor's rights against such other contractor or utility owner with respect to the damage, delay, disruption, or interference that is the subject of the adjustment. Contractor's entitlement to an adjustment of the Contract Times or Contract Price is subject to the provisions of Paragraphs 4.05.D and 4.05.E.
- B. Contractor shall take reasonable and customary measures to avoid damaging, delaying, disrupting, or interfering with the work of Owner, any other contractor, or any utility owner performing other work at or adjacent to the Site.
  - 1. If Contractor fails to take such measures and as a result damages, delays, disrupts, or interferes with the work of any such other contractor or utility owner, then Owner may impose a set-off against payments due Contractor, and assign to such other contractor or utility owner the Owner's contractual rights against Contractor with respect to the breach of the obligations set forth in this Paragraph 8.03.B.

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

## **ARTICLE 9—OWNER'S RESPONSIBILITIES**

### **9.01    *Communications to Contractor***

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

### **9.02    *Replacement of Engineer***

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

### **9.03    *Furnish Data***

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

### **9.04    *Pay When Due***

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

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

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

9.06 *Insurance*

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

9.07 *Change Orders*

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

9.08 *Inspections, Tests, and Approvals*

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

9.09 *Limitations on Owner's Responsibilities*

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

9.10 *Undisclosed Hazardous Environmental Condition*

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

9.11 *Evidence of Financial Arrangements*

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

9.12 *Safety Programs*

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

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

10.01 *Owner's Representative*

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

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 10.07. Particularly, but without limitation, during or as a result of Engineer's visits or observations of Contractor's Work, Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work.

#### 10.03 *Resident Project Representative*

- A. If Owner and Engineer have agreed that Engineer will furnish a Resident Project Representative to represent Engineer at the Site and assist Engineer in observing the progress and quality of the Work, then the authority and responsibilities of any such Resident Project Representative will be as provided in the Supplementary Conditions, and limitations on the responsibilities thereof will be as provided in the Supplementary Conditions and in Paragraph 10.07.
- B. If Owner designates an individual or entity who is not Engineer's consultant, agent, or employee to represent Owner at the Site, then the responsibilities and authority of such individual or entity will be as provided in the Supplementary Conditions.

#### 10.04 *Engineer's Authority*

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

#### 10.05 *Determinations for Unit Price Work*

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

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

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

#### 10.07 *Limitations on Engineer's Authority and Responsibilities*

- A. Neither Engineer's authority or responsibility under this Article 10 or under any other provision of the Contract, nor any decision made by Engineer in good faith either to exercise or not exercise such authority or responsibility or the undertaking, exercise, or performance of any authority or responsibility by Engineer, will create, impose, or give rise to any duty in contract, tort, or otherwise owed by Engineer to Contractor, any Subcontractor, any Supplier, any other individual or entity, or to any surety for or employee or agent of any of them.
- B. Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Engineer will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.
- C. Engineer will not be responsible for the acts or omissions of Contractor or of any Subcontractor, any Supplier, or of any other individual or entity performing any of the Work.
- D. Engineer's review of the final Application for Payment and accompanying documentation, and all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by Contractor under Paragraph 15.06.A, will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals, that the results certified indicate compliance with the Contract Documents.
- E. The limitations upon authority and responsibility set forth in this Paragraph 10.07 also apply to the Resident Project Representative, if any.

#### 10.08 *Compliance with Safety Program*

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

### **ARTICLE 11—CHANGES TO THE CONTRACT**

#### 11.01 *Amending and Supplementing the Contract*

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

#### 11.02 *Change Orders*

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

#### 11.03 *Work Change Directives*

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

#### 11.04 *Field Orders*

- A. Engineer may authorize minor changes in the Work if the changes do not involve an adjustment in the Contract Price or the Contract Times and are compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract



Documents. Such changes will be accomplished by a Field Order and will be binding on Owner and also on Contractor, which shall perform the Work involved promptly.

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

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

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

#### 11.06 *Unauthorized Changes in the Work*

- A. Contractor shall not be entitled to an increase in the Contract Price or an extension of the Contract Times with respect to any work performed that is not required by the Contract Documents, as amended, modified, or supplemented, except in the case of an emergency as provided in Paragraph 7.15 or in the case of uncovering Work as provided in Paragraph 14.05.C.2.

#### 11.07 *Change of Contract Price*

- A. The Contract Price may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Price must comply with the provisions of Paragraph 11.09. Any Claim for an adjustment of Contract Price must comply with the provisions of Article 12.
- B. An adjustment in the Contract Price will be determined as follows:
  - 1. Where the Work involved is covered by unit prices contained in the Contract Documents, then by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 13.03);
  - 2. Where the Work involved is not covered by unit prices contained in the Contract Documents, then by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 11.07.C.2); or
  - 3. Where the Work involved is not covered by unit prices contained in the Contract Documents and the parties do not reach mutual agreement to a lump sum, then on the basis of the Cost of the Work (determined as provided in Paragraph 13.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 11.07.C).

- C. *Contractor's Fee*: When applicable, the Contractor's fee for overhead and profit will be determined as follows:
1. A mutually acceptable fixed fee; or
  2. If a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:
    - a. For costs incurred under Paragraphs 13.01.B.1 and 13.01.B.2, the Contractor's fee will be 15 percent;
    - b. For costs incurred under Paragraph 13.01.B.3, the Contractor's fee will be 5 percent;
    - c. Where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of Paragraphs 11.07.C.2.a and 11.07.C.2.b is that the Contractor's fee will be based on: (1) a fee of 15 percent of the costs incurred under Paragraphs 13.01.B.1 and 13.01.B.2 by the Subcontractor that actually performs the Work, at whatever tier, and (2) with respect to Contractor itself and to any Subcontractors of a tier higher than that of the Subcontractor that actually performs the Work, a fee of 5 percent of the amount (fee plus underlying costs incurred) attributable to the next lower tier Subcontractor; provided, however, that for any such subcontracted Work the maximum total fee to be paid by Owner will be no greater than 27 percent of the costs incurred by the Subcontractor that actually performs the Work;
    - d. No fee will be payable on the basis of costs itemized under Paragraphs 13.01.B.4, 13.01.B.5, and 13.01.C;
    - e. The amount of credit to be allowed by Contractor to Owner for any change which results in a net decrease in Cost of the Work will be the amount of the actual net decrease in Cost of the Work and a deduction of an additional amount equal to 5 percent of such actual net decrease in Cost of the Work; and
    - f. When both additions and credits are involved in any one change or Change Proposal, the adjustment in Contractor's fee will be computed by determining the sum of the costs in each of the cost categories in Paragraph 13.01.B (specifically, payroll costs, Paragraph 13.01.B.1; incorporated materials and equipment costs, Paragraph 13.01.B.2; Subcontract costs, Paragraph 13.01.B.3; special consultants costs, Paragraph 13.01.B.4; and other costs, Paragraph 13.01.B.5) and applying to each such cost category sum the appropriate fee from Paragraphs 11.07.C.2.a through 11.07.C.2.e, inclusive.

**11.08 *Change of Contract Times***

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

#### 11.09 Change Proposals

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

B. *Change Proposal Procedures*

1. *Submittal:* Contractor shall submit each Change Proposal to Engineer within 30 days after the start of the event giving rise thereto, or after such initial decision.
2. *Supporting Data:* The Contractor shall submit supporting data, including the proposed change in Contract Price or Contract Time (if any), to the Engineer and Owner within 15 days after the submittal of the Change Proposal.
  - a. Change Proposals based on or related to delay, interruption, or interference must comply with the provisions of Paragraphs 4.05.D and 4.05.E.
  - b. Change proposals related to a change of Contract Price must include full and detailed accounts of materials incorporated into the Work and labor and equipment used for the subject Work.

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

3. *Engineer's Initial Review:* Engineer will advise Owner regarding the Change Proposal, and consider any comments or response from Owner regarding the Change Proposal. If in its discretion Engineer concludes that additional supporting data is needed before conducting a full review and making a decision regarding the Change Proposal, then Engineer may request that Contractor submit such additional supporting data by a date specified by Engineer, prior to Engineer beginning its full review of the Change Proposal.
4. *Engineer's Full Review and Action on the Change Proposal:* Upon receipt of Contractor's supporting data (including any additional data requested by Engineer), Engineer will conduct a full review of each Change Proposal and, within 30 days after such receipt of the Contractor's supporting data, either approve the Change Proposal in whole, deny it in whole, or approve it in part and deny it in part. Such actions must be in writing, with a copy provided to Owner and Contractor. If Engineer does not take action on the Change Proposal within 30 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of Engineer's inaction the Change Proposal is deemed denied, thereby commencing the time for appeal of the denial under Article 12.
5. *Binding Decision:* Engineer's decision is final and binding upon Owner and Contractor, unless Owner or Contractor appeals the decision by filing a Claim under Article 12.

- C. *Resolution of Certain Change Proposals:* If the Change Proposal does not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters, then Engineer will notify the parties in writing that the Engineer is unable to resolve the Change Proposal. For purposes of further resolution of such a Change Proposal, such notice will be deemed a denial, and Contractor may choose to seek resolution under the terms of Article 12.
- D. *Post-Completion:* Contractor shall not submit any Change Proposals after Engineer issues a written recommendation of final payment pursuant to Paragraph 15.06.B.

#### 11.10 *Notification to Surety*

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

### ARTICLE 12—CLAIMS

#### 12.01 *Claims*

- A. *Claims Process:* The following disputes between Owner and Contractor are subject to the Claims process set forth in this article:
  - 1. Appeals by Owner or Contractor of Engineer's decisions regarding Change Proposals;
  - 2. Owner demands for adjustments in the Contract Price or Contract Times, or other relief under the Contract Documents;
  - 3. Disputes that Engineer has been unable to address because they do not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters; and
  - 4. Subject to the waiver provisions of Paragraph 15.07, any dispute arising after Engineer has issued a written recommendation of final payment pursuant to Paragraph 15.06.B.
- B. *Submittal of Claim:* The party submitting a Claim shall deliver it directly to the other party to the Contract promptly (but in no event later than 30 days) after the start of the event giving rise thereto; in the case of appeals regarding Change Proposals within 30 days of the decision under appeal. The party submitting the Claim shall also furnish a copy to the Engineer, for its information only. The responsibility to substantiate a Claim rests with the party making the Claim. In the case of a Claim by Contractor seeking an increase in the Contract Times or Contract Price, Contractor shall certify that the Claim is made in good faith, that the supporting data are accurate and complete, and that to the best of Contractor's knowledge and belief the amount of time or money requested accurately reflects the full amount to which Contractor is entitled.
- C. *Review and Resolution:* The party receiving a Claim shall review it thoroughly, giving full consideration to its merits. The two parties shall seek to resolve the Claim through the exchange of information and direct negotiations. The parties may extend the time for resolving the Claim by mutual agreement. All actions taken on a Claim will be stated in writing and submitted to the other party, with a copy to Engineer.

**D. Mediation**

1. At any time after initiation of a Claim, Owner and Contractor may mutually agree to mediation of the underlying dispute. The agreement to mediate will stay the Claim submittal and response process.
  2. If Owner and Contractor agree to mediation, then after 60 days from such agreement, either Owner or Contractor may unilaterally terminate the mediation process, and the Claim submittal and decision process will resume as of the date of the termination. If the mediation proceeds but is unsuccessful in resolving the dispute, the Claim submittal and decision process will resume as of the date of the conclusion of the mediation, as determined by the mediator.
  3. Owner and Contractor shall each pay one-half of the mediator's fees and costs.
- E. *Partial Approval*: If the party receiving a Claim approves the Claim in part and denies it in part, such action will be final and binding unless within 30 days of such action the other party invokes the procedure set forth in Article 17 for final resolution of disputes.
- F. *Denial of Claim*: If efforts to resolve a Claim are not successful, the party receiving the Claim may deny it by giving written notice of denial to the other party. If the receiving party does not take action on the Claim within 90 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of the inaction, the Claim is deemed denied, thereby commencing the time for appeal of the denial. A denial of the Claim will be final and binding unless within 30 days of the denial the other party invokes the procedure set forth in Article 17 for the final resolution of disputes.
- G. *Final and Binding Results*: If the parties reach a mutual agreement regarding a Claim, whether through approval of the Claim, direct negotiations, mediation, or otherwise; or if a Claim is approved in part and denied in part, or denied in full, and such actions become final and binding; then the results of the agreement or action on the Claim will be incorporated in a Change Order or other written document to the extent they affect the Contract, including the Work, the Contract Times, or the Contract Price.

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

**13.01 Cost of the Work**

- A. *Purposes for Determination of Cost of the Work*: The term Cost of the Work means the sum of all costs necessary for the proper performance of the Work at issue, as further defined below. The provisions of this Paragraph 13.01 are used for two distinct purposes:
1. To determine Cost of the Work when Cost of the Work is a component of the Contract Price, under cost-plus-fee, time-and-materials, or other cost-based terms; or
  2. When needed to determine the value of a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price. When the value of any such adjustment is determined on the basis of Cost of the Work, Contractor is entitled only to those additional or incremental costs required because of the change in the Work or because of the event giving rise to the adjustment.
- B. *Costs Included*: Except as otherwise may be agreed to in writing by Owner, costs included in the Cost of the Work will be in amounts no higher than those commonly incurred in the

locality of the Project, will not include any of the costs itemized in Paragraph 13.01.C, and will include only the following items:

1. Payroll costs for employees in the direct employ of Contractor in the performance of the Work under schedules of job classifications agreed upon by Owner and Contractor in advance of the subject Work. Such employees include, without limitation, superintendents, foremen, safety managers, safety representatives, and other personnel employed full time on the Work. Payroll costs for employees not employed full time on the Work will be apportioned on the basis of their time spent on the Work. Payroll costs include, but are not limited to, salaries and wages plus the cost of fringe benefits, which include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, sick leave, and vacation and holiday pay applicable thereto. The expenses of performing Work outside of regular working hours, on Saturday, Sunday, or legal holidays, will be included in the above to the extent authorized by Owner.
2. Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts accrue to Contractor unless Owner deposits funds with Contractor with which to make payments, in which case the cash discounts will accrue to Owner. All trade discounts, rebates, and refunds and returns from sale of surplus materials and equipment will accrue to Owner, and Contractor shall make provisions so that they may be obtained.
3. Payments made by Contractor to Subcontractors for Work performed by Subcontractors. If required by Owner, Contractor shall obtain competitive bids from subcontractors acceptable to Owner and Contractor and shall deliver such bids to Owner, which will then determine, with the advice of Engineer, which bids, if any, will be acceptable. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work plus a fee, the Subcontractor's Cost of the Work and fee will be determined in the same manner as Contractor's Cost of the Work and fee as provided in this Paragraph 13.01.
4. Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed or retained for services specifically related to the Work.
5. Other costs consisting of the following:
  - a. The proportion of necessary transportation, travel, and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.
  - b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office, and temporary facilities at the Site, which are consumed in the performance of the Work, and cost, less market value, of such items used but not consumed which remain the property of Contractor.
    - 1) In establishing included costs for materials such as scaffolding, plating, or sheeting, consideration will be given to the actual or the estimated life of the material for use on other projects; or rental rates may be established on the basis of purchase or salvage value of such items, whichever is less. Contractor will not

be eligible for compensation for such items in an amount that exceeds the purchase cost of such item.

c. *Construction Equipment Rental*

- 1) Rentals of all construction equipment and machinery, and the parts thereof, in accordance with rental agreements approved by Owner as to price (including any surcharge or special rates applicable to overtime use of the construction equipment or machinery), and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs will be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts must cease when the use thereof is no longer necessary for the Work.
  - 2) Costs for equipment and machinery owned by Contractor or a Contractor-related entity will be paid at a rate shown for such equipment in the equipment rental rate book specified in the Supplementary Conditions. An hourly rate will be computed by dividing the monthly rates by 176. These computed rates will include all operating costs.
  - 3) With respect to Work that is the result of a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price ("changed Work"), included costs will be based on the time the equipment or machinery is in use on the changed Work and the costs of transportation, loading, unloading, assembly, dismantling, and removal when directly attributable to the changed Work. The cost of any such equipment or machinery, or parts thereof, must cease to accrue when the use thereof is no longer necessary for the changed Work.
- d. Sales, consumer, use, and other similar taxes related to the Work, and for which Contractor is liable, as imposed by Laws and Regulations.
- e. Deposits lost for causes other than negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.
- f. Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by Contractor in connection with the performance of the Work (except losses and damages within the deductible amounts of builder's risk or other property insurance established in accordance with Paragraph 6.04), provided such losses and damages have resulted from causes other than the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses include settlements made with the written consent and approval of Owner. No such losses, damages, and expenses will be included in the Cost of the Work for the purpose of determining Contractor's fee.
- g. The cost of utilities, fuel, and sanitary facilities at the Site.
- h. Minor expenses such as communication service at the Site, express and courier services, and similar petty cash items in connection with the Work.

- i. The costs of premiums for all bonds and insurance that Contractor is required by the Contract Documents to purchase and maintain.

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

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

D. *Contractor's Fee*

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

E. *Documentation and Audit:* Whenever the Cost of the Work for any purpose is to be determined pursuant to this Article 13, Contractor and pertinent Subcontractors will establish



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

#### 13.02 Allowances

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

#### 13.03 Unit Price Work

- A. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement.
- B. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Payments to Contractor for Unit Price Work will be based on actual quantities.
- C. Each unit price will be deemed to include an amount considered by Contractor to be adequate to cover Contractor's overhead and profit for each separately identified item.
- D. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor. Engineer will review with Contractor the Engineer's preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise). Engineer's written decision thereon will be final and binding (except as modified by Engineer to reflect changed factual conditions or more accurate data) upon Owner and Contractor, and the final adjustment of Contract Price will be set forth in a Change Order, subject to the provisions of the following paragraph.

*E. Adjustments in Unit Price*

1. Contractor or Owner shall be entitled to an adjustment in the unit price with respect to an item of Unit Price Work if:
  - a. the quantity of the item of Unit Price Work performed by Contractor differs materially and significantly from the estimated quantity of such item indicated in the Agreement; and
  - b. Contractor's unit costs to perform the item of Unit Price Work have changed materially and significantly as a result of the quantity change.
2. The adjustment in unit price will account for and be coordinated with any related changes in quantities of other items of Work, and in Contractor's costs to perform such other Work, such that the resulting overall change in Contract Price is equitable to Owner and Contractor.
3. Adjusted unit prices will apply to all units of that item.

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

**14.01** *Access to Work*

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

**14.02** *Tests, Inspections, and Approvals*

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

2. to attain Owner's and Engineer's acceptance of materials or equipment to be incorporated in the Work;
3. by manufacturers of equipment furnished under the Contract Documents;
4. for testing, adjusting, and balancing of mechanical, electrical, and other equipment to be incorporated into the Work; and
5. for acceptance of materials, mix designs, or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work.

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

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

#### 14.03 *Defective Work*

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

#### 14.04 *Acceptance of Defective Work*

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

#### 14.05 *Uncovering Work*

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

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

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

right for the benefit of Contractor, any Subcontractor, any Supplier, any other individual or entity, or any surety for, or employee or agent of any of them.

**14.07 Owner May Correct Defective Work**

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

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

**15.01 Progress Payments**

- A. *Basis for Progress Payments:* The Schedule of Values established as provided in Article 2 will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to Engineer. Progress payments for Unit Price Work will be based on the number of units completed during the pay period, as determined under the provisions of Paragraph 13.03. Progress payments for cost-based Work will be based on Cost of the Work completed by Contractor during the pay period.
- B. *Applications for Payments*
  - 1. At least 20 days before the date established in the Agreement for each progress payment (but not more often than once a month), Contractor shall submit to Engineer for review an Application for Payment filled out and signed by Contractor covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents.
  - 2. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment must also be accompanied by: (a) a bill of sale, invoice, copies of subcontract or purchase order payments, or other documentation establishing full payment by Contractor for the materials and equipment; (b) at Owner's

request, documentation warranting that Owner has received the materials and equipment free and clear of all Liens; and (c) evidence that the materials and equipment are covered by appropriate property insurance, a warehouse bond, or other arrangements to protect Owner's interest therein, all of which must be satisfactory to Owner.

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

*C. Review of Applications*

1. Engineer will, within 10 days after receipt of each Application for Payment, including each resubmittal, either indicate in writing a recommendation of payment and present the Application to Owner, or return the Application to Contractor indicating in writing Engineer's reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.
2. Engineer's recommendation of any payment requested in an Application for Payment will constitute a representation by Engineer to Owner, based on Engineer's observations of the executed Work as an experienced and qualified design professional, and on Engineer's review of the Application for Payment and the accompanying data and schedules, that to the best of Engineer's knowledge, information and belief:
  - a. the Work has progressed to the point indicated;
  - b. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, the results of any subsequent tests called for in the Contract Documents, a final determination of quantities and classifications for Unit Price Work under Paragraph 13.03, and any other qualifications stated in the recommendation); and
  - c. the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work.
3. By recommending any such payment Engineer will not thereby be deemed to have represented that:
  - a. inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in the Contract; or
  - b. there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by Owner or entitle Owner to withhold payment to Contractor.

4. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment, including final payment, will impose responsibility on Engineer:
  - a. to supervise, direct, or control the Work;
  - b. for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto;
  - c. for Contractor's failure to comply with Laws and Regulations applicable to Contractor's performance of the Work;
  - d. to make any examination to ascertain how or for what purposes Contractor has used the money paid by Owner; or
  - e. to determine that title to any of the Work, materials, or equipment has passed to Owner free and clear of any Liens.
5. Engineer may refuse to recommend the whole or any part of any payment if, in Engineer's opinion, it would be incorrect to make the representations to Owner stated in Paragraph 15.01.C.2.
6. Engineer will recommend reductions in payment (set-offs) necessary in Engineer's opinion to protect Owner from loss because:
  - a. the Work is defective, requiring correction or replacement;
  - b. the Contract Price has been reduced by Change Orders;
  - c. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;
  - d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible; or
  - e. Engineer has actual knowledge of the occurrence of any of the events that would constitute a default by Contractor and therefore justify termination for cause under the Contract Documents.

*D. Payment Becomes Due*

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

*E. Reductions in Payment by Owner*

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

- b. Contractor has failed to take reasonable and customary measures to avoid damage, delay, disruption, and interference with other work at or adjacent to the Site;
  - c. Contractor has failed to provide and maintain required bonds or insurance;
  - d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible;
  - e. Owner has incurred extra charges or engineering costs related to submittal reviews, evaluations of proposed substitutes, tests and inspections, or return visits to manufacturing or assembly facilities;
  - f. The Work is defective, requiring correction or replacement;
  - g. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;
  - h. The Contract Price has been reduced by Change Orders;
  - i. An event has occurred that would constitute a default by Contractor and therefore justify a termination for cause;
  - j. Liquidated or other damages have accrued as a result of Contractor's failure to achieve Milestones, Substantial Completion, or final completion of the Work;
  - k. Liens have been filed in connection with the Work, except where Contractor has delivered a specific bond satisfactory to Owner to secure the satisfaction and discharge of such Liens; or
  - l. Other items entitle Owner to a set-off against the amount recommended.
2. If Owner imposes any set-off against payment, whether based on its own knowledge or on the written recommendations of Engineer, Owner will give Contractor immediate written notice (with a copy to Engineer) stating the reasons for such action and the specific amount of the reduction, and promptly pay Contractor any amount remaining after deduction of the amount so withheld. Owner shall promptly pay Contractor the amount so withheld, or any adjustment thereto agreed to by Owner and Contractor, if Contractor remedies the reasons for such action. The reduction imposed will be binding on Contractor unless it duly submits a Change Proposal contesting the reduction.
3. Upon a subsequent determination that Owner's refusal of payment was not justified, the amount wrongfully withheld will be treated as an amount due as determined by Paragraph 15.01.D.1 and subject to interest as provided in the Agreement.

**15.02 Contractor's Warranty of Title**

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

**15.03 Substantial Completion**

- A. When Contractor considers the entire Work ready for its intended use Contractor shall notify Owner and Engineer in writing that the entire Work is substantially complete and request that Engineer issue a certificate of Substantial Completion. Contractor shall at the same time



- submit to Owner and Engineer an initial draft of punch list items to be completed or corrected before final payment.
- B. Promptly after Contractor's notification, Owner, Contractor, and Engineer shall make an inspection of the Work to determine the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify Contractor in writing giving the reasons therefor.
  - C. If Engineer considers the Work substantially complete, Engineer will deliver to Owner a preliminary certificate of Substantial Completion which will fix the date of Substantial Completion. Engineer shall attach to the certificate a punch list of items to be completed or corrected before final payment. Owner shall have 7 days after receipt of the preliminary certificate during which to make written objection to Engineer as to any provisions of the certificate or attached punch list. If, after considering the objections to the provisions of the preliminary certificate, Engineer concludes that the Work is not substantially complete, Engineer will, within 14 days after submission of the preliminary certificate to Owner, notify Contractor in writing that the Work is not substantially complete, stating the reasons therefor. If Owner does not object to the provisions of the certificate, or if despite consideration of Owner's objections Engineer concludes that the Work is substantially complete, then Engineer will, within said 14 days, execute and deliver to Owner and Contractor a final certificate of Substantial Completion (with a revised punch list of items to be completed or corrected) reflecting such changes from the preliminary certificate as Engineer believes justified after consideration of any objections from Owner.
  - D. At the time of receipt of the preliminary certificate of Substantial Completion, Owner and Contractor will confer regarding Owner's use or occupancy of the Work following Substantial Completion, review the builder's risk insurance policy with respect to the end of the builder's risk coverage, and confirm the transition to coverage of the Work under a permanent property insurance policy held by Owner. Unless Owner and Contractor agree otherwise in writing, Owner shall bear responsibility for security, operation, protection of the Work, property insurance, maintenance, heat, and utilities upon Owner's use or occupancy of the Work.
  - E. After Substantial Completion the Contractor shall promptly begin work on the punch list of items to be completed or corrected prior to final payment. In appropriate cases Contractor may submit monthly Applications for Payment for completed punch list items, following the progress payment procedures set forth above.
  - F. Owner shall have the right to exclude Contractor from the Site after the date of Substantial Completion subject to allowing Contractor reasonable access to remove its property and complete or correct items on the punch list.

15.04 *Partial Use or Occupancy*

- A. Prior to Substantial Completion of all the Work, Owner may use or occupy any substantially completed part of the Work which has specifically been identified in the Contract Documents, or which Owner, Engineer, and Contractor agree constitutes a separately functioning and usable part of the Work that can be used by Owner for its intended purpose without

significant interference with Contractor's performance of the remainder of the Work, subject to the following conditions:

1. At any time, Owner may request in writing that Contractor permit Owner to use or occupy any such part of the Work that Owner believes to be substantially complete. If and when Contractor agrees that such part of the Work is substantially complete, Contractor, Owner, and Engineer will follow the procedures of Paragraph 15.03.A through 15.03.E for that part of the Work.
2. At any time, Contractor may notify Owner and Engineer in writing that Contractor considers any such part of the Work substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work.
3. Within a reasonable time after either such request, Owner, Contractor, and Engineer shall make an inspection of that part of the Work to determine its status of completion. If Engineer does not consider that part of the Work to be substantially complete, Engineer will notify Owner and Contractor in writing giving the reasons therefor. If Engineer considers that part of the Work to be substantially complete, the provisions of Paragraph 15.03 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.
4. No use or occupancy or separate operation of part of the Work may occur prior to compliance with the requirements of Paragraph 6.04 regarding builder's risk or other property insurance.

#### 15.05 *Final Inspection*

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

#### 15.06 *Final Payment*

##### A. *Application for Payment*

1. After Contractor has, in the opinion of Engineer, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of inspection, annotated record documents (as provided in Paragraph 7.12), and other documents, Contractor may make application for final payment.
2. The final Application for Payment must be accompanied (except as previously delivered) by:
  - a. all documentation called for in the Contract Documents;
  - b. consent of the surety, if any, to final payment;
  - c. satisfactory evidence that all title issues have been resolved such that title to all Work, materials, and equipment has passed to Owner free and clear of any Liens or other title defects, or will so pass upon final payment.

- d. a list of all duly pending Change Proposals and Claims; and
  - e. complete and legally effective releases or waivers (satisfactory to Owner) of all Lien rights arising out of the Work, and of Liens filed in connection with the Work.
3. In lieu of the releases or waivers of Liens specified in Paragraph 15.06.A.2 and as approved by Owner, Contractor may furnish receipts or releases in full and an affidavit of Contractor that: (a) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (b) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which Owner might in any way be responsible, or which might in any way result in liens or other burdens on Owner's property, have been paid or otherwise satisfied. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, Contractor may furnish a bond or other collateral satisfactory to Owner to indemnify Owner against any Lien, or Owner at its option may issue joint checks payable to Contractor and specified Subcontractors and Suppliers.
- B. *Engineer's Review of Final Application and Recommendation of Payment:* If, on the basis of Engineer's observation of the Work during construction and final inspection, and Engineer's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, Engineer is satisfied that the Work has been completed and Contractor's other obligations under the Contract have been fulfilled, Engineer will, within 10 days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of final payment and present the final Application for Payment to Owner for payment. Such recommendation will account for any set-offs against payment that are necessary in Engineer's opinion to protect Owner from loss for the reasons stated above with respect to progress payments. Otherwise, Engineer will return the Application for Payment to Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case Contractor shall make the necessary corrections and resubmit the Application for Payment.
- C. *Notice of Acceptability:* In support of its recommendation of payment of the final Application for Payment, Engineer will also give written notice to Owner and Contractor that the Work is acceptable, subject to stated limitations in the notice and to the provisions of Paragraph 15.07.
- D. *Completion of Work:* The Work is complete (subject to surviving obligations) when it is ready for final payment as established by the Engineer's written recommendation of final payment and issuance of notice of the acceptability of the Work.
- E. *Final Payment Becomes Due:* Upon receipt from Engineer of the final Application for Payment and accompanying documentation, Owner shall set off against the amount recommended by Engineer for final payment any further sum to which Owner is entitled, including but not limited to set-offs for liquidated damages and set-offs allowed under the provisions of this Contract with respect to progress payments. Owner shall pay the resulting balance due to Contractor within 30 days of Owner's receipt of the final Application for Payment from Engineer.

#### 15.07 *Waiver of Claims*

- A. By making final payment, Owner waives its claim or right to liquidated damages or other damages for late completion by Contractor, except as set forth in an outstanding Claim,

appeal under the provisions of Article 17, set-off, or express reservation of rights by Owner. Owner reserves all other claims or rights after final payment.

- B. The acceptance of final payment by Contractor will constitute a waiver by Contractor of all claims and rights against Owner other than those pending matters that have been duly submitted as a Claim, or appealed under the provisions of Article 17.

#### 15.08 *Correction Period*

- A. If within one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the Supplementary Conditions or the terms of any applicable special guarantee required by the Contract Documents), Owner gives Contractor written notice that any Work has been found to be defective, or that Contractor's repair of any damages to the Site or adjacent areas has been found to be defective, then after receipt of such notice of defect Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:
  - 1. correct the defective repairs to the Site or such adjacent areas;
  - 2. correct such defective Work;
  - 3. remove the defective Work from the Project and replace it with Work that is not defective, if the defective Work has been rejected by Owner, and
  - 4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others, or to other land or areas resulting from the corrective measures.
- B. Owner shall give any such notice of defect within 60 days of the discovery that such Work or repairs is defective. If such notice is given within such 60 days but after the end of the correction period, the notice will be deemed a notice of defective Work under Paragraph 7.17.B.
- C. If, after receipt of a notice of defect within 60 days and within the correction period, Contractor does not promptly comply with the terms of Owner's written instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. Contractor shall pay all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others). Contractor's failure to pay such costs, losses, and damages within 10 days of invoice from Owner will be deemed the start of an event giving rise to a Claim under Paragraph 12.01.B, such that any related Claim must be brought within 30 days of the failure to pay.
- D. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications.
- E. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this paragraph, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.

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

## **ARTICLE 16—SUSPENSION OF WORK AND TERMINATION**

### **16.01 Owner May Suspend Work**

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

### **16.02 Owner May Terminate for Cause**

- A. The occurrence of any one or more of the following events will constitute a default by Contractor and justify termination for cause:
1. Contractor's persistent failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment, or failure to adhere to the Progress Schedule);
  2. Failure of Contractor to perform or otherwise to comply with a material term of the Contract Documents;
  3. Contractor's disregard of Laws or Regulations of any public body having jurisdiction; or
  4. Contractor's repeated disregard of the authority of Owner or Engineer.
- B. If one or more of the events identified in Paragraph 16.02.A occurs, then after giving Contractor (and any surety) 10 days' written notice that Owner is considering a declaration that Contractor is in default and termination of the Contract, Owner may proceed to:
1. declare Contractor to be in default, and give Contractor (and any surety) written notice that the Contract is terminated; and
  2. enforce the rights available to Owner under any applicable performance bond.
- C. Subject to the terms and operation of any applicable performance bond, if Owner has terminated the Contract for cause, Owner may exclude Contractor from the Site, take possession of the Work, incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere, and complete the Work as Owner may deem expedient.
- D. Owner may not proceed with termination of the Contract under Paragraph 16.02.B if Contractor within 7 days of receipt of notice of intent to terminate begins to correct its failure to perform and proceeds diligently to cure such failure.
- E. If Owner proceeds as provided in Paragraph 16.02.B, Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price exceeds the cost to complete the Work, including all related claims, costs,

- losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals) sustained by Owner, such excess will be paid to Contractor. If the cost to complete the Work including such related claims, costs, losses, and damages exceeds such unpaid balance, Contractor shall pay the difference to Owner. Such claims, costs, losses, and damages incurred by Owner will be reviewed by Engineer as to their reasonableness and, when so approved by Engineer, incorporated in a Change Order. When exercising any rights or remedies under this paragraph, Owner shall not be required to obtain the lowest price for the Work performed.
- F. Where Contractor's services have been so terminated by Owner, the termination will not affect any rights or remedies of Owner against Contractor then existing or which may thereafter accrue, or any rights or remedies of Owner against Contractor or any surety under any payment bond or performance bond. Any retention or payment of money due Contractor by Owner will not release Contractor from liability.
- G. If and to the extent that Contractor has provided a performance bond under the provisions of Paragraph 6.01.A, the provisions of that bond will govern over any inconsistent provisions of Paragraphs 16.02.B and 16.02.D.

**16.03 Owner May Terminate for Convenience**

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

**16.04 Contractor May Stop Work or Terminate**

- A. If, through no act or fault of Contractor, (1) the Work is suspended for more than 90 consecutive days by Owner or under an order of court or other public authority, or (2) Engineer fails to act on any Application for Payment within 30 days after it is submitted, or (3) Owner fails for 30 days to pay Contractor any sum finally determined to be due, then Contractor may, upon 7 days' written notice to Owner and Engineer, and provided Owner or Engineer do not remedy such suspension or failure within that time, terminate the contract and recover from Owner payment on the same terms as provided in Paragraph 16.03.
- B. In lieu of terminating the Contract and without prejudice to any other right or remedy, if Engineer has failed to act on an Application for Payment within 30 days after it is submitted, or Owner has failed for 30 days to pay Contractor any sum finally determined to be due,

Contractor may, 7 days after written notice to Owner and Engineer, stop the Work until payment is made of all such amounts due Contractor, including interest thereon. The provisions of this paragraph are not intended to preclude Contractor from submitting a Change Proposal for an adjustment in Contract Price or Contract Times or otherwise for expenses or damage directly attributable to Contractor's stopping the Work as permitted by this paragraph.

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

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

- A. *Disputes Subject to Final Resolution:* The following disputed matters are subject to final resolution under the provisions of this article:
1. A timely appeal of an approval in part and denial in part of a Claim, or of a denial in full, pursuant to Article 12; and
  2. Disputes between Owner and Contractor concerning the Work, or obligations under the Contract Documents, that arise after final payment has been made.
- B. *Final Resolution of Disputes:* For any dispute subject to resolution under this article, Owner or Contractor may:
1. elect in writing to invoke the dispute resolution process provided for in the Supplementary Conditions;
  2. agree with the other party to submit the dispute to another dispute resolution process; or
  3. if no dispute resolution process is provided for in the Supplementary Conditions or mutually agreed to, give written notice to the other party of the intent to submit the dispute to a court of competent jurisdiction.

## **ARTICLE 18—MISCELLANEOUS**

### **18.01 *Giving Notice***

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

### **18.02 *Computation of Times***

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

18.03 *Cumulative Remedies*

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

18.04 *Limitation of Damages*

- A. With respect to any and all Change Proposals, Claims, disputes subject to final resolution, and other matters at issue, neither Owner nor Engineer, 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 will not constitute a waiver of that provision, nor will it affect the enforceability of that provision or of the remainder of this Contract.

18.06 *Survival of Obligations*

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

18.07 *Controlling Law*

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

18.08 *Assignment of Contract*

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

18.09 *Successors and Assigns*

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

18.10 *Headings*

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



## SECTION 007300 SUPPLEMENTARY CONDITIONS

These SUPPLEMENTARY CONDITIONS amend or supplement the EJCDC - STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT (No. C-700, 2018 Edition) and other provisions of the Project Documents as indicated below. All provisions which are not so amended or supplemented remain in full force and effect.

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

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

### SC-1 DEFINED TERMS

The terms used in these Supplementary Conditions which are defined in the General Conditions should be used with exactly the same meanings. This is true for all of the Contract Documents.

SC-1.01: The word "CONTRACTOR" shall be held to mean any CONTRACTOR, FIRM OR CORPORATION, or any member of a firm or corporation contracting to do the work herein specified.

The word "ENGINEER/ARCHITECT" shall be held to mean the Firm of Klingner and Associates, P.C., Engineers, Carbondale, Illinois, or a duly authorized representative of the OWNER.

The word "CITY ENGINEER" shall be held to mean the City Engineer of Fulton, Kentucky, or his authorized representative.

The word "SPECIFICATIONS" shall be held to mean the enclosed Specifications.

### SC-2 PRELIMINARY MATTERS

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

Owner shall furnish to Contractor up to **three (3)** copies of the Contract Documents (including one fully executed counterpart of the Agreement), and one copy in electronic portable document format (PDF).

### SC-5 AVAILABILITY OF LANDS

SC-5.05 Add the following new subparagraph immediately after paragraph 5.05 A.2.

For the location of UTILITIES, the CONTRACTOR at minimum shall notify **Kentucky 811 at telephone number 1-800-752-6007**, 48 hours in advance of the start of any construction in the area. **In an emergency call 911.** and for location of utility lines not associated with the above location systems call individual utilities.

Amend the first sentence to read OWNER shall provide engineering surveys to establish reference points and grade stakes for the construction, which in the CITY ENGINEER's judgment are necessary to enable the CONTRACTOR to proceed with the Work.

## SC-6 BONDS AND INSURANCE

### SC-6.01 Performance, Payment, and Other Bonds:

- (1) A Performance and Payment Bond will be required for any City of Fulton public works or facility remodeling/construction project that exceeds \$100,000 in cost.
- (2) For contracts less than \$10,000 no Performance and Payment Bond, cash bond, cashier's check, certified check or irrevocable letter of credit for the full amount of the bid will be required after the award of the contract. These bid documents may still require a Bid Security to be submitted.
- (3) For any contract between \$10,000 and \$100,000 the City of Fulton will accept in lieu of a Performance and Payment Bond, cash bond, certified check, or cashier's check; an irrevocable letter of credit issued by good and sufficient sureties and financial institutions in an amount equal to or greater than One Hundred and Ten Percent (110%) of the bid amount.

### SC 6.03 Add the following new paragraph immediately after Paragraph 6.03.J:

- 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:

State:	<u>Statutory</u>
Federal, if applicable (e.g., Longshoreman's):	<u>Statutory</u>
Employer's Liability:	
Bodily injury, each accident	<u>\$ 500,000</u>
Bodily injury by disease, each employee	<u>\$ 500,000</u>
Bodily injury/disease aggregate	<u>\$ 500,000</u>

2. Contractor's Commercial General Liability under Paragraphs 6.03.B and 6.03.C of the General Conditions:

General Aggregate	<u>\$ 2,000,000</u>
Products - Completed Operations Aggregate	<u>\$ 2,000,000</u>
Each Occurrence (Bodily Injury& Property Damage)	<u>\$ 1,000,000</u>

3. Automobile Liability under Paragraph 6.03.D. of the General Conditions:

Bodily Injury:	
Each person	<u>\$ 1,000,000</u>
Each accident	<u>\$ 1,000,000</u>
Property Damage:	
Each accident	<u>\$ 1,000,000</u>

4. Excess or Umbrella Liability:

Each Occurrence	<u>\$ 2,000,000</u>
General Aggregate	<u>\$ 2,000,000</u>

SC-6.05: Per paragraph 6.05.A. the Contractor and **NOT** the Owner shall maintain builder's risk insurance.

**SC - 7 CONTRACTOR'S RESPONSIBILITIES**

*SC-7.03 Services, Materials, and Equipment*

- D. All iron and steel products which are to be incorporated into the work shall be domestically manufactured or produced and fabricated. The Contractor shall obtain from the iron or steel producer and/or fabricator, in addition to the mill analysis, a certification that all iron or steel materials meet these domestic source requirements.

**SC-10 ENGINEER'S STATUS DURING CONSTRUCTION**

SC-10.01 thru 10.09 Replace the term "ENGINEER" with "OWNER's REPRESENTATIVE". The OWNER's REPRESENTATIVE for this Work is **Nathan Long, President**.

END OF SECTION 007300



**SECTION 007343  
WAGE RATE REQUIREMENTS**

The successful bidder and his subcontractors will be required to pay not less than the Prevailing Wage Rate for workmen engaged in work under this contract, with the provisions of an act of the Kentucky Education and Labor Cabinet statutes and regulations on wages and hours. Attached to and made part of these Contract Documents is the current prevailing wage rate decision that will govern during the proposed work, and includes hourly rates, overtime rates, and all required fringe benefit rates.

The successful bidder and his subcontractors will be required to conform to provisions of Kentucky Education and Labor Cabinet for workmen engaged in work under this contract.

It shall be the responsibility of the Contractor and any subcontractors to allow Golightly & Long Properties, LLC, the Kentucky Education and Labor Cabinet, and any authorized representative of any government agency involved in the funding of this project, access to and the right to examine all records, books, papers, payrolls, or documents related to this construction project. This right shall extend from the time of execution of the contract through the entire time period of the work, and ending three (3) years after the final pay estimate is disbursed.

Certified payroll records shall be submitted upon request. Contractor shall comply with all federal, state and local laws.

If the Kentucky Education and Labor Cabinet revises during the term of this contract the prevailing rate of hourly wages to be paid in the City of Fulton in Fulton County, the revised rate as provided by Golightly & Long Properties, LLC to the Contractor shall apply to this contract.

END OF SECTION 007343



**SECTION 007344  
LABOR PROVISIONS**

In addition to all other labor requirements set forth in this proposal and in the Standard Specifications, during the performance of this contract, the Contractor for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor") agrees as follows:

**I. SELECTION OF LABOR**

The Contractor shall comply with all Kentucky statutes pertaining to the selection of labor.

**II. EQUAL EMPLOYMENT OPPORTUNITY**

In the event of the Contractor's non-compliance with the provisions of the Equal Employment Opportunity Clause, the Kentucky Civil Rights Act, or the Rules and Regulations of the Kentucky Commission on Human Rights ("Department"), the Contractor may be declared ineligible for future contracts or subcontracts with the State of Kentucky or any of its political subdivisions or municipal corporations, and the contract may be cancelled or voided in whole or in part, and such other sanctions or penalties may be imposed or remedies invoked as provided by statute or regulation. During the performance of this contract, the Contractor agrees as follows:

- (1) That it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, ancestry, age, marital status, physical or mental handicap unrelated to ability, or unfavorable discharge from military service, and further that it will examine all job classifications to determine if minority persons or women are underutilized and will take appropriate affirmative action to rectify any such under utilization.
- (2) That, if it hires additional employees in order to perform this contract or any portion hereof, it will determine the availability of minorities and women in the area(s) from which it may reasonably recruit and it will hire for each job classification for which employees are hired in such a way that minorities and women are not underutilized.
- (3) That, in all solicitations or advertisements for employees placed by it or on its behalf, it will state that all applicants will be afforded equal opportunity without discrimination because of race, color, religion, sex, national origin, ancestry, age, marital status, physical or mental handicap unrelated to ability or unfavorable discharge from military service.
- (4) That it will send to each labor organization or representative of workers with which it has or is bound by a collective bargaining or other agreement or understanding, a notice advising such labor organization or representative of the Contractor's obligations under the Kentucky Civil Rights Act and the Department's Rules and Regulations. If any such labor organization or representative fails or refuses to cooperate with the Contractor in its efforts to comply with such Act and Rules and Regulations, the Contractor will promptly so notify the Kentucky Commission on Human Rights and the Local Contracting Agency and will recruit employees from other sources when necessary to fulfill its obligations thereunder.
- (5) That it will submit reports as required by the Department of Human Rights Rules and Regulations, furnish all relevant information as may from time to time be requested by the Department or the Local Contracting Agency, and in all respects comply with the Kentucky Civil Rights Act and the Department's Rules and Regulations.

- (6) That it will permit access to all relevant books, records, accounts and work sites by personnel of the Local Contracting Agency and the Kentucky Civil Rights Act for purposes of Investigation to ascertain compliance with the Kentucky Civil Rights Act and the Department's Rules and Regulations.
- (7) That it will include verbatim or by reference the provision of this clause in every subcontract so that such provisions will be binding upon every such subcontractor. In the same manner as with other provisions of this contract, the Contractor will be liable for compliance with applicable provisions of this clause by all its subcontractors; and further it will promptly notify the Local Contracting Agency and the Kentucky Civil Rights Act in the event any subcontractor fails or refuses to comply therewith. In addition, the Contractor will not utilize any subcontractor declared by the Kentucky Commission on Human Rights to be ineligible for contracts or subcontracts with the State of Kentucky or any of its political subdivisions or municipal corporations.

END OF SECTION 007344



**SECTION 011100  
SUMMARY OF WORK**

**PART 1 - GENERAL**

**1.1 SUMMARY**

- A. This Section includes the following:
  - 1. Work covered by the Contract Documents.
  - 2. Work phases.
  - 3. Work under other contracts.
  - 4. Use of premises.
  - 5. Owner's occupancy requirements.
  - 6. Specification formats and conventions.
- B. See Division 01 Section "Multiple Contract Summary" for division of responsibilities for the Work.

**1.2 WORK COVERED BY CONTRACT DOCUMENTS**

- A. Project Identification: **Golightly & Long Properties, LLC – Acee's Neighborhood Market & Deli (February 2025)**
  - 1. Project Location: **1000 Holiday Lane, Fulton, KY 42041**
- B. Owner: **Golightly & Long Properties, LLC**
  - 1. Owner's Representative: **Nathan Long, President**
- C. Engineer/Architect: Klingner & Associates, P.C., 2150 West Main Street, Carbondale, IL 62901
- D. The Work consists of the following:
  - 1. The scope of work consists of the following:
    - a. Demolition of existing pavement and removal of various site features
    - b. Construction of pavements, sidewalks and curb & gutter
    - c. Construction of various utilities at site – water, gas, electric, sanitary & storm sewer
    - d. Grading of site and use of erosion control devices
    - e. Seeding, Fertilizing & Mulching
    - f. Off loading, setting, backfilling and providing dead man anchors for fuel tanks.
    - g. Trenching and backfilling for all fueling system components (fuel lines, electric & control lines, pump sumps, etc.)
    - h. Provide and installing conduits and conductors for fueling system components.
    - i. Provide and install concrete foundations for canopies.
    - j. Provide and install concrete bases and light poles, install light fixtures as provided by the owner, provide all conduits and conductors.
    - k. Fencing for dog park.
    - l. Construction of Convenience store as shown and detailed on the plans.
    - m. Building footings, foundations, structure, insulation, roofing, etc.
    - n. Doors and windows
    - o. Restrooms and Shower Rooms with all fixtures and partitions
    - p. Mechanical, Electrical, Plumbing and HVAC systems.

- q. Floor and wall coverings including tile, sealant, paint, and appurtenances
- r. Countertops and Casework.
- s. Preparation & Installation of equipment provided by the owner (see matrix in plans)
- t. Preparation for graphics and signs to be provided and installed by the owner.
- u. Provide and install refrigeration lines and gas for cooling equipment
- v. Startup of equipment
- w. Cleanup & Disposal of rubbish, trash and construction debris
- x. Other work as detailed in the project documents.

E. Project will be constructed under a single prime contract.

### 1.3 USE OF PREMISES

A. General:

- 1. The contractor shall obtain all necessary building, electric, plumbing, and other permits necessary and required to perform the work herein.
- 2. Contractor shall have full use of premises for construction operations, including use of Project site, during construction period. Contractor's use of premises is limited only by Owner's right to perform work or to retain other contractors on portions of Project.

### 1.4 SPECIFICATION FORMATS AND CONVENTIONS

A. Specification Format: The Specifications are organized into Divisions and Sections using the 48-division format and CSI/CSC's "MasterFormat" numbering system.

- 1. Division 01: Sections in Division 01 govern the execution of the Work of all Sections in the Specifications.

B. Specification Content: The Specifications use certain conventions for the style of language and the intended meaning of certain terms, words, and phrases when used in particular situations. These conventions are as follows:

- 1. Abbreviated Language: Language used in the Specifications and other Contract Documents is abbreviated. Words and meanings shall be interpreted as appropriate. Words implied, but not stated, shall be inferred as the sense requires. Singular words shall be interpreted as plural, and plural words shall be interpreted as singular where applicable as the context of the Contract Documents indicates.
- 2. Imperative mood and streamlined language are generally used in the Specifications. Requirements expressed in the imperative mood are to be performed by Contractor. Occasionally, the indicative or subjunctive mood may be used in the Section Text for clarity to describe responsibilities that must be fulfilled indirectly by Contractor or by others when so noted.
  - a. The words "shall," "shall be," or "shall comply with," depending on the context, are implied where a colon (:) is used within a sentence or phrase.

### PRODUCTS (Not Used)

### PART 2 - EXECUTION (Not Used)

END OF SECTION 011100

**SECTION 011419  
USE OF SITE**

**PART 1 - GENERAL**

**1.1 SUMMARY**

- A. Work included: This Section applies to situations in which the Contractor or his representatives including, but not necessarily limited to, suppliers, subcontractors, employees, and field engineers, enter upon the Owner's property.
- B. RELATED WORK
  - 1. Documents affecting work of this Section include, but are not necessarily limited to, General Conditions, Supplementary Conditions, and Sections in Division 1 of these Specifications.

**1.2 SUBMITTALS**

- A. Maintain an accurate record of the names and identification of all persons entering upon the Owner's property in connection with the Work of this Contract, including times of entering and times of leaving, and submit a copy of the record to the Owner daily.

**1.3 QUALITY ASSURANCE**

- A. Promptly upon award of the Contract, notify all pertinent personnel regarding requirements of this Section.
- B. Require that all personnel who will enter upon the Owner's property certify their awareness of and familiarity with the requirements of this Section.

**1.4 TRANSPORTATION FACILITIES**

- A. Truck and equipment access:
  - 1. To avoid traffic conflict with vehicles of the Owner's employees and customers, and to avoid over-loading of streets and driveways elsewhere on the Owner's property, limit the access of trucks and equipment to the minimum required to complete the work.
- B. Contractor's vehicles:
  - 1. Require Contractor's vehicles, vehicles belonging to employees of the Contractor, and all other vehicles entering upon the Owner's property in performance of the Work of the Contract, to use only the designated Contractor's Access Route.
  - 2. Do not permit such vehicles to park on any street or other area of the Owner's property except in the designated area shown on the plans.

**1.5 SECURITY**

- A. Restrict the access of all persons entering upon the Owner's property in connection with the Work to the Access Route and to the actual site of the Work.

END OF SECTION 011419

## **SECTION 012900 PAYMENT PROCEDURES**

### **PART 1 - GENERAL**

#### **1.1 RELATED DOCUMENTS**

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and other Division 01 Specification Sections, apply to this Section.

#### **1.2 SUMMARY**

- A. Section includes administrative and procedural requirements necessary to prepare and process Applications for Payment.

#### **1.3 DEFINITIONS**

- A. Schedule of Values: A statement furnished by Contractor allocating portions of the Contract Sum to various portions of the Work and used as the basis for reviewing Contractor's Applications for Payment.

#### **1.4 SCHEDULE OF VALUES**

- A. Coordination: Coordinate preparation of the schedule of values with preparation of Contractor's construction schedule.
  - 1. Coordinate line items in the schedule of values with other required administrative forms and schedules, including the following:
    - a. Application for Payment forms with continuation sheets.
    - b. Submittal schedule.
    - c. Items required to be indicated as separate activities in Contractor's construction schedule.
  - 2. Submit the schedule of values to Architect/Engineer at earliest possible date, but no later than seven (7) days before the date scheduled for submittal of initial Applications for Payment.
  - 3. Subschedules for Phased Work: Where the Work is separated into phases requiring separately phased payments, provide subschedules showing values coordinated with each phase of payment.
  - 4. Subschedules for Separate Elements of Work: Where the Contractor's construction schedule defines separate elements of the Work, provide subschedules showing values coordinated with each element.

- B. Format and Content: Use Project Manual table of contents as a guide to establish line items for the schedule of values. Provide at least one line item for each Specification Section.
1. Identification: Include the following Project identification on the schedule of values:
    - a. Project name and location.
    - b. Name of Architect/Engineer.
    - c. Architect/Engineer's project number.
    - d. Contractor's name and address.
    - e. Date of submittal.
  2. Arrange schedule of values consistent with format of AIA Document G703 or EJCDC Document C-620 as applicable.
  3. Arrange the schedule of values in tabular form with separate columns to indicate the following for each item listed:
    - a. Related Specification Section or Division.
    - b. Description of the Work.
    - c. Name of subcontractor.
    - d. Name of manufacturer or fabricator.
    - e. Name of supplier.
    - f. Change Orders (numbers) that affect value.
    - g. Dollar value of the following, as a percentage of the Contract Sum to nearest one-hundredth percent, adjusted to total 100 percent.
      - 1) Labor.
      - 2) Materials.
      - 3) Equipment.
  4. Provide a breakdown of the Contract Sum in enough detail to facilitate continued evaluation of Applications for Payment and progress reports. Coordinate with Project Manual table of contents. Provide multiple line items for principal subcontract amounts in excess of **five (5)** percent of the Contract Sum.
    - a. Include separate line items under Contractor and principal subcontracts for Project closeout requirements in an amount totaling five (5) percent of the Contract Sum and subcontract amount.
  5. Round amounts to nearest whole dollar; total shall equal the Contract Sum.
  6. Provide a separate line item in the schedule of values for each part of the Work where Applications for Payment may include materials or equipment purchased or fabricated and stored, but not yet installed.
    - a. Differentiate between items stored on-site and items stored off-site. If required, include evidence of insurance.
  7. Provide separate line items in the schedule of values for initial cost of materials, for each subsequent stage of completion, and for total installed value of that part of the Work.
  8. Allowances: Provide a separate line item in the schedule of values for each allowance. Show line-item value of unit-cost allowances, as a product of the unit cost, multiplied by measured quantity. Use information indicated in the Contract Documents to determine quantities.

9. Purchase Contracts: Provide a separate line item in the schedule of values for each purchase contract. Show line-item value of purchase contract. Indicate owner payments or deposits, if any, and balance to be paid by Contractor.
10. Each item in the schedule of values and Applications for Payment shall be complete. Include total cost and proportionate share of general overhead and profit for each item.
  - a. Temporary facilities and other major cost items that are not direct cost of actual work-in-place may be shown either as separate line items in the schedule of values or distributed as general overhead expense, at Contractor's option.
11. Schedule Updating: Update and resubmit the schedule of values before the next Applications for Payment when Change Orders or Construction Change Directives result in a change in the Contract Sum.

#### 1.5 APPLICATIONS FOR PAYMENT

- A. Each Application for Payment following the initial Application for Payment shall be consistent with previous applications and payments as certified by Architect/Engineer and paid for by Owner.
  1. Initial Application for Payment, Application for Payment at time of Substantial Completion, and final Application for Payment involve additional requirements.
- B. Payment Application Times: Submit Application for Payment to Architect/Engineer by the 5<sup>th</sup> day of the month. The period covered by each Application for Payment is one month, ending on the last day of the month.
  1. Submit draft copy of Application for Payment **seven (7)** days prior to due date for review by Architect/Engineer.
- C. Application for Payment Forms: Use the AIA Document G702 and AIA Document G703 or EJCDC Document C-620 form as applicable for Applications for Payment.
- D. Application for Payment Forms: Use forms provided by Owner for Applications for Payment. Sample copies are included in Project Manual.
- E. Application for Payment Forms: Use forms acceptable to Architect/Engineer and Owner for Applications for Payment. Submit forms for approval with initial submittal of schedule of values.
- F. Application Preparation: Complete every entry on form. Notarize and execute by a person authorized to sign legal documents on behalf of Contractor. Architect/Engineer will return incomplete applications without action.
  1. Entries shall match data on the schedule of values and Contractor's construction schedule. Use updated schedules if revisions were made.
  2. Include amounts for work completed following previous Application for Payment, whether or not payment has been received. Include only amounts for work completed at time of Application for Payment.
  3. Include amounts of Change Orders and Construction Change Directives issued before last day of construction period covered by application.
  4. Indicate separate amounts for work being carried out under Owner-requested project acceleration.

- G. **Stored Materials:** Include in Application for Payment amounts applied for materials or equipment purchased or fabricated and stored, but not yet installed. Differentiate between items stored on-site and items stored off-site.
1. Provide certificate of insurance, evidence of transfer of title to Owner, and consent of surety to payment, for stored materials.
  2. Provide supporting documentation that verifies amount requested, such as paid invoices. Match amount requested with amounts indicated on documentation; do not include overhead and profit on stored materials.
  3. Provide summary documentation for stored materials indicating the following:
    - a. Value of materials previously stored and remaining stored as of date of previous Applications for Payment.
    - b. Value of previously stored materials put in place after date of previous Application for Payment and on or before date of current Application for Payment.
    - c. Value of materials stored since date of previous Application for Payment and remaining stored as of date of current Application for Payment.
- H. **Waivers of Mechanic's Lien:** With each Application for Payment, submit waivers of mechanic's lien from entities lawfully entitled to file a mechanic's lien arising out of the Contract and related to the Work covered by the payment.
1. Submit partial waivers on each item for amount requested in previous application, after deduction for retainage, on each item.
  2. When an application shows completion of an item, submit conditional final or full waivers.
  3. Owner reserves the right to designate which entities involved in the Work must submit waivers.
  4. Waiver Forms: Submit executed waivers of lien on forms acceptable to Owner.
- I. **Waivers of Mechanic's Lien:** With each Application for Payment, submit waivers of mechanic's liens from subcontractors, sub-subcontractors, and suppliers for construction period covered by the previous application.
1. Submit partial waivers on each item for amount requested in previous application, after deduction for retainage, on each item.
  2. When an application shows completion of an item, submit conditional final or full waivers.
  3. Owner reserves the right to designate which entities involved in the Work must submit waivers.
  4. Submit final Application for Payment with or preceded by conditional final waivers from every entity involved with performance of the Work covered by the application who is lawfully entitled to a lien.
  5. Waiver Forms: Submit executed waivers of lien on forms, acceptable to Owner.
- J. **Initial Application for Payment:** Administrative actions and submittals that must precede or coincide with submittal of first Application for Payment include the following:
1. List of subcontractors.
  2. Schedule of values.
  3. Contractor's construction schedule (preliminary if not final).
  4. Combined Contractor's construction schedule (preliminary if not final) incorporating Work of multiple contracts, with indication of acceptance of schedule by each Contractor.
  5. Products list (preliminary if not final).
  6. Schedule of unit prices.
  7. Submittal schedule (preliminary if not final).
  8. List of Contractor's staff assignments.



9. List of Contractor's principal consultants.
  10. Copies of building permits.
  11. Copies of authorizations and licenses from authorities having jurisdiction for performance of the Work.
  12. Initial progress report.
  13. Report of preconstruction conference.
  14. Certificates of insurance and insurance policies.
  15. Performance and payment bonds.
  16. Data needed to acquire Owner's insurance.
- K. Application for Payment at Substantial Completion: After Architect/Engineer issues the Certificate of Substantial Completion, submit an Application for Payment showing 100 percent completion for portion of the Work claimed as substantially complete.
1. Include documentation supporting claim that the Work is substantially complete and a statement showing an accounting of changes to the Contract Sum.
  2. This application shall reflect Certificate(s) of Substantial Completion issued previously for Owner occupancy of designated portions of the Work.
- L. Final Payment Application: After completing Project closeout requirements, submit final Application for Payment with releases and supporting documentation not previously submitted and accepted, including, but not limited, to the following:
1. Evidence of completion of Project closeout requirements.
  2. Insurance certificates for products and completed operations where required and proof that taxes, fees, and similar obligations were paid.
  3. Updated final statement, accounting for final changes to the Contract Sum.
  4. AIA Document G706 or equal, "Contractor's Affidavit of Payment of Debts and Claims."
  5. AIA Document G706A or equal, "Contractor's Affidavit of Release of Liens."
  6. AIA Document G707 or equal, "Consent of Surety to Final Payment."
  7. Evidence that claims have been settled.
  8. Final meter readings for utilities, a measured record of stored fuel, and similar data as of date of Substantial Completion or when Owner took possession of and assumed responsibility for corresponding elements of the Work.
  9. Final liquidated damages settlement statement.

## **PART 2 - PRODUCTS (Not Used)**

## **PART 3 - EXECUTION (Not Used)**

END OF SECTION 012900



**SECTION 013100  
PROJECT MANAGEMENT AND COORDINATION**

**PART 1 - GENERAL**

**1.1 SECTION INCLUDES**

- A. Coordination and Project conditions.
- B. Preconstruction meeting.
- C. Site mobilization meeting.
- D. Progress meetings.
- E. Preinstallation meetings.
- F. Closeout meeting.
- G. Alteration procedures.

**1.2 COORDINATION AND PROJECT CONDITIONS**

- A. Coordinate scheduling, submittals, and Work of various Sections of Project Manual to ensure efficient and orderly sequence of installation of interdependent construction elements.
- B. Verify that utility requirements and characteristics of operating equipment are compatible with building utilities. Coordinate Work of various Sections having interdependent responsibilities for installing, connecting to, and placing operating equipment in service.
- C. Coordinate space requirements, supports, and installation of mechanical and electrical Work indicated diagrammatically on Drawings. Follow routing shown for pipes, ducts, and conduit as closely as practical; place runs parallel with lines of building. Use spaces efficiently to maximize accessibility for other installations, for maintenance, and for repairs.
  - 1. Coordination Drawings: Prepare as required to coordinate all portions of Work. Show relationship and integration of different construction elements that require coordination during fabrication or installation to fit in space provided or to function as intended. Indicate locations where space is limited for installation and access and where sequencing and coordination of installations are important.
- D. Coordination Meetings: In addition to other meetings specified in this Section, hold coordination meetings with personnel and Subcontractors to ensure coordination of Work.
- E. In finished areas except as otherwise indicated, conceal pipes, ducts, and wiring within construction. Coordinate locations of fixtures and outlets with finish elements.
- F. Coordinate completion and clean-up of Work of separate Sections in preparation for Substantial Completion and for portions of Work designated for Owner's partial occupancy.

- G. After Owner's occupancy of premises, coordinate access to Site for correction of defective Work and Work not complying with Contract Documents, to minimize disruption of Owner's activities.

### 1.3 PRECONSTRUCTION MEETING

- A. Architect/Engineer will schedule and preside over meeting after Notice of Award.
- B. Attendance Required: Architect/Engineer, Owner, major Subcontractors, and Contractor.
- C. Minimum Agenda:
  - 1. Status of executed Owner-Contractor Agreement.
  - 2. Submission of executed bonds and insurance certificates.
  - 3. Distribution of Contract Documents.
  - 4. Submission of list of Subcontractors, list of products, schedule of values, and Progress Schedule.
  - 5. Designation of personnel representing parties Owner, Contractor, and Architect/Engineer
  - 6. Communication procedures.
  - 7. Procedures and processing of requests for interpretations, field decisions, field orders, submittals, substitutions, Applications for Payments, proposal request, Change Orders, and Contract closeout procedures.
  - 8. Scheduling.
  - 9. Critical Work sequencing.
  - 10. Use of premises by Owner and Contractor.
  - 11. Owner's requirements and any partial occupancy.
  - 12. Construction facilities and controls provided by Owner.
  - 13. Temporary utilities provided by Owner.
  - 14. Survey and building layout.
  - 15. Security and housekeeping procedures.
  - 16. Procedures for scheduling activities of Material Testing Services, Owner Contracted Contractors
  - 17. Procedures for maintaining redline and record documents.
  - 18. Requirements for startup of equipment.
  - 19. Inspection and acceptance of equipment put into service during construction period.
- D. Architect/Engineer: Record minutes and distribute to participants within **[5] five** days after meeting,

### 1.4 PROGRESS MEETINGS

- A. Schedule and administer meetings throughout progress of the Work at maximum monthly intervals.
- B. Architect/Engineer will make arrangements for meetings, prepare agenda with copies for participants, and preside over meetings.
- C. Attendance Required: Job superintendent, major subcontractors and contractor, suppliers, Architect/Engineer, and Owner as appropriate to agenda topics for each meeting.

D. Minimum Agenda:

1. Review minutes of previous meetings.
2. Review of Work progress.
3. Field observations, problems, and decisions.
4. Identification of problems impeding planned progress.
5. Review of submittal schedule and status of submittals.
6. Review of off-Site fabrication and delivery schedules.
7. Maintenance of Progress Schedule.
8. Corrective measures to regain projected schedules.
9. Planned progress during succeeding work period.
10. Coordination of projected progress.
11. Maintenance of quality and work standards.
12. Effect of proposed changes on Progress Schedule and coordination.
13. Other business relating to Work.

E. Architect/Engineer: Record minutes and distribute copies to participants within five (5) days after meeting, to Owner, and those affected by decisions made.

1.5 PREINSTALLATION MEETINGS

- A. When required in individual Specification Sections, convene preinstallation meetings at Project Site before starting Work of specific Section.
- B. Require attendance of parties directly affecting, or affected by, Work of specific Section.
- C. Notify Architect/Engineer four (4) days in advance of meeting date.
- D. Prepare agenda and preside over meeting:
1. Review conditions of installation, preparation, and installation procedures.
  2. Review coordination with related Work.
- E. Record minutes and distribute to participants within two (2) days after meeting, to Architect/Engineer, Owner, and those affected by decisions made.

1.6 CLOSEOUT MEETING

- A. Schedule Project closeout meeting with sufficient time to prepare for requesting Substantial Completion. Preside over meeting and be responsible for minutes.
- B. Attendance Required: Contractor, Architect/Engineer, Owner, and others appropriate to agenda.
- C. Notify Architect/Engineer four (4) days in advance of meeting date.
- D. Minimum Agenda:
1. Start-up of facilities and systems.
  2. Operations and maintenance manuals.
  3. Testing, adjusting, and balancing.
  4. System demonstration and observation.
  5. Operation and maintenance instructions for Owner's personnel.
  6. Contractor's inspection of Work.

7. Contractor's preparation of an initial "punch list."
8. Procedure to request Architect/Engineer inspection to determine date of Substantial Completion.
9. Completion time for correcting deficiencies.
10. Inspections by authorities having jurisdiction.
11. Certificate of Occupancy and transfer of insurance responsibilities.
12. Partial release of retainage.
13. Final cleaning.
14. Preparation for final inspection.
15. Closeout Submittals:
  - a. Project record documents.
  - b. Operating and maintenance documents.
  - c. Operating and maintenance materials.
  - d. Affidavits.
16. Final Application for Payment.
17. Contractor's demobilization of Site.
18. Maintenance.

- E. Record minutes and distribute **copies** to participants within two (2) days after meeting, to Architect/Engineer, Owner, and those affected by decisions made.

## **PART 2 - PRODUCTS - Not Used**

## **PART 3 - EXECUTION**

### **3.1 ALTERATION PROCEDURES**

- A. Designated areas of existing facilities will be occupied for normal operations during progress of construction. Cooperate with Owner in scheduling operations to minimize conflict and to permit continuous usage.
1. Perform Work not to interfere with operations of occupied areas.
  2. Keep utility and service outages to a minimum and perform only after written approval of Owner.
  3. Clean Owner-occupied areas daily. Clean spillage, overspray, and heavy collection of dust in Owner-occupied areas immediately.
- B. Materials: As specified in product Sections; match existing products with new and salvaged products for patching and extending Work.
- C. Employ skilled and experienced installer to perform alteration and renovation Work.
- D. Cut, move, or remove items as necessary for access to alterations and renovation Work. Replace and restore at completion. Comply with Section 017000 - Execution and Closeout Requirements
- E. Remove unsuitable material not marked for salvage, including rotted wood, corroded metals, and deteriorated masonry and concrete. Replace materials as specified for finished Work.
- F. Remove debris and abandoned items from area and from concealed spaces.

- G. Prepare surface and remove surface finishes to permit installation of new Work and finishes.
- H. Close openings in exterior surfaces to protect existing Work from weather and extremes of temperature and humidity.
- I. Remove, cut, and patch Work to minimize damage and to permit restoring products and finishes to specified condition.
- J. Refinish existing visible surfaces to remain in renovated rooms and spaces, to specified condition for each material, with neat transition to adjacent finishes.
- K. Where new Work abuts or aligns with existing Work, provide smooth and even transition. Patch Work to match existing adjacent Work in texture and appearance.
- L. When finished surfaces are cut so that smooth transition with new Work is not possible, terminate existing surface along straight line at natural line of division and submit recommendation to Architect/Engineer for review.
- M. Where change of plane of **1/4 inch** or more occurs, submit recommendation for providing smooth transition to Architect/Engineer for review.
- N. Trim existing doors to clear new floor finish. Refinish trim to specified condition.
- O. Patch or replace portions of existing surfaces that are damaged, lifted, discolored, or showing other imperfections.
- P. Finish surfaces as specified in individual product Sections.

END OF SECTION 013100





## **SECTION 013300 SUBMITTAL PROCEDURES**

### **PART 1 - GENERAL**

#### **1.1 SECTION INCLUDES**

- A. Definitions.
- B. Submittal procedures.
- C. Construction progress schedules.
- D. Proposed product list.
- E. Product data.
- F. Use of electronic CAD files of Project Drawings.
- G. Shop Drawings.
- H. Samples.
- I. Other submittals.
- J. Test reports.
- K. Certificates.
- L. Manufacturer's instructions.
- M. Manufacturer's field reports.
- N. Erection Drawings.
- O. Construction photographs.
- P. Contractor review.
- Q. Architect/Engineer review.

#### **1.2 DEFINITIONS**

- A. Action Submittals: Written and graphic information and physical samples that require Architect/Engineer's responsive action.
- B. Informational Submittals: Written and graphic information and physical Samples that do not require Architect/Engineer's responsive action. Submittals may be rejected for not complying with requirements.

### 1.3 SUBMITTAL PROCEDURES

- A. Transmit each submittal with transmittal Architect/Engineer-accepted form
- B. Mark revised submittals with original number and sequential alphabetic suffix.
- C. Identify: Project, Contractor, Subcontractor and supplier, pertinent Drawing and detail number, and Specification Section number appropriate to submittal.
- D. Apply Contractor's stamp, signed or initialed, certifying that review, approval, verification of products required, field dimensions, adjacent construction Work, and coordination of information is according to requirements of the Work and Contract Documents.
- E. Schedule submittals to expedite Project, and post electronic submittals as PDF electronic files to Architect's/Engineer's website and coordinate submission of related items.
- F. For each submittal for review, allow **fifteen (15)** days excluding delivery time to and from Contractor.
- G. Identify variations in Contract Documents and product or system limitations that may be detrimental to successful performance of completed Work.
- H. Allow space on submittals for Contractor and Architect/Engineer review stamps.
- I. When revised for resubmission, identify changes made since previous submission.
- J. Distribute copies of reviewed submittals as appropriate. Instruct parties to promptly report inability to comply with requirements.
- K. Submittals not requested will not be recognized nor processed.
- L. Incomplete Submittals: Architect/Engineer will not review. Complete submittals for each item are required. Delays resulting from incomplete submittals are not the responsibility of Architect/Engineer.

### 1.4 CONSTRUCTION PROGRESS SCHEDULES

- A. Comply with Section 013216 - Construction Progress Schedule

### 1.5 PROPOSED PRODUCT LIST

- A. Within **fifteen (15)** days after date of Owner-Contractor Agreement, submit list of major products proposed for use, with name of manufacturer, trade name, and model number of each product.
- B. For products specified only by reference standards, indicate manufacturer, trade name, model or catalog designation, and reference standards.

## 1.6 PRODUCT DATA

- A. Product Data: Action Submittal: Submit to Architect/Engineer for review for assessing conformance with information given and design concept expressed in Contract Documents.
- B. Submit electronic submittals via email as PDF electronic files.
- C. Mark each copy to identify applicable products, models, options, and other data. Supplement manufacturers' standard data to provide information specific to this Project.
- D. Indicate product utility and electrical characteristics, utility connection requirements, and location of utility outlets for service for functional equipment and appliances.
- E. After review, produce copies and distribute according to "Submittal Procedures" Article and for record documents described in Section 017000 - Execution and Closeout Requirements.

## 1.7 ELECTRONIC CAD FILES OF PROJECT DRAWINGS

- A. Electronic CAD Files of Project Drawings: May only be used to expedite production of Shop Drawings for the Project. Use for other Projects or purposes is not allowed.
- B. Electronic CAD Files of Project Drawings: Distributed only under the following conditions:
  - 1. Use of files is solely at receiver's risk. Architect/Engineer does not warrant accuracy of files. Receiving files in electronic form does not relieve receiver of responsibilities for measurements, dimensions, and quantities set forth in Contract Documents. In the event of ambiguity, discrepancy, or conflict between information on electronic media and that in Contract Documents, notify Architect/Engineer of discrepancy and use information in hard-copy Drawings and Specifications.
  - 2. User is responsible for removing information not normally provided on Shop Drawings and removing references to Contract Documents. Shop Drawings submitted with information associated with other trades or with references to Contract Documents will not be reviewed and will be immediately returned.

## 1.8 SHOP DRAWINGS

- A. Shop Drawings: Action Submittal: Submit to Architect/Engineer for assessing conformance with information given and design concept expressed in Contract Documents.
- B. Indicate special utility and electrical characteristics, utility connection requirements, and location of utility outlets for service for functional equipment and appliances.
- C. When required by individual Specification Sections, provide Shop Drawings signed and sealed by a professional Engineer responsible for designing components shown on Shop Drawings.
  - 1. Include signed and sealed calculations to support design.
  - 2. Submit Shop Drawings and calculations in form suitable for submission to and approval by authorities having jurisdiction.
  - 3. Make revisions and provide additional information when required by authorities having jurisdiction.
- D. Submit electronic submittals via email as PDF electronic files.

- E. After review, produce copies and distribute according to "Submittal Procedures" Article and for record documents described in Section 017000 - Execution and Closeout Requirements.

## 1.9 SAMPLES

- A. Samples: Action Submittal: Submit to Architect/Engineer for assessing conformance with information given and design concept expressed in Contract Documents.
- B. Samples for Selection as Specified in Product Sections:
  - 1. Submit to Architect/Engineer for aesthetic, color, and finish selection.
  - 2. Submit Samples of finishes, textures, and patterns for Architect/Engineer selection.
- C. Submit Samples to illustrate functional and aesthetic characteristics of products, with integral parts and attachment devices. Coordinate Sample submittals for interfacing work.
- D. Include identification on each Sample, with full Project information.
- E. Submit number of Samples specified in individual Specification Sections; Architect/Engineer will retain **one (1)** Sample.
- F. Reviewed Samples that may be used in the Work are indicated in individual Specification Sections.
- G. Samples will not be used for testing purposes unless specifically stated in Specification Section.
- H. After review, produce copies and distribute according to "Submittal Procedures" Article and for record documents described in Section 017000 - Closeout Requirements.

## 1.10 OTHER SUBMITTALS

- A. Closeout Submittals: Comply with Section 017000 - Closeout Requirements.
- B. Informational Submittal: Submit data for Architect/Engineer's knowledge as Contract administrator or for Owner.
- C. Submit information for assessing conformance with information given and design concept expressed in Contract Documents.

## 1.11 TEST REPORTS

- A. Informational Submittal: Submit reports for Architect/Engineer's knowledge as Contract administrator or for Owner.
- B. Submit test reports for information for assessing conformance with information given and design concept expressed in Contract Documents.

## 1.12 CERTIFICATES

- A. Informational Submittal: Submit certification by manufacturer, installation/application Subcontractor, or Contractor to Architect/Engineer, in quantities specified for Product Data.
- B. Indicate material or product conforms to or exceeds specified requirements. Submit supporting reference data, affidavits, and certifications as appropriate.
- C. Certificates may be recent or previous test results on material or product but must be acceptable to Architect/Engineer.

## 1.13 MANUFACTURER'S INSTRUCTIONS

- A. Informational Submittal: Submit manufacturer's installation instructions for Architect/Engineer's knowledge as Contract administrator or for Owner.
- B. Submit printed instructions for delivery, storage, assembly, installation, adjusting, and finishing, to Architect/Engineer in quantities specified for Product Data.
- C. Indicate special procedures, perimeter conditions requiring special attention, and special environmental criteria required for application or installation.

## 1.14 MANUFACTURER'S FIELD REPORTS

- A. Informational Submittal: Submit reports for Architect/Engineer's knowledge as Contract administrator or for Owner.
- B. Submit report within **5 days** of observation to Architect/Engineer for information.
- C. Submit reports for information for assessing conformance with information given and design concept expressed in Contract Documents.

## 1.15 ERECTION DRAWINGS

- A. Informational Submittal: Submit Drawings for Architect/Engineer's knowledge as Contract administrator or for Owner.
- B. Submit Drawings for information assessing conformance with information given and design concept expressed in Contract Documents.
- C. Data indicating inappropriate or unacceptable Work may be subject to action by Architect/Engineer or Owner.

## 1.16 CONSTRUCTION PHOTOGRAPHS

- A. Provide digital photographs or video of construction as specified in Section 013233 – Photometric Documentation.

#### 1.17 CONTRACTOR REVIEW

- A. Review for compliance with Contract Documents and approve submittals before transmitting to Architect/Engineer.
- B. Contractor: Responsible for:
  - 1. Determination and verification of materials including manufacturer's catalog numbers.
  - 2. Determination and verification of field measurements and field construction criteria.
  - 3. Checking and coordinating information in submittal with requirements of Work and of Contract Documents.
  - 4. Determination of accuracy and completeness of dimensions and quantities.
  - 5. Confirmation and coordination of dimensions and field conditions at Site.
  - 6. Construction means, techniques, sequences, and procedures.
  - 7. Safety precautions.
  - 8. Coordination and performance of Work of all trades.
- C. Stamp, sign or initial, and date each submittal to certify compliance with requirements of Contract Documents.
- D. Do not fabricate products or begin Work for which submittals are required until approved submittals have been received from Architect/Engineer.

#### 1.18 ARCHITECT/ENGINEER REVIEW

- A. Do not make "mass submittals" to Architect/Engineer. "Mass submittals" are defined as six or more submittals or items in one day or **15** or more submittals or items in one week. If "mass submittals" are received, Architect/Engineer's review time stated above will be extended as necessary to perform proper review. Architect/Engineer will review "mass submittals" based on priority determined by Architect/Engineer after consultation with Owner and Contractor.
- B. Informational submittals and other similar data are for Architect/Engineer's information, do not require Architect/Engineer's responsive action, and will not be reviewed or returned with comment.
- C. Submittals made by Contractor that are not required by Contract Documents may be returned without action.
- D. Submittal approval does not authorize changes to Contract requirements unless accompanied by Change Order.
- E. Owner may withhold monies due to Contractor to cover additional costs beyond the second submittal review.

#### **PART 2 - PRODUCTS - Not Used**

#### **PART 3 - EXECUTION - Not Used**

END OF SECTION 013300

## **SECTION 014000 QUALITY REQUIREMENTS**

### **PART 1 - GENERAL**

#### **1.1 SECTION INCLUDES**

- A. Quality control.
- B. Tolerances.
- C. References.
- D. Labeling.
- E. Mockup requirements.
- F. Testing and inspection services.
- G. Manufacturers' field services.

#### **1.2 QUALITY CONTROL**

- A. Monitor quality control over suppliers, manufacturers, products, services, Site conditions, and workmanship, to produce Work of specified quality.
- B. Comply with specified standards as the minimum quality for the Work except where more stringent tolerances, codes, or specified requirements indicate higher standards or more precise workmanship.
- C. Perform Work using persons qualified to produce required and specified quality.
- D. Products, materials, and equipment may be subject to inspection by Architect/Engineer and Owner at place of manufacture or fabrication. Such inspections shall not relieve Contractor of complying with requirements of Contract Documents.
- E. Supervise performance of Work in such manner and by such means to ensure that Work, whether completed or in progress, will not be subjected to harmful, dangerous, damaging, or otherwise deleterious exposure during construction period.

#### **1.3 TOLERANCES**

- A. Monitor fabrication and installation tolerance control of products to produce acceptable Work. Do not permit tolerances to accumulate.
- B. Comply with manufacturers' recommended tolerances and tolerance requirements in reference standards. When such tolerances conflict with Contract Documents, request clarification from Architect/Engineer before proceeding.
- C. Adjust products to appropriate dimensions; position before securing products in place.

#### 1.4 REFERENCES

- A. For products or workmanship specified by association, trade, or other consensus standards, comply with requirements of standard except when more rigid requirements are specified or are required by applicable codes.
- B. Conform to reference standard by date of issue current as of Contract Documents except where specific date is established by code.
- C. Obtain copies of standards and maintain on Site when required by product Specification Sections.
- D. When requirements of indicated reference standards conflict with Contract Documents, request clarification from Architect/Engineer before proceeding.
- E. Neither contractual relationships, duties, or responsibilities of parties in Contract nor those of Architect/Engineer shall be altered from Contract Documents by mention or inference in reference documents.

#### 1.5 LABELING

- A. Attach label from agency approved by authorities having jurisdiction for products, assemblies, and systems required to be labeled by applicable code.
- B. Label Information: Include manufacturer's or fabricator's identification, approved agency identification, and the following information, as applicable, on each label:
  - 1. Model number.
  - 2. Serial number.
  - 3. Performance characteristics.
- C. Manufacturer's Nameplates, Trademarks, Logos, and Other Identifying Marks on Products: Not allowed on surfaces exposed to view in public areas, interior or exterior.

#### 1.6 MOCK-UP REQUIREMENTS

- A. Tests will be performed under provisions identified in this Section and identified in individual product Specification Sections.
- B. Assemble and erect specified or indicated items with specified or indicated attachment and anchorage devices, flashings, seals, and finishes.
- C. Accepted mockups shall be comparison standard for remaining Work.
- D. Where mockup has been accepted by Architect/Engineer and is specified in product Specification Sections to be removed, remove mockup and clear area when directed to do so by Architect/Engineer.



1.7 TESTING AND INSPECTION SERVICES

- A. Owner will employ and pay for specified services of an independent firm to perform testing and inspection.
- B. Independent firm will perform tests, inspections, and other services specified in individual Specification Sections and as required by **Owner**.
  - 1. Laboratory: Authorized to operate **in State of Kentucky**.
  - 2. Laboratory Staff: Maintain full-time **Professional Engineer** on staff to review services.
  - 3. Testing Equipment: Calibrated at reasonable intervals with devices of an accuracy traceable to National Bureau of Standards or accepted values of natural physical constants.
- C. Testing, inspections, and source quality control may occur on or off Project Site. Perform off-Site testing as required by Architect/Engineer or Owner.
- D. Reports shall be submitted by independent firm to Architect/Engineer, Contractor, and authorities having jurisdiction, indicating observations and results of tests and compliance or noncompliance with Contract Documents.
  - 1. Submit final report indicating correction of Work previously reported as noncompliant.
- E. Cooperate with independent firm; furnish samples of materials, design mix, equipment, tools, storage, safe access, and assistance by incidental labor as requested.
  - 1. Notify Architect/Engineer and independent firm twenty-four (24) hours before expected time for operations requiring services.
  - 2. Make arrangements with independent firm and pay for additional Samples and tests required for Contractor's use.
- F. Employment of testing agency or laboratory shall not relieve Contractor of obligation to perform Work according to requirements of Contract Documents.
- G. Retesting or re-inspection required because of nonconformance with specified or indicated requirements shall be performed by same independent firm on instructions from Architect/Engineer. Payment for retesting or re-inspection will be charged to Contractor by deducting testing charges from Contract Sum/Price.
- H. Agency Responsibilities:
  - 1. Test Samples of mixes submitted by Contractor.
  - 2. Provide qualified personnel at Site. Cooperate with Architect/Engineer and Contractor in performance of services.
  - 3. Perform indicated sampling and testing of products according to specified standards.
  - 4. Ascertain compliance of materials and mixes with requirements of Contract Documents.
  - 5. Promptly notify Architect/Engineer and Contractor of observed irregularities or nonconformance of Work or products.
  - 6. Perform additional tests required by Architect/Engineer.
  - 7. Attend preconstruction meetings and progress meetings.
- I. Agency Reports: After each test, promptly submit copies of report to Architect/Engineer, Contractor, and authorities having jurisdiction. When requested by Architect/Engineer, provide interpretation of test results. Include the following:

1. Date issued.
2. Project title and number.
3. Name of inspector.
4. Date and time of sampling or inspection.
5. Identification of product and Specification Section.
6. Location in Project.
7. Type of inspection or test.
8. Date of test.
9. Results of tests.
10. Conformance with Contract Documents.

J. Limits on Testing Authority:

1. Agency or laboratory may not release, revoke, alter, or enlarge on requirements of Contract Documents.
2. Agency or laboratory may not approve or accept any portion of the Work.
3. Agency or laboratory may not assume duties of Contractor.
4. Agency or laboratory has no authority to stop the Work.

1.8 MANUFACTURER'S FIELD SERVICES

- A. When specified in individual Specification Sections, require material or product suppliers or manufacturers to provide qualified staff personnel to observe Site conditions, conditions of surfaces and installation, quality of workmanship, startup of equipment, testing, adjusting, and balancing of equipment as applicable, and to initiate instructions when necessary.
- B. Report observations and Site decisions or instructions given to applicators or installers that are supplemental or contrary to manufacturer's written instructions.
- C. Refer to Section 01 33 00 - Submittal Procedures, "Manufacturer's Field Reports" Article.

**PART 2 - PRODUCTS - Not Used**

**PART 3 - EXECUTION - Not Used**

END OF SECTION 014000

## SECTION 014100 REGULATORY REQUIREMENTS

### PART 1 - GENERAL

#### 1.1 REQUIREMENTS INCLUDE

- A. Each Contractor complies with all laws, rules and regulations governing the work.
  - 1. When Contractor observes that contract documents are at variance with specified codes, notify Engineer/Architect in writing immediately. Engineer/Architect will process changes in accord with General Conditions.
  - 2. When Contractor performs any work knowing or having reason to know that the work is contrary to such laws, rules and regulations and fails to so notify the Engineer/Architect, Contractor shall pay all costs arising wherefrom. However, it will not be the contractor's primary responsibility to make certain that the contract documents are in accord with such laws, rules and regulations.

#### 1.2 DEFINITIONS & ABBREVIATIONS

- A. Definitions:
  - 1. Dates: Reference Codes, Regulations and Standards are the issue current at date of bidding documents unless otherwise specified.
  - 2. Codes: Codes are rules, regulations or statutory requirements of government agencies.
  - 3. Standards: Standards are requirements set by authorities, custom or general consent and established as accepted criteria.

- B. Abbreviations:

- 1. ADA Americans with Disabilities Act.
- 2. AGCK Associated General Contractors in Kentucky.
- 3. ANSI American National Standards Institute.
- 4. ASHRAE American Society of Heating, Refrigeration, and Air-Conditioning Engineers.
- 5. ASTM American Society for Testing and Materials.
- 6. BOCA Building Officials and Code Administrators.
- 7. CDB Capital Development Board.
- 8. CPSC Consumer Product Safety Commission (Federal).
- 9. DHEW Department Health Education & Welfare (Federal).
- 10. FED Federal Agencies.
- 11. FM Factory Mutual Engineering Corp.
- 12. KELC Kentucky Education and Labor Cabinet
- 13. KDPH Kentucky Department of Public Health.
- 14. KYTC Kentucky Transportation Cabinet.
- 15. KEEC Kentucky Energy and Environment Cabinet.
- 16. KDPL Kentucky Department of Professional Licensing.
- 17. KSPE Kentucky Society of Professional Engineers.
- 18. NFPA National Fire Protection Association.
- 19. OSFM Office of State Fire Marshal.
- 20. UL Underwriters Laboratories, Inc.
- 21. KPPC Kentucky Public Protection Cabinet Division of Plumbing 2020.

22. NEC 2022 National Electric Code.

### 1.3 QUALITY ASSURANCE

- A. Engineer/Architect has designed the project with full knowledge of code requirements and has copies of all specified codes available for Contractor's inspection.
- B. Contractor
1. Ensure that copies of specified codes and standards are readily available to Contractor's personnel. Copies are available at Contractor's expense from source or publisher.
  2. Ensure that Contractor's personnel are familiar with workmanship and installation requirements of specified codes and standards.

### 1.4 REGULATORY REQUIREMENTS

- A. Source and requirements

1. FEDERAL

- a. CPSC: Architectural Glazing Materials, as amended 1981.
- b. UFAS: Uniform Federal Accessibility Standards.
- c. ADA 2010.
- d. COFR: Code of Federal Regulations, Title 38, Chapter 1.

2. State of Kentucky

- a. Procurement Laws, Regulations and Policies (KRS Chapter 045A)  
1) KAR 200 – Chapter 5 – Office of Material and Procurement Services

3. KYTC:

- a. Standard Specifications for Road and Bridge construction, including all supplements, June 1, 2019. Except where otherwise specified.
- b. Change all references from "Engineer" to "Engineer/Architect".
- c. References to "Method of Measurement" and "Basis of Payment" do not apply.
- d. Federal Americans with Disabilities Act (ADA), most recent version
- e. Manual on Uniform Traffic Control Devices for Streets and Highways, 2009, with revisions dated May 2012.

4. KDPH:

- a. Kentucky State Plumbing Law, Regulations and Code Book.
- b. Kentucky Food Code, 2013.
- c. Long-Term Care Facilities and Skilled Nursing Care Facility, Kentucky Cabinet for Health and Family Services

5. KRCA: Kentucky Roofing Contractors Association.
  6. KEEC: (Current editions at date of bidding documents.)
    - a. Air Pollution Standards.
    - b. Noise Pollution Standards.
    - c. Water Pollution Standards.
    - d. Public Water Supplies.
    - e. Solid Waste Standards.
    - f. Kentucky Recommended Standards for Wastewater Facilities, 2014
      - 1) Also referred to as Ten State Standards
  7. KPPC: Department of Housing, Buildings and Construction - Kentucky State Fire Marshal:
    - a. Boiler and Pressure Vessel Safety Act (Chapter 28 Mechanical Systems).
    - b. Installation of Elevators (Chapter 30 Elevators and Conveying Systems.).
    - c. Kentucky Rules and Regulations for Fire Prevention and Safety, NFPA 101-2000.
  8. STANDARDS:
    - a. Kentucky Energy and Environment Cabinet – Regulations and Standards for Division of Water, Revised. Kentucky Energy and Environment Cabinet – 10 States Standards for Wastewater Facilities, Revised.
    - b. ANSI No. A.17.1, American Standard Safety Code for Elevators, Dumbwaiters, Escalators and Moving Walks.
    - c. ANSI No. C-2, National Electrical Safety Code.
    - d. ASHRAE No. 62, Standard for Natural and Mechanical Ventilation.
    - e. ASHRAE No. 90.1- 2010, Energy Conservation in New Building Design.
    - f. ASHRAE No. 15, Safety Code for Mechanical Refrigeration.
    - g. AWWA: Water and Sewer Main Construction.
    - h. NFPA: National Fire Codes.
    - i. No. 70-99, National Code.
  9. LOCAL BUILDING CODE
    - a. Verify with local jurisdiction.
- B. The Engineer/Architect may reference other codes or standards throughout the Project Manual when deemed appropriate for proper compliance with regulatory requirements.

END OF SECTION 014100



**SECTION 014529  
TESTING LABORATORY SERVICES**

**PART 1 - GENERAL**

**1.1 SUMMARY**

**A. Work includes**

1. Contractor shall employ and pay for an independent testing laboratory to perform testing as specified.
  - a. Testing laboratory and procedures shall be as approved by the Engineer/Architect.
2. Contractor shall fully cooperate with the Owner and/or Engineer/Architect for additional testing required as determined by the Engineer/Architect.

**1.2 QUALITY ASSURANCE**

- A.** Testing shall be in accordance with all pertinent codes and regulations and with selected standards of the American Society for Testing and Materials (ASTM).

**1.3 PAYMENT FOR TESTING**

- A.** Contractor shall pay for all testing specified in the contract documents.
- B.** Payment for additional testing, not specified in original contract documents, but required as determined by the Engineer/Architect, shall be as follows:
1. The Owner will pay for initial testing.
  2. When initial tests indicate noncompliance with the contract documents, the costs of initial tests associated with that noncompliance will be deducted from the contract sum.
  3. Retesting: When initial tests indicate noncompliance with the contract documents, subsequent retesting occasioned by the noncompliance shall be performed by the same testing agency and costs thereof will be deducted from the contract sum.

**END OF SECTION 014529**





**SECTION 016500  
CLOSEOUT FORMS**

**PART 1 - GENERAL**

**1.1 SUMMARY**

- A. Work included: Provide an orderly and efficient transfer of the completed Work to the Owner.
- B. Related work:
  - 1. Documents affecting work of this Section include, but are not necessarily limited to, General Conditions, Supplementary Conditions, and Sections in Division 1 of these Specifications.
  - 2. Activities relative to Contract closeout are described in, but not necessarily limited to the General Conditions.
  - 3. "Substantial Completion" is defined in the General Conditions.

**1.2 QUALITY ASSURANCE**

- A. Prior to requesting inspection by the Engineer/Architect, use adequate means to assure that the Work is completed in accordance with the specified requirements and is ready for the requested inspection.

**1.3 PROCEDURES**

- A. Substantial Completion:
  - 1. Prepare and submit the list required by the General Conditions.
  - 2. Within a reasonable time after receipt of the list, the Engineer/Architect will inspect to determine status of completion.
  - 3. Should the Engineer/Architect determine that the Work is not substantially complete:
    - a. The Engineer/Architect promptly will so notify the Contractor, in writing, giving the reasons therefore.
    - b. Remedy the deficiencies and notify the Engineer/Architect when ready for reinspection.
    - c. The Engineer/Architect will reinspect the Work.
  - 4. When the Engineer/Architect concurs that the Work is substantially complete:
    - a. The Engineer/Architect will prepare a "Certificate of Substantial Completion," accompanied by the Contractor's list of items to be completed or corrected, as verified by the Engineer/Architect.
    - b. The Engineer/Architect will submit the Certificate to the Owner and to the Contractor for their written acceptance of the responsibilities assigned to them in the Certificate.
- B. Final Completion:
  - 1. Prepare and submit the notice required by the General Conditions.

2. Verify that the Work is complete including, but not necessarily limited to, the items mentioned in the General Conditions.
3. Certify that:
  - a. Contract Documents have been reviewed;
  - b. Work has been inspected for compliance with the Contract Documents;
  - c. Work has been completed in accordance with the Contract Documents;
  - d. Equipment and systems have been tested as required, and are operational;
  - e. Work is completed and ready for final inspection.
4. The Engineer/Architect will make an inspection to verify status of completion.
5. Should the Engineer/Architect determine that the Work is incomplete or defective:
  - a. The Engineer/Architect promptly will so notify the Contractor, in writing, listing the incomplete or defective work.
  - b. Remedy the deficiencies promptly, and notify the Engineer/Architect when ready for reinspection.
6. When the Engineer/Architect determines that the Work is acceptable under the Contract Documents, he will request the Contractor to make closeout submittals.

C. Closeout submittals include, but are not necessarily limited to:

1. Project Record Documents described in Section 017839.
2. Operation and maintenance data for items so listed in pertinent other Sections of these Specifications, and for other items when so directed by the Engineer/Architect.
3. Warranties and bonds.
4. Keys and keying schedule.
5. Spare parts and materials extra stock.
6. Evidence of compliance with requirements of governmental agencies having jurisdiction including, but not necessarily limited to:
  - a. Certificates of Inspection.
  - b. Certificates of Occupancy.
7. Certificates of Insurance for products and completed operations.
8. Evidence of payment and release of liens.
9. List of subcontractors, service organizations, and principal vendors, including names, addresses, and telephone numbers where they can be reached for emergency service at all times including nights, weekends, and holidays.

D. Final adjustment of accounts:

1. Submit a final statement of accounting to the Engineer/Architect showing all adjustments to the Contract Sum.
2. If so required, the Engineer/Architect will prepare a final Change Order showing adjustment to the Contract Sum which was not made previously by Change Orders.

1.4 INSTRUCTION

- A. Instruct the Owner's personnel in proper operation and maintenance of systems, equipment, and similar items which were provided as part of the Work.

*Golightly & Long Properties, LLC  
Acee's Neighborhood Market & Deli  
1000 Holiday Lane, Fulton, KY 42041*

*Project No. 23-7038  
March 2025*

END OF SECTION 016500



**SECTION 017400  
CLEANING AND WASTE MANAGEMENT**

**PART 1 - GENERAL**

**1.1 SUMMARY**

- A. Work includes:
  - 1. General Contractor:
    - a. Throughout the construction period, maintain the building and site in a standard of cleanliness as hereinafter specified.
  - 2. Each Contractor:
    - a. Cooperate fully with the General Contractor

**1.2 BUILDING AND/OR STRUCTURES**

- A. General Contractor:
  - 1. Weekly, and more often if necessary, inspect the building structure and pick up all scrap, debris, and waste materials. Dispose of same in a lawful manner.
  - 2. Weekly, and more often if necessary, sweep interior spaces broom clean.
- B. Each Contractor:
  - 1. Cooperate fully with the General Contractor.

**1.3 CONSTRUCTION SITE**

- A. General Contractor:
  - 1. Daily, and more often if necessary, inspect the site and pick up all scrap, debris, and waste materials. Dispose of same in a lawful manner.
  - 2. Weekly, and more often if necessary, inspect all arrangements of materials stored on site, restack, tidy, or otherwise service the arrangements to provide clean orderly storage.
  - 3. Maintain the site in a neat and orderly condition at all times.
- B. Each Contractor:
  - 1. Cooperate fully with the General Contractor.
  - 2. Retain stored items in an orderly arrangement, provided with proper and adequate protection.
  - 3. Do not allow accumulation of scrap, debris, waste materials, and other items not required in the construction work.

**END OF SECTION 017400**



## **SECTION 017700 CLOSEOUT PROCEDURES**

### **PART 1 - GENERAL**

#### **1.1 SUMMARY**

- A. Section includes administrative and procedural requirements for contract closeout, including, but not limited to, the following:
  - 1. Substantial Completion procedures.
  - 2. Final completion procedures.
  - 3. Warranties.
  - 4. Final cleaning.
  - 5. Repair of the Work.
- B. Related Requirements:
  - 1. Section 013233 "Photographic Documentation" for submitting final completion construction photographic documentation.
  - 2. Section 017300 "Execution" for progress cleaning of Project site.
  - 3. Section 017823 "Operation and Maintenance Data" for operation and maintenance manual requirements.
  - 4. Section 017839 "Project Record Documents" for submitting record Drawings, record Specifications, and record Product Data.
  - 5. Section 017900 "Demonstration and Training" for requirements for instructing Owner's personnel.

#### **1.2 ACTION SUBMITTALS**

- A. Product Data: For cleaning agents.
- B. Contractor's List of Incomplete Items: Initial submittal at Substantial Completion.
- C. Certified List of Incomplete Items: Final submittal at Final Completion.

#### **1.3 CLOSEOUT SUBMITTALS**

- A. Certificates of Release: From authorities having jurisdiction.
- B. Certificate of Insurance: For continuing coverage.
- C. Field Report: For pest control inspection.

#### **1.4 MAINTENANCE MATERIAL SUBMITTALS**

- A. Schedule of Maintenance Material Items: For maintenance material submittal items specified in other Sections.

## 1.5 SUBSTANTIAL COMPLETION PROCEDURES

- A. Contractor's List of Incomplete Items: Prepare and submit a list of items to be completed and corrected (Contractor's punch list), indicating the value of each item on the list and reasons why the Work is incomplete.
- B. Submittals Prior to Substantial Completion: Complete the following prior to requesting inspection for determining date of Substantial Completion. List items below that are incomplete at time of request.
  - 1. Certificates of Release: Obtain and submit releases from authorities having jurisdiction permitting Owner unrestricted use of the Work and access to services and utilities. Include occupancy permits, operating certificates, and similar releases.
  - 2. Submit closeout submittals specified in other Division 01 Sections, including project record documents, operation and maintenance manuals, final completion construction photographic documentation, damage or settlement surveys, property surveys, and similar final record information.
  - 3. Submit closeout submittals specified in individual Sections, including specific warranties, workmanship bonds, maintenance service agreements, final certifications, and similar documents.
  - 4. Submit maintenance material submittals specified in individual Sections, including tools, spare parts, extra materials, and similar items, and deliver to location designated by Architect/Engineer. Label with manufacturer's name and model number where applicable.
    - a. Schedule of Maintenance Material Items: Prepare and submit schedule of maintenance material submittal items, including name and quantity of each item and name and number of related Specification Section. Obtain Architect/Engineer's signature for receipt of submittals.
  - 5. Submit test/adjust/balance records.
  - 6. Submit sustainable design submittals required in Section 018113.13 "Sustainable Design Requirements - LEED for New Construction and Major Renovations," Section 018113.16 "Sustainable Design Requirements - LEED for Commercial Interiors," Section 018113.19 "Sustainable Design Requirements - LEED for Core and Shell Development," and Section 018113.23 "Sustainable Design Requirements - LEED for Schools" and in individual Sections.
  - 7. Submit changeover information related to Owner's occupancy, use, operation, and maintenance.
- C. Procedures Prior to Substantial Completion: Complete the following a minimum of **10** days prior to requesting inspection for determining date of Substantial Completion. List items below that are incomplete at time of request.
  - 1. Advise Owner of pending insurance changeover requirements.
  - 2. Make final changeover of permanent locks and deliver keys to Owner. Advise Owner's personnel of changeover in security provisions.
  - 3. Complete startup and testing of systems and equipment.
  - 4. Perform preventive maintenance on equipment used prior to Substantial Completion.
  - 5. Instruct Owner's personnel in operation, adjustment, and maintenance of products, equipment, and systems. Submit demonstration and training video recordings specified in Section 017900 "Demonstration and Training."
  - 6. Advise Owner of changeover in heat and other utilities.
  - 7. Participate with Owner in conducting inspection and walkthrough with local emergency responders.



8. Terminate and remove temporary facilities from Project site, along with mockups, construction tools, and similar elements.
9. Complete final cleaning requirements, including touchup painting.
10. Touch up and otherwise repair and restore marred exposed finishes to eliminate visual defects.

D. Inspection: Submit a written request for inspection to determine Substantial Completion a minimum of 10 days prior to date the work will be completed and ready for final inspection and tests. On receipt of request, Architect/Engineer will either proceed with inspection or notify Contractor of unfulfilled requirements. Architect/Engineer will prepare the Certificate of Substantial Completion after inspection or will notify Contractor of items, either on Contractor's list or additional items identified by Architect/Engineer, that must be completed or corrected before certificate will be issued.

1. Reinspection: Request reinspection when the Work identified in previous inspections as incomplete is completed or corrected.
2. Results of completed inspection will form the basis of requirements for final completion.

## 1.6 FINAL COMPLETION PROCEDURES

A. Submittals Prior to Final Completion: Before requesting final inspection for determining final completion, complete the following:

1. Submit a final Application for Payment according to Section 012900 "Payment Procedures."
2. Certified List of Incomplete Items: Submit certified copy of Architect/Engineer's Substantial Completion inspection list of items to be completed or corrected (punch list), endorsed and dated by Architect/Engineer. Certified copy of the list shall state that each item has been completed or otherwise resolved for acceptance.
3. Certificate of Insurance: Submit evidence of final, continuing insurance coverage complying with insurance requirements.
4. Submit pest-control final inspection report.

B. Inspection: Submit a written request for final inspection to determine acceptance a minimum of 10 days prior to date the work will be completed and ready for final inspection and tests. On receipt of request, Architect/Engineer will either proceed with inspection or notify Contractor of unfulfilled requirements. Architect/Engineer will prepare a final Certificate for Payment after inspection or will notify Contractor of construction that must be completed or corrected before certificate will be issued.

1. Reinspection: Request reinspection when the Work identified in previous inspections as incomplete is completed or corrected.

## 1.7 LIST OF INCOMPLETE ITEMS (PUNCH LIST)

A. Organization of List: Include name and identification of each space and area affected by construction operations for incomplete items and items needing correction including, if necessary, areas disturbed by Contractor that are outside the limits of construction.

1. Organize list of spaces in sequential order, starting with exterior areas first.
2. Organize items applying to each space by major element, including categories for ceiling, individual walls, floors, equipment, and building systems.
3. Include the following information at the top of each page:

- a. Project name.
  - b. Date.
  - c. Name of Architect/Engineer.
  - d. Name of Contractor.
  - e. Page number.
4. Submit list of incomplete items in a digital and hard copy format. Architect/Engineer will return two copies

## 1.8 SUBMITTAL OF PROJECT WARRANTIES

- A. Time of Submittal: Submit written warranties on request of Architect/Engineer for designated portions of the Work where commencement of warranties other than date of Substantial Completion is indicated, or when delay in submittal of warranties might limit Owner's rights under warranty.
- B. Partial Occupancy: Submit properly executed warranties upon completion of designated portions of the Work that are completed and occupied or used by Owner during construction period by separate agreement with Contractor.
- C. Organize warranty documents into an orderly sequence based on the table of contents of Project Manual.
  1. Bind warranties and bonds in heavy-duty, three-ring, vinyl-covered, loose-leaf binders, thickness as necessary to accommodate contents, and sized to receive 8-1/2-by-11-inch paper.
  2. Provide heavy paper dividers with plastic-covered tabs for each separate warranty. Mark tab to identify the product or installation. Provide a typed description of the product or installation, including the name of the product and the name, address, and telephone number of Installer.
  3. Identify each binder on the front and spine with the typed or printed title "WARRANTIES," Project name, and name of Contractor.
  4. Warranty Electronic File: Scan warranties and bonds and assemble complete warranty and bond submittal package into a single indexed electronic PDF file with links enabling navigation to each item. Provide bookmarked table of contents at beginning of document.
- D. Provide additional copies of each warranty to include in operation and maintenance manuals.

## PART 2 - PRODUCTS

### 2.1 MATERIALS

- A. Cleaning Agents: Use cleaning materials and agents recommended by manufacturer or fabricator of the surface to be cleaned. Do not use cleaning agents that are potentially hazardous to health or property or that might damage finished surfaces.
  1. Use cleaning products that comply with Green Seal's GS-37, or if GS-37 is not applicable, use products that comply with the California Code of Regulations maximum allowable VOC levels.

### **PART 3 - EXECUTION**

#### **3.1 FINAL CLEANING**

- A. General: Perform final cleaning. Conduct cleaning and waste-removal operations to comply with local laws and ordinances and Federal and local environmental and antipollution regulations.
- B. Cleaning: Employ experienced workers or professional cleaners for final cleaning. Clean each surface or unit to condition expected in an average commercial building cleaning and maintenance program. Comply with manufacturer's written instructions.
  - 1. Complete the following cleaning operations before requesting inspection for certification of Substantial Completion for entire Project or for a designated portion of Project:
    - a. Clean Project site, yard, and grounds, in areas disturbed by construction activities, including landscape development areas, of rubbish, waste material, litter, and other foreign substances.
    - b. Sweep paved areas broom clean. Remove petrochemical spills, stains, and other foreign deposits.
    - c. Rake grounds that are neither planted nor paved to a smooth, even-textured surface.
    - d. Remove tools, construction equipment, machinery, and surplus material from Project site.
    - e. Remove snow and ice to provide safe access to building.
    - f. Clean exposed exterior and interior hard-surfaced finishes to a dirt-free condition, free of stains, films, and similar foreign substances. Avoid disturbing natural weathering of exterior surfaces. Restore reflective surfaces to their original condition.
    - g. Remove debris and surface dust from limited access spaces, including roofs, plenums, shafts, trenches, equipment vaults, manholes, attics, and similar spaces.
    - h. Sweep concrete floors broom clean in unoccupied spaces.
    - i. Vacuum carpet and similar soft surfaces, removing debris and excess nap; clean according to manufacturer's recommendations if visible soil or stains remain.
    - j. Clean transparent materials, including mirrors and glass in doors and windows. Remove glazing compounds and other noticeable, vision-obscuring materials. Polish mirrors and glass, taking care not to scratch surfaces.
    - k. Remove labels that are not permanent.
    - l. Wipe surfaces of mechanical and electrical equipment, and similar equipment. Remove excess lubrication, paint and mortar droppings, and other foreign substances.
    - m. Clean plumbing fixtures to a sanitary condition, free of stains, including stains resulting from water exposure.
    - n. Replace disposable air filters and clean permanent air filters. Clean exposed surfaces of diffusers, registers, and grills.
    - o. Clean ducts, blowers, and coils if units were operated without filters during construction or that display contamination with particulate matter on inspection.
      - 1) Clean HVAC system in compliance with NADCA Standard 1992-01. Provide written report on completion of cleaning.
    - p. Clean light fixtures, lamps, globes, and reflectors to function with full efficiency.
    - q. Leave Project clean and ready for occupancy.

- C. Pest Control: Comply with pest control requirements in Section 015000 "Temporary Facilities and Controls." Prepare written report.
- D. Construction Waste Disposal: Comply with waste disposal requirements in Section 017419 "Construction Waste Management and Disposal."

### 3.2 REPAIR OF THE WORK

- A. Complete repair and restoration operations before requesting inspection for determination of Substantial Completion.
- B. Repair or remove and replace defective construction. Repairing includes replacing defective parts, refinishing damaged surfaces, touching up with matching materials, and properly adjusting operating equipment. Where damaged or worn items cannot be repaired or restored, provide replacements. Remove and replace operating components that cannot be repaired. Restore damaged construction and permanent facilities used during construction to specified condition.
  - 1. Remove and replace chipped, scratched, and broken glass, reflective surfaces, and other damaged transparent materials.
  - 2. Touch up and otherwise repair and restore marred or exposed finishes and surfaces. Replace finishes and surfaces that that already show evidence of repair or restoration.
    - a. Do not paint over "UL" and other required labels and identification, including mechanical and electrical nameplates. Remove paint applied to required labels and identification.
  - 3. Replace parts subject to operating conditions during construction that may impede operation or reduce longevity.
  - 4. Replace burned-out bulbs, bulbs noticeably dimmed by hours of use, and defective and noisy starters in fluorescent and mercury vapor fixtures to comply with requirements for new fixtures.

END OF SECTION 017700

## SECTION 017823 OPERATION AND MAINTENANCE DATA

### PART 1 - GENERAL

#### 1.1 SUMMARY

- A. Section includes administrative and procedural requirements for preparing operation and maintenance manuals, including the following:
  - 1. Operation and maintenance documentation directory.
  - 2. Emergency manuals.
  - 3. Operation manuals for systems, subsystems, and equipment.
  - 4. Product maintenance manuals.
  - 5. Systems and equipment maintenance manuals.

#### 1.2 DEFINITIONS

- A. System: An organized collection of parts, equipment, or subsystems united by regular interaction.
- B. Subsystem: A portion of a system with characteristics similar to a system.

#### 1.3 CLOSEOUT SUBMITTALS

- A. Manual Content: Operations and maintenance manual content is specified in individual Specification Sections to be reviewed at the time of Section submittals. Submit reviewed manual content formatted and organized as required by this Section.
  - 1. Architect/Engineer will comment on whether content of operations and maintenance submittals are acceptable.
  - 2. Where applicable, clarify and update reviewed manual content to correspond to revisions and field conditions.
- B. Format: Submit operations and maintenance manuals in the following format:
  - 1. PDF electronic file. Assemble each manual into a composite electronically indexed file. Submit on digital media acceptable to Architect/Engineer.
    - a. Name each indexed document file in composite electronic index with applicable item name. Include a complete electronically linked operation and maintenance directory.
    - b. Enable inserted reviewer comments on draft submittals.
  - 2. **[Three]** paper copies. Include a complete operation and maintenance directory. Enclose title pages and directories in clear plastic sleeves.
- C. Initial Manual Submittal: Submit draft copy of each manual at least **30** days before commencing demonstration and training. Architect/Engineer will comment on whether general scope and content of manual are acceptable.

- D. Final Manual Submittal: Submit each manual in final form prior to requesting inspection for Substantial Completion and at least **15** days before commencing demonstration and training. Architect/Engineer will return copy with comments.

## **PART 2 - PRODUCTS**

### **2.1 OPERATION AND MAINTENANCE DOCUMENTATION DIRECTORY**

- A. Directory: Prepare a single, comprehensive directory of emergency, operation, and maintenance data and materials, listing items and their location to facilitate ready access to desired information. Include a section in the directory for each of the following:
  - 1. List of documents.
  - 2. List of systems.
  - 3. List of equipment.
  - 4. Table of contents.
- B. List of Systems and Subsystems: List systems alphabetically. Include references to operation and maintenance manuals that contain information about each system.
- C. List of Equipment: List equipment for each system, organized alphabetically by system. For pieces of equipment not part of system, list alphabetically in separate list.
- D. Tables of Contents: Include a table of contents for each emergency, operation, and maintenance manual.
- E. Identification: In the documentation directory and in each operation and maintenance manual, identify each system, subsystem, and piece of equipment with same designation used in the Contract Documents. If no designation exists, assign a designation according to ASHRAE Guideline 4, "Preparation of Operating and Maintenance Documentation for Building Systems."

### **2.2 REQUIREMENTS FOR EMERGENCY, OPERATION, AND MAINTENANCE MANUALS**

- A. Organization: Unless otherwise indicated, organize each manual into a separate section for each system and subsystem, and a separate section for each piece of equipment not part of a system. Each manual shall contain the following materials, in the order listed:
  - 1. Title page.
  - 2. Table of contents.
  - 3. Manual contents.
- B. Title Page: Include the following information:
  - 1. Subject matter included in manual.
  - 2. Name and address of Project.
  - 3. Name and address of Owner.
  - 4. Date of submittal.
  - 5. Name and contact information for Contractor.
  - 6. Name and contact information for Construction Manager.
  - 7. Name and contact information for Architect/Engineer.
  - 8. Name and contact information for Commissioning Authority.

9. Names and contact information for major consultants to the Architect/Engineer that designed the systems contained in the manuals.
  10. Cross-reference to related systems in other operation and maintenance manuals.
- C. Table of Contents: List each product included in manual, identified by product name, indexed to the content of the volume, and cross-referenced to Specification Section number in Project Manual.
1. If operation or maintenance documentation requires more than one volume to accommodate data, include comprehensive table of contents for all volumes in each volume of the set.
- D. Manual Contents: Organize into sets of manageable size. Arrange contents alphabetically by system, subsystem, and equipment. If possible, assemble instructions for subsystems, equipment, and components of one system into a single binder.
- E. Manuals, Electronic Files: Submit manuals in the form of a multiple file composite electronic PDF file for each manual type required.
1. Electronic Files: Use electronic files prepared by manufacturer where available. Where scanning of paper documents is required, configure scanned file for minimum readable file size.
  2. File Names and Bookmarks: Enable bookmarking of individual documents based on file names. Name document files to correspond to system, subsystem, and equipment names used in manual directory and table of contents. Group documents for each system and subsystem into individual composite bookmarked files, then create composite manual, so that resulting bookmarks reflect the system, subsystem, and equipment names in a readily navigated file tree. Configure electronic manual to display bookmark panel on opening file.
- F. Manuals, Paper Copy: Submit manuals in the form of hard copy, bound and labeled volumes.
1. Binders: Heavy-duty, three-ring, vinyl-covered, loose-leaf binders, in thickness necessary to accommodate contents, sized to hold 8-1/2-by-11-inch paper; with clear plastic sleeve on spine to hold label describing contents and with pockets inside covers to hold folded oversize sheets.
    - a. If two or more binders are necessary to accommodate data of a system, organize data in each binder into groupings by subsystem and related components. Cross-reference other binders if necessary to provide essential information for proper operation or maintenance of equipment or system.
    - b. Identify each binder on front and spine, with printed title "OPERATION AND MAINTENANCE MANUAL," Project title or name, subject matter of contents. Indicate volume number for multiple-volume sets.
  2. Dividers: Heavy-paper dividers with plastic-covered tabs for each section of the manual. Mark each tab to indicate contents. Include typed list of products and major components of equipment included in the section on each divider, cross-referenced to Specification Section number and title of Project Manual.
  3. Protective Plastic Sleeves: Transparent plastic sleeves designed to enclose diagnostic software storage media for computerized electronic equipment.
  4. Supplementary Text: Prepared on 8-1/2-by-11-inch white bond paper.
  5. Drawings: Attach reinforced, punched binder tabs on drawings and bind with text.

- a. If oversize drawings are necessary, fold drawings to same size as text pages and use as foldouts.
- b. If drawings are too large to be used as foldouts, fold and place drawings in labeled envelopes and bind envelopes in rear of manual. At appropriate locations in manual, insert typewritten pages indicating drawing titles, descriptions of contents, and drawing locations.

## 2.3 EMERGENCY MANUALS

- A. Content: Organize manual into a separate section for each of the following:
  1. Type of emergency.
  2. Emergency instructions.
  3. Emergency procedures.
- B. Type of Emergency: Where applicable for each type of emergency indicated below, include instructions and procedures for each system, subsystem, piece of equipment, and component:
  1. Fire.
  2. Flood.
  3. Gas leak.
  4. Water leak.
  5. Power failure.
  6. Water outage.
  7. System, subsystem, or equipment failure.
  8. Chemical release or spill.
- C. Emergency Instructions: Describe and explain warnings, trouble indications, error messages, and similar codes and signals. Include responsibilities of Owner's operating personnel for notification of Installer, supplier, and manufacturer to maintain warranties.
- D. Emergency Procedures: Include the following, as applicable:
  1. Instructions on stopping.
  2. Shutdown instructions for each type of emergency.
  3. Operating instructions for conditions outside normal operating limits.
  4. Required sequences for electric or electronic systems.
  5. Special operating instructions and procedures.

## 2.4 OPERATION MANUALS

- A. Content: In addition to requirements in this Section, include operation data required in individual Specification Sections and the following information:
  1. System, subsystem, and equipment descriptions. Use designations for systems and equipment indicated on Contract Documents.
  2. Performance and design criteria if Contractor has delegated design responsibility.
  3. Operating standards.
  4. Operating procedures.
  5. Operating logs.
  6. Wiring diagrams.
  7. Control diagrams.
  8. Piped system diagrams.



9. Precautions against improper use.
10. License requirements including inspection and renewal dates.

B. Descriptions: Include the following:

1. Product name and model number. Use designations for products indicated on Contract Documents.
2. Manufacturer's name.
3. Equipment identification with serial number of each component.
4. Equipment function.
5. Operating characteristics.
6. Limiting conditions.
7. Performance curves.
8. Engineering data and tests.
9. Complete nomenclature and number of replacement parts.

C. Operating Procedures: Include the following, as applicable:

1. Startup procedures.
2. Equipment or system break-in procedures.
3. Routine and normal operating instructions.
4. Regulation and control procedures.
5. Instructions on stopping.
6. Normal shutdown instructions.
7. Seasonal and weekend operating instructions.
8. Required sequences for electric or electronic systems.
9. Special operating instructions and procedures.

D. Systems and Equipment Controls: Describe the sequence of operation, and diagram controls as installed.

E. Piped Systems: Diagram piping as installed, and identify color-coding where required for identification.

## 2.5 PRODUCT MAINTENANCE MANUALS

A. Content: Organize manual into a separate section for each product, material, and finish. Include source information, product information, maintenance procedures, repair materials and sources, and warranties and bonds, as described below.

B. Source Information: List each product included in manual, identified by product name and arranged to match manual's table of contents. For each product, list name, address, and telephone number of Installer or supplier and maintenance service agent, and cross-reference Specification Section number and title in Project Manual and drawing or schedule designation or identifier where applicable.

C. Product Information: Include the following, as applicable:

1. Product name and model number.
2. Manufacturer's name.
3. Color, pattern, and texture.
4. Material and chemical composition.
5. Reordering information for specially manufactured products.

- D. Maintenance Procedures: Include manufacturer's written recommendations and the following:
  - 1. Inspection procedures.
  - 2. Types of cleaning agents to be used and methods of cleaning.
  - 3. List of cleaning agents and methods of cleaning detrimental to product.
  - 4. Schedule for routine cleaning and maintenance.
  - 5. Repair instructions.
- E. Repair Materials and Sources: Include lists of materials and local sources of materials and related services.
- F. Warranties and Bonds: Include copies of warranties and bonds and lists of circumstances and conditions that would affect validity of warranties or bonds.
  - 1. Include procedures to follow and required notifications for warranty claims.

## 2.6 SYSTEMS AND EQUIPMENT MAINTENANCE MANUALS

- A. Content: For each system, subsystem, and piece of equipment not part of a system, include source information, manufacturers' maintenance documentation, maintenance procedures, maintenance and service schedules, spare parts list and source information, maintenance service contracts, and warranty and bond information, as described below.
- B. Source Information: List each system, subsystem, and piece of equipment included in manual, identified by product name and arranged to match manual's table of contents. For each product, list name, address, and telephone number of Installer or supplier and maintenance service agent, and cross-reference Specification Section number and title in Project Manual and drawing or schedule designation or identifier where applicable.
- C. Manufacturers' Maintenance Documentation: Manufacturers' maintenance documentation including the following information for each component part or piece of equipment:
  - 1. Standard maintenance instructions and bulletins.
  - 2. Drawings, diagrams, and instructions required for maintenance, including disassembly and component removal, replacement, and assembly.
  - 3. Identification and nomenclature of parts and components.
  - 4. List of items recommended to be stocked as spare parts.
- D. Maintenance Procedures: Include the following information and items that detail essential maintenance procedures:
  - 1. Test and inspection instructions.
  - 2. Troubleshooting guide.
  - 3. Precautions against improper maintenance.
  - 4. Disassembly; component removal, repair, and replacement; and reassembly instructions.
  - 5. Aligning, adjusting, and checking instructions.
  - 6. Demonstration and training video recording, if available.
- E. Maintenance and Service Schedules: Include service and lubrication requirements, list of required lubricants for equipment, and separate schedules for preventive and routine maintenance and service with standard time allotment.
  - 1. Scheduled Maintenance and Service: Tabulate actions for daily, weekly, monthly, quarterly, semiannual, and annual frequencies.

2. Maintenance and Service Record: Include manufacturers' forms for recording maintenance.
- F. Spare Parts List and Source Information: Include lists of replacement and repair parts, with parts identified and cross-referenced to manufacturers' maintenance documentation and local sources of maintenance materials and related services.
- G. Maintenance Service Contracts: Include copies of maintenance agreements with name and telephone number of service agent.
- H. Warranties and Bonds: Include copies of warranties and bonds and lists of circumstances and conditions that would affect validity of warranties or bonds.
  1. Include procedures to follow and required notifications for warranty claims.

### **PART 3 - EXECUTION**

#### **3.1 MANUAL PREPARATION**

- A. Operation and Maintenance Documentation Directory: Prepare a separate manual that provides an organized reference to emergency, operation, and maintenance manuals.
- B. Emergency Manual: Assemble a complete set of emergency information indicating procedures for use by emergency personnel and by Owner's operating personnel for types of emergencies indicated.
- C. Product Maintenance Manual: Assemble a complete set of maintenance data indicating care and maintenance of each product, material, and finish incorporated into the Work.
- D. Operation and Maintenance Manuals: Assemble a complete set of operation and maintenance data indicating operation and maintenance of each system, subsystem, and piece of equipment not part of a system.
  1. Engage a factory-authorized service representative to assemble and prepare information for each system, subsystem, and piece of equipment not part of a system.
  2. Prepare a separate manual for each system and subsystem, in the form of an instructional manual for use by Owner's operating personnel.
- E. Manufacturers' Data: Where manuals contain manufacturers' standard printed data, include only sheets pertinent to product or component installed. Mark each sheet to identify each product or component incorporated into the Work. If data include more than one item in a tabular format, identify each item using appropriate references from the Contract Documents. Identify data applicable to the Work and delete references to information not applicable.
  1. Prepare supplementary text if manufacturers' standard printed data are not available and where the information is necessary for proper operation and maintenance of equipment or systems.
- F. Drawings: Prepare drawings supplementing manufacturers' printed data to illustrate the relationship of component parts of equipment and systems and to illustrate control sequence and flow diagrams. Coordinate these drawings with information contained in record Drawings to ensure correct illustration of completed installation.

1. Do not use original project record documents as part of operation and maintenance manuals.
  2. Comply with requirements of newly prepared record Drawings in Section 017839 "Project Record Documents."
- G. Comply with Section 017700 "Closeout Procedures" for schedule for submitting operation and maintenance documentation.

END OF SECTION 017823

**SECTION 017839  
PROJECT RECORD DOCUMENTS**

**PART 1 - GENERAL**

**1.1 SUMMARY**

- A. Section includes administrative and procedural requirements for project record documents, including the following:
  - 1. Record Drawings.
  - 2. Record Specifications.
  - 3. Record Product Data.
- B. Related Requirements:
  - 1. Section 017700 "Closeout Procedures" for general closeout procedures.
  - 2. Section 017823 "Operation and Maintenance Data" for operation and maintenance manual requirements.

**1.2 CLOSEOUT SUBMITTALS**

- A. Record Drawings Submittals:
  - 1. Submit one (1) paper-copy set(s) of marked-up (red lined) record prints.
  - 2. Submit any PDF electronic files of scanned or digital record documents.
  - 3. Architect/Engineer will indicate whether general scope of changes, additional information recorded, and quality of drafting are acceptable.
- B. Record Specifications: Submit one paper copy or annotated PDF electronic files of Project's Specifications, including addenda and contract modifications.
- C. Record Product Data: Submit one paper copy or annotated PDF electronic files of each product submittal not required as part of operation and maintenance manuals

**PART 2 - PRODUCTS**

**2.1 RECORD DRAWINGS**

- A. Record Prints: Maintain one set of marked-up (red-lined) paper copies of the Contract Drawings and Shop Drawings, incorporating new and revised drawings as modifications are issued.
  - 1. Preparation: Mark record prints to show the actual installation where installation varies from that shown originally. Require individual or entity who obtained record data, whether individual or entity is Installer, subcontractor, or similar entity, to provide information for preparation of corresponding marked-up record prints.

- a. Give particular attention to information on concealed elements that would be difficult to identify or measure and record later.
    - b. Accurately record information in an acceptable drawing technique.
    - c. Record data as soon as possible after obtaining it.
    - d. Record and check the markup before enclosing concealed installations.
    - e. Cross-reference record prints to corresponding archive photographic documentation.
  2. Content: Types of items requiring marking include, but are not limited to, the following:
    - a. Dimensional changes to Drawings.
    - b. Revisions to details shown on Drawings.
    - c. Depths of foundations below first floor.
    - d. Locations and depths of underground utilities.
    - e. Revisions to routing of piping and conduits.
    - f. Revisions to electrical circuitry.
    - g. Actual equipment locations.
    - h. Duct size and routing.
    - i. Locations of concealed internal utilities.
    - j. Changes made by Change Order or Construction Change Directive.
    - k. Changes made following Architect/Engineer's written orders.
    - l. Details not on the original Contract Drawings.
    - m. Field records for variable and concealed conditions.
    - n. Record information on the Work that is shown only schematically.
  3. Mark the Contract Drawings and Shop Drawings completely and accurately. Use personnel proficient at recording graphic information in production of marked-up record prints.
  4. Mark record sets with erasable, red-colored pencil. Use other colors to distinguish between changes for different categories of the Work at same location.
  5. Mark important additional information that was either shown schematically or omitted from original Drawings.
  6. Note Construction Change Directive numbers, alternate numbers, Change Order numbers, and similar identification, where applicable.
- B. Format: Identify and date each record Drawing; include the designation "PROJECT RECORD DRAWING" in a prominent location.
1. Record Prints: Organize record prints and newly prepared record Drawings into manageable sets. Bind each set with durable paper cover sheets. Include identification on cover sheets.
  2. Format: Annotated PDF electronic files.
  3. Record Digital Data Files: Organize digital data information into separate electronic files that correspond to each sheet of the Contract Drawings. Name each file with the sheet identification. Include identification in each digital data file.
  4. Identification: As follows:
    - a. Project name.
    - b. Date.
    - c. Designation "PROJECT RECORD DRAWINGS."
    - d. Name of Architect/Engineer.
    - e. Name of Contractor.

## **2.2 RECORD SPECIFICATIONS**

- A. Preparation: Mark Specifications to indicate the actual product installation where installation varies from that indicated in Specifications, addenda, and contract modifications.
  - 1. Give particular attention to information on concealed products and installations that cannot be readily identified and recorded later.
  - 2. Mark copy with the proprietary name and model number of products, materials, and equipment furnished, including substitutions and product options selected.
- B. Format: Submit record Specifications as annotated PDF electronic file or marked paper copy.

## **2.3 RECORD PRODUCT DATA**

- A. Preparation: Mark Product Data to indicate the actual product installation where installation varies substantially from that indicated in Product Data submittal.
  - 1. Give particular attention to information on concealed products and installations that cannot be readily identified and recorded later.
  - 2. Include significant changes in the product delivered to Project site and changes in manufacturer's written instructions for installation.
  - 3. Record the name of manufacturer, supplier, Installer, and other information necessary to provide a record of selections made.
  - 4. For each principal product, indicate whether record Product Data has been submitted in operation and maintenance manuals instead of submitted as record Product Data.
- B. Format: Submit record Product Data as annotated PDF electronic file or paper copy or Product Data.

## **PART 3 - EXECUTION**

### **3.1 RECORDING AND MAINTENANCE**

- A. Recording: Post changes and revisions to project record documents as they occur; do not wait until end of Project.
- B. Maintenance of Record Documents and Samples: Store record documents and Samples in the field office apart from the Contract Documents used for construction. Do not use project record documents for construction purposes. Maintain record documents in good order and in a clean, dry, legible condition, protected from deterioration and loss. Provide access to project record documents for Architect/Engineer's reference during normal working hours.

**END OF SECTION 017839**