

CONTRACT DOCUMENTS & SPECIFICATIONS

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TURKEY CREEK DAM AND DIKE CONSERVANCY DISTRICT

LAKE WAWASEE DIKE REHABILITATION PROJECT

DECEMBER 2022



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CONSULTING ENGINEERS

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CONTRACT DOCUMENTS AND SPECIFICATIONS

FOR

**LAKE WAWASEE
DIKE REHABILITATION PROJECT**

DECEMBER 2022

Prepared for:

**TURKEY CREEK DAM AND DIKE
CONSERVANCY DISTRICT**

Prepared By:

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Date

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Date



TURKEY CREEK DAM AND DIKE CONSERVANCY DISTRICT

**LAKE WAWASEE
DIKE REHABILITATION PROJECT**

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ADVERTISEMENT FOR BIDS

LAKE WAWASEE DIKE REHABILITATION PROJECT

The Turkey Creek Dam and Dike Conservancy District, hereinafter referred to as the Owner, will receive sealed bids for the construction of Lake Wawasee Dike Rehabilitation Project in accordance with the Specifications and Contract Drawings. Bids will be received until _____ prevailing time, _____, 2023 at the _____ Office, _____, _____, Indiana _____. Bids received after that time will be returned unopened. All bids will be publicly opened and read aloud in the _____ meeting room at _____ a.m. on _____, 2023.

The project involves _____.

A Pre-Bid meeting is scheduled for _____, 2023 at _____ a.m. prevailing time at the _____. All prime contractors and other interested parties are encouraged to attend. A site visit will occur after the meeting for those wishing to participate.

Contract Documents and Plans are on file and may be examined at the _____, _____, _____, _____, Indiana _____ and at the offices of Lawson-Fisher Associates, 525 West Washington Avenue, South Bend, Indiana 46601, Monday through Friday. Contract Documents and Plans may be obtained from Lawson-Fisher Associates P.C. for a non-refundable cost of _____ per set.

Proposals shall be properly and completely executed on proposal forms included in the Specifications. Each proposal must be submitted in a sealed envelope bearing the title of the project and the name and address of the bidder. The work to be performed and the proposal to be submitted shall include sufficient and proper sums for all general construction, labor, materials, permits, licenses, insurance, and so forth incidental to and required for the project.

Each bid shall be accompanied by a cashier's or certified check, drawn on an acceptable bank, or an acceptable bidder's bond made payable to the Owner, in an amount not less than five percent (5%) of the total amount of the bid, which check or bond will be held by the Owner as evidence that the bidder will, if awarded the contract, enter into the same with the Owner upon notification from him to do so within ten (10) days of said notification.

Approved performance and payment bonds guaranteeing faithful and proper performance of the work and materials, to be executed by an acceptable surety company, will be required of the Contractor at the time he executes his contract. The bonds will be in the amount of 125% of the Contract Price and must be in full force and effect throughout the term of the Construction Contract plus a period of twelve (12) months from the date of substantial completion.

Approved three-year Maintenance Bond in the amount of 10% of the final contract price is required after the work is completed.

The Owner reserves the right to reject any proposal, or all proposals, or to waive any and all informalities in bidding. Any proposal may be withdrawn prior to the above scheduled time for the opening of proposals or authorized postponement thereof. Any proposal received after the time and date specified shall not be considered. No proposal may be withdrawn after the scheduled closing time for receipt of bids for at least sixty (60) days.

A conditional or qualified Proposal will not be accepted.

All applicable laws, ordinances, and the rules and regulations of all authorities having jurisdiction over construction of the project shall apply to the project throughout.

Proposals shall be properly and completely executed on proposal forms included in the Specifications. Proposals shall include all information requested by Indiana Form 96 (Revised 2013). The Owner may make such investigations as deemed necessary to determine the ability of the Bidder to perform the work and the Bidder shall furnish to the Owner all such information and data for this purpose as the Owner may request. The Owner reserves the right to reject any bid if the evidence submitted by, or investigation of, such Bidder fails to satisfy the Owner that such Bidder is properly qualified to carry out the obligations of the Agreement and to complete the work contemplated therein.

Each Bidder is responsible for inspecting the Project site, especially concerning access to the proposed work, and for reading and being thoroughly familiar with the Contract Documents and Specifications. The failure or omission of any Bidder to do any of the foregoing shall in no way relieve any Bidder from any obligation with respect to its Bid.

TURKEY CREEK DAM AND DIKE CONSERVANCY DISTRICT

By: _____

Title: _____

Advertise on _____ and _____, 2023.

TURKEY CREEK DAM AND DIKE CONSERVANCY DISTRICT

LAKE WAWASEE DIKE REHABILITATION PROJECT

CHECKLIST FOR BIDDERS

From time to time, the Turkey Creek Dam and Dike Conservancy District, finds it necessary to reject a bid because it does not comply with statutory requirements. In preparing your bid, please use the following checklist in order to make sure that your bid is done in the proper manner.

- _____ Bid prepared on form provided.
- _____ Bid signed by proper party.
- _____ Non-collusion Affidavit signed by proper party.
- _____ Non-Collusion Affidavit properly notarized (proper notarization includes name and County of residence of notary types beneath notary's signature, date commission expires and notary seal).
- _____ Properly bid security included (the bidder has the option of providing either a Certified Check or Bid Bond). The Bid Bond or Certified Check must be in the amount indicated in the "Notice to Bidders".
- _____ All required additional information is included with the bid.
- _____ Non-Discrimination Commitment.
- _____ Subcontractor List.
- _____ Bid forwarded to the Turkey Creek Dam and Dike Conservancy District, 11566 IN-13, Syracuse, Indiana 46567, with adequate time to enable it to arrive before 4:00 p.m.. on the scheduled bid opening date. All bids received after the legally published deadline will be returned unopened.
- _____ Duplicate Bid Forms Stamped "COPY".

INSTRUCTIONS TO BIDDERS FOR CONSTRUCTION CONTRACTS

Prepared by



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ARTICLE 1 – DEFINED TERMS

- 1.01 Terms used in these Instructions to Bidders have the meanings indicated in the General Conditions and Supplementary Conditions. Additional terms used in these Instructions to Bidders have the meanings indicated below:
- A. *Issuing Office* – The office from which the Bidding Documents are to be issued is **Christopher J. Jeter, PE, Lawson-Fisher Associates P.C., 525 West Washington Avenue, South Bend, Indiana 46601, phone: 574-234-3167, email: cjeter@lawson-fisher.com.**
 - B. *Bidder* – The individual or entity who submits a Bid directly to the Owner.
 - C. *Successful Bidder* – The lowest responsible Bidder submitting a responsible Bid to whom Owner (on the basis of Owner’s evaluation as hereinafter provided) makes an award.

ARTICLE 2 – 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 of invitation to bid may be obtained from the Issuing Office. The deposit will be **non-refundable**.
- 2.02 Complete sets of Bidding Documents shall be used in preparing Bids; neither Owner nor Engineer assumes any responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.
- 2.03 Owner and Engineer, in making copies of Bidding Documents available on the above terms, do so only for the purpose of obtaining Bids for the Work and do not authorize or confer a license for any other use.

ARTICLE 3 – QUALIFICATIONS OF BIDDERS

- 3.01 To demonstrate Bidder’s qualifications to perform the Work, after submitting its Bid and within five [5] days of Owner’s request, Bidder shall submit (a) written evidence such as financial data, previous experience, present commitments and such other data as may be called for below.
- A. Evidence of Bidder’s authority to do business in the State of Indiana.
 - B. Refer to Advertisement for Bids, Supplementary Conditions, and Bid Form for Construction Contracts Section for additional requirements.
- 3.02 Bidder is advised to carefully review those portions of the Bid Form requiring Bidder’s representations and certifications.
- 3.03 A Bidder’s failure to submit required qualification information within the times indicated may disqualify Bidder from receiving an award of the Contract.
- 3.04 No requirement in this Article 3 to submit information will prejudice the right of Owner to seek additional pertinent information regarding Bidder’s qualifications.

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

- 4.01 *Site and Other Areas*
- A. The Site is identified in the Bidding Documents. By definition, the Site includes rights-of-way, easements, and other lands furnished by 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 *Existing Site Conditions*

A. Subsurface and Physical Conditions; Hazardous Environmental Conditions

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

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

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

4.03 *Site Visit and Testing by Bidders*

- A. Bidder shall conduct the required Site visit during normal working hours, and shall not disturb any ongoing operations at the Site.
- B. Bidder is not required to conduct any subsurface testing, or exhaustive investigations of Site conditions.

- C. On request, and to the extent Owner has control over the Site, and schedule permitting, the Owner will provide Bidder access to the Site to conduct such additional examinations, investigations, explorations, tests, and studies as Bidder deems necessary for preparing and submitting a successful Bid. Owner will not have any obligation to grant such access if doing so is not practical because of existing operations, security or safety concerns, or restraints on Owner's authority regarding the Site.
- D. Bidder shall comply with all applicable Laws and Regulations regarding excavation and location of utilities, obtain all permits, and comply with all terms and conditions established by Owner or by property owners or other entities controlling the Site with respect to schedule, access, existing operations, security, liability insurance, and applicable safety programs.
- E. Bidder shall fill all holes and clean up and restore the Site to its former condition upon completion of such explorations, investigations, tests, and studies.

4.04 *Owner's Safety Program*

- A. Site visits and work at the Site may be governed by an Owner safety program. As the General Conditions indicate, if an Owner safety program exists, it will be noted in the Supplementary Conditions.

4.05 *Other Work at the Site*

- A. Reference is made to Article 8 of the Supplementary Conditions for the identification of the general nature of other work of which Owner is aware (if any) that is to be performed at the Site by Owner or others (such as utilities and other prime contractors) and relates to the Work contemplated by these Bidding Documents. If Owner is party to a written contract for such other work, then on request, Owner will provide to each Bidder access to examine such contracts (other than portions thereof related to price and other confidential matters), if any.

ARTICLE 5 – BIDDER'S REPRESENTATIONS

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

- A. examine and carefully study the Bidding Documents, and any data and reference items identified in the Bidding Documents;
- B. visit the Site, conduct a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and satisfy itself as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work;
- C. become familiar with and satisfy 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 that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings, and (2) reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings;
- E. consider the information known to Bidder itself; information commonly known to contractors doing business in the locality of the Site; information and observations

obtained from visits to the Site; the Bidding Documents; and the Site-related reports and drawings identified in the Bidding Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder; and (3) Bidder's safety precautions and programs;

- F. agree, based on the information and observations referred to in the preceding paragraph, that at the time of submitting its Bid no further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of its Bid for performance of the Work at the price bid and within the times required, and in accordance with the other terms and conditions of the Bidding Documents;
- G. 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;
- H. promptly give Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder discovers in the Bidding Documents and confirm that the written resolution thereof by Engineer is acceptable to Bidder;
- I. 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
- J. 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 is premised upon performing and furnishing the Work required by the Bidding Documents and applying any specific means, methods, techniques, sequences, and procedures of construction that may be shown or indicated or expressly required by the Bidding Documents, that Bidder has given Engineer written notice of all conflicts, errors, ambiguities and discrepancies that Bidder has discovered in the Bidding Documents and the written resolutions thereof by Engineer are acceptable to Bidder and that the Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performing and furnishing the Work.

ARTICLE 6 – PRE-BID CONFERENCE

- 6.01 A pre-bid conference will be held at the time and location stated in the invitation or advertisement to bid. Representatives of Owner and Engineer will be present to discuss the Project. Attendance by bidders is strongly encouraged to attend and participate in the conference. Engineer will transmit to all prospective Bidders of record such Addenda as Engineer considers necessary in response to questions arising at the conference. Oral statements may not be relied upon and will not be binding or legally effective.

ARTICLE 7 – INTERPRETATIONS AND ADDENDA

- 7.01 All questions about the meaning or intent of the Bidding Documents are to be submitted to Engineer in writing. Interpretations or clarifications considered necessary by Engineer in response to such questions will be issued by Addenda via UPS, facsimile, or email delivered to all parties recorded as having received the Bidding Documents. Questions received less than seven 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 be issued to clarify, correct, supplement, or change the Bidding Documents.

ARTICLE 8 – BID SECURITY

- 8.01 A Bid must be accompanied by Bid security made payable to Owner in an amount of five (5) percent of Bidder's maximum Bid price including all alternates and in the form of a Certified Check, Bank Money Order, or 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 five days after the Effective Date of the Contract or 61 days after the Bid opening, whereupon Bid security furnished by such Bidders will be released.
- 8.04 Bid security of other Bidders that Owner believes do not have a reasonable chance of receiving the award will be released within seven days after the Bid opening.

ARTICLE 9 – CONTRACT TIMES

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

ARTICLE 10 – LIQUIDATED DAMAGES

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

ARTICLE 11 – SUBSTITUTE AND "OR-EQUAL" ITEMS

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

ARTICLE 12 – SUBCONTRACTORS, SUPPLIERS, AND OTHERS

- 12.01 A Bidder shall be prepared to retain specific Subcontractors, Suppliers, or other individuals or entities for the performance of the Work if required by the Bidding Documents (most commonly in the Specifications) to do so. If a prospective Bidder objects to retaining any such Subcontractor, Supplier, or other individual or entity, and the concern is not relieved by an Addendum, then the prospective Bidder should refrain from submitting a Bid.
- 12.02 Subsequent to the submittal of the Bid, Owner may not require the Successful Bidder or Contractor to retain any Subcontractor, Supplier, or other individual or entity against which Contractor has reasonable objection.
- 12.03 The apparent Successful Bidder, and any other Bidder so requested, shall within five days after Bid opening, submit to Owner a list of the Subcontractors or Suppliers proposed for any or all portions of the work.
- If requested by Owner, 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, or other individual or entity. If Owner or Engineer, 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 an acceptable substitute without an increase in bid price.
- 12.04 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, or other individuals or entities. Declining to make requested substitutions will 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 makes no written objection prior to the giving of the Notice of Award will be deemed acceptable to Owner and Engineer subject to subsequent revocation of such acceptance as provided in Paragraph 7.06 of the General Conditions.

ARTICLE 13 – PREPARATION OF BID

- 13.01 The Bid Form is included with the Bidding Documents.
- A. 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, adjustment unit price item, and unit price item listed therein.
- B. 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.”
- 13.02 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. The corporate seal shall be affixed and attested by the Corporate Secretary or an Assistant Corporate Secretary.
- 13.03 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.

- 13.04 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 official address of the firm shall be shown.
- 13.05 A Bid by an individual shall show the Bidder's name and official address for receiving notices.
- 13.06 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 official address of the joint venture for receiving notices shall be shown.
- 13.07 All names shall be printed in ink below the signatures.
- 13.08 The Bid shall contain an acknowledgment of receipt of all Addenda, the numbers of which shall be filled in on the Bid Form.
- 13.09 Postal and e-mail addresses and telephone number for communications regarding the Bid shall be shown.
- 13.10 The Bid shall contain evidence of Bidder's authority and qualification to do business in the state where the Project is located, or Bidder shall covenant in writing to obtain such authority and qualification prior to award of the Contract and attach such covenant to the Bid. Bidder's state contractor license number, if any, shall also be shown on the Bid Form.

ARTICLE 14 – BASIS OF BID

14.01 *Unit Price*

- A. Bidders shall submit a Bid on a unit price basis for each item of Work listed in the unit price section of the Bid Form.
- B. The "Bid Price" (sometimes referred to as the extended price) for each unit price Bid item will be the product of the "Estimated Quantity" (which Owner or its representative has set forth in the Bid Form) for the item and the corresponding "Bid Unit Price" offered by the Bidder. The total of all unit price Bid items will be the sum of these "Bid Prices"; such total will be used by Owner for Bid comparison purposes. The final quantities and Contract Price will be determined in accordance with Paragraph 13.03 of the General Conditions.
- C. Discrepancies between the multiplication of units of Work and unit prices will be resolved in favor of the unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum.

ARTICLE 15 – SUBMITTAL OF BID

- 15.01 With each copy of the Bidding Documents, a Bidder is furnished one separate unbound copy of the Bid Form, and, if required, the Bid Bond Form. The unbound copy of the Bid Form is to be completed and submitted with the Bid security and the other documents required to be submitted under the terms of Article 7 of the Bid Form.
- 15.02 A Bid shall be received no later than the date and time prescribed and at the place indicated in the advertisement or invitation to bid and shall be enclosed in a plainly marked package with the Project title (and, if applicable, the designated portion of the Project for which the Bid is submitted), the name and address of Bidder, and shall be accompanied by the Bid security and other required documents. If a Bid is sent by mail or other delivery system, the sealed envelope containing the Bid shall be enclosed in a separate package plainly marked on the outside with

the notation "BID ENCLOSED." A mailed Bid shall be addressed to Turkey Creek Dam and Dike Conservancy District, 11566 IN-13, Syracuse, Indiana 46567.

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

ARTICLE 16 – MODIFICATION AND WITHDRAWAL OF BID

- 16.01 A Bid may be withdrawn by an appropriate document duly executed in the same manner that a Bid must be executed and delivered to the place where Bids are to be submitted prior to the date and time for the opening of Bids. Upon receipt of such notice, the unopened Bid will be returned to the Bidder.
- 16.02 If 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.

ARTICLE 17 – OPENING OF BIDS

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

ARTICLE 18 – BIDS TO REMAIN SUBJECT TO ACCEPTANCE

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

ARTICLE 19 – EVALUATION OF BIDS AND AWARD OF CONTRACT

- 19.01 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 If Owner awards the contract for the Work, such award shall be to the qualified responsible Bidder submitting the lowest responsive Bid in the best interest of the Owner. The Owner reserves the right to accept a full or partial award of the bid or bids.
- 19.03 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.

- B. For the determination of the apparent low Bidder when unit price bids are submitted, Bids will be compared on the basis of the total of the products of the estimated quantity of each item and unit price Bid for that item, together with any lump sum items.
- 19.04 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.
- 19.05 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.

ARTICLE 20 – BONDS AND INSURANCE

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

ARTICLE 21 – 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.

ARTICLE 22 – SALES AND USE TAXES

- 22.01 Owner is exempt from Indiana state sales and use taxes on materials and equipment to be incorporated in the Work. Exemption No. can be obtained from the Town of Syracuse. Said taxes shall not be included in the Bid. Refer to Paragraph SC-7.09 of the Supplementary Conditions for additional information.

ARTICLE 23 – FAILURE TO EXECUTE CONTRACT

- 23.01 The Successful Bidder, upon failure or refusal to execute or deliver the required Agreement, Performance bond and Payment Bond within fifteen (15) calendar days from the date of "Notice of Award", shall forfeit to the Owner as liquidated damages the security deposited with the bid.

ARTICLE 24 – EQUAL EMPLOYMENT OPPORTUNITY

- 24.01 Attention of Bidders is particularly called to the requirements for ensuring the employees and applicants for employment are not discriminated against because of their age, color, religion, sex or national origin as set forth herein and Bidder must conform with the Anti-discrimination provision of the State of Indiana (IC5-16-6).

ARTICLE 25 – PROTECTION OF WORK AND PROPERTY

- 25.01 The Contractor shall continuously maintain adequate protection of all his work from damage and shall protect the Owner's property from injury or loss arising in connection with this Contract, as provided by law and the Contract Documents. He shall provide and maintain all passageways, guard fences, light and other facilities for protection required by public authority or local conditions

STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

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ARTICLE 1 – DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

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

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

11. *Constituent of Concern*—Asbestos, petroleum, radioactive materials, polychlorinated biphenyls (PCBs), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. (“CERCLA”); (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§5101 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. (“RCRA”); (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; or (g) any other federal, state, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.
12. *Contract*—The entire and integrated written contract between the Owner and Contractor concerning the Work.
13. *Contract Documents*—Those items so designated in the Agreement, and which together comprise the Contract.
14. *Contract Price*—The money that Owner has agreed to pay Contractor for completion of the Work in accordance with the Contract Documents. .
15. *Contract Times*—The number of days or the dates by which Contractor shall: (a) achieve Milestones, if any; (b) achieve Substantial Completion; and (c) complete the Work.
16. *Contractor*—The individual or entity with which Owner has contracted for performance of the Work.
17. *Cost of the Work*—See Paragraph 13.01 for definition.
18. *Drawings*—The part of the Contract that graphically shows the scope, extent, and character of the Work to be performed by Contractor.
19. *Effective Date of the Contract*—The date, indicated in the Agreement, on which the Contract becomes effective.
20. *Engineer*—The individual or entity named as such in the Agreement.
21. *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.
22. *Hazardous Environmental Condition*—The presence at the Site of Constituents of Concern in such quantities or circumstances that may present a danger to persons or property exposed thereto. The presence at the Site of materials that are necessary for the execution of the Work, or that are to be incorporated in the Work, and that are controlled and contained pursuant to industry practices, Laws and Regulations, and the requirements of the Contract, does not establish a Hazardous Environmental Condition.

23. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
24. *Liens*—Charges, security interests, or encumbrances upon Contract-related funds, real property, or personal property.
25. *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.
26. *Notice of Award*—The written notice by Owner to a Bidder of Owner's acceptance of the Bid.
27. *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.
28. *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.
29. *Progress Schedule*—A schedule, prepared and maintained by Contractor, describing the sequence and duration of the activities comprising the Contractor's plan to accomplish the Work within the Contract Times.
30. *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.
31. *Project Manual*—The written documents prepared for, or made available for, procuring and constructing the Work, including but not limited to the Bidding Documents or other construction procurement documents, geotechnical and existing conditions information, the Agreement, bond forms, General Conditions, Supplementary Conditions, and Specifications. The contents of the Project Manual may be bound in one or more volumes.
32. *Resident Project Representative*—The authorized representative of Engineer assigned to assist Engineer at the Site. As used herein, the term Resident Project Representative or "RPR" includes any assistants or field staff of Resident Project Representative.
33. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work will be judged.
34. *Schedule of Submittals*—A schedule, prepared and maintained by Contractor, of required submittals and the time requirements for Engineer's review of the submittals and the performance of related construction activities.
35. *Schedule of Values*—A schedule, prepared and maintained by Contractor, allocating portions of the Contract Price to various portions of the Work and used as the basis for reviewing Contractor's Applications for Payment.
36. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for Contractor and

submitted by Contractor to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Contract Documents.

37. *Site*—Lands or areas indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements, and such other lands furnished by Owner which are designated for the use of Contractor.
38. *Specifications*—The part of the Contract that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.
39. *Subcontractor*—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work.
40. *Substantial Completion*—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms “substantially complete” and “substantially completed” as applied to all or part of the Work refer to Substantial Completion thereof.
41. *Successful Bidder*—The Bidder whose Bid the Owner accepts, and to which the Owner makes an award of contract, subject to stated conditions.
42. *Supplementary Conditions*—The part of the Contract that amends or supplements these General Conditions.
43. *Supplier*—A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or a Subcontractor.
44. *Technical Data*—Those items expressly identified as Technical Data in the Supplementary Conditions, with respect to either (a) subsurface conditions at the Site, or physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities) or (b) Hazardous Environmental Conditions at the Site. If no such express identifications of Technical Data have been made with respect to conditions at the Site, then the data contained in boring logs, recorded measurements of subsurface water levels, laboratory test results, and other factual, objective information regarding conditions at the Site that are set forth in any geotechnical or environmental report prepared for the Project and made available to Contractor are hereby defined as Technical Data with respect to conditions at the Site under Paragraphs 5.03, 5.04, and 5.06.
45. *Underground Facilities*—All underground pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or attachments, and any encasements containing such facilities, including but not limited to those that convey electricity, gases, steam, liquid petroleum products, telephone or other communications, fiber optic transmissions, cable television, water, wastewater, storm water, other liquids or chemicals, or traffic or other control systems.
46. *Unit Price Work*—Work to be paid for on the basis of unit prices.
47. *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.

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

1.02 Terminology

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

2. The word “install,” when used in connection with services, materials, or equipment, shall mean to put into use or place in final position said services, materials, or equipment complete and ready for intended use.
 3. The words “perform” or “provide,” when used in connection with services, materials, or equipment, shall mean to furnish and install said services, materials, or equipment complete and ready for intended use.
 4. If the Contract Documents establish an obligation of Contractor with respect to specific services, materials, or equipment, but do not expressly use any of the four words “furnish,” “install,” “perform,” or “provide,” then Contractor shall furnish and install said services, materials, or equipment complete and ready for intended use.
- F. Unless stated otherwise in the Contract Documents, words or phrases that have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with such recognized meaning.

ARTICLE 2 – PRELIMINARY MATTERS

2.01 *Delivery of Bonds and Evidence of Insurance*

- A. *Bonds*: When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner such bonds as Contractor may be required to furnish.
- B. *Evidence of Contractor’s Insurance*: When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner, with copies to each named insured and additional insured (as identified in the Supplementary Conditions or elsewhere in the Contract), the certificates and other evidence of insurance required to be provided by Contractor in accordance with Article 6.
- C. *Evidence of Owner’s Insurance*: After receipt of the executed counterparts of the Agreement and all required bonds and insurance documentation, Owner shall promptly deliver to Contractor, with copies to each named insured and additional insured (as identified in the Supplementary Conditions or otherwise), the certificates and other evidence of insurance required to be provided by Owner under Article 6.

2.02 *Copies of Documents*

(See SC-2.02.A)

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

2.03 *Before Starting Construction*

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

1. a preliminary Progress Schedule indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract;
2. a preliminary Schedule of Submittals; and

(See SC-2.03.A.3)

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.

(See SC-2.03.A.4)

2.04 *Preconstruction Conference; Designation of Authorized Representatives*

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

2.05 *Initial Acceptance of Schedules*

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

2.06 *Electronic Transmittals*

- A. Except as otherwise stated elsewhere in the Contract, the Owner, Engineer, and Contractor may transmit, and shall accept, Project-related correspondence, text, data, documents,

drawings, information, and graphics, including but not limited to Shop Drawings and other submittals, in electronic media or digital format, either directly, or through access to a secure Project website.

- B. If the Contract does not establish protocols for electronic or digital transmittals, then Owner, Engineer, and Contractor shall jointly develop such protocols.
- C. When transmitting items in electronic media or digital format, the transmitting party makes no representations as to long term compatibility, usability, or readability of the items resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the items, or from those established in applicable transmittal protocols.

ARTICLE 3 – DOCUMENTS: INTENT, REQUIREMENTS, REUSE

3.01 Intent

(See SC-3.01.A)

- A. The Contract Documents are complementary; what is required by one is as binding as if required by all.
- B. It is the intent of the Contract Documents to describe a functionally complete project (or part thereof) to be constructed in accordance with the Contract Documents.
- C. Unless otherwise stated in the Contract Documents, if there is a discrepancy between the electronic or digital versions of the Contract Documents (including any printed copies derived from such electronic or digital versions) and the printed record version, the printed record version shall govern.
- D. The Contract supersedes prior negotiations, representations, and agreements, whether written or oral.
- E. Engineer will issue clarifications and interpretations of the Contract Documents as provided herein.

3.02 Reference Standards

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

responsibility inconsistent with the provisions of the part of the Contract Documents prepared by or for Engineer.

3.03 *Reporting and Resolving Discrepancies*

A. *Reporting Discrepancies:*

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

B. *Resolving Discrepancies:*

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

3.04 *Requirements of the Contract Documents*

- A. During the performance of the Work and until final payment, Contractor and Owner shall submit to the Engineer all matters in question concerning the requirements of the Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Contract Documents, as soon as possible after such matters arise. Engineer will be the initial interpreter of the requirements of the Contract Documents, and judge of the acceptability of the Work thereunder.

- B. Engineer will, with reasonable promptness, render a written clarification, interpretation, or decision on the issue submitted, or initiate an amendment or supplement to the Contract Documents. Engineer's written clarification, interpretation, or decision will be final and binding on Contractor, unless it appeals by submitting a Change Proposal, and on Owner, unless it appeals by filing a Claim.
- C. If a submitted matter in question concerns terms and conditions of the Contract Documents that do not involve (1) the performance or acceptability of the Work under the Contract Documents, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, then Engineer will promptly give written notice to Owner and Contractor that Engineer is unable to provide a decision or interpretation. If Owner and Contractor are unable to agree on resolution of such a matter in question, either party may pursue resolution as provided in Article 12.

3.05 *Reuse of Documents*

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

ARTICLE 4 – COMMENCEMENT AND PROGRESS OF THE WORK

4.01 *Commencement of Contract Times; Notice to Proceed*

(See SC-4.01.A)

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

4.02 *Starting the Work*

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

4.03 *Reference Points*

- A. Owner shall provide engineering surveys to establish reference points for construction which in Engineer's judgment are necessary to enable Contractor to proceed with the Work. Contractor shall be responsible for laying out the Work, shall protect and preserve

the established reference points and property monuments, and shall make no changes or relocations without the prior written approval of Owner. Contractor shall report to Engineer whenever any reference point or property monument is lost or destroyed or requires relocation because of necessary changes in grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points or property monuments by professionally qualified personnel.

4.04 *Progress Schedule*

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

4.05 *Delays in Contractor's Progress*

- A. If Owner, Engineer, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress of the Work, then Contractor shall be entitled to an equitable adjustment in the Contract Times and Contract Price. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.
- B. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delay, disruption, or interference caused by or within the control of Contractor. Delay, disruption, and interference attributable to and within the control of a Subcontractor or Supplier shall be deemed to be within the control of Contractor.
- C. If Contractor's performance or progress is delayed, disrupted, or interfered with by unanticipated causes not the fault of and beyond the control of Owner, Contractor, and those for which they are responsible, then Contractor shall be entitled to an equitable adjustment in Contract Times. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times. Such an adjustment shall be Contractor's sole and exclusive remedy for the delays, disruption, and interference described in this paragraph. Causes of delay, disruption, or interference that may give rise to an adjustment in Contract Times under this paragraph include but are not limited to the following:
 - 1. severe and unavoidable natural catastrophes such as fires, floods, epidemics, and earthquakes;
 - 2. abnormal weather conditions;
 - 3. acts or failures to act of utility owners (other than those performing other work at or adjacent to the Site by arrangement with the Owner, as contemplated in Article 8); and

- 4. acts of war or terrorism.
- D. Delays, disruption, and interference to the performance or progress of the Work resulting from the existence of a differing subsurface or physical condition, an Underground Facility that was not shown or indicated by the Contract Documents, or not shown or indicated with reasonable accuracy, and those resulting from Hazardous Environmental Conditions, are governed by Article 5.
- E. Paragraph 8.03 governs delays, disruption, and interference to the performance or progress of the Work resulting from the performance of certain other work at or adjacent to the Site.
- F. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for any delay, disruption, or interference if such delay is concurrent with a delay, disruption, or interference caused by or within the control of Contractor.
- G. Contractor must submit any Change Proposal seeking an adjustment in Contract Price or Contract Times under this paragraph within 30 days of the commencement of the delaying, disrupting, or interfering event.

ARTICLE 5 – AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS

5.01 *Availability of Lands (See SC-5.01.A)*

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

5.02 *Use of Site and Other Areas*

- A. *Limitation on Use of Site and Other Areas:*
 - 1. Contractor shall confine construction equipment, temporary construction facilities, the storage of materials and equipment, and the operations of workers to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and such other adjacent areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility for (a) damage to the Site; (b) damage to any such other adjacent areas used for Contractor's operations; (c) damage to any other adjacent land or areas; and (d) for injuries and losses sustained by the owners or occupants of any such land or areas; provided that such damage or injuries result from the performance of the Work or from other actions or conduct of the Contractor or those for which Contractor is responsible.

2. If a damage or injury claim is made by the owner or occupant of any such land or area because of the performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible, Contractor shall (a) take immediate corrective or remedial action as required by Paragraph 7.12, or otherwise; (b) promptly attempt to settle the claim as to all parties through negotiations with such owner or occupant, or otherwise resolve the claim by arbitration or other dispute resolution proceeding, or at law; and (c) to the fullest extent permitted by Laws and Regulations, indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against any such claim, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable, brought by any such owner or occupant against Owner, Engineer, or any other party indemnified hereunder to the extent caused directly or indirectly, in whole or in part by, or based upon, Contractor's performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible.

(See SC-5.02.B)

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

5.03 Subsurface and Physical Conditions

- A. *Reports and Drawings:* The Supplementary Conditions identify:
 1. those reports known to Owner of explorations and tests of subsurface conditions at or adjacent to the Site;
 2. those drawings known to Owner of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities); and
 3. Technical Data contained in such reports and drawings.
- B. *Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the accuracy of the Technical Data expressly identified in the Supplementary Conditions with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely upon the accuracy of the Technical Data (as defined in Article 1) contained in any geotechnical or environmental report prepared for the Project and made available to Contractor. Except for such reliance on Technical Data, Contractor may not rely upon or

make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, with respect to:

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

(See SC-5.03)

5.04 Differing Subsurface or Physical Conditions

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

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

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

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

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

D. Possible Price and Times Adjustments:

1. Contractor shall be entitled to an equitable adjustment in Contract Price or Contract Times, or both, to the extent that the existence of a differing subsurface or physical condition, or any related delay, disruption, or interference, causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:
 - a. such condition must fall within any one or more of the categories described in Paragraph 5.04.A;
 - b. with respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03; and,
 - c. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.
2. Contractor shall not be entitled to any adjustment in the Contract Price or Contract Times with respect to a subsurface or physical condition if:
 - a. Contractor knew of the existence of such condition at the time Contractor made a commitment to Owner with respect to Contract Price and Contract Times by the submission of a Bid or becoming bound under a negotiated contract, or otherwise; or
 - b. the existence of such condition reasonably could have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site and contiguous areas expressly required by the Bidding Requirements or Contract Documents to be conducted by or for Contractor prior to Contractor's making such commitment; or
 - c. Contractor failed to give the written notice as required by Paragraph 5.04.A.
3. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Price or Contract Times, or both, then any such adjustment shall be set forth in a Change Order.
4. Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Price or Contract Times, or both, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the subsurface or physical condition in question.

5.05 *Underground Facilities*

- A. *Contractor's Responsibilities:* The information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or adjacent to the Site is based on information and data furnished to Owner or Engineer by the owners of such Underground Facilities, including Owner, or by others. Unless it is otherwise expressly provided in the Supplementary Conditions:
 1. Owner and Engineer do not warrant or guarantee the accuracy or completeness of any such information or data provided by others; and

2. the cost of all of the following will be included in the Contract Price, and Contractor shall have full responsibility for:
 - a. reviewing and checking all information and data regarding existing Underground Facilities at the Site;
 - b. locating all Underground Facilities shown or indicated in the Contract Documents as being at the Site;
 - c. coordination of the Work with the owners (including Owner) of such Underground Facilities, during construction; and
 - d. the safety and protection of all existing Underground Facilities at the Site, and repairing any damage thereto resulting from the Work.
- B. *Notice by Contractor:* If Contractor believes that an Underground Facility that is uncovered or revealed at the Site was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy, then Contractor shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), identify the owner of such Underground Facility and give written notice to that owner and to Owner and Engineer.
- C. *Engineer's Review:* Engineer will promptly review the Underground Facility and conclude whether such Underground Facility was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the Contractor's resumption of Work in connection with the Underground Facility in question; determine the extent, if any, to which a change is required in the Drawings or Specifications to reflect and document the consequences of the existence or location of the Underground Facility; and advise Owner in writing of Engineer's findings, conclusions, and recommendations. During such time, Contractor shall be responsible for the safety and protection of such Underground Facility.
- D. *Owner's Statement to Contractor Regarding Underground Facility:* After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the Underground Facility in question, addressing the resumption of Work in connection with such Underground Facility, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations in whole or in part.
- E. *Possible Price and Times Adjustments:*
 1. Contractor shall be entitled to an equitable adjustment in the Contract Price or Contract Times, or both, to the extent that any existing Underground Facility at the Site that was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy, or any related delay, disruption, or interference, causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:
 - a. Contractor did not know of and could not reasonably have been expected to be aware of or to have anticipated the existence or actual location of the Underground Facility in question;

- b. With respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03;
 - c. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times; and
 - d. Contractor gave the notice required in Paragraph 5.05.B.
- 2. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Price or Contract Times, or both, then any such adjustment shall be set forth in a Change Order.
 - 3. Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Price or Contract Times, or both, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the Underground Facility in question.

5.06 *Hazardous Environmental Conditions at Site (See SC-5.06)*

- A. *Reports and Drawings:* The Supplementary Conditions identify:
 - 1. those reports and drawings known to Owner relating to Hazardous Environmental Conditions that have been identified at or adjacent to the Site; and
 - 2. Technical Data contained in such reports and drawings.
- B. *Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the accuracy of the Technical Data expressly identified in the Supplementary Conditions with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely on the accuracy of the Technical Data (as defined in Article 1) contained in any geotechnical or environmental report prepared for the Project and made available to Contractor. Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors with respect to:
 - 1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences and procedures of construction to be employed by Contractor and safety precautions and programs incident thereto; or
 - 2. other data, interpretations, opinions and information contained in such reports or shown or indicated in such drawings; or
 - 3. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions or information.
- C. Contractor shall not be responsible for removing or remediating any Hazardous Environmental Condition encountered, uncovered, or revealed at the Site unless such removal or remediation is expressly identified in the Contract Documents to be within the scope of the Work.
- D. Contractor shall be responsible for controlling, containing, and duly removing all Constituents of Concern brought to the Site by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible, and for any associated costs; and for the

costs of removing and remediating any Hazardous Environmental Condition created by the presence of any such Constituents of Concern.

- E. If Contractor encounters, uncovers, or reveals a Hazardous Environmental Condition whose removal or remediation is not expressly identified in the Contract Documents as being within the scope of the Work, or if Contractor or anyone for whom Contractor is responsible creates a Hazardous Environmental Condition, then Contractor shall immediately: (1) secure or otherwise isolate such condition; (2) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by Paragraph 7.15); and (3) notify Owner and Engineer (and promptly thereafter confirm such notice in writing). Owner shall promptly consult with Engineer concerning the necessity for Owner to retain a qualified expert to evaluate such condition or take corrective action, if any. Promptly after consulting with Engineer, Owner shall take such actions as are necessary to permit Owner to timely obtain required permits and provide Contractor the written notice required by Paragraph 5.06.F. If Contractor or anyone for whom Contractor is responsible created the Hazardous Environmental Condition in question, then Owner may remove and remediate the Hazardous Environmental Condition, and impose a set-off against payments to account for the associated costs.
- F. Contractor shall not resume Work in connection with such Hazardous Environmental Condition or in any affected area until after Owner has obtained any required permits related thereto, and delivered written notice to Contractor either (1) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work, or (2) specifying any special conditions under which such Work may be resumed safely.
- G. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, or both, as a result of such Work stoppage or such special conditions under which Work is agreed to be resumed by Contractor, then within 30 days of Owner's written notice regarding the resumption of Work, Contractor may submit a Change Proposal, or Owner may impose a set-off.
- H. If after receipt of such written notice Contractor does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special conditions, then Owner may order the portion of the Work that is in the area affected by such condition to be deleted from the Work, following the contractual change procedures in Article 11. Owner may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Article 8.
- I. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition, provided that such Hazardous Environmental Condition (1) was not shown or indicated in the Drawings, Specifications, or other Contract Documents, identified as Technical Data entitled to limited reliance pursuant to Paragraph 5.06.B, or identified in the Contract Documents to be included within the scope of the Work, and (2) was not created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.I shall obligate Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

- J. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the failure to control, contain, or remove a Constituent of Concern brought to the Site by Contractor or by anyone for whom Contractor is responsible, or to a Hazardous Environmental Condition created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.J shall obligate Contractor to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.
- K. The provisions of Paragraphs 5.03, 5.04, and 5.05 do not apply to the presence of Constituents of Concern or to a Hazardous Environmental Condition uncovered or revealed at the Site.

ARTICLE 6 – BONDS AND INSURANCE

6.01 *Performance, Payment, and Other Bonds*

(See SC-6.01.A)

- A. ~~Contractor shall furnish a performance bond and a payment bond, each in an amount at least equal to the Contract Price, as security for the faithful performance and payment of all of Contractor's obligations under the Contract.~~ These bonds shall remain in effect until one year after the date when final payment becomes due or until completion of the correction period specified in Paragraph 15.08, whichever is later, except as provided otherwise by Laws or Regulations, the Supplementary Conditions, or other specific provisions of the Contract. Contractor shall also furnish such other bonds as are required by the Supplementary Conditions or other specific provisions of the Contract.
- B. All bonds shall be in the form prescribed by the Contract except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (as amended and supplemented) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. A bond signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual's authority to bind the surety. The evidence of authority shall show that it is effective on the date the agent or attorney-in-fact signed the accompanying bond.
- C. Contractor shall obtain the required bonds from surety companies that are duly licensed or authorized in the jurisdiction in which the Project is located to issue bonds in the required amounts.
- D. If the surety on a bond furnished by Contractor is declared bankrupt or becomes insolvent, or its right to do business is terminated in any state or jurisdiction where any part of the Project is located, or the surety ceases to meet the requirements above, then Contractor shall promptly notify Owner and Engineer and shall, within 20 days after the event giving rise to such notification, provide another bond and surety, both of which shall comply with the bond and surety requirements above.

- E. If Contractor has failed to obtain a required bond, Owner may exclude the Contractor from the Site and exercise Owner's termination rights under Article 16.
- F. Upon request, Owner shall provide a copy of the payment bond to any Subcontractor, Supplier, or other person or entity claiming to have furnished labor or materials used in the performance of the Work.

(See SC-6.01.G)

6.02 Insurance—General Provisions

- A. Owner and Contractor shall obtain and maintain insurance as required in this Article and in the Supplementary Conditions.

(See SC-6.02.B)

- 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. Contractor shall deliver to Owner, with copies to each named insured and additional insured (as identified in this Article, in the Supplementary Conditions, or elsewhere in the Contract), certificates of insurance establishing that Contractor has obtained and is maintaining the policies, coverages, and endorsements required by the Contract. Upon request by Owner or any other insured, Contractor shall also furnish other evidence of such required insurance, including but not limited to copies of policies and endorsements, and documentation of applicable self-insured retentions and deductibles. Contractor may block out (redact) any confidential premium or pricing information contained in any policy or endorsement furnished under this provision.
- D. Owner shall deliver to Contractor, with copies to each named insured and additional insured (as identified in this Article, the Supplementary Conditions, or elsewhere in the Contract), certificates of insurance establishing that Owner has obtained and is maintaining the policies, coverages, and endorsements required of Owner by the Contract (if any). Upon request by Contractor or any other insured, Owner shall also provide other evidence of such required insurance (if any), including but not limited to copies of policies and endorsements, and documentation of applicable self-insured retentions and deductibles. Owner may block out (redact) any confidential premium or pricing information contained in any policy or endorsement furnished under this provision.
- E. Failure of Owner or Contractor to demand such certificates or other evidence of the other party's full compliance with these insurance requirements, or failure of Owner or Contractor to identify a deficiency in compliance from the evidence provided, shall not be construed as a waiver of the other party's obligation to obtain and maintain such insurance.
- F. If either party does not purchase or maintain all of 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.

- G. If Contractor has failed to obtain and maintain required insurance, Owner may exclude the Contractor from the Site, impose an appropriate set-off against payment, and exercise Owner's termination rights under Article 16.
- H. Without prejudice to any other right or remedy, if a party has failed to obtain required insurance, the other party may elect to obtain equivalent insurance to protect such other party's interests at the expense of the party who was required to provide such coverage, and the Contract Price shall be adjusted accordingly.
- I. Owner does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect Contractor or Contractor's interests.
- J. The insurance and insurance limits required herein shall not be deemed as a limitation on Contractor's liability under the indemnities granted to Owner and other individuals and entities in the Contract.

6.03 *Contractor's Insurance*

- A. *Workers' Compensation:* Contractor shall purchase and maintain workers' compensation and employer's liability insurance for:
 - 1. claims under workers' compensation, disability benefits, and other similar employee benefit acts.
 - 2. United States Longshoreman and Harbor Workers' Compensation Act and Jones Act coverage (if applicable).
 - 3. claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees (by stop-gap endorsement in monopolist worker's compensation states).
 - 4. Foreign voluntary worker compensation (if applicable).
- B. *Commercial General Liability—Claims Covered:* Contractor shall purchase and maintain commercial general liability insurance, covering all operations by or on behalf of Contractor, on an occurrence basis, against:
 - 1. claims for damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees.
 - 2. claims for damages insured by reasonably available personal injury liability coverage.
 - 3. claims for damages, other than to the Work itself, because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom.
- C. *Commercial General Liability—Form and Content:* Contractor's commercial liability policy shall be written on a 1996 (or later) ISO commercial general liability form (occurrence form) and include the following coverages and endorsements:
 - 1. Products and completed operations coverage:
 - a. Such insurance shall be maintained for three years after final payment.
 - b. Contractor shall furnish Owner and each other additional insured (as identified in the Supplementary Conditions or elsewhere in the Contract) evidence of continuation of such insurance at final payment and three years thereafter.

2. Blanket contractual liability coverage, to the extent permitted by law, including but not limited to coverage of Contractor's contractual indemnity obligations in Paragraph 7.18.
 3. Broad form property damage coverage.
 4. Severability of interest.
 5. Underground, explosion, and collapse coverage.
 6. Personal injury coverage.
 7. Additional insured endorsements that include both ongoing operations and products and completed operations coverage through ISO Endorsements CG 20 10 10 01 and CG 20 37 10 01 (together); or CG 20 10 07 04 and CG 20 37 07 04 (together); or their equivalent.
 8. For design professional additional insureds, ISO Endorsement CG 20 32 07 04, "Additional Insured—Engineers, Architects or Surveyors Not Engaged by the Named Insured" or its equivalent.
- D. *Automobile liability*: Contractor shall purchase and maintain automobile liability insurance against claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance, or use of any motor vehicle. The automobile liability policy shall be written on an occurrence basis.
- E. *Umbrella or excess liability*: Contractor shall purchase and maintain umbrella or excess liability insurance written over the underlying employer's liability, commercial general liability, and automobile liability insurance described in the paragraphs above. Subject to industry-standard exclusions, the coverage afforded shall follow form as to each and every one of the underlying policies.
- F. *Contractor's pollution liability insurance*: Contractor shall purchase and maintain a policy covering third-party injury and property damage claims, including clean-up costs, as a result of pollution conditions arising from Contractor's operations and completed operations. This insurance shall be maintained for no less than three years after final completion.
- G. *Additional insureds*: The Contractor's commercial general liability, automobile liability, umbrella or excess, and pollution liability policies shall include and list as additional insureds Owner and Engineer, and any individuals or entities identified in the Supplementary Conditions; include coverage for the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of all such additional insureds; and the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby (including as applicable those arising from both ongoing and completed operations) on a non-contributory basis. Contractor shall obtain all necessary endorsements to support these requirements.
- H. *Contractor's professional liability insurance*: If Contractor will provide or furnish professional services under this Contract, through a delegation of professional design services or otherwise, then Contractor shall be responsible for purchasing and maintaining applicable professional liability insurance. This insurance shall provide protection against claims arising out of performance of professional design or related services, and caused by a negligent error, omission, or act for which the insured party is legally liable. It shall be maintained throughout the duration of the Contract and for a minimum of two years after Substantial Completion. If such professional design services are performed by a

Subcontractor, and not by Contractor itself, then the requirements of this paragraph may be satisfied through the purchasing and maintenance of such insurance by such Subcontractor.

- I. *General provisions:* The policies of insurance required by this Paragraph 6.03 shall:
 1. include at least the specific coverages provided in this Article.
 2. be written for not less than the limits of liability provided in this Article and in the Supplementary Conditions, or required by Laws or Regulations, whichever is greater.
 3. contain a provision or endorsement that the coverage afforded will not be canceled, materially changed, or renewal refused until at least 10 days prior written notice has been given to Contractor. Within three days of receipt of any such written notice, Contractor shall provide a copy of the notice to Owner, Engineer, and each other insured under the policy.
 4. remain in effect at least until final payment (and longer if expressly required in this Article) and at all times thereafter when Contractor may be correcting, removing, or replacing defective Work as a warranty or correction obligation, or otherwise, or returning to the Site to conduct other tasks arising from the Contract Documents.
 5. be appropriate for the Work being performed and provide protection from claims that may arise out of or result from Contractor's performance of the Work and Contractor's other obligations under the Contract Documents, whether it is to be performed by Contractor, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable.
- J. The coverage requirements for specific policies of insurance must be met by such policies, and not by reference to excess or umbrella insurance provided in other policies.

(See SC-6.03.K)

6.04 *Owner's Liability Insurance*

- A. In addition to the insurance required to be provided by Contractor under Paragraph 6.03, Owner, at Owner's option, may purchase and maintain at Owner's expense Owner's own liability insurance as will protect Owner against claims which may arise from operations under the Contract Documents.
- B. Owner's liability policies, if any, operate separately and independently from policies required to be provided by Contractor, and Contractor cannot rely upon Owner's liability policies for any of Contractor's obligations to the Owner, Engineer, or third parties.

6.05 *Property Insurance*

- A. *Builder's Risk:* Unless otherwise provided in the Supplementary Conditions, Contractor shall purchase and maintain builder's risk insurance upon the Work on a completed value basis, in the amount of the full insurable replacement cost thereof (subject to such deductible amounts as may be provided in the Supplementary Conditions or required by Laws and Regulations). This insurance shall:

(See SC-6.05.A.1)

1. include the Owner and Contractor as named insureds, and all Subcontractors, and any individuals or entities required by the Supplementary Conditions to be insured under such builder's risk policy, as insureds or named insureds. For purposes of the

remainder of this Paragraph 6.05, Paragraphs 6.06 and 6.07, and any corresponding Supplementary Conditions, the parties required to be insured shall collectively be referred to as “insureds.”

2. be written on a builder’s risk “all risk” policy form that shall at least include insurance for physical loss or damage to the Work, temporary buildings, falsework, and materials and equipment in transit, and shall insure against at least the following perils or causes of loss: fire; lightning; windstorm; riot; civil commotion; terrorism; vehicle impact; aircraft; smoke; theft; vandalism and malicious mischief; mechanical breakdown, boiler explosion, and artificially generated electric current; earthquake; volcanic activity, and other earth movement; flood; collapse; explosion; debris removal; demolition occasioned by enforcement of Laws and Regulations; water damage (other than that caused by flood); and such other perils or causes of loss as may be specifically required by the Supplementary Conditions. If insurance against mechanical breakdown, boiler explosion, and artificially generated electric current; earthquake; volcanic activity, and other earth movement; or flood, are not commercially available under builder’s risk policies, by endorsement or otherwise, such insurance may be provided through other insurance policies acceptable to Owner and Contractor.
3. cover, as insured property, at least the following: (a) the Work and all materials, supplies, machinery, apparatus, equipment, fixtures, and other property of a similar nature that are to be incorporated into or used in the preparation, fabrication, construction, erection, or completion of the Work, including Owner-furnished or assigned property; (b) spare parts inventory required within the scope of the Contract; and (c) temporary works which are not intended to form part of the permanent constructed Work but which are intended to provide working access to the Site, or to the Work under construction, or which are intended to provide temporary support for the Work under construction, including scaffolding, form work, fences, shoring, falsework, and temporary structures.
4. cover expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers and architects).
5. extend to cover damage or loss to insured property while in temporary storage at the Site or in a storage location outside the Site (but not including property stored at the premises of a manufacturer or Supplier).
6. extend to cover damage or loss to insured property while in transit.
7. allow for partial occupation or use of the Work by Owner, such that those portions of the Work that are not yet occupied or used by Owner shall remain covered by the builder’s risk insurance.
8. allow for the waiver of the insurer’s subrogation rights, as set forth below.
9. provide primary coverage for all losses and damages caused by the perils or causes of loss covered.
10. not include a co-insurance clause.
11. include an exception for ensuing losses from physical damage or loss with respect to any defective workmanship, design, or materials exclusions.
12. include performance/hot testing and start-up.

13. be maintained in effect, subject to the provisions herein regarding Substantial Completion and partial occupancy or use of the Work by Owner, until the Work is complete.
- B. *Notice of Cancellation or Change:* All the policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained in accordance with this Paragraph 6.05 will contain a provision or endorsement that the coverage afforded will not be canceled or materially changed or renewal refused until at least 10 days prior written notice has been given to the purchasing policyholder. Within three days of receipt of any such written notice, the purchasing policyholder shall provide a copy of the notice to each other insured.
- C. *Deductibles:* The purchaser of any required builder's risk or property insurance shall pay for costs not covered because of the application of a policy deductible.
- D. *Partial Occupancy or Use by Owner:* If Owner will occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work as provided in Paragraph 15.04, then Owner (directly, if it is the purchaser of the builder's risk policy, or through Contractor) will provide notice of such occupancy or use to the builder's risk insurer. The builder's risk insurance shall not be canceled or permitted to lapse on account of any such partial use or occupancy; rather, those portions of the Work that are occupied or used by Owner may come off the builder's risk policy, while those portions of the Work not yet occupied or used by Owner shall remain covered by the builder's risk insurance.
- E. *Additional Insurance:* If Contractor elects to obtain other special insurance to be included in or supplement the builder's risk or property insurance policies provided under this Paragraph 6.05, it may do so at Contractor's expense.
- F. *Insurance of Other Property:* If the express insurance provisions of the Contract do not require or address the insurance of a property item or interest, such as tools, construction equipment, or other personal property owned by Contractor, a Subcontractor, or an employee of Contractor or a Subcontractor, then the entity or individual owning such property item will be responsible for deciding whether to insure it, and if so in what amount.

6.06 *Waiver of Rights*

- A. All policies purchased in accordance with Paragraph 6.05, expressly including the builder's risk policy, shall contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any insureds thereunder, or against Engineer or its consultants, or their officers, directors, members, partners, employees, agents, consultants, or subcontractors. Owner and Contractor waive all rights against each other and the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work; and, in addition, waive all such rights against Engineer, its consultants, all Subcontractors, all individuals or entities identified in the Supplementary Conditions as insureds, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, under such policies for losses and damages so caused. None of the above waivers shall extend to the rights that any party making such waiver may have to the proceeds of insurance held by Owner or Contractor as trustee or fiduciary, or otherwise payable under any policy so issued.

- B. Owner waives all rights against Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, for:
 - 1. loss due to business interruption, loss of use, or other consequential loss extending beyond direct physical loss or damage to Owner's property or the Work caused by, arising out of, or resulting from fire or other perils whether or not insured by Owner; and
 - 2. loss or damage to the completed Project or part thereof caused by, arising out of, or resulting from fire or other insured peril or cause of loss covered by any property insurance maintained on the completed Project or part thereof by Owner during partial occupancy or use pursuant to Paragraph 15.04, after Substantial Completion pursuant to Paragraph 15.03, or after final payment pursuant to Paragraph 15.06.
- C. Any insurance policy maintained by Owner covering any loss, damage or consequential loss referred to in Paragraph 6.06.B shall contain provisions to the effect that in the event of payment of any such loss, damage, or consequential loss, the insurers will have no rights of recovery against Contractor, Subcontractors, or Engineer, or the officers, directors, members, partners, employees, agents, consultants, or subcontractors of each and any of them.
- D. Contractor shall be responsible for assuring that the agreement under which a Subcontractor performs a portion of the Work contains provisions whereby the Subcontractor waives all rights against Owner, Contractor, all individuals or entities identified in the Supplementary Conditions as insureds, the Engineer and its consultants, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, relating to, or resulting from any of the perils or causes of loss covered by builder's risk insurance and any other property insurance applicable to the Work.

6.07 *Receipt and Application of Property Insurance Proceeds*

- A. Any insured loss under the builder's risk and other policies of insurance required by Paragraph 6.05 will be adjusted and settled with the named insured that purchased the policy. Such named insured shall act as fiduciary for the other insureds, and give notice to such other insureds that adjustment and settlement of a claim is in progress. Any other insured may state its position regarding a claim for insured loss in writing within 15 days after notice of such claim.
- B. Proceeds for such insured losses may be made payable by the insurer either jointly to multiple insureds, or to the named insured that purchased the policy in its own right and as fiduciary for other insureds, subject to the requirements of any applicable mortgage clause. A named insured receiving insurance proceeds under the builder's risk and other policies of insurance required by Paragraph 6.05 shall distribute such proceeds in accordance with such agreement as the parties in interest may reach, or as otherwise required under the dispute resolution provisions of this Contract or applicable Laws and Regulations.
- C. If no other special agreement is reached, the damaged Work shall be repaired or replaced, the money so received applied on account thereof, and the Work and the cost thereof covered by Change Order, if needed.

ARTICLE 7 – CONTRACTOR’S RESPONSIBILITIES

7.01 *Supervision and Superintendence*

- A. Contractor shall supervise, inspect, and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction.

(See SC-7.01.B)

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

7.02 *Labor; Working Hours*

- A. Contractor shall provide competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. Contractor shall at all times maintain good discipline and order at the Site.
- B. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site shall be performed during regular working hours, Monday through Friday. Contractor will not perform Work on a Saturday, Sunday, or any legal holiday. Contractor may perform Work outside regular working hours or on Saturdays, Sundays, or legal holidays only with Owner’s written consent, which will not be unreasonably withheld.

7.03 *Services, Materials, and Equipment*

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

7.04 *“Or Equals”*

- A. Whenever an item of material or equipment is specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier, the Contract Price has been based upon Contractor furnishing such item as specified. The specification or description of such an item is intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or is

followed by words reading that no like, equivalent, or “or equal” item is permitted, Contractor may request that Engineer authorize the use of other items of material or equipment, or items from other proposed suppliers under the circumstances described below.

1. If Engineer in its sole discretion determines that an item of material or equipment proposed by Contractor is functionally equal to that named and sufficiently similar so that no change in related Work will be required, Engineer shall deem it an “or equal” item. For the purposes of this paragraph, a proposed item of material or equipment will be considered functionally equal to an item so named if:
 - a. in the exercise of reasonable judgment Engineer determines that:
 - 1) it is at least equal in materials of construction, quality, durability, appearance, strength, and design characteristics;
 - 2) it will reliably perform at least equally well the function and achieve the results imposed by the design concept of the completed Project as a functioning whole;
 - 3) it has a proven record of performance and availability of responsive service; and
 - 4) it is not objectionable to Owner.
 - b. Contractor certifies that, if approved and incorporated into the Work:
 - 1) there will be no increase in cost to the Owner or increase in Contract Times; and
 - 2) it will conform substantially to the detailed requirements of the item named in the Contract Documents.
- B. *Contractor’s Expense:* Contractor shall provide all data in support of any proposed “or equal” item at Contractor’s expense.
- C. *Engineer’s Evaluation and Determination:* Engineer will be allowed a reasonable time to evaluate each “or-equal” request. Engineer may require Contractor to furnish additional data about the proposed “or-equal” item. Engineer will be the sole judge of acceptability. No “or-equal” item will be ordered, furnished, installed, or utilized until Engineer’s review is complete and Engineer determines that the proposed item is an “or-equal”, which will be evidenced by an approved Shop Drawing or other written communication. Engineer will advise Contractor in writing of any negative determination.
- D. *Effect of Engineer’s Determination:* Neither approval nor denial of an “or-equal” request shall result in any change in Contract Price. The Engineer’s denial of an “or-equal” request shall be final and binding, and may not be reversed through an appeal under any provision of the Contract Documents.
- E. *Treatment as a Substitution Request:* If Engineer determines that an item of material or equipment proposed by Contractor does not qualify as an “or-equal” item, Contractor may request that Engineer considered the proposed item as a substitute pursuant to Paragraph 7.05.

7.05 Substitutes

- A. Unless the specification or description of an item of material or equipment required to be furnished under the Contract Documents contains or is followed by words reading that no

substitution is permitted, Contractor may request that Engineer authorize the use of other items of material or equipment under the circumstances described below. To the extent possible such requests shall be made before commencement of related construction at the Site.

1. Contractor shall submit sufficient information as provided below to allow Engineer to determine if the item of material or equipment proposed is functionally equivalent to that named and an acceptable substitute therefor. Engineer will not accept requests for review of proposed substitute items of material or equipment from anyone other than Contractor.
2. The requirements for review by Engineer will be as set forth in Paragraph 7.05.B, as supplemented by the Specifications, and as Engineer may decide is appropriate under the circumstances.
3. Contractor shall make written application to Engineer for review of a proposed substitute item of material or equipment that Contractor seeks to furnish or use. The application:
 - a. shall certify that the proposed substitute item will:
 - 1) perform adequately the functions and achieve the results called for by the general design,
 - 2) be similar in substance to that specified, and
 - 3) be suited to the same use as that specified.
 - b. will state:
 - 1) the extent, if any, to which the use of the proposed substitute item will necessitate a change in Contract Times,
 - 2) whether use of the proposed substitute item in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with Owner for other work on the Project) to adapt the design to the proposed substitute item, and
 - 3) whether incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty.
 - c. will identify:
 - 1) all variations of the proposed substitute item from that specified, and
 - 2) available engineering, sales, maintenance, repair, and replacement services.
 - d. shall contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including but not limited to changes in Contract Price, shared savings, costs of redesign, and claims of other contractors affected by any resulting change.
- B. *Engineer's Evaluation and Determination:* Engineer will be allowed a reasonable time to evaluate each substitute request, and to obtain comments and direction from Owner. Engineer may require Contractor to furnish additional data about the proposed substitute item. Engineer will be the sole judge of acceptability. No substitute will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an acceptable substitute. Engineer's determination will be

evidenced by a Field Order or a proposed Change Order accounting for the substitution itself and all related impacts, including changes in Contract Price or Contract Times. Engineer will advise Contractor in writing of any negative determination.

- C. *Special Guarantee*: Owner may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute.
- D. *Reimbursement of Engineer's Cost*: Engineer will record Engineer's costs in evaluating a substitute proposed or submitted by Contractor. Whether or not Engineer approves a substitute so proposed or submitted by Contractor, Contractor shall reimburse Owner for the reasonable charges of Engineer for evaluating each such proposed substitute. Contractor shall also reimburse Owner for the reasonable charges of Engineer for making changes in the Contract Documents (or in the provisions of any other direct contract with Owner) resulting from the acceptance of each proposed substitute.
- E. *Contractor's Expense*: Contractor shall provide all data in support of any proposed substitute at Contractor's expense.
- F. *Effect of Engineer's Determination*: If Engineer approves the substitution request, Contractor shall execute the proposed Change Order and proceed with the substitution. The Engineer's denial of a substitution request shall be final and binding, and may not be reversed through an appeal under any provision of the Contract Documents. Contractor may challenge the scope of reimbursement costs imposed under Paragraph 7.05.D, by timely submittal of a Change Proposal.

7.06 *Concerning Subcontractors, Suppliers, and Others*

- A. Contractor may retain Subcontractors and Suppliers for the performance of parts of the Work. Such Subcontractors and Suppliers must be acceptable to Owner.
- B. Contractor shall retain specific Subcontractors, Suppliers, or other individuals or entities for the performance of designated parts of the Work if required by the Contract to do so.
- C. Subsequent to the submittal of Contractor's Bid or final negotiation of the terms of the Contract, Owner may not require Contractor to retain any Subcontractor, Supplier, or other individual or entity to furnish or perform any of the Work against which Contractor has reasonable objection.
- D. Prior to entry into any binding subcontract or purchase order, Contractor shall submit to Owner the identity of the proposed Subcontractor or Supplier (unless Owner has already deemed such proposed Subcontractor or Supplier acceptable, during the bidding process or otherwise). Such proposed Subcontractor or Supplier shall be deemed acceptable to Owner unless Owner raises a substantive, reasonable objection within five days.
- E. Owner may require the replacement of any Subcontractor, Supplier, or other individual or entity retained by Contractor to perform any part of the Work. Owner also may require Contractor to retain specific replacements; provided, however, that Owner may not require a replacement to which Contractor has a reasonable objection. If Contractor has submitted the identity of certain Subcontractors, Suppliers, or other individuals or entities for acceptance by Owner, and Owner has accepted it (either in writing or by failing to make written objection thereto), then Owner may subsequently revoke the acceptance of any such Subcontractor, Supplier, or other individual or entity so identified solely on the basis of substantive, reasonable objection after due investigation. Contractor shall submit an acceptable replacement for the rejected Subcontractor, Supplier, or other individual or entity.

- F. If Owner requires the replacement of any Subcontractor, Supplier, or other individual or entity retained by Contractor to perform any part of the Work, then Contractor shall be entitled to an adjustment in Contract Price or Contract Times, or both, with respect to the replacement; and Contractor shall initiate a Change Proposal for such adjustment within 30 days of Owner's requirement of replacement.
- G. No acceptance by Owner of any such Subcontractor, Supplier, or other individual or entity, whether initially or as a replacement, shall constitute a waiver of the right of Owner to the completion of the Work in accordance with the Contract Documents.
- H. On a monthly basis Contractor shall submit to Engineer a complete list of all Subcontractors and Suppliers having a direct contract with Contractor, and of all other Subcontractors and Suppliers known to Contractor at the time of submittal.
- I. Contractor shall be fully responsible to Owner and Engineer for all acts and omissions of the Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work just as Contractor is responsible for Contractor's own acts and omissions.
- J. Contractor shall be solely responsible for scheduling and coordinating the work of Subcontractors, Suppliers, and all other individuals or entities performing or furnishing any of the Work.
- K. Contractor shall restrict all Subcontractors, Suppliers, and such other individuals or entities performing or furnishing any of the Work from communicating with Engineer or Owner, except through Contractor or in case of an emergency, or as otherwise expressly allowed herein.
- L. The divisions and sections of the Specifications and the identifications of any Drawings shall not control Contractor in dividing the Work among Subcontractors or Suppliers or delineating the Work to be performed by any specific trade.
- M. All Work performed for Contractor by a Subcontractor or Supplier shall be pursuant to an appropriate contractual agreement that specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract Documents for the benefit of Owner and Engineer.
- N. Owner may furnish to any Subcontractor or Supplier, to the extent practicable, information about amounts paid to Contractor on account of Work performed for Contractor by the particular Subcontractor or Supplier.
- O. Nothing in the Contract Documents:
 - 1. shall create for the benefit of any such Subcontractor, Supplier, or other individual or entity any contractual relationship between Owner or Engineer and any such Subcontractor, Supplier, or other individual or entity; nor
 - 2. shall create any obligation on the part of Owner or Engineer to pay or to see to the payment of any money due any such Subcontractor, Supplier, or other individual or entity except as may otherwise be required by Laws and Regulations.

7.07 *Patent Fees and Royalties*

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

Contract Documents for use in the performance of the Work and if, to the actual knowledge of Owner or Engineer, its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed by Owner in the Contract Documents.

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

7.08 *Permits*

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

(See SC-7.08.B)

7.09 *Taxes*

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

(See SC-7.09.B)

7.10 *Laws and Regulations*

- A. Contractor shall give all notices required by and shall comply with all Laws and Regulations applicable to the performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, neither Owner nor Engineer shall be responsible for monitoring Contractor's compliance with any Laws or Regulations.
- B. If Contractor performs any Work or takes any other action knowing or having reason to know that it is contrary to Laws or Regulations, Contractor shall bear all resulting costs and

losses, and shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work or other action. It shall not be Contractor's responsibility to make certain that the Work described in the Contract Documents is in accordance with Laws and Regulations, but this shall not relieve Contractor of Contractor's obligations under Paragraph 3.03.

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

7.11 *Record Documents*

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

(See SC-7.11.B)

7.12 *Safety and Protection*

- A. Contractor shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. Such responsibility does not relieve Subcontractors of their responsibility for the safety of persons or property in the performance of their work, nor for compliance with applicable safety Laws and Regulations. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to:
 - 1. all persons on the Site or who may be affected by the Work;
 - 2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and
 - 3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, other work in progress, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.
- B. Contractor shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection. Contractor shall notify Owner; the owners of adjacent property, Underground Facilities, and other utilities; and other contractors and utility owners performing work at or adjacent

to the Site, when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property or work in progress.

(See SC-7.12.C)

- C. Contractor shall comply with the applicable requirements of Owner's safety programs, if any. The Supplementary Conditions identify any Owner's safety programs that are applicable to the Work.
- D. Contractor shall inform Owner and Engineer of the specific requirements of Contractor's safety program with which Owner's and Engineer's employees and representatives must comply while at the Site.
- E. All damage, injury, or loss to any property referred to in Paragraph 7.12.A.2 or 7.12.A.3 caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by Contractor at its expense (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of Owner or Engineer or anyone employed by any of them, or anyone for whose acts any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them).
- F. Contractor's duties and responsibilities for safety and protection shall continue until such time as all the Work is completed and Engineer has issued a notice to Owner and Contractor in accordance with Paragraph 15.06.B that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion).
- G. Contractor's duties and responsibilities for safety and protection shall resume whenever Contractor or any Subcontractor or Supplier returns to the Site to fulfill warranty or correction obligations, or to conduct other tasks arising from the Contract Documents.

(See SC-7.12.H)

7.13 *Safety Representative*

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

7.14 *Hazard Communication Programs*

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

7.15 *Emergencies*

- A. In emergencies affecting the safety or protection of persons or the Work or property at the Site or adjacent thereto, Contractor is obligated to act to prevent threatened damage, injury, or loss. Contractor shall give Engineer prompt written notice if Contractor believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby or are required as a result thereof. If Engineer determines that a

change in the Contract Documents is required because of the action taken by Contractor in response to such an emergency, a Work Change Directive or Change Order will be issued.

7.16 *Shop Drawings, Samples, and Other Submittals*

A. *Shop Drawing and Sample Submittal Requirements:*

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

B. *Submittal Procedures for Shop Drawings and Samples:* Contractor shall submit Shop Drawings and Samples to Engineer for review and approval in accordance with the accepted Schedule of Submittals. Each submittal will be identified as Engineer may require.

1. *Shop Drawings:*

- a. Contractor shall submit the number of copies required in the Specifications.
- b. Data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show Engineer the services, materials, and equipment Contractor proposes to provide and to enable Engineer to review the information for the limited purposes required by Paragraph 7.16.D.

2. *Samples:*

- a. Contractor shall submit the number of Samples required in the Specifications.
- b. Contractor shall clearly identify each Sample as to material, Supplier, pertinent data such as catalog numbers, the use for which intended and other data as Engineer may require to enable Engineer to review the submittal for the limited purposes required by Paragraph 7.16.D.

3. Where a Shop Drawing or Sample is required by the Contract Documents or the Schedule of Submittals, any related Work performed prior to Engineer's review and approval of the pertinent submittal will be at the sole expense and responsibility of Contractor.
- C. *Other Submittals:* Contractor shall submit other submittals to Engineer in accordance with the accepted Schedule of Submittals, and pursuant to the applicable terms of the Specifications.
- D. *Engineer's Review:*
1. Engineer will provide timely review of Shop Drawings and Samples in accordance with the Schedule of Submittals acceptable to Engineer. Engineer's review and approval will be only to determine if the items covered by the submittals will, after installation or incorporation in the Work, conform to the information given in the Contract Documents and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.
 2. Engineer's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions or programs incident thereto.
 3. Engineer's review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.
 4. Engineer's review and approval of a Shop Drawing or Sample shall not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirements of Paragraph 7.16.A.3 and Engineer has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample. Engineer will document any such approved variation from the requirements of the Contract Documents in a Field Order.
 5. Engineer's review and approval of a Shop Drawing or Sample shall not relieve Contractor from responsibility for complying with the requirements of Paragraph 7.16.A and B.
 6. Engineer's review and approval of a Shop Drawing or Sample, or of a variation from the requirements of the Contract Documents, shall not, under any circumstances, change the Contract Times or Contract Price, unless such changes are included in a Change Order.
 7. Neither Engineer's receipt, review, acceptance or approval of a Shop Drawing, Sample, or other submittal shall result in such item becoming a Contract Document.
 8. Contractor shall perform the Work in compliance with the requirements and commitments set forth in approved Shop Drawings and Samples, subject to the provisions of Paragraph 7.16.D.4.
- E. *Resubmittal Procedures:*
1. Contractor shall make corrections required by Engineer and shall return the required number of corrected copies of Shop Drawings and submit, as required, new Samples for review and approval. Contractor shall direct specific attention in writing to revisions other than the corrections called for by Engineer on previous submittals.

2. Contractor shall furnish required submittals with sufficient information and accuracy to obtain required approval of an item with no more than three submittals. Engineer will record Engineer's time for reviewing a fourth or subsequent submittal of a Shop Drawings, sample, or other item requiring approval, and Contractor shall be responsible for Engineer's charges to Owner for such time. Owner may impose a set-off against payments due to Contractor to secure reimbursement for such charges.
3. If Contractor requests a change of a previously approved submittal item, Contractor shall be responsible for Engineer's charges to Owner for its review time, and Owner may impose a set-off against payments due to Contractor to secure reimbursement for such charges, unless the need for such change is beyond the control of Contractor.

7.17 Contractor's General Warranty and Guarantee

- A. Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective. Engineer and its officers, directors, members, partners, employees, agents, consultants, and subcontractors shall be entitled to rely on Contractor's warranty and guarantee.
- B. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:
 1. abuse, modification, or improper maintenance or operation by persons other than Contractor, Subcontractors, Suppliers, or any other individual or entity for whom Contractor is responsible; or
 2. normal wear and tear under normal usage.
- C. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents or a release of Contractor's obligation to perform the Work in accordance with the Contract Documents:
 1. observations by Engineer;
 2. recommendation by Engineer or payment by Owner of any progress or final payment;
 3. the issuance of a certificate of Substantial Completion by Engineer or any payment related thereto by Owner;
 4. use or occupancy of the Work or any part thereof by Owner;
 5. any review and approval of a Shop Drawing or Sample submittal;
 6. the issuance of a notice of acceptability by Engineer;
 7. any inspection, test, or approval by others; or
 8. any correction of defective Work by Owner.
- D. If the Contract requires the Contractor to accept the assignment of a contract entered into by Owner, then the specific warranties, guarantees, and correction obligations contained in the assigned contract shall govern with respect to Contractor's performance obligations to Owner for the Work described in the assigned contract.

7.18 Indemnification

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

employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the performance of the Work, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom but only to the extent caused by any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts any of them may be liable.

- B. In any and all claims against Owner or Engineer or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors by any employee (or the survivor or personal representative of such employee) of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 7.18.A shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.
- C. The indemnification obligations of Contractor under Paragraph 7.18.A shall not extend to the liability of Engineer and Engineer's officers, directors, members, partners, employees, agents, consultants and subcontractors arising out of:
 - 1. the preparation or approval of, or the failure to prepare or approve maps, Drawings, opinions, reports, surveys, Change Orders, designs, or Specifications; or
 - 2. giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage.

7.19 *Delegation of Professional Design Services*

- A. Contractor will not be required to provide professional design services unless such services are specifically required by the Contract Documents for a portion of the Work or unless such services are required to carry out Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. Contractor shall not be required to provide professional services in violation of applicable Laws and Regulations.
- B. If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of Contractor by the Contract Documents, Owner and Engineer will specify all performance and design criteria that such services must satisfy. Contractor shall cause such services or certifications to be provided by a properly licensed professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to Engineer.
- C. Owner and Engineer shall be entitled to rely upon the adequacy, accuracy, and completeness of the services, certifications, or approvals performed by such design professionals, provided Owner and Engineer have specified to Contractor all performance and design criteria that such services must satisfy.

- D. Pursuant to this paragraph, Engineer's review and approval of design calculations and design drawings will be only for the limited purpose of checking for conformance with performance and design criteria given and the design concept expressed in the Contract Documents. Engineer's review and approval of Shop Drawings and other submittals (except design calculations and design drawings) will be only for the purpose stated in Paragraph 7.16.D.1.
- E. Contractor shall not be responsible for the adequacy of the performance or design criteria specified by Owner or Engineer.

(See SC-7.20)

ARTICLE 8 – OTHER WORK AT THE SITE

8.01 *Other Work*

- A. In addition to and apart from the Work under the Contract Documents, the Owner may perform other work at or adjacent to the Site. Such other work may be performed by Owner's employees, or through contracts between the Owner and third parties. Owner may also arrange to have third-party utility owners perform work on their utilities and facilities at or adjacent to the Site.
- B. If Owner performs other work at or adjacent to the Site with Owner's employees, or through contracts for such other work, then Owner shall give Contractor written notice thereof prior to starting any such other work. If Owner has advance information regarding the start of any utility work at or adjacent to the Site, Owner shall provide such information to Contractor.
- C. Contractor shall afford each other contractor that performs such other work, each utility owner performing other work, and Owner, if Owner is performing other work with Owner's employees, proper and safe access to the Site, and provide a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work. Contractor shall do all cutting, fitting, and patching of the Work that may be required to properly connect or otherwise make its several parts come together and properly integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating, or otherwise altering such work; provided, however, that Contractor may cut or alter others' work with the written consent of Engineer and the others whose work will be affected.
- D. If the proper execution or results of any part of Contractor's Work depends upon work performed by others under this Article 8, Contractor shall inspect such other work and promptly report to Engineer in writing any delays, defects, or deficiencies in such other work that render it unavailable or unsuitable for the proper execution and results of Contractor's Work. Contractor's failure to so report will constitute an acceptance of such other work as fit and proper for integration with Contractor's Work except for latent defects and deficiencies in such other work.

8.02 *Coordination*

- A. If Owner intends to contract with others for the performance of other work at or adjacent to the Site, to perform other work at or adjacent to the Site with Owner's employees, or to arrange to have utility owners perform work at or adjacent to the Site, the following will be set forth in the Supplementary Conditions 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 at or adjacent to the Site for Owner, the Owner's employees, any other contractor working for Owner, or any utility owner for whom the Owner is responsible causes damage to the Work or to the property of Contractor or its Subcontractors, or delays, disrupts, interferes with, or increases the scope or cost of the performance of the Work, through actions or inaction, then Contractor shall be entitled to an equitable adjustment in the Contract Price or the Contract Times, or both. Contractor must submit any Change Proposal seeking an equitable adjustment in the Contract Price or the Contract Times under this paragraph within 30 days of the damaging, delaying, disrupting, or interfering event. The entitlement to, and extent of, any such equitable adjustment shall take into account information (if any) regarding such other work that was provided to Contractor in the Contract Documents prior to the submittal of the Bid or the final negotiation of the terms of the Contract. When applicable, any such equitable adjustment in Contract Price shall be conditioned on Contractor assigning to Owner all Contractor's rights against such other contractor or utility owner with respect to the damage, delay, disruption, or interference that is the subject of the adjustment. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.
- B. Contractor shall take reasonable and customary measures to avoid damaging, delaying, disrupting, or interfering with the work of Owner, any other contractor, or any utility owner performing other work at or adjacent to the Site. If Contractor fails to take such measures and as a result damages, delays, disrupts, or interferes with the work of any such other contractor or utility owner, then Owner may impose a set-off against payments due to Contractor, and assign to such other contractor or utility owner the Owner's contractual rights against Contractor with respect to the breach of the obligations set forth in this paragraph.
- C. When Owner is performing other work at or adjacent to the Site with Owner's employees, Contractor shall be liable to Owner for damage to such other work, and for the reasonable direct delay, disruption, and interference costs incurred by Owner as a result of Contractor's failure to take reasonable and customary measures with respect to Owner's other work. In response to such damage, delay, disruption, or interference, Owner may impose a set-off against payments due to Contractor.
- D. If Contractor damages, delays, disrupts, or interferes with the work of any other contractor, or any utility owner performing other work at or adjacent to the Site, through Contractor's failure to take reasonable and customary measures to avoid such impacts, or if any claim arising out of Contractor's actions, inactions, or negligence in performance of the Work at or adjacent to the Site is made by any such other contractor or utility owner against Contractor, Owner, or Engineer, then Contractor shall (1) promptly attempt to settle the

claim as to all parties through negotiations with such other contractor or utility owner, or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law, and (2) indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against any such claims, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such damage, delay, disruption, or interference.

ARTICLE 9 – OWNER’S RESPONSIBILITIES

9.01 *Communications to Contractor*

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

9.02 *Replacement of Engineer*

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

9.03 *Furnish Data*

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

9.04 *Pay When Due*

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

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

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

9.06 *Insurance*

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

9.07 *Change Orders*

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

9.08 *Inspections, Tests, and Approvals*

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

9.09 *Limitations on Owner's Responsibilities*

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

9.10 *Undisclosed Hazardous Environmental Condition*

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

9.11 *Evidence of Financial Arrangements*

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

9.12 *Safety Programs*

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

(See SC-9.13)

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 10.08. Particularly, but without limitation, during or as a result of Engineer's visits or observations of Contractor's Work, Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means,

methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work.

10.03 *Project Representative*

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 Paragraph 10.08. If Owner designates another representative or agent to represent Owner at the Site who is not Engineer's consultant, agent, or employee, the responsibilities and authority and limitations thereon of such other individual or entity will be as provided in the Supplementary Conditions. **(See SC-10.03.A)**

(See SC-10.03.B)

10.04 *Rejecting Defective Work*

- A. Engineer has the authority to reject Work in accordance with Article 14.

10.05 *Shop Drawings, Change Orders and Payments*

- A. Engineer's authority, and limitations thereof, as to Shop Drawings and Samples, are set forth in Paragraph 7.16.
- B. Engineer's authority, and limitations thereof, as to design calculations and design drawings submitted in response to a delegation of professional design services, if any, are set forth in Paragraph 7.19.
- C. Engineer's authority as to Change Orders is set forth in Article 11.
- D. Engineer's authority as to Applications for Payment is set forth in Article 15.

10.06 *Determinations for Unit Price Work*

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

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

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

10.08 *Limitations on Engineer's Authority and Responsibilities*

- A. Neither Engineer's authority or responsibility under this Article 10 or under any other provision of the Contract, nor any decision made by Engineer in good faith either to exercise or not exercise such authority or responsibility or the undertaking, exercise, or performance of any authority or responsibility by Engineer, shall create, impose, or give rise to any duty in contract, tort, or otherwise owed by Engineer to Contractor, any Subcontractor, any Supplier, any other individual or entity, or to any surety for or employee or agent of any of them.

- B. Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Engineer will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.
- C. Engineer will not be responsible for the acts or omissions of Contractor or of any Subcontractor, any Supplier, or of any other individual or entity performing any of the Work.
- D. Engineer's review of the final Application for Payment and accompanying documentation and all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by Paragraph 15.06.A will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals, that the results certified indicate compliance with the Contract Documents.
- E. The limitations upon authority and responsibility set forth in this Paragraph 10.08 shall also apply to the Resident Project Representative, if any.

10.09 *Compliance with Safety Program*

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

ARTICLE 11 – AMENDING THE CONTRACT DOCUMENTS; CHANGES IN THE WORK

11.01 *Amending and Supplementing Contract Documents*

- A. The Contract Documents may be amended or supplemented by a Change Order, a Work Change Directive, or a Field Order.
 - 1. *Change Orders:*
 - a. If an amendment or supplement to the Contract Documents includes a change in the Contract Price or the Contract Times, such amendment or supplement must be set forth in a Change Order. A Change Order also may be used to establish amendments and supplements of the Contract Documents that do not affect the Contract Price or Contract Times.
 - b. Owner and Contractor may amend those terms and conditions of the Contract Documents that do not involve (1) the performance or acceptability of the Work, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, without the recommendation of the Engineer. Such an amendment shall be set forth in a Change Order.
 - 2. *Work Change Directives:* A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the modification ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order, following negotiations by the parties as to the Work Change Directive's effect, if any, on the Contract Price and Contract Times; or, if negotiations are unsuccessful, by a determination under the terms of the Contract Documents governing adjustments, expressly including Paragraph 11.04 regarding

change of Contract Price. Contractor must submit any Change Proposal seeking an adjustment of the Contract Price or the Contract Times, or both, no later than 30 days after the completion of the Work set out in the Work Change Directive. Owner must submit any Claim seeking an adjustment of the Contract Price or the Contract Times, or both, no later than 60 days after issuance of the Work Change Directive.

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

11.02 *Owner-Authorized Changes in the Work*

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

11.03 *Unauthorized Changes in the Work*

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

11.04 *Change of Contract Price*

- A. The Contract Price may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Price shall comply with the provisions of Paragraph 11.06. Any Claim for an adjustment of Contract Price shall comply with the provisions of Article 12.
- B. An adjustment in the Contract Price will be determined as follows:
 1. where the Work involved is covered by unit prices contained in the Contract Documents, then by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 13.03); or
 2. where the Work involved is not covered by unit prices contained in the Contract Documents, then by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 11.04.C.2); or

3. where the Work involved is not covered by unit prices contained in the Contract Documents and the parties do not reach mutual agreement to a lump sum, then on the basis of the Cost of the Work (determined as provided in Paragraph 13.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 11.04.C).
- C. *Contractor's Fee:* When applicable, the Contractor's fee for overhead and profit shall be determined as follows:
1. a mutually acceptable fixed fee; or
 2. if a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:
 - a. for costs incurred under Paragraphs 13.01.B.1 and 13.01.B.2, the Contractor's fee shall be 15 percent;
 - b. for costs incurred under Paragraph 13.01.B.3, the Contractor's fee shall be five percent;
 - c. where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of Paragraphs 11.04.C.2.a and 11.04.C.2.b is that the Contractor's fee shall be based on: (1) a fee of 15 percent of the costs incurred under Paragraphs 13.01.A.1 and 13.01.A.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 five 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 shall be no greater than 27 percent of the costs incurred by the Subcontractor that actually performs the work;
 - d. no fee shall be payable on the basis of costs itemized under Paragraphs 13.01.B.4, 13.01.B.5, and 13.01.C;
 - e. the amount of credit to be allowed by Contractor to Owner for any change which results in a net decrease in cost will be the amount of the actual net decrease in cost plus a deduction in Contractor's fee by an amount equal to five percent of such net decrease; and
 - f. when both additions and credits are involved in any one change, the adjustment in Contractor's fee shall be computed on the basis of the net change in accordance with Paragraphs 11.04.C.2.a through 11.04.C.2.e, inclusive.

11.05 *Change of Contract Times*

- A. The Contract Times may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Times shall comply with the provisions of Paragraph 11.06. Any Claim for an adjustment in the Contract Times shall comply with the provisions of Article 12.
- B. An adjustment of the Contract Times shall be subject to the limitations set forth in Paragraph 4.05, concerning delays in Contractor's progress.

11.06 *Change Proposals*

- A. Contractor shall submit a Change Proposal to Engineer to request an adjustment in the Contract Times or Contract Price; appeal an initial decision by Engineer concerning the requirements of the Contract Documents or relating to the acceptability of the Work under the Contract Documents; contest a set-off against payment due; or seek other relief under the Contract. The Change Proposal shall specify any proposed change in Contract Times or Contract Price, or both, or other proposed relief, and explain the reason for the proposed change, with citations to any governing or applicable provisions of the Contract Documents.
1. *Procedures:* Contractor shall submit each Change Proposal to Engineer promptly (but in no event later than 30 days) after the start of the event giving rise thereto, or after such initial decision. The Contractor shall submit supporting data, including the proposed change in Contract Price or Contract Time (if any), to the Engineer and Owner within 15 days after the submittal of the Change Proposal. The supporting data shall be accompanied by a written statement that the supporting data are accurate and complete, and that any requested time or price adjustment is the entire adjustment to which Contractor believes it is entitled as a result of said event. Engineer will advise Owner regarding the Change Proposal, and consider any comments or response from Owner regarding the Change Proposal.
 2. *Engineer's Action:* Engineer will review each Change Proposal and, within 30 days after receipt of the Contractor's supporting data, either deny the Change Proposal in whole, approve it in whole, or deny it in part and approve it in part. Such actions shall be in writing, with a copy provided to Owner and Contractor. If Engineer does not take action on the Change Proposal within 30 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of Engineer's inaction the Change Proposal is deemed denied, thereby commencing the time for appeal of the denial under Article 12.
 3. *Binding Decision:* Engineer's decision will be final and binding upon Owner and Contractor, unless Owner or Contractor appeals the decision by filing a Claim under Article 12.
- B. *Resolution of Certain Change Proposals:* If the Change Proposal does not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters, then Engineer will notify the parties that the Engineer is unable to resolve the Change Proposal. For purposes of further resolution of such a Change Proposal, such notice shall be deemed a denial, and Contractor may choose to seek resolution under the terms of Article 12.

11.07 *Execution of Change Orders*

- A. Owner and Contractor shall execute appropriate Change Orders covering:
1. changes in the Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive;
 2. changes in Contract Price resulting from an Owner set-off, unless Contractor has duly contested such set-off;
 3. changes in the Work which are: (a) ordered by Owner pursuant to Paragraph 11.02, (b) required because of Owner's acceptance of defective Work under Paragraph 14.04 or Owner's correction of defective Work under Paragraph 14.07, or (c) agreed to by the

parties, subject to the need for Engineer's recommendation if the change in the Work involves the design (as set forth in the Drawings, Specifications, or otherwise), or other engineering or technical matters; and

4. changes in the Contract Price or Contract Times, or other changes, which embody the substance of any final and binding results under Paragraph 11.06, or Article 12.
- B. If Owner or Contractor refuses to execute a Change Order that is required to be executed under the terms of this Paragraph 11.07, it shall be deemed to be of full force and effect, as if fully executed.

11.08 *Notification to Surety*

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

ARTICLE 12 – CLAIMS

12.01 *Claims*

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

D. *Mediation:*

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

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

13.01 *Cost of the Work*

- A. *Purposes for Determination of Cost of the Work:* The term Cost of the Work means the sum of all costs necessary for the proper performance of the Work at issue, as further defined below. The provisions of this Paragraph 13.01 are used for two distinct purposes:
1. To determine Cost of the Work when Cost of the Work is a component of the Contract Price, under cost-plus-fee, time-and-materials, or other cost-based terms; or
 2. To determine the value of a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price. When the value of any such adjustment is determined on the basis of Cost of the Work, Contractor is entitled only to those additional or incremental costs required because of the change in the Work or because of the event giving rise to the adjustment.
- B. *Costs Included:* Except as otherwise may be agreed to in writing by Owner, costs included in the Cost of the Work shall be in amounts no higher than those prevailing in the locality of the Project, shall not include any of the costs itemized in Paragraph 13.01.C, and shall include only the following items:

1. Payroll costs for employees in the direct employ of Contractor in the performance of the Work under schedules of job classifications agreed upon by Owner and Contractor. Such employees shall include, without limitation, superintendents, foremen, and other personnel employed full time on the Work. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits, which shall include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, bonuses, sick leave, and vacation and holiday pay applicable thereto. The expenses of performing Work outside of regular working hours, on Saturday, Sunday, or legal holidays, shall be included in the above to the extent authorized by Owner.
2. Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts shall accrue to Contractor unless Owner deposits funds with Contractor with which to make payments, in which case the cash discounts shall accrue to Owner. All trade discounts, rebates, and refunds and returns from sale of surplus materials and equipment shall accrue to Owner, and Contractor shall make provisions so that they may be obtained.
3. Payments made by Contractor to Subcontractors for Work performed by Subcontractors. If required by Owner, Contractor shall obtain competitive bids from subcontractors acceptable to Owner and Contractor and shall deliver such bids to Owner, who will then determine, with the advice of Engineer, which bids, if any, will be acceptable. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work plus a fee, the Subcontractor's Cost of the Work and fee shall be determined in the same manner as Contractor's Cost of the Work and fee as provided in this Paragraph 13.01.
4. Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed for services specifically related to the Work.
5. Supplemental costs including the following:
 - a. The proportion of necessary transportation, travel, and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.
 - b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office, and temporary facilities at the Site, and hand tools not owned by the workers, which are consumed in the performance of the Work, and cost, less market value, of such items used but not consumed which remain the property of Contractor.
 - c. Rentals of all construction equipment and machinery, and the parts thereof, whether rented from Contractor or others in accordance with rental agreements approved by Owner with the advice of Engineer, and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs shall be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts shall cease when the use thereof is no longer necessary for the Work.

- d. Sales, consumer, use, and other similar taxes related to the Work, and for which Contractor is liable, as imposed by Laws and Regulations.
 - e. Deposits lost for causes other than negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.
 - f. Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by Contractor in connection with the performance of the Work (except losses and damages within the deductible amounts of property insurance established in accordance with Paragraph 6.05), provided such losses and damages have resulted from causes other than the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses shall include settlements made with the written consent and approval of Owner. No such losses, damages, and expenses shall be included in the Cost of the Work for the purpose of determining Contractor's fee.
 - g. The cost of utilities, fuel, and sanitary facilities at the Site.
 - h. Minor expenses such as communication service at the Site, express and courier services, and similar petty cash items in connection with the Work.
 - i. The costs of premiums for all bonds and insurance that Contractor is required by the Contract Documents to purchase and maintain.
- C. *Costs Excluded:* The term Cost of the Work shall not include any of the following items:
- 1. Payroll costs and other compensation of Contractor's officers, executives, principals (of partnerships and sole proprietorships), general managers, safety managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks, and other personnel employed by Contractor, whether at the Site or in Contractor's principal or branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 13.01.B.1 or specifically covered by Paragraph 13.01.B.4. The payroll costs and other compensation excluded here are to be considered administrative costs covered by the Contractor's fee.
 - 2. Expenses of Contractor's principal and branch offices other than Contractor's office at the Site.
 - 3. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.
 - 4. Costs due to the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property.
 - 5. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraph 13.01.B.
- D. *Contractor's Fee:* When the Work as a whole is performed on the basis of cost-plus, Contractor's fee shall be determined as set forth in the Agreement. When the value of any Work covered by a Change Order, Change Proposal, Claim, set-off, or other adjustment in

Contract Price is determined on the basis of Cost of the Work, Contractor's fee shall be determined as set forth in Paragraph 11.04.C.

- E. *Documentation*: Whenever the Cost of the Work for any purpose is to be determined pursuant to this Article 13, Contractor will establish and maintain records thereof in accordance with generally accepted accounting practices and submit in a form acceptable to Engineer an itemized cost breakdown together with supporting data.

13.02 Allowances

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

13.03 Unit Price Work

- A. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement.
- B. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. 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, subject to the provisions of the following paragraph.
- E. Within 30 days of Engineer's written decision under the preceding paragraph, Contractor may submit a Change Proposal, or Owner may file a Claim, seeking an adjustment in the Contract Price if:

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

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

14.01 *Access to Work*

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

14.02 *Tests, Inspections, and Approvals*

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

(See SC-14.02.D.5)

5. for acceptance of materials, mix designs, or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work.

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

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

14.03 *Defective Work*

- A. *Contractor's Obligation:* It is Contractor's obligation to assure that the Work is not defective.
- B. *Engineer's Authority:* Engineer has the authority to determine whether Work is defective, and to reject defective Work.
- C. *Notice of Defects:* Prompt notice of all defective Work of which Owner or Engineer has actual knowledge will be given to Contractor.
- D. *Correction, or Removal and Replacement:* Promptly after receipt of written notice of defective Work, 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 shall be incorporated in a Change Order. If the parties are unable to agree as to the decrease in the Contract Price, reflecting the diminished value of Work so accepted, then Owner may impose a reasonable set-off against payments due under Article 15. If the acceptance of defective Work occurs after final payment, Contractor shall pay an appropriate amount to Owner.

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, or both, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction. If the parties are unable to agree as to the amount or extent thereof, then Contractor may submit a Change Proposal within 30 days of the determination that the Work is not defective.

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 shall not give rise to any duty on the part of Owner to exercise this right for the benefit of Contractor, any Subcontractor, any Supplier, any other individual or entity, or any surety for, or employee or agent of any of them.

14.07 *Owner May Correct Defective Work*

- A. If Contractor fails within a reasonable time after written notice from Engineer to correct defective Work, or to remove and replace rejected Work as required by Engineer, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any other provision of the Contract Documents, then Owner may, after seven days written notice to Contractor, correct or remedy any such deficiency.

- B. In exercising the rights and remedies under this Paragraph 14.07, Owner shall proceed expeditiously. In connection with such corrective or remedial action, Owner may exclude Contractor from all or part of the Site, take possession of all or part of the Work and suspend Contractor's services related thereto, and incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere. Contractor shall allow 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 on account of Unit Price Work will be based on the number of units completed during the pay period, as determined under the provisions of Paragraph 13.03. Progress payments for cost-based Work will be based on Cost of the Work completed by Contractor during the pay period.
- B. *Applications for Payments:*
 - 1. At least 20 days before the date established in the Agreement for each progress payment (but not more often than once a month), Contractor shall submit to Engineer for review an Application for Payment filled out and signed by Contractor covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment shall also be accompanied by a bill of sale, invoice, or other documentation warranting that Owner has received the materials and equipment free and clear of all Liens, and evidence that the materials and equipment are covered by appropriate property insurance, a warehouse bond, or other arrangements to protect Owner's interest therein, all of which must be satisfactory to Owner.
 - 2. Beginning with the second Application for Payment, each Application shall include an affidavit of Contractor stating that all previous progress payments received on account of the Work have been applied on account to discharge Contractor's legitimate obligations associated with prior Applications for Payment.
(See SC-15.01.B.3)
 - 3. The amount of retainage with respect to progress payments will be as stipulated in the Agreement.

C. *Review of Applications:*

1. Engineer will, within 10 days after receipt of each Application for Payment, including each resubmittal, either indicate in writing a recommendation of payment and present the Application to Owner, or return the Application to Contractor indicating in writing Engineer's reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.
2. Engineer's recommendation of any payment requested in an Application for Payment will constitute a representation by Engineer to Owner, based on Engineer's observations of the executed Work as an experienced and qualified design professional, and on Engineer's review of the Application for Payment and the accompanying data and schedules, that to the best of Engineer's knowledge, information and belief:
 - a. the Work has progressed to the point indicated;
 - b. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, the results of any subsequent tests called for in the Contract Documents, a final determination of quantities and classifications for Unit Price Work under Paragraph 13.03, and any other qualifications stated in the recommendation); and
 - c. the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work.
3. By recommending any such payment Engineer will not thereby be deemed to have represented that:
 - a. inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in the Contract; or
 - b. there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by Owner or entitle Owner to withhold payment to Contractor.
4. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment, including final payment, will impose responsibility on Engineer:
 - a. to supervise, direct, or control the Work, or
 - b. for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or
 - c. for Contractor's failure to comply with Laws and Regulations applicable to Contractor's performance of the Work, or
 - d. to make any examination to ascertain how or for what purposes Contractor has used the money paid on account of the Contract Price, or
 - e. to determine that title to any of the Work, materials, or equipment has passed to Owner free and clear of any Liens.

5. Engineer may refuse to recommend the whole or any part of any payment if, in Engineer's opinion, it would be incorrect to make the representations to Owner stated in Paragraph 15.01.C.2.
6. Engineer will recommend reductions in payment (set-offs) necessary in Engineer's opinion to protect Owner from loss because:
 - a. the Work is defective, 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:*

(See SC-15.01.D.1)

- ~~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 on account of Contractor's conduct in the performance or furnishing of the Work, or Owner has incurred costs, losses, or damages on account of Contractor's conduct in the performance or furnishing of the Work, including but not limited to claims, costs, losses, or damages from workplace injuries, adjacent property damage, non-compliance with Laws and Regulations, and patent infringement;
 - b. Contractor has failed to take reasonable and customary measures to avoid damage, delay, disruption, and interference with other work at or adjacent to the Site;
 - c. Contractor has failed to provide and maintain required bonds or insurance;
 - d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible;
 - e. Owner has incurred extra charges or engineering costs related to submittal reviews, evaluations of proposed substitutes, tests and inspections, or return visits to manufacturing or assembly facilities;
 - f. the Work is defective, requiring correction or replacement;
 - g. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;
 - h. the Contract Price has been reduced by Change Orders;

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

(See SC-15.03.B)

- 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 shall fix the date of Substantial Completion. Engineer shall attach to the certificate a punch list of items to be completed or corrected before final payment. Owner shall have seven days after receipt of the preliminary certificate during which to make written objection to Engineer as to any provisions of the certificate or attached punch list. If, after considering the objections to the provisions of the preliminary certificate, Engineer concludes that the Work is not

substantially complete, Engineer will, within 14 days after submission of the preliminary certificate to Owner, notify Contractor in writing that the Work is not substantially complete, stating the reasons therefor. If Owner does not object to the provisions of the certificate, or if despite consideration of Owner's objections Engineer concludes that the Work is substantially complete, then Engineer will, within said 14 days, execute and deliver to Owner and Contractor a final certificate of Substantial Completion (with a revised punch list of items to be completed or corrected) reflecting such changes from the preliminary certificate as Engineer believes justified after consideration of any objections from Owner.

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

15.04 *Partial Use or Occupancy*

- A. Prior to Substantial Completion of all the Work, Owner may use or occupy any substantially completed part of the Work which has specifically been identified in the Contract Documents, or which Owner, Engineer, and Contractor agree constitutes a separately functioning and usable part of the Work that can be used by Owner for its intended purpose without significant interference with Contractor's performance of the remainder of the Work, subject to the following conditions:
 - 1. At any time Owner may request in writing that Contractor permit Owner to use or occupy any such part of the Work that Owner believes to be substantially complete. If and when Contractor agrees that such part of the Work is substantially complete, Contractor, Owner, and Engineer will follow the procedures of Paragraph 15.03.A through E for that part of the Work.
 - 2. At any time Contractor may notify Owner and Engineer in writing that Contractor considers any such part of the Work substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work.
 - 3. Within a reasonable time after either such request, Owner, Contractor, and Engineer shall make an inspection of that part of the Work to determine its status of completion. If Engineer does not consider that part of the Work to be substantially complete, Engineer will notify Owner and Contractor in writing giving the reasons therefor. If Engineer considers that part of the Work to be substantially complete, the provisions of Paragraph 15.03 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.

4. No use or occupancy or separate operation of part of the Work may occur prior to compliance with the requirements of Paragraph 6.05 regarding builder's risk or other property insurance.

15.05 *Final Inspection*

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

15.06 *Final Payment*

A. *Application for Payment:*

1. After Contractor has, in the opinion of Engineer, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of inspection, annotated record documents (as provided in Paragraph 7.11), and other documents, Contractor may make application for final payment.
2. The final Application for Payment shall be accompanied (except as previously delivered) by:
 - a. all documentation called for in the Contract Documents;
 - b. consent of the surety, if any, to final payment;
 - c. satisfactory evidence that all title issues have been resolved such that title to all Work, materials, and equipment has passed to Owner free and clear of any Liens or other title defects, or will so pass upon final payment.
 - d. a list of all disputes that Contractor believes are unsettled; and
 - e. complete and legally effective releases or waivers (satisfactory to Owner) of all Lien rights arising out of the Work, and of Liens filed in connection with the Work.
3. In lieu of the releases or waivers of Liens specified in Paragraph 15.06.A.2 and as approved by Owner, Contractor may furnish receipts or releases in full and an affidavit of Contractor that: (a) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (b) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which Owner might in any way be responsible, or which might in any way result in liens or other burdens on Owner's property, have been paid or otherwise satisfied. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, Contractor may furnish a bond or other collateral satisfactory to Owner to indemnify Owner against any Lien, or Owner at its option may issue joint checks payable to Contractor and specified Subcontractors and Suppliers.

B. *Engineer's Review of Application and Acceptance:*

1. If, on the basis of Engineer's observation of the Work during construction and final inspection, and Engineer's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, Engineer is satisfied that the Work has been completed and Contractor's other obligations under

the Contract have been fulfilled, Engineer will, within ten days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of final payment and present the Application for Payment to Owner for payment. Such recommendation shall account for any set-offs against payment that are necessary in Engineer's opinion to protect Owner from loss for the reasons stated above with respect to progress payments. At the same time Engineer will also give written notice to Owner and Contractor that the Work is acceptable, subject to the provisions of Paragraph 15.07. Otherwise, Engineer will return the Application for Payment to Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case Contractor shall make the necessary corrections and resubmit the Application for Payment.

- C. *Completion of Work*: The Work is complete (subject to surviving obligations) when it is ready for final payment as established by the Engineer's written recommendation of final payment.
- D. *Payment Becomes Due*: Thirty days after the presentation to Owner of the final Application for Payment and accompanying documentation, the amount recommended by Engineer (less any further sum Owner is entitled to set off against Engineer's recommendation, including but not limited to set offs for liquidated damages and set-offs allowed under the provisions above with respect to progress payments) will become due and shall be paid by Owner to Contractor.

(See SC-15.06.C)

15.07 *Waiver of Claims*

- A. The making of final payment will not constitute a waiver by Owner of claims or rights against Contractor. Owner expressly reserves claims and rights arising from unsettled Liens, from defective Work appearing after final inspection pursuant to Paragraph 15.05, from Contractor's failure to comply with the Contract Documents or the terms of any special guarantees specified therein, from outstanding Claims by Owner, or from Contractor's continuing obligations under the Contract Documents.
- B. The acceptance of final payment by Contractor will constitute a waiver by Contractor of all claims and rights against Owner other than those pending matters that have been duly submitted or appealed under the provisions of Article 17.

15.08 *Correction Period*

- A. If within one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the terms of any applicable special guarantee required by the Contract Documents, or by any specific provision of the Contract Documents), any Work is found to be defective, or if the repair of any damages to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas used by Contractor as permitted by Laws and Regulations, is found to be defective, then Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:
 - 1. correct the defective repairs to the Site or such other adjacent areas;
 - 2. correct such defective Work;
 - 3. if the defective Work has been rejected by Owner, remove it from the Project and replace it with Work that is not defective, and

4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others, or to other land or areas resulting therefrom.
- B. If Contractor does not promptly comply with the terms of Owner's written instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others).
- C. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications.
- D. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this paragraph, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.
- E. Contractor's obligations under this paragraph are in addition to all other obligations and warranties. The provisions of this paragraph shall not be construed as a substitute for, or a waiver of, the provisions of any applicable statute of limitation or repose.

ARTICLE 16 – SUSPENSION OF WORK AND TERMINATION

16.01 *Owner May Suspend Work*

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

16.02 *Owner May Terminate for Cause*

- A. The occurrence of any one or more of the following events will constitute a default by Contractor and justify termination for cause:
 1. Contractor's persistent failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the Progress Schedule);
 2. Failure of Contractor to perform or otherwise to comply with a material term of the Contract Documents;
 3. Contractor's disregard of Laws or Regulations of any public body having jurisdiction; or
 4. Contractor's repeated disregard of the authority of Owner or Engineer.

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

16.03 *Owner May Terminate For Convenience*

- A. Upon seven days written notice to Contractor and Engineer, Owner may, without cause and without prejudice to any other right or remedy of Owner, terminate the Contract. In such case, Contractor shall be paid for (without duplication of any items):
 - 1. completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Work;
 - 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 on account of loss of anticipated overhead, profits, or revenue, or other economic loss arising out of or resulting from such termination.

16.04 *Contractor May Stop Work or Terminate*

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

ARTICLE 17 – FINAL RESOLUTION OF DISPUTES

17.01 *Methods and Procedures*

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

ARTICLE 18 – MISCELLANEOUS

18.01 *Giving Notice*

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

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 shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Contract.

18.06 *Survival of Obligations*

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

18.07 *Controlling Law*

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

18.08 *Headings*

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

(See SC-18.09)

SUPPLEMENTARY CONDITIONS

Prepared by



Issued and Published Jointly by



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SUPPLEMENTARY CONDITIONS

These Supplementary Conditions amend or supplement the Standard General Conditions of the Construction Contract, EJCDC® C-700 (2013 Edition). All provisions that 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.

ARTICLE 2 – PRELIMINARY MATTERS

- SC-2.02.A** **Replace the first sentence of Paragraph 2.02.A with the following:**
- Owner shall furnish to Contractor five copies of the Contract Documents (including one fully executed counterpart of the Agreement).
- SC-2.03.A.3** **Add the following language for lump sum contracts at the beginning of Paragraph 2.03.A.3.**
- For Lump Sum Contracts,
- SC-2.03.A.4** **Add the following language at the end of Paragraph 2.03.A.3:**
- Project Milestones**
- These dates are provided for information only to establish a tentative schedule. The Notice to Proceed date is dependent upon the Contractor's completion and execution of the contract and satisfying the insurance requirements of the contract. No extension of contract time will be considered if the delay is due to failure of the Contractor to furnish requested forms or information.
- Award of Contract.....
- Notice to Proceed
- Project Substantial Completion
- Project Final Completion.....
- All work shall be completed within 75 days of the issuance of the Notice to Proceed.

ARTICLE 3 – DOCUMENTS: INTENT, REQUIREMENTS, REUSE

- SC-3.01.A** **Add the following language at the end of Paragraph 3.01.A:**
- The Contract Documents will be construed in accordance with the law of the place of the Project. In resolving inconsistencies among two or more components of the Contract Documents, precedence shall be given in the following order:
1. Agreement
 2. Contractor's Bid

3. Drawings
4. Supplementary Conditions
5. Specifications
6. General Conditions
7. Bonds

Written Amendments, Change Orders, Work Change Directives, Field Orders, Engineer's written interpretations and clarifications, Notice to Proceed and Addenda, in precedence listed, will take precedence over all other Contract Document components referenced therein. Figure dimensions on Drawings will take precedence over scale dimensions. Detailed Drawings will take precedence over general Drawings.

ARTICLE 4 – COMMENCEMENT AND PROGRESS OF THE WORK

SC-4.01.A Delete Paragraph 4.01.A in its entirety and insert the following:

- A. The contract time shall commence to run on the date indicated in the Notice to Proceed.

ARTICLE 5 – AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS

SC-5.01.A Add the following language at the end of 5.01.A:

The Contractor shall access the construction site via the existing road right-of-ways. Care shall be taken to confine construction activities to within the road right-of-ways and the temporary construction easements as shown on the plans. The Contractor may be able to utilize these areas for a staging area for construction materials.

SC-5.02.B Add the following language at the end of the second sentence of Paragraph 5.02.B:

The Contractor will be required to keep all public roadways that are used for hauling excavation or borrow material clean and free of any spillage of material. Said public roadways will be cleaned on a daily basis. The cost of removal of any spillage will be included in the cost of excavation or borrow material and no further compensation will be made. Failure to comply with this requirement will result in cleaning of the spillage by the Owner with a back charge to the Contractor of two hundred fifty (\$250) dollars per occurrence.

SC-5.03 Add the following new paragraphs immediately after Paragraph 5.03.B:

- C. **The following reports of explorations and tests of subsurface conditions at or adjacent to the Site are known to Owner:**
 1. Report dated April 23, 2022, prepared by Terracon entitled, "Geotechnical Design Report Lake Wawasee Dike Repair". The Technical Data contained in such report upon whose accuracy Contractor may rely are soil borings.

SC-5.06 Delete Paragraphs 5.06.A and 5.06.B in their entirety and insert the following:

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

ARTICLE 6 – BONDS AND INSURANCE

SC-6.01.A Replace the first sentence of Paragraph 6.01.A with the following:

Contractor shall furnish a Performance Bond and a Payment Bond, each in an amount of 125% of the contract price, as security for the faithful performance and payment of all of Contractor's obligations under the contract.

SC-6.01.G Add the following new paragraph immediately after Paragraph 6.01.F:

- G. A 3-Year Maintenance Bond in the amount of 10% of the final contract price is required. The 3-Year Maintenance Bond shall be effective upon project completion as defined in GC 15.06C.

SC-6.02.B Add the following paragraph immediately after Paragraph 6.02.B:

- A. Contractor may obtain worker's compensation insurance from an insurance company that has not been rated by A.M. Best, provided that such company (a) is domiciled in the state in which the project is located, (b) is certified or authorized as a worker's compensation insurance provider by the appropriate state agency, and (c) has been accepted to provide worker's compensation insurance for similar projects by the state within the last 12 months.

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

The Contractor shall purchase and maintain for the life of the contract Comprehensive General Liability Insurance as is appropriate for the work being performed. The Turkey Creek Dam and Dike Conservancy District shall be named as an additional insured for the following minimum amounts or greater when required by law:

- A. Worker's compensation
 - I. State Statutory
 - 2. Employer's Liability \$500,000 Each accident,
\$500,000 Disease Each employee
\$500,000 Disease Policy Limit
- B. Comprehensive General Liability
 - I. Bodily Injury
 - a. \$1,000,000 Each occurrence
 - b. \$2,000,000 Annual aggregate, products and completed operations
 - 2. Property Damage
 - a. \$1,000,000 Each occurrence
 - b. \$2,000,000 Annual aggregate
 - 3. Property Damage Liability Insurance will provide Explosion, Collapse and Underground coverage's where applicable.

4. Personal Injury
 - a. \$1,000,000 Annual Aggregate
 5. The Contractor shall carry an Umbrella Policy in the amount of
 - a. \$5,000,000 Each occurrence (Minimum Umbrella \$5,000,000.00)
 - b. \$5,000,000 Annual Aggregate
 6. The general aggregate applies per project.
- C. Comprehensive Automobile Liability
- I. Bodily Injury and Personal Property
 - a. \$1,000,000 Combined Single Limit
- D. Contractual Liability Insurance
- I. Bodily Injury
 - a. \$1,000,000 Each occurrence
 - b. \$2,000,000 Annual Aggregate, products and completed operations
 2. Property Damage
 - a. \$1,000,000 Each occurrence
 - b. \$2,000,000 Annual aggregate

The following text is required on the certificate of insurance:

The Turkey Creek Dam and Dike Conservancy District, Its Incorporations or Assigns are named additional insured (CG2010 10/01 & CG2037 10/01 or equivalent) as respects to project (insert name &/or number) for any type of work performed by the named insured. The same is Primary and Noncontributory for general and auto liability and a waiver of subrogation in favor of the same for general, auto and workers compensation. 30 day notice of cancellation applies.

The completed operations insurance required by paragraph 6.03 of the General Conditions shall be maintained by Contractor for at least two (2) years after Substantial Completion, and Contractor shall furnish OWNER with evidence of continuation of such insurance of Substantial Completion and one (1) year thereafter.

The certificate and endorsements shall demonstrate that all insurance coverage required by this contract shall not be cancelled, reduced, or alters the interest of the insured or additional insureds within 30 days written notice.

SC-6.05.A.1 Add the following new subparagraph after subparagraph 6.05.A.1:

- a. In addition to Owner, Contractor, and all Subcontractors, include as insureds the following:
 Engineer and Engineer's Consultants

ARTICLE 7 – CONTRACTOR’S RESPONSIBILITIES

SC-7.01.B. Delete Paragraph 7.01.B in its entirety and insert the following in its place:

The Contractor shall have a competent Superintendent on the project at all times work is in progress. Before the start of construction, the Contractor shall submit the name and qualification of his Superintendent to the Director of Engineering for approval. The Superintendent shall not be changed without approval of the Director of Engineering. Failure to provide a competent and full-time Superintendent shall be cause of the Owner to order a stop in project construction until Contractor is in compliance with this requirement. A time extension will not be granted and liquidated damages will be assessed at the rate of \$1,500 per day if the contract work is not completed on time.

SC-7.08.B. Add the following new paragraph immediately after Paragraph 7.08.A:

B. Add the following:

The Owner shall secure the following permits:

- IDNR Lake Preservation Act Permit

The Contractor shall be required to observe and obey all requirements of the permit. The permits have been submitted and will be provided pending approval by the reviewing agencies.

SC-7.09.B Add a new paragraph immediately after Paragraph 7.09.A:

- B. Owner is exempt from payment of sales and compensating use taxes of the State of Indiana and of local city and county taxes thereof on all materials to be incorporated into the Work.
1. Owner will furnish the required certificates of tax exemption to Contractor for use in the purchase of supplies and materials to be incorporated into the Work.
 2. Owner’s exemption does not apply to construction tools, machinery, equipment, or other property purchased by or leased by Contractor, or to supplies or materials not incorporated into the Work.

SC-7.11.B Add the following new paragraph immediately after Paragraph 7.11.A:

- B. The Engineer shall provide one (1) full-size set of construction plan drawings to the Contractor. The Contractor shall be responsible for annotating the plan drawings as required to produce Record Drawings of the construction project documenting the "As-Built" condition.
1. The Contractor shall prepare a table of submittals, Requests for Information (RFI), Field Orders (FO), Work Change Directives (WCD) and Change Orders (CO) showing the status of all items. An updated version shall be kept on site and available for review.
 2. Record documents shall be compiled and kept up-to-date throughout the project. Record documentation shall be reviewed prior to each pay application to ensure they are current and complete.

3. Upon completion of the project, the Contractor shall bind all submittals, RFI, FO, WCD and CO in a three-ring binder along with the final submittal log, clearly indicating acceptance of such items and any field changes made regarding the same. Other correspondence including clarifications shall be included.
4. The Contract Drawings shall be legibly annotated with "Record Drawings" information which shall meet the requirements of Detailed Specification Section 900-2.

The final record drawings shall be certified by the Contractor. The Contractor shall be responsible for providing one (1) hard copy of the record drawings to the Owner for project closeout.

SC-7.12 Safety and Protection

SC-7.12.H Add the following new paragraphs immediately after Paragraph 7.12.G:

- H. The Contractor shall provide new barricades (or of new quality), lighting, fencing and any other devices he deems appropriate to protect the general public in and near the work area. Particular attention shall be given to protecting the areas where children and pedestrian might walk into the site. There shall be no separate payment for these incidental protective safety items.
- I. The Contractor shall comply with the requirements of OSHA and all other State and Federal laws and regulations applicable during the conduct of this project.
- J. IOSHA Regulations 29 C.F.R. 1926, Subpart P, for Trench Safety Systems are hereby incorporated into the contract by reference. The cost of the trench safety systems shall not be paid for separately; but shall rather be included in the unit prices bid for the work.
- K. Entry into all facilities shall be in accordance with Local, State and Federal Confined Space Entry Laws and Regulations.
- L. In the event that construction operations damage any gas lines or gas service, all construction activities shall cease. Contractor's Superintendent shall immediately contact the utility, advise the occupants of the facility that their gas service may have been damaged due to construction, and ask all personnel within the building to leave the building until utility officials have arrived and determined it is safe to re-enter the building.

SC 7.20 Add the following after 7.19.E:

7.20 Drug Free Workplace Policy

The Turkey Creek Dam and Dike Conservancy District complies with the Drug-Free Workplace Act of 1998. All Contractor employees are absolutely prohibited from manufacturing, distributing, dispensing, possessing, or using controlled substances or alcohol on the jobsite. For purposes of this policy, the phrase "controlled substances" shall include drugs that are illegal or used illegally and will be referred to as "drugs" hereinafter. Coming to work in an impaired state, resulting from the use of alcohol or drugs, is likewise prohibited. The Contractor shall notify the Turkey Creek Dam and Dike Conservancy District of any criminal drug related conviction or arrest for a violation occurring on the jobsite no later than five (5) calendar days. Any evidence

of criminal activity on the jobsite shall be immediately given to the Syracuse Police Department for investigation. Such evidence may include, but shall not be limited to, beer cans, liquor bottles, pills and other substances or materials in question, and any controlled substance.

ARTICLE 9 – OWNER’S RESPONSIBILITIES

SC-9.13 Add the following new paragraph immediately after Paragraph 9.12 of the General Conditions:

Owner’s Site Representative

SC-9.13 Owner will furnish an “Owner’s Site Representative” to represent Owner at the Site and assist Owner in observing the progress and quality of the Work. The Owner’s Site Representative is not Engineer’s consultant, agent, or employee.

- A. Paragraph 10.03 of the General Conditions indicates that the Owner may designate a representative or agent who is not Engineer’s consultant, agent, or employee, to represent Owner at the Site (“Owner’s Site Representative”). In such case the Owner typically would not have the Engineer furnish a Resident Project Representative, hence the second version of SC-10.03.B below would be used to indicate there is no Engineer’s Resident Project Representative.

The following should be used for the identification of the Owner’s Site Representative. Note that the following must be supplemented by customized text that explains the responsibilities of the Owner’s Site Representative, so far as such are relevant to Contractor. The content of Paragraphs SC-10.03.B and C below may be a helpful starting point in drafting such supplemental text. In addition, if Owner’s retention of an Owner’s Site Representative will affect other aspects of Engineer’s status during construction, other portions of Article 10 and many other parts of the General Conditions will need to be revised. In such cases it is typical for (and Laws and Regulations may require) the design engineer (as engineer of record) to at least retain a role with respect to design-intent reviews of submittals and similar aspects of the Work.

ARTICLE 10 – ENGINEER’S STATUS DURING CONSTRUCTION

SC-10.03 Project Representative

- A. **This is a mandatory Supplementary Condition.** As indicated in Paragraph 10.03 of the General Conditions, in those cases in which the Engineer will provide a Resident Project Representative (RPR) during construction, the authority and responsibilities of the RPR must be specified in the Supplementary Conditions. SC-10.03.B and C, immediately below, provide a mechanism for doing so. In the alternative, in some cases Engineer will not provide RPR services, either because there will not be an RPR, or because a party other than Engineer will provide the site services. When such is the case, the second SC-10.03.B below should be used.

As indicated in Paragraph 10.03 of the General Conditions, the Owner may designate a representative or agent who is not Engineer’s consultant, agent, or employee, to represent Owner at the Site. In such case, in addition to using the second version of SC-10.03.B, below, also use SC-9.13 above.

The following suggested language, which parallels the wording of Exhibit D to EJCDC® E-500, the Agreement Between Owner and Engineer for Professional Services, is for use when Engineer will provide RPR services. It should be edited to indicate the RPR authority and responsibilities that apply to this Contract.

SC-10.03.B Add the following new paragraphs immediately after Paragraph 10.03.A:

- B. The Resident Project Representative (RPR) will be Engineer's representative at the Site, will act as directed by and under the supervision of Engineer, and will confer with Engineer regarding RPR's actions.**
- 1. General: RPR's dealings in matters pertaining to the Work in general shall be with Engineer and Contractor. RPR's dealings with Subcontractors shall only be through or with the full knowledge and approval of Contractor. RPR shall generally communicate with Owner only with the knowledge of and under the direction of Engineer.**
 - 2. Schedules: Review the progress schedule, schedule of Shop Drawing and Sample submittals, and Schedule of Values prepared by Contractor and consult with Engineer concerning acceptability.**
 - 3. Conferences and Meetings: Attend meetings with Contractor, such as preconstruction conferences, progress meetings, job conferences, and other Project-related meetings, and prepare and circulate copies of minutes thereof.**
 - 4. Liaison:**
 - a. Serve as Engineer's liaison with Contractor. Working principally through Contractor's authorized representative or designee, assist in providing information regarding the provisions and intent of the Contract Documents.**
 - b. Assist Engineer in serving as Owner's liaison with Contractor when Contractor's operations affect Owner's on-Site operations.**
 - c. Assist in obtaining from Owner additional details or information, when required for proper execution of the Work.**
 - 5. Interpretation of Contract Documents: Report to Engineer when clarifications and interpretations of the Contract Documents are needed and transmit to Contractor clarifications and interpretations as issued by Engineer.**
 - 6. Shop Drawings and Samples:**
 - a. Record date of receipt of Samples and Contractor-approved Shop Drawings.**
 - b. Receive Samples which are furnished at the Site by Contractor, and notify Engineer of availability of Samples for examination.**
 - c. Advise Engineer and Contractor of the commencement of any portion of the Work requiring a Shop Drawing or Sample submittal for which RPR believes that the submittal has not been approved by Engineer.**
 - 7. Modifications: Consider and evaluate Contractor's suggestions for modifications in Drawings or Specifications and report such suggestions, together with RPR's recommendations, if any, to Engineer. Transmit to Contractor in writing decisions as issued by Engineer.**

8. Review of Work and Rejection of Defective Work:

- a. Conduct on-Site observations of Contractor's work in progress to assist Engineer in determining if the Work is in general proceeding in accordance with the Contract Documents.
- b. Report to Engineer whenever RPR believes that any part of Contractor's work in progress is defective, will not produce a completed Project that conforms generally to the Contract Documents, or will imperil the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents, or has been damaged, or does not meet the requirements of any inspection, test or approval required to be made; and advise Engineer of that part of work in progress that RPR believes should be corrected or rejected or should be uncovered for observation, or requires special testing, inspection or approval.

9. Inspections, Tests, and System Start-ups:

- a. Verify that tests, equipment, and systems start-ups and operating and maintenance training are conducted in the presence of appropriate Owner's personnel, and that Contractor maintains adequate records thereof.
- b. Observe, record, and report to Engineer appropriate details relative to the test procedures and systems start-ups.

10. Records:

- a. Prepare a daily report or keep a diary or log book, recording Contractor's hours on the Site, Subcontractors present at the Site, weather conditions, data relative to questions of Change Orders, Field Orders, Work Change Directives, or changed conditions, Site visitors, deliveries of equipment or materials, daily activities, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures; and send copies to Engineer.
- b. Record names, addresses, fax numbers, e-mail addresses, web site locations, and telephone numbers of all Contractors, Subcontractors, and major Suppliers of materials and equipment.
- c. Maintain records for use in preparing Project documentation.

11. Reports:

- a. Furnish to Engineer periodic reports as required of progress of the Work and of Contractor's compliance with the Progress Schedule and schedule of Shop Drawing and Sample submittals.
- b. Draft and recommend to Engineer proposed Change Orders, Work Change Directives, and Field Orders. Obtain backup material from Contractor.
- c. Immediately notify Engineer of the occurrence of any Site accidents, emergencies, acts of God endangering the Work, force majeure or

delay events, damage to property by fire or other causes, or the discovery of any Constituent of Concern or Hazardous Environmental Condition.

12. **Payment Requests:** Review applications for payment with Contractor for compliance with the established procedure for their submission and forward with recommendations to Engineer, noting particularly the relationship of the payment requested to the Schedule of Values, Work completed, and materials and equipment delivered at the Site but not incorporated in the Work.
 13. **Certificates, Operation and Maintenance Manuals:** During the course of the Work, verify that materials and equipment certificates, operation and maintenance manuals and other data required by the Contract Documents to be assembled and furnished by Contractor are applicable to the items actually installed and in accordance with the Contract Documents, and have these documents delivered to Engineer for review and forwarding to Owner prior to payment for that part of the Work.
 14. **Completion:**
 - a. Participate in Engineer's visits to the Site to determine Substantial Completion, assist in the determination of Substantial Completion and the preparation of a punch list of items to be completed or corrected.
 - b. Participate in Engineer's final visit to the Site to determine completion of the Work, in the company of Owner and Contractor, and prepare a final punch list of items to be completed and deficiencies to be remedied.
 - c. Observe whether all items on the final list have been completed or corrected and make recommendations to Engineer concerning acceptance and issuance of the notice of acceptability of the work.
- C. The RPR shall not:
1. Authorize any deviation from the Contract Documents or substitution of materials or equipment (including "or-equal" items).
 2. Exceed limitations of Engineer's authority as set forth in the Contract Documents.
 3. Undertake any of the responsibilities of Contractor, Subcontractors, or Suppliers.
 4. Advise on, issue directions relative to, or assume control over any aspect of the means, methods, techniques, sequences or procedures of Contractor's work.
 5. Advise on, issue directions regarding, or assume control over security or safety practices, precautions, and programs in connection with the activities or operations of Owner or Contractor.
 6. Participate in specialized field or laboratory tests or inspections conducted off-site by others except as specifically authorized by Engineer.

7. **Accept Shop Drawing or Sample submittals from anyone other than Contractor.**
8. **Authorize Owner to occupy the Project in whole or in part.**

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

SC 14.02.D.5 Add the following new subparagraph immediately after Paragraph 14.02.D.5:

6. A qualified testing laboratory shall conduct all project sampling and testing. Provision of testing services by the Owner shall not relieve the Contractor of his responsibility to provide quality control of the materials and workmanship provided to the project work. All work must comply with Specification and Plan requirements to be accepted.

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

SC 15.01.B.3 Add the following new subparagraph immediately after Paragraph 15.01.B.3:

4. In conformity with I.C. 36-1-12-13(a), the contract must provide for the payment of Subcontractors, laborers, material suppliers and those performing services. The Owner may withhold from the contract price an amount sufficient to pay Subcontractors, laborers, material suppliers and those furnishing services should non-payment by the Contractor become evident.
5. In conformity with I.C. 36-1-12-14, the contract must provide the retainage of portions of payments by the Owner. The Owner shall withhold five percent (5%) of the dollar value of all work satisfactorily completed until the work is substantially completed. The Contractor may request that the retainage be placed in an escrow account with an escrow agent to be selected by a mutual agreement between the Owner and Contractor.

The escrow agreements must contain the following provisions:

- a. The escrow agent shall invest all escrowed principal in obligations selected by the escrow agent.
- b. The escrow agent shall hold the escrowed principal and income until receipt of notice by the Owner and the Contractor, or the Contractor and the Subcontractor, specifying the part of the escrowed principal to be released from the escrow and the person to whom that portion is to be released. After the receipt of the notice, the escrow agent shall remit the designated part of the escrowed principal and the same portion of the escrowed income to the person specified in the notice.
- c. The escrow agent shall be compensated for his services. The parties may agree on a reasonable fee comparable with fees being charged for the handling of escrow accounts of similar size and duration. The fee shall be paid from the escrowed income.
- d. The escrow agreement may also include other terms and conditions consistent with statutory requirements, including provisions

authorizing the escrow agent to commingle the escrowed funds with funds held in other escrow accounts and limiting the liability of the escrow agent.

- e. In any contracts between the Contractor and Subcontractors, such contracts shall include provisions for retainage of five percent of the dollar value of all work satisfactorily completed until all work is substantially completed and provisions for the payment of Subcontractors. It shall also include provisions for the escrow agreement between the Contractor and the Subcontractors, as required by I.C. 36-1-12-14.

SC-15.01.D.1 Replace paragraph 1 with the following:

Thirty (30) days after presentation of the Application for Payment to Owner with Engineer's Recommendation, the amount recommended (subject to any Owner set-off(s)) will become due and when due will be paid by Owner to the Contractor.

SC-15.03.B Add the following new subparagraph to Paragraph 15.03.B:

1. If some or all of the Work has been determined not to be at a point of Substantial Completion and will require re-inspection or re-testing by Engineer, the cost of such re-inspection or re-testing, including the cost of time, travel and living expenses, shall be paid by Contractor to Owner. If Contractor does not pay, or the parties are unable to agree as to the amount owed, then Owner may impose a reasonable set-off against payments due under Article 15.

SC-15.06.C Add the following to Paragraph 15.06.C:

'including retainage release'

ARTICLE 18 – MISCELLANEOUS

SC-18.09 Add the following new paragraph immediately after Paragraph 18.08.A:

SC-18-09 Video Record:

- A. Before starting construction, the Contractor shall have the entire project work area video recorded in accordance with Work Item 900-1.

STANDARD SPECIFICATIONS

GENERAL

The prosecution and construction of this project is to be accomplished in accordance with the "Material and Workmanship" provisions of the Indiana Department of Transportation (INDOT) Standard Specifications (2020 edition), except as specifically modified or augmented by these Detailed Specifications and the Plans.

The Indiana Department of Transportation Standard Specifications (2020 edition) and Supplements to date are hereby incorporated into these Contract Documents by reference, and will hereafter be referred to as the Standard Specifications. The Indiana Department of Transportation shall be abbreviated as INDOT. English units of measure shall be utilized.

Where paragraph or section reference numbers are quoted in these Detailed Specifications, or are shown by the Plans, said numbers refer to the paragraph or section numbers of the INDOT Standard Specifications.

The requirements of the Plans and INDOT Standard Specifications are supplemented by the following Detailed Specifications.



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DETAILED SPECIFICATIONS

WORK ITEM 104-1 – MAINTENANCE OF TRAFFIC

DESCRIPTION

The contractor shall furnish all necessary equipment, labor and material required to maintain traffic through the construction area and exit/entrance areas.

MATERIALS

All signs, barricades and lights shall be in good or new condition and conform to the Manual on Uniform Traffic Control Devices.

CONSTRUCTION REQUIREMENTS

The Contractor shall access the site from Koko Drive at the south end of the project and the extended Koko Drive right-of-way at the north end of the project unless other arrangements are made with the Town of Syracuse and Turkey Creek Dam and Dike Conservancy District. It is anticipated that the Contractor can work with the Town to utilize a portion of the extended Koko Drive right-of-way north of the project as a laydown area.

Material placed for temporary access shall be removed upon completion of work. Construction shall be performed on timber mats to prevent compaction of the wetland soil.

The Contractor shall be responsible for any damage to the access routes and laydown area used for this project. Upon completion of all work, these facilities shall be left in a condition as good or better than existed prior to construction.

The Contractor shall be required to keep all roadways free of soil from construction operations and to keep dust to a minimum by using an approved dust palliative.

MEASUREMENT AND PAYMENT

All costs of maintaining traffic shall be paid for at the lump sum price for work item “Maintenance of Traffic”.

There shall be no separate payment for the signs and materials utilized in traffic maintenance.

WORK ITEM 105-1 - CONSTRUCTION ENGINEERING

DESCRIPTION

The Contractor shall provide all materials, equipment and personnel necessary to complete the detailed construction engineering, detailed staking and layout for installation of the Contract work.

MATERIALS

As required.

CONSTRUCTION REQUIREMENTS

The Contractor shall be responsible for all construction engineering as outlined in Section 105 of the INDOT Standard Specifications.

The Owner shall furnish only the vertical and horizontal control data shown by the Plans. The Contractor shall preserve and/or reference horizontal control points and property corner markers.

MEASUREMENT AND PAYMENT

The lump sum price bid for Work Item 105-1 shall be full compensation for the Construction Engineering as described above.

WORK ITEM 106-1 - MATERIAL APPROVAL AND SYSTEM TESTING

DESCRIPTION

The Contractor shall employ a qualified, professional testing laboratory to provide all material testing, approval testing and system testing. There will be no testing performed by Turkey Creek Dam and Dike Conservancy District staff. The tests to be provided and the frequency of testing shall be as required for the INDOT Standard Specifications for highway materials and approvals.

Two copies of all test reports are to be submitted to the Engineer. All reports are to be certified by a registered Professional Engineer.

If a supplier of materials has a current "immediate usage" approval by INDOT, testing for source approval will not be required.

The areas of testing are:

1. Earthwork:

Maximum density shall be determined by AASHTO T-99 as modified by Section 203.24 of the State Specifications using Method A for soil and Method C for granular material.

The minimum soil compaction requirements for backfill material and pavement subgrade will be as follows:

Subgrade 6-inches under pavement, and curbs (existing and future)	100%
Topsoil used in all but the top 6-inches of fills	
in areas specified	90%
Existing ground receiving fills	100%
Backfill in pipe and conduit trenches under	
pavement and curbs (existing and future)	100%
All other areas receiving fill	100%

2. Portland Cement Concrete:

Air content test, slump test and unit weight test shall be provided for each 10 cubic yards of concrete utilized for cast-in-place concrete construction. Concrete testing for PCCP shall be in accordance with the INDOT Frequency Manual.

3. Any other test incidental to the performance of the work and required for demonstrating the quality of material and workmanship.

MEASUREMENT AND PAYMENT

The number of individual tests completed will not be counted for payment.

The lump sum price for Work Item 106-1 shall be full compensation for furnishing and coordinating all services necessary to complete all the testing described, or as directed by the Project Engineer.

WORK ITEM 110-1 - MOBILIZATION AND DEMOBILIZATION

DESCRIPTION

The Contractor shall furnish all necessary equipment, labor, and materials for movement of equipment and personnel to and from the project site. The work shall be in accordance with Section 110.

LIMITATIONS

The lump sum price bid for Work Item 110-1 shall not be more than 5% of the total of all other bid items in the original proposal.

WORK ITEM 201-1 – CLEARING, GRUBBING AND OBSTRUCTION REMOVAL

DESCRIPTION

The Contractor shall furnish all necessary equipment, labor and materials required to complete Clearing, Grubbing, and Obstruction Removal, and any other items needed to be removed and/or reinstalled to complete the work shown on the Plans within the construction limits.

MATERIALS

All materials shall conform to applicable requirements of Section 201.

CONSTRUCTION REQUIREMENTS

The Contractor shall have all underground utilities field located before start of construction. Specific attention is directed to underground facilities.

Construction shall conform to the applicable provisions of Sections 201 and 202.

The Contractor shall visit the site to familiarize himself or herself with the nature of the clearing and removal operations.

Burning shall not be allowed. All tree stumps in conflict with the proposed steel sheet pile alignment must be removed using care to ensure the integrity of the dike and shall only be allowed under observation of a field representative of the Geotechnical Engineer, Terracon. Tree stump removal will include the removal of its root ball and the filling of voids with flowable fill as described on the project plans. Removal by grinding will not be allowed.

Any fencing or man-made obstructions (i.e. guardrail, utility markers, etc.) which are in place at the start of construction shall be carefully removed and reinstalled to the Owner's property unless otherwise directed.

All debris shall be disposed of at an off-site location provided by the Contractor and shall be at an upland location and not in a wetland or floodplain. The Contractor can work with the Town of Syracuse to dispose of trees, logs, brush, stumps, etc., in the existing Town disposal area.

MEASUREMENT AND PAYMENT

Clearing will not be measured for payment. Payments will be made at the lump sum price bid for "Clearing, Grubbing and Obstruction Removal", Item 201-1.

Services for Terracon to be onsite during stump removal shall be included in the contractor's costs and they shall pay Terracon directly.

The flowable backfill required for backfilling of the voids created by removal of stumps will be paid for under the "Flowable Backfill" work item.

WORK ITEM 203-1 – EXCAVATION, GRADING, AND SHAPING FOR SURFACE RESTORATION

DESCRIPTION

The Contractor shall furnish all necessary equipment, labor and material required to complete all excavation, grading, and shaping as shown in the plans, including all necessary Borrow.

MATERIALS

All materials shall conform to the applicable requirements in INDOT Section 203.

CONSTRUCTION REQUIREMENTS

Construction shall conform to the applicable requirements of Section 203.

MEASUREMENT AND PAYMENT

Unclassified excavation for surface restoration, completed and accepted shall not be measured but paid at the Lump Sum price bid for Work Item 203-1, Surface Restoration.

WORK ITEM 203-2 – BORROW

DESCRIPTION

The Contractor shall furnish all equipment, labor and materials necessary to place, compact and grade Borrow in the project limits that are related to the areas of fill noted on the Plans.

MATERIALS

All materials shall conform to the applicable requirements in INDOT Section 203.

CONSTRUCTION REQUIREMENTS

Construction shall conform to the applicable requirements of INDOT Section 203.

Borrow material shall be placed and compacted prior to the placement of the concrete cap. The Borrow shall be obtained offsite and conform to the applicable requirement of INDOT Section 203.

MEASUREMENT AND PAYMENT

The amount of placed Borrow, completed and accepted will be measured for payment at the per cubic yard price bid for Work Item 203-2.

WORK ITEMS 205-1 – TEMPORARY EROSION AND SEDIMENT CONTROL

DESCRIPTION

The Contractor shall furnish all necessary equipment, labor and materials required for temporary erosion and sediment control for the project as needed to comply with the project plans.

MATERIALS

All materials shall conform to the applicable requirements of the project drawings.

Silt Fence Fabric shall be 100% woven polypropylene such as Contech® C70/06, or Carthage Mills®, FX-11, or equal. Posts may be plastic, wood or steel, and shall be strong enough to support the filter fabric.

The turbidity curtain shall be a heavy duty, permeable turbidity barrier in conformance with buoys, lights on buoys, anchors, shoreline anchor cable, etc. Depth of curtain varies.

CONSTRUCTION

The Contractor shall comply with the project drawings, and at a minimum, inspect the project site weekly and after every rain event of ½-inch and larger and perform maintenance as needed to provide a fully functional erosion and sedimentation control plan.

The turbidity curtain shall be installed to extend from the bed of the waterbody to a point above the existing water's surface.

All work is to be performed in accordance with applicable sections of the Standard Specifications. Silt fence shall be installed as necessary to prevent rain runoff from moving through the project site during construction and until the improvements are complete and appropriate erosion protection in place.

Silt fence posts shall be spaced at not-to-exceed 6-feet center-to-center. The Contractor shall provide a stable filter fence installed in accordance with the manufacturer's directions.

Aggregate construction entrances shall be provided as required to prevent tracking of dirt or mud onto public roads.

MEASUREMENT AND PAYMENT

"Temporary Erosion and Sediment Control" will not be measured for payment. Payment will be made at the lump sum price bid for this work item.

The temporary protection measures shall be repaired and replaced as required with no additional payment.

WORK ITEM 213-1 – FLOWABLE BACKFILL

DESCRIPTION

The Contractor shall furnish all necessary equipment, labor and materials to complete filling of voids resulting from removal of tree stumps using flowable backfill, non-removable.

MATERIALS

All materials should conform to the requirements of INDOT Sections 211 and 213.

CONSTRUCTION REQUIREMENTS

Construction shall conform to the requirements of INDOT Section 211 and 213.

MEASUREMENT AND PAYMENT

The actual quantity of Flowable Backfill, non-removable, furnished and accepted will be measured for payment at the per cubic yard price for Work Item 213-1.

WORK ITEM 621-1 – MULCHED SEEDING

DESCRIPTION

The Contractor shall furnish all necessary equipment, labor and material required to complete mulched seeding of those areas disturbed by construction.

Materials shall conform to Section 621 of the Standard Specifications.

The seed mixture shall be Type "R"

The fertilizer shall be 12-12-12.

The mulch shall be wood cellulose fiber mulch.

CONSTRUCTION REQUIREMENTS

Construction shall conform to Section 621 of the Standard Specifications.

All disturbed areas within construction limits (but not within the existing wetland) covered by this specification section shall receive a minimum of 4-inches of topsoil.

Mulch shall be applied at a rate of 0.8264 pounds per square yard (400 pounds per acre).

Fertilizer shall be applied at a rate of 0.1653 pounds per square yard (800 pounds per acre).

Type "R" Seed shall be applied at a rate of 0.03512 pounds per square yard (170 pounds per acre).

MEASUREMENT AND PAYMENT

There shall not be any unit measurement for this work item. The lump sum price bid shall be full compensation for completion of all work as described under this section and as shown on the project plans.

WORK ITEM 621-2 – TOPSOIL

DESCRIPTION

The Contractor shall furnish all necessary equipment, labor and material required to complete topsoil dressing the disturbed areas within the construction limits (but not within the existing wetland).

MATERIALS

All materials shall be salvaged from the site and shall meet the topsoil requirements of Section 621 and 914.

CONSTRUCTION REQUIREMENTS

Construction shall conform to the applicable provisions of Section 621.

All disturbed areas are to receive a minimum of 4-inches of topsoil.

MEASUREMENT AND PAYMENT

The volume of topsoil, placed, shall be computed at a 4-inch depth of the areas disturbed within the construction limits (but not within the existing wetland), and will be paid for at the per cubic yard price for Work Item 621-2.

WORK ITEM 702-1 - CAST-IN-PLACE CONCRETE WITH REINFORCING STEEL

DESCRIPTION

The Contractor shall furnish all necessary equipment, labor and materials necessary to perform the concrete work as shown on the project plans. Work includes, but is not necessarily limited to:

1. Provide all cast-in-place concrete and related work as shown on the drawings or required for a complete and finished product.

MATERIALS

- A. Portland Cement: ASTM C150, Type 1A or Type 1 with admixtures for producing air entrainment noted below, unless otherwise acceptable to Engineer.
- B. Aggregates: ASTM C33, and as herein specified. Provide aggregates from a single source for all exposed concrete.
- C. Local aggregates not complying with ASTM C33, but which have shown by special test or actual service to produce concrete of adequate strength and durability, may be used when acceptable to the Engineer.
- D. Fine Aggregate: Clean, sharp, natural sand free from loam, clay lumps of other deleterious substances.
- E. Coarse Aggregate: Clean, uncoated, processed aggregate containing no clay, mud, loam or foreign matter as follows:
 1. Crushed aggregate, processed from limestone.
 2. Washed gravel, either natural or crushed may not be used.
 3. Maximum Aggregate Size: Not larger than one-fifth of the narrowest dimension between sides of forms, one-third of the depth of slabs, nor three-fourths of the minimum clear spacing between individual reinforcing bars or bundles of bars. These limitations may be waived if, in the judgment of the Engineer, workability and methods of consolidation are such that the concrete can be placed without honeycomb or voids.
- F. Water: Clean, fresh, drinkable.
- G. Air-Entraining Admixture: ASTM C260
- H. Water Reducing Admixture: ASTM C494, Type A.
- I. Expansion Joints: Standard; Celotex Corporation, "Flexcell Concrete Joint Filler" Or W. R. Meadows, "Fiber Expansion Joint".

- J. Concrete Curing Treatment: Shall be used on all concrete surfaces to receive applied finished floor or wall materials. Standard Compound: “Master Seal” (Master Builders). “Floor Coat” (Euclid Chem. Corporation) ASTM C309.

Proportioning and Design Mixes

- A. Prepare design mixes for each type of concrete. Use an independent testing facility acceptable to the Engineer for testing proposed mix designs. The testing facility shall not be the same as used for field quality control testing.
- B. Proportion mixes by either laboratory trial batch or field experience methods, using materials to be employed on the project for each class of concrete, required, complying with ACI 211.1.
- C. Submit written reports to the Engineer of each proposed mix for each class of concrete at least 15 days prior to start of Work. Do not begin concrete production until mixes have been reviewed by the Engineer.
- D. All concrete shall have 4,000 psi (min.) 28 day compressive strength.
- E. Admixtures:
1. Use Air-entraining admixture in all concrete, unless otherwise shown or specified. Add air-entraining admixture at the manufacturer’s prescribed rate to result in concrete at the point of placement having air content within the following limits:
 - a. All concrete:
 1. 4% for maximum 2-inches aggregate.
 2. 6% for maximum ¾-inch aggregate.
 3. 7% for maximum ½-inch aggregate
 2. Use of admixtures for water-reducing and set-control shall be permitted only with prior approval of the Engineer for each condition; and shall be in strict compliance with the manufacturer’s directions.
 - a. Use amounts of admixtures as recommended by the manufacturer for climatic conditions prevailing at the time of placing. Adjust quantities and types of admixtures as required to maintain quality control.
 - b. Use of calcium chloride will not be permitted.

Concrete Mixing

- A. Ready-Mix Concrete: Comply with the requirements of ASTM C94 and herein specified.
- B. Delete the references for allowing additional water to be added to the batch for material with insufficient slump. Addition of water to the batch will not be permitted.
- C. During hot weather, or under conditions contributing to rapid setting of concrete, a shorter mixing time than specified in the ASTM C94 may be required. When the air temperature is

between 85 degrees F. and 90 degrees F., reduce the maximum mixing and delivery time from 1½ hours to 75 minutes and when the air temperature is above 90 degrees F., reduce the maximum mixing and delivery time to 60 minutes.

CONSTRUCTION REQUIREMENTS

Preparation:

- A. **Preplacement Inspection:** Before placing concrete, inspect and complete the formwork installation, reinforcing steel and items to be embedded or cast-in. Notify other crafts to permit the installation of their work; cooperate with other trades in setting such work, as required.

Concrete Placement:

- A. **General:** Comply with ACI 304 and as herein specified.

- 1. Deposit concrete continuously or in layers of such thickness that no concrete will be placed on concrete which has hardened sufficiently to cause the formation of seams or planes of weakness within the sections. If a section cannot be placed continuously, provide construction joints as herein specified. Deposit concrete as nearly as practicable to its final location to avoid segregation due to rehandling or flowing.
- 2. Pumping methods using steel or plastic pipeline will be permitted. Aluminum alloy lines shall not be used.

- B. **Placing Concrete in Forms:**

- 1. Deposit concrete in forms in horizontal layers not deeper than 24-inches and in a manner to avoid inclined construction joints. Where placement consists of several layers, place each layer while preceding layer is still plastic to avoid cold joints.
- 2. Consolidate placed concrete by mechanical vibrating equipment supplemented by hand-spading, rodding or tamping. Use equipment and procedures for consolidation of concrete in accordance with the recommended practices of ACI 309 to suit the type of concrete and project conditions.
- 3. Do not use vibrators to transport concrete inside of forms. Insert and withdraw vibrators vertically at uniformly spaced locations not farther than the visible effectiveness of the machine. Place vibrators to rapidly penetrate the placed layer of concrete and at least 6-inches into the preceding layer. Do not insert vibrators into lower layers of concrete that have begun to set. At each insertion limit, the duration of vibration to the time necessary to consolidate the concrete and complete embedment of reinforcement and other embedded items without causing segregation of the mix.

C. **Placing Concrete Cap:**

1. Deposit and consolidate concrete cap in a continuous operation, within the limits of construction joints, until the placing of a panel of section is completed.
2. Consolidate concrete during placing operations so that concrete is thoroughly worked around reinforcement and other embedded items and into corners.
3. Bring cap surfaces to the correct level with a straightedge and strikeoff. Use bull floats to smooth the surface, leaving it free of humps or hollows. Do not sprinkle water on the plastic surface. Do not disturb the cap surfaces prior to beginning finishing operations.
4. Maintain reinforcing in the proper position during concrete placement operations.
5. Work edges of cap, gutters, back top edge of curb and formed joints with an edging tool, and round to ½-inch radius, unless otherwise shown. Eliminate any tool marks on concrete surface.
6. Do not remove forms for 24 hours after concrete has been placed, unless otherwise acceptable to Engineer. After form removal, clean ends of joints and point-up any minor honeycombed areas. Remove and replace areas or sections with major defects, as directed by Engineer.

D. **Cold Weather Placing:**

1. Protect concrete work from physical damage or reduced strength which would be caused by frost, freezing actions or low temperatures, in compliance with ACI 306 and as herein specified.
2. When air temperature has fallen to or is expected to fall below 40°F, uniformly heat all water and aggregates before mixing as required to obtain a concrete mixture temperature of not less than 50°F, and not more than 80°F at point of placement.
3. Do not use frozen materials or materials containing ice or snow. Do not place concrete on frozen subgrade containing frozen materials.
4. Do not use calcium chloride, salt and other material containing anti-freeze agents or chemical accelerators, unless otherwise accepted in writing by the Engineer.

E. **Hot Weather Placing:**

1. When hot weather conditions exist that would seriously impair the quality and strength of concrete, place concrete in compliance with ACI 305 and as herein specified.
2. Cool ingredients before mixing to maintain concrete temperatures at time of placement below 90°F. Mixing water may be chilled or chopped ice may be used to control the concrete temperature providing the water equivalent of the ice is considered for the calculation of the total amount of mixing water.

3. Cover reinforcing steel with water-soaked burlap if it becomes too hot, so that the steel temperature will not exceed the ambient air temperature immediately before embedment in concrete.
4. Wet forms thoroughly before placing concrete.
5. Do not use retarding admixtures unless otherwise accepted in mix design.

F. **Joints:**

General:

1. Construct expansion, weakened-plane (contraction), and construction joints true-to-line with face perpendicular to surface of the concrete unless otherwise shown.

Expansion Joints:

1. Provide premolded joint filler for expansion joints abutting concrete curbs (except in integral work and curb), catch basins, manholes, inlets, structures and other fixed objects.
2. Set and secure continuous expansion joint strips where edge of slab abuts vertical surfaces.
3. Locate expansion joints at 66-feet o.c. maximum for concrete cap, unless otherwise shown.
4. Extend joint fillers full-width and depth of joint and not less than ½-inch or more than 1-inch below finish surface. Furnish joint fillers in one-piece lengths for the full width being placed, wherever possible. Where more than one length is required, lace or clip joint filler sections together. Form top edge of filler to conform to top profile of concrete.

Weakened-Plane (Contraction) Joints (Scoring):

1. Provide weakened-plane (contraction) joints (scoring), sectioning concrete into areas as shown on the Drawings. Construct weakened-plane joints for a depth equal to at least ¼ concrete thickness, as follows:
 - a. Tooled Joints: Form weakened joints in fresh concrete by grooving top portion with a recommended cutting tool and finishing edges with a jointer.

Construction Joints:

1. Locate and install construction joints, which are not shown on the Drawings, so as not to impair the strength and appearance of the structure, as acceptable to the Engineer.
2. Place construction joints at the end of all pours and at locations where placement operations are stopped for a period of more than ½ hour, except where such pours terminate at expansion joints.

3. Construct joints as shown, or if not shown, use standard metal keyway section form.
4. Provide keyways at least 1½-inches deep in all vertical construction joints in walls. Accepted bulkheads designed for this purpose may be used for slabs. Provide roughened surfaces in all horizontal construction joints between walls and footings.
5. Place construction joints perpendicular to the main reinforcement. Continue all reinforcement across construction joints.

G. **Finish of Formed Surfaces:**

Rough Form Finish (RfFm-Fn): For formed concrete surfaces not exposed to view in the finish work or by other construction, unless otherwise shown or specified. This is the concrete surface having the texture imparted by the form facing material and used with tie holes and defective areas repaired and patched and fins and other projections exceeding ¼-inch in height rubbed down or chipped off.

Smooth Form Finish (SmFm-Fn): For formed concrete surfaces exposed-to-view, or that are to be covered with a coating material applied directly to the concrete, or a covering material bonded to the concrete such as waterproofing, dampproofing, painting or other similar system. This is the as-cast concrete surface as obtained with selected form facing material arranged orderly and symmetrically with a minimum of seams.

Rubbed Finish: For all exposed concrete surfaces not utilizing specific form liners.

1. After removal of forms the rubbing of concrete shall be started as soon as its condition permits. The initial rub shall be completed within 48 hours of form removal. Immediately before starting this work the concrete shall be kept saturated with water. Sufficient time shall have elapsed before the wetting down to allow the mortar used in the pointing to set. Surfaces to be finished shall be rubbed with a medium coarse carborundum stone, using water but no mortar on its face. Rubbing shall be continued until all form marks, projections and irregularities have been removed, all voids filled, and a uniform surface has been obtained. The paste produced by this rubbing shall be left in place.
2. After all concrete above the surface being treated has been cast, the final finish shall be obtained by rubbing with a fine carborundum stone and water. This rubbing shall be continued until the entire surface is of a smooth texture and uniform color. The surface shall be left free from all unsound patches, paste and objectionable marks.

Concrete Curing and Protection:

- A. **General:** Protect freshly placed concrete from premature drying and excessive cold or hot temperature for a period of time necessary for hydration of cement and proper hardening.
1. Start initial curing as soon as free water has disappeared from concrete surface after placing and finishing. Weather permitting, keep continuously moist for not less than 72 hours.

2. Begin final curing procedures immediately following initial curing and before concrete has dried. Continue final curing for at least 7 days and in accordance with ACI 301 procedures. Avoid rapid drying at end of final curing period.

B. **Curing Methods:** Perform curing of concrete by moist curing, by moisture-retaining cover curing, membrane curing, and by combinations thereof, as herein specified.

1. Provide moisture curing by following methods:
 - a. Keep concrete surface continuously wet by covering with water.
 - b. Continuous water-fog spray.
 - c. Cover concrete surface with specified absorptive cover, thoroughly saturating cover with water and keeping continuously wet. Place absorptive cover to provide coverage of concrete surfaces and edges with 4-inch lap over adjacent absorptive covers.
2. Provide moisture-cover curing as follows:
 - a. Cover concrete surfaces with moisture-retaining cover for curing concrete, placed in widest practicable width with sides and ends lapped at least 3-inches and sealed by waterproof tape or adhesive. Immediately repair any holes or tears during curing period using cover material and waterproof tape.
3. Provide membrane curing to concrete cap as follows:
 - a. Apply membrane-forming curing compound to concrete surfaces as soon as final finishing operations are complete (within 2 hours). Apply uniformly in continuous operation by power-spray or roller in accordance with manufacturer's directions. Recoat areas which are subjected to heavy rainfall within 3 hours after initial application. Maintain continuity of coating and repair damage during curing period.
 - b. Do not use membrane curing compounds on surfaces which are to be covered with a coating material applied directly to concrete, liquid floor hardener, waterproofing, damp proofing, membrane roofing, flooring, painting, and other coatings and finish materials, unless otherwise acceptable to the Engineer.

Miscellaneous Concrete Items:

- A. **Filling-In:** Fill-in holes and openings left in concrete structures for passage of work by other trades, unless otherwise shown or directed, after work of other trades is in place. Mix, place and cure concrete as herein specified, to blend with in-place construction. Provide other miscellaneous concrete filling shown or required to complete the work.

Concrete Surface Repairs:

- A. **Patching Defective Areas:** Repair and patch defective areas with cement mortar immediately after removal of forms, but only when acceptable to Engineer.
1. Cut out honeycomb, rock pockets, voids over ½-inch diameter, and holes left by tie rods and bolts, down to solid concrete but, in no case to a depth of less than 1-inch. Make edges of cuts perpendicular to the concrete surface. Before placing cement mortar, thoroughly clean, dampen with water and brush coat the area to be patched with neat cement grout. Proprietary patching compounds may be used when acceptable to Engineer.
 2. For exposed-to-view surfaces, blend white Portland cement and standard Portland cement so that, when drying, patching mortar will match color of surrounding. Provide test areas at inconspicuous location to verify mixture and color match before proceeding with patching. Compact mortar in place and strike-off slightly higher than surrounding surfaces.
- B. **Repair of Formed Surfaces:** Remove and replace concrete having defective surfaces if defects cannot be repaired to satisfaction of Engineer. Surface defects, as such, include color and texture irregularities, cracks, spalls, air bubbles, honeycomb, rock pockets and holes left by tie rods and bolts; fins and other projections on surface; and stains and other discolorations that cannot be removed by cleaning.
1. Repair concealed formed surfaces, where possible, that contain defects that adversely affect the durability of the concrete. If defects cannot be repaired, remove and replace the concrete.
- C. **Repair of Unformed Surfaces.** Test unformed surfaces, such as monolithic slabs, for smoothness and to verify surface plane to tolerances specified for each surface and finish. Correct low and high areas as herein specified. Test unformed surfaces sloped to drain for trueness of slope, in addition to smoothness, using a template having required slope.
1. Repair finished unformed surfaces that contain defects which adversely affect durability of concrete. Repair surface defects, as such, include crazing, cracks in excess of 0.01-inch wide of which penetrate to reinforcement or completely through nonreinforced sections regardless of width, spalling, pop-outs, honeycomb, rock pockets, and other objectionable conditions.

2. Correct high areas in unformed surfaces by grinding, after concrete has cured at least 14 days.
3. Correct low areas in unformed surfaces during, or immediately after completion of surface finishing operations by cutting out low areas and replacing with fresh concrete. Finish repaired areas to blend into adjacent concrete. Proprietary patching compounds may be used when acceptable to Engineer.
4. Repair defective areas, except random cracks and single holes not exceeding 1-inch diameter, by cutting out and replacing with fresh concrete. Remove defective areas to sound concrete with clean, square cuts and expose reinforcing steel with at least $\frac{3}{4}$ -inch clearance all around. Dampen concrete surfaces in contact with patching concrete, and brush with a neat cement grout coating or concrete bonding agent. Place patching concrete, and brush with a neat cement grout coat or concrete bonding agent. Place patching concrete before grout takes its initial set. Mix patching concrete of same materials to provide concrete of the same type or class as original concrete. Place, compact and finish to blend with adjacent finished concrete. Cure in the same manner as adjacent concrete.
5. Repair isolated random cracks and single holes not over 1-inch in diameter by dry-pack method. Groove top of cracks and cut out holes to sound concrete and clean off dust, dirt and loose particles. Dampen cleaned concrete surfaces and brush with neat cement grout coating. Place dry-pack before cement grout takes its initial set. Mix dry-pack, consisting of one part Portland cement to 2-1/2 parts fine aggregate using a No. 16 mesh sieve, using only enough water as required for handling and placing. Compact dry-pack mixture in place and finish to match adjacent concrete. Keep patched areas continuously moist for not less than 72 hours.

QUALITY ASSURANCE:

- A. **Codes and Standards:** Comply with the provisions of the following codes, specifications and standards, except as otherwise shown or specified:
 1. ACI 301 "Specifications for Structural Concrete for Buildings."
 2. ACI 304R-89 "Guide for Measuring, Mixing, Transporting and Placing Concrete".
 3. ACI 311 "Recommended Practice for Concrete Inspection."
 4. AIC 318 "Building Code Requirements for Reinforced Concrete."
 5. Concrete Reinforcing Steel Institute, "Manual of Standard Practice."
 6. Comply with building code requirements which are more stringent than the above.

- B. **Workmanship:** The Contractor is responsible for correction of concrete Work which does not conform to the specified requirements, including strength, tolerances and finishes. Correct deficient concrete as directed by the Engineer.
- C. **Concrete Testing Service:** Employ, at Contractor's expense, a testing laboratory acceptable to Engineer to perform material evaluation tests and to test concrete mix designs.
- D. Materials may require testing and retesting, as directed by the Engineer at any time during the progress of the Work. Allow free access to material stockpiles and facilities at all times. Tests shall be done at the Contractor's expense.

SUBMITTALS

- A. All other trades requiring inserts, sleeves, etc., for their Work shall furnish same for installation as Work under this Section. Delivery of inserts, sleeves, etc., for installation as Work under this Section shall be timed so as not to cause delay in the progress of this Work.

MEASUREMENT AND PAYMENT

The volume of concrete placed based on plan dimensions shall be paid for at the per cubic yard price bid for Work Item 702-1.

The required reinforcing steel shown on the plans will be incidental to the cost of the concrete, Work Item 702-1.

The cost associated with the expansion joint materials, labor, and installation shall be considered incidental and included in the cost of Work Item 702-1.

The cost associated with the construction joint labor shall be considered incidental and included in the cost of Work Item 702-1.

WORK ITEM 910-1 - STEEL SHEET PILING, PERMANENT, PZ 22

WORK ITEM 910-2 - STEEL SHEET PILING, PERMANENT, PZ 35

WORK ITEM 910-3 – STEEL STUD SHEAR CONNECTOR

DESCRIPTION

The extent of steel sheet piling walls and structural steel is shown on the drawings.

The work includes the mobilization of pile driving equipment and the furnishing, driving, splicing and cut-off of steel sheet piles to the penetrations and elevations shown on the plans. Temporary sheeting, shoring and bracing is not included in this item. The extent of steel sheet piling walls and structural steel plate connections is shown on the drawings.

QUALITY ASSURANCE

The Installer shall examine the subgrade and the conditions under which the steel sheet piling are to be driven and notify the Contractor in writing of unsatisfactory conditions. The Installer shall not proceed with the Work until unsatisfactory conditions have been corrected in a manner acceptable to the Contractor.

Codes and Standards: Comply with the requirements of the INDOT Standard Specifications and the Structural Welding Code, ANSI/AWS D1.1-81, American Welding Society.

SUBMITTALS

Manufacturer's Data: Steel Sheet Piling

- a. For information only, submit 2 certified copies of mill test reports indicating conformance with material standards specified.

Delivery, Handling and Storage:

- a. Deliver steel sheet piling to the project site bundled, tagged and marked. Use metal tags or painted markings on piling to indicate piling size, length and other information corresponding to the markings on the drawings.
- b. Piles should be stored on level ground, if possible, or the lower series of blocking should be laid so that the piling will be level. Blocking should be positioned so that there will not be excessive sag in sheeting. Blocking between lifts should be directly over each preceding blocking series. Overhang at the end of the piles should not exceed two feet. Lifts as stored should not be heavier than those shipped. When lifting piles, slings should be positioned so that the weight will not be concentrated at any one point.

MATERIALS

Steel Sheet Piling: ASTM A572, Grade 50. Steel sheet piling shall be of the continuous ball and socket interlock type.

Shear Stud: Welded shear studs shall satisfy all applicable requirements of AASHTO/AWS D1.5M/D1.5 Bridge Welding Code, and shall have a specified minimum yield and tensile strength of 50 ksi and 60 ksi, respectively.

FABRICATION

Provide sheet piling sections with standard handling holes.

Provide special corners as required.

Provide temporary sheet piling connections as required.

INSTALLATION

Sheet piling shall be installed in conformance with the provisions of the Standard Specifications. Also, shear stud connectors shall be field welded in conformance with the provisions of the Standard Specifications.

MEASUREMENT AND PAYMENT

The area of steel sheet piling (PZ 22 and PZ 35) installed will be paid for at the per square foot price bid for Work Item 910-1 and 910-2 based on the measured straight-line length times the depth shown on the Plans.

The cost of shear stud connector and installation shall be included in the cost of sheet piles.

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WORK ITEM 990-1 - DVD RECORD AND RECORD DRAWINGS

DESCRIPTION

The Contractor shall furnish all necessary equipment, labor and material required to professionally videotape the project area to verify existing conditions prior to construction and to furnish a complete set of "as-built" record drawings.

MATERIALS

Provide materials as required.

CONSTRUCTION REQUIREMENTS

The Contractor will be required to submit a DVD format, professionally completed, stable video recording of the entire project area to clearly show all features located within and adjacent to the project area. This includes driveways, street pavements, encroachments in the right-of-way, shrubs, trees, fences, etc., prior to the start of construction. Audio identification of the location and features shall be included. The video shall indicate the time and date of the recording and also include a method to identify the street or area being video recorded.

One original and one copy of the video shall be forwarded to the Engineer for review prior to beginning construction and shall become the property of the Owner.

The DVD's shall be in color and professionally labeled showing the Owner's name, project name and number, and the name of the Contractor. If there is more than one DVD for the video, an index of what is included on each DVD shall be provided. Flash drives are an acceptable substitute for DVD's.

MEASUREMENT AND PAYMENT

Payment for all costs of providing a video record and record drawings will be made at the lump sum price for Work Item 990-1.

The Contractor shall furnish the Owner a complete set of "as-built" record drawings showing all deviations and changes associated with the steel sheet pile wall alignment. The Contractor shall certify the accuracy of all record drawings.

NAME OF BIDDER _____

BID FORM FOR CONSTRUCTION CONTRACTS

Prepared by



Issued and Published Jointly by



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BID FORM

TURKEY CREEK DAM AND DIKE CONSERVANCY DISTRICT

LAKE WAWASEE DIKE REHABILITATION PROJECT

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ARTICLE 1 – BID RECIPIENT

1.01 This Bid is submitted to:

Turkey Creek Dam and Dike Conservancy District

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

ARTICLE 2 – BIDDER’S ACKNOWLEDGEMENTS

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

ARTICLE 3 – BIDDER’S REPRESENTATIONS

3.01 In submitting this Bid, Bidder represents that:

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

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

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

C. Bidder is familiar with and has satisfied itself as to all Laws and Regulations that may affect cost, progress, and performance of the Work.

D. Bidder has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or adjacent to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings, and (2) reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings.

- E. Bidder has considered the information known to Bidder itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Bidding Documents; and any Site-related reports and drawings identified in the Bidding Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder; and (3) Bidder's safety precautions and programs.
- F. Bidder agrees, based on the information and observations referred to in the preceding paragraph, that no further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of this Bid for performance of the Work at the price bid and within the times required, and in accordance with the other terms and conditions of the Bidding Documents.
- G. Bidder is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Bidding Documents.
- H. Bidder has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bidding Documents, and confirms that the written resolution thereof by Engineer is acceptable to Bidder.
- I. The Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance and furnishing of the Work.
- J. The submission of this Bid constitutes an incontrovertible representation by Bidder that Bidder has complied with every requirement of this Article, and that without exception the Bid and all prices in the Bid are premised upon performing and furnishing the Work required by the Bidding Documents.

ARTICLE 4 – BIDDER'S CERTIFICATION

4.01 Bidder certifies that:

- A. This Bid is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any collusive agreement or rules of any group, association, organization, or corporation;
- B. Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid;
- C. Bidder has not solicited or induced any individual or entity to refrain from bidding; and
- D. Bidder has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the Contract. For the purposes of this Paragraph 4.01.D:
 - 1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process;
 - 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process to the detriment of Owner, (b) to establish bid prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;

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

ARTICLE 5 – BASIS OF BID

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

See Attached Itemized Proposal – Page B-_____ of B-_____, inclusive.

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

ARTICLE 6 – TIME OF COMPLETION

- 6.01 Bidder agrees that the Work will be substantially complete on or before _____, 2023, and will be completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions on or before _____, 2023.
- 6.02 Bidder accepts the provisions of the Agreement as to liquidated damages.

ARTICLE 7 – ATTACHMENTS TO THIS BID

- 7.01 The following documents are submitted with and made a condition of this Bid:
- A. Required Bid security;
 - B. List of Proposed Subcontractors;
 - C. Contractor’s Cured-In-Place Pipe and Manhole Rehabilitation Experience
 - D. Non-Collusion Affidavit
 - E. U.S. Manufactured Product Preference Certification
 - F. Non-Discrimination Compliance
 - G. Bid Bond (Penal Form)
 - H. Standard Questionnaire and Financial Statement for Bidders
 - I. Form 96 (2013)

ARTICLE 8 – DEFINED TERMS

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

ARTICLE 9 – BID SUBMITTAL

- 9.01 If awarded this Contract, the undersigned agrees to commence work within ten (10) days after receiving the Notice to Proceed and to complete the work to the satisfaction of the _____, Turkey Creek Dam and Dike Conservancy District by _____, 2023.
- 9.02 Accompanying this Proposal is a (Certified Check) (Cashier's Check) (Bid Bond) in the amount of Five Percent (5%) _____ (\$ _____) payable to the order of the Turkey Creek Dam and Dike Conservancy District, which it is agreed will be forfeited to the Turkey Creek Dam and Dike Conservancy District if the undersigned fails to execute the Contract in conformance with the Form of Contract incorporated in the Contract Documents and to furnish a Performance Bond as specified within ten (10) ten days after notification of Award of the Contract to the undersigned.
- 9.03 In submitting this Proposal, it is understood that the right is reserved by the Turkey Creek Dam and Dike Conservancy District to reject any and all Proposals. It is agreed that this Proposal may not be withdrawn for a period of sixty (60) days from the opening thereof.

BIDDER: *[Indicate correct name of bidding entity]*

By:

[Signature]

[Printed name]

(If Bidder is a corporation, a limited liability company, a partnership, or a joint venture, attach evidence of authority to sign.)

Attest:

[Signature]

[Printed name]

Title:

Submittal Date:

Address for giving notices:

Telephone Number:

Fax Number:

Contact Name and e-mail address:

Bidder's License No.:

(where applicable)

BIDDER'S CERTIFICATION

IF BIDDER is:

An Individual

By _____ (SEAL)
(Individual's Name)

doing business as _____

Business Address: _____

Phone No.: _____

A Partnership

By _____ (SEAL)
(Firm Name)

(General Partner)

Business Address: _____

Phone No.: _____

A Corporation

By _____
(Corporation Name)

(Date of Incorporation)

By _____
(Name of Person Authorized to Sign)

(Title)

(Corporate Seal)

Attest _____
(Secretary)

Business Address: _____

Phone No.: _____

A Joint Venture

By _____
(Name)

(Address)

By _____
(Name)

(Address)

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

VENDOR'S PROPOSAL/OFFER

TO: Turkey Creek Dam and Dike Conservancy District DATE: _____

RE: **LAKE WAWASEE DIKE REHABILITATION PROJECT**

FROM: (Company Name) _____
(Address) _____
(City, State, Zip Code) _____
(Telephone) _____
(Contact Person) _____

The undersigned, having familiarized himself/herself with the conditions affecting the cost of his/her work and all terms, conditions and requirements contained in the Request for Bids, hereby proposes and agrees to furnish to the Town of Syracuse, Indiana, any one or all items that have been priced at the prices set forth below.

The undersigned acknowledges that the proposal/offer is subject to all the terms, conditions and requirements set forth in the Request for Bids, and if awarded all or part of the contract, agrees to comply with all terms, conditions and requirements of the contract and to furnish such items as may be awarded to us. The undersigned further acknowledges receipt of all Addenda to the Request for Bids, if applicable.

Date: _____ By: _____

(Title)

ATTEST:
By: _____
Name: _____
Title: _____

VENDOR'S BID PRICE

BASE BID: LAKE WAWASEE DIKE REHABILITATION PROJECT

Total Base Bid: \$ _____

(_____ Dollars)



**PROPOSAL
TURKEY CREEK DAM AND DIKE CONSERVANCY DISTRICT
LAKE WAWASEE DIKE REHABILITATION PROJECT**

ITEM NO.	DESCRIPTION	QTY	UNIT	UNIT PRICE	AMOUNT
				Dollars	Dollars
104-1	Maintaining Traffic	1	LS		
105-1	Construction Engineering	1	LS		
106-1	Material Testing & Quality Control	1	LS		
110-1	Mobilization and Demobilization	1	LS		
201-1	Clearing, Grubbing and Obstruction Removal	1	LS		
203-1	Surface Restoration	1	LS		
203-2	Borrow	35	CYS		
205-1	Temporary Erosion and Sediment Control	1	LS		
213-1	Flowable Backfill, Non-removable	10	CYS		
621-1	Mulched Seeding	1,044	SY		
621-2	Topsoil	116	CYS		
702-1	Cast-In-Place Concrete with Reinforcing Steel	35	CYS		
910-1	Sheet Piling, PZ22	4,300	SFT		
910-2	Sheet Piling, PZ35	5,635	SFT		
990-1	DVD Record and Record Drawings	1	LS		
TOTAL:					

CONTRACTOR NAME

ADDRESS

TELEPHONE NUMBER

FAX NUMBER

**TURKEY CREEK DAM AND DIKE CONSERVANCY DISTRICT
LAKE WAWASEE DIKE REHABILITATION PROJECT**

SUBCONTRACTORS

NAME <hr/> ADDRESS <hr/> TELEPHONE NUMBER <hr/> FAX NUMBER <hr/> WORK ITEMS <hr/> WORK ITEMS <hr/> AMOUNT <hr/> NAME <hr/> ADDRESS <hr/> TELEPHONE NUMBER <hr/> FAX NUMBER <hr/> WORK ITEMS <hr/> AMOUNT <hr/>	NAME <hr/> ADDRESS <hr/> TELEPHONE NUMBER <hr/> FAX NUMBER <hr/> WORK ITEMS <hr/> WORK ITEMS <hr/> AMOUNT <hr/> NAME <hr/> ADDRESS <hr/> TELEPHONE NUMBER <hr/> FAX NUMBER <hr/> WORK ITEMS <hr/> AMOUNT <hr/>
NAME <hr/> ADDRESS <hr/> TELEPHONE NUMBER <hr/> FAX NUMBER <hr/> WORK ITEMS <hr/> WORK ITEMS <hr/> AMOUNT <hr/>	NAME <hr/> ADDRESS <hr/> TELEPHONE NUMBER <hr/> FAX NUMBER <hr/> WORK ITEMS <hr/> WORK ITEMS <hr/> AMOUNT <hr/>

Bidder to include subcontractors providing \$5,000 or greater. Include additional pages as necessary.

ACCEPTANCE

The Turkey Creek Dam and Dike Conservancy District hereby accepts the terms of the bid for the items specified herein and promises to pay the price quoted to the undersigned Vendor upon delivery and acceptance of the item(s) stipulated in said bid.

Date: _____ By: _____

By: _____

By: _____

NON-COLLUSION AFFIDAVIT

STATE OF INDIANA)

)SS:

_____ COUNTY)

_____, of lawful age, being first duly sworn according to law, states the following:

1. He/She is the officer or agent authorized by the bidder to submit the attached bid.
2. The bidder (has) (has not) been convicted of perjury for filing a false affidavit or affirmation within the last three years pursuant to IC 5-22-16-6.
3. The bidder understands that if the bidder has been convicted as aforesaid, the Town of Syracuse is prohibited from accepting a bid from or awarding a contract to the bidder pursuant to IC 5-22-16-6(e).
4. The bidder, nor any other member, representative or agent of the firm, company, corporation or partnership represented by him/her has entered into any combination, collusion or agreement with any person relative to the price to be offered by any person nor to prevent any person from making an offer nor to induce anyone to refrain from making an offer and that this offer is made without reference to any other offer.
5. The forgoing statements are accurate with respect to the bidder and its current or previous officers and employees.
6. The foregoing statements are true and correct to the best of the affiant's knowledge, information and belief.

Sworn to and subscribed before me, a Notary Public, on the _____ day of _____, 20____.

My Commission Expires: _____

Notary Public Resident: _____

U.S. MANUFACTURED PRODUCT
PREFERENCE CERTIFICATION

The bidder, acting by and through its undersigned agent, acknowledges that the Turkey Creek Dam and Dike Conservancy District is obligated under IC 5-22-15-21 to purchase U.S. Manufactured Products when reasonably available, except as otherwise stated under Indiana law. A product is manufactured in the United States, if the cost of its components mined, produced, or manufactured in the United States exceeds fifty percent (50%) of the cost of all its components.

The bidder further acknowledges that in determining if a product is manufactured in the United States, the Turkey Creek Dam and Dike Conservancy District shall only consider the product and its components. (For further information please reference to the Request for Bids materials.)

The bidder hereby certifies under the penalties of perjury that each of the bidder's end products, except for those listed below, are a U.S. Manufactured Product as stated in IC 5-22-15-21.

PLEASE CHECK ONE OF THE FOLLOWING:

() U.S. Manufactured Product Preference applies.

() U.S. Manufactured Product Preference **DOES NOT** apply to the following product(s).

Date: _____

By: _____

(Title)

The following end products included within our bid are not U.S. Manufactured Products:

Product(s)

Country of origin

NON-DISCRIMINATION COMPLIANCE

The Contractor and their Subcontractors and Suppliers shall perform, observe and comply with all applicable state, municipal, and federal laws, rules, regulations and Executive Orders pertaining to nondiscrimination against employees or applicants for employment because of race, color, religion, national origin, sex, disability, or ancestry. When required by such laws, rules, regulations, and Executive Orders, the Contractor and their Subcontractors and Suppliers shall include nondiscrimination provisions in all contracts and purchase orders.

The signature below hereby certifies full compliance with the conditions outlined in the paragraph above regarding nondiscrimination.

*(Bidder - Please print full name of your proprietorship,
partnership, or corporation)*

(Name - Authorized Signing Officer)

(Title)

(Signature)

(Date)

BID BOND

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

BIDDER (*Name and Address*):

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

OWNER (*Name and Address*): **Turkey Creek Dam and Dike Conservancy District**

BID

Bid Due Date:

Description (*Project Name— Include Location*):

BOND

Bond Number:

Date:

Penal sum _____ \$ _____
(Words) (Figures)

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

BIDDER

SURETY

Bidder's Name and Corporate Seal

Surety's Name and Corporate Seal

By: _____ By: _____
Signature Signature (Attach Power of Attorney)

Print Name Print Name

Title Title

Attest: _____ Attest: _____
Signature Signature

Title Title

Note: Addresses are to be used for giving any required notice.

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

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

**STANDARD QUESTIONNAIRE AND
FINANCIAL STATEMENT FOR BIDDERS**

Each Bid shall have attached thereto the latest copy of an audited financial statement for bidder. Each Bidder shall execute the Indiana State Board of Accounts Bid Form 96, entitled "Contractor's Bid for Public Works" as attached.



CONTRACTOR'S BID FOR PUBLIC WORK - FORM 96

State Form 52414 (R2 / 2-13) / Form 96 (Revised 2013)
Prescribed by State Board of Accounts

PART I

(To be completed for all bids. Please type or print)

Date (month, day, year): _____

1. Governmental Unit (Owner): _____

2. County : _____

3. Bidder (Firm): _____

Address: _____

City/State/ZIPcode: _____

4. Telephone Number: _____

5. Agent of Bidder (if applicable): _____

Pursuant to notices given, the undersigned offers to furnish labor and/or material necessary to complete the public works project of _____

(Governmental Unit) in accordance with plans and specifications prepared by _____

_____ and dated _____ for the sum of
_____ \$ _____

The undersigned further agrees to furnish a bond or certified check with this bid for an amount specified in the notice of the letting. If alternative bids apply, the undersigned submits a proposal for each in accordance with the notice. Any addendums attached will be specifically referenced at the applicable page.

If additional units of material included in the contract are needed, the cost of units must be the same as that shown in the original contract if accepted by the governmental unit. If the bid is to be awarded on a unit basis, the itemization of the units shall be shown on a separate attachment.

The contractor and his subcontractors, if any, shall not discriminate against or intimidate any employee, or applicant for employment, to be employed in the performance of this contract, with respect to any matter directly or indirectly related to employment because of race, religion, color, sex, national origin or ancestry. Breach of this covenant may be regarded as a material breach of the contract.

CERTIFICATION OF USE OF UNITED STATES STEEL PRODUCTS

(If applicable)

I, the undersigned bidder or agent as a contractor on a public works project, understand my statutory obligation to use steel products made in the United States (I.C. 5-16-8-2). I hereby certify that I and all subcontractors employed by me for this project will use U.S. steel products on this project if awarded. I understand that violations hereunder may result in forfeiture of contractual payments.

ACCEPTANCE

The above bid is accepted this _____ day of _____, _____, subject to the following conditions: _____

Contracting Authority Members:

_____	_____
_____	_____
_____	_____

PART II

(For projects of \$150,000 or more – IC 36-1-12-4)

Governmental Unit: _____

Bidder (Firm) _____

Date (month, day, year): _____

These statements to be submitted under oath by each bidder with and as a part of his bid.
Attach additional pages for each section as needed.

SECTION I EXPERIENCE QUESTIONNAIRE

1. What public works projects has your organization completed for the period of one (1) year prior to the date of the current bid?

Contract Amount	Class of Work	Completion Date	Name and Address of Owner

2. What public works projects are now in process of construction by your organization?

Contract Amount	Class of Work	Expected Completion Date	Name and Address of Owner

3. Have you ever failed to complete any work awarded to you? _____ If so, where and why?

4. List references from private firms for which you have performed work.

SECTION II PLAN AND EQUIPMENT QUESTIONNAIRE

1. Explain your plan or layout for performing proposed work. *(Examples could include a narrative of when you could begin work, complete the project, number of workers, etc. and any other information which you believe would enable the governmental unit to consider your bid.)*

2. Please list the names and addresses of all subcontractors *(i.e. persons or firms outside your own firm who have performed part of the work)* that you have used on public works projects during the past five (5) years along with a brief description of the work done by each subcontractor.

3. If you intend to sublet any portion of the work, state the name and address of each subcontractor, equipment to be used by the subcontractor, and whether you will require a bond. However, if you are unable to currently provide a listing, please understand a listing must be provided prior to contract approval. Until the completion of the proposed project, you are under a continuing obligation to immediately notify the governmental unit in the event that you subsequently determine that you will use a subcontractor on the proposed project.

4. What equipment do you have available to use for the proposed project? Any equipment to be used by subcontractors may also be required to be listed by the governmental unit.

5. Have you entered into contracts or received offers for all materials which substantiate the prices used in preparing your proposal? If not, please explain the rationale used which would corroborate the prices listed.

SECTION III CONTRACTOR'S FINANCIAL STATEMENT

Attachment of bidder's financial statement is mandatory. Any bid submitted without said financial statement as required by statute shall thereby be rendered invalid. The financial statement provided hereunder to the governing body awarding the contract must be specific enough in detail so that said governing body can make a proper determination of the bidder's capability for completing the project if awarded.

SECTION IV CONTRACTOR'S NON – COLLUSION AFFIDAVIT

The undersigned bidder or agent, being duly sworn on oath, says that he has not, nor has any other member, representative, or agent of the firm, company, corporation or partnership represented by him, entered into any combination, collusion or agreement with any person relative to the price to be bid by anyone at such letting nor to prevent any person from bidding nor to include anyone to refrain from bidding, and that this bid is made without reference to any other bid and without any agreement, understanding or combination with any other person in reference to such bidding.

He further says that no person or persons, firms, or corporation has, have or will receive directly or indirectly, any rebate, fee, gift, commission or thing of value on account of such sale.

SECTION V OATH AND AFFIRMATION

I HEREBY AFFIRM UNDER THE PENALTIES FOR PERJURY THAT THE FACTS AND INFORMATION CONTAINED IN THE FOREGOING BID FOR PUBLIC WORKS ARE TRUE AND CORRECT.

Dated at _____ this _____ day of _____, _____

(Name of Organization)

By _____

(Title of Person Signing)

ACKNOWLEDGEMENT

STATE OF _____)
COUNTY OF _____) ss

Before me, a Notary Public, personally appeared the above-named _____ and
swore that the statements contained in the foregoing document are true and correct.

Subscribed and sworn to before me this _____ day of _____, _____.

Notary Public

My Commission Expires: _____

County of Residence: _____

BID OF

(Contractor)

(Address)

**FOR
PUBLIC WORKS PROJECTS
OF**

Filed _____, _____

Action taken _____



AGREEMENT DOCUMENTS

- Agreement Between Owner and Contractor for Construction Contract
- Performance Bond
- Payment Bond
- Maintenance Bond
- Escrow Agreement
- Employment Eligibility Verification
- Contactor's Certification Regarding Investment in Iran

AGREEMENT
BETWEEN OWNER AND CONTRACTOR FOR
CONSTRUCTION CONTRACT (STIPULATED PRICE)

Prepared by



Issued and Published Jointly by



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1420 King Street, Alexandria, VA 22314-2794
(703) 684-2882
www.nspe.org

American Council of Engineering Companies
1015 15th Street N.W., Washington, DC 20005
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www.acec.org

American Society of Civil Engineers
1801 Alexander Bell Drive, Reston, VA 20191-4400
(800) 548-2723
www.asce.org

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THIS AGREEMENT is by and between Turkey Creek Dam and Dike Conservancy District ("Owner") and _____ ("Contractor").

ARTICLE 1 – WORK

- Lake Wawasee Dike Rehabilitation Project
Turkey Creek Dam and Dike Conservancy District
Including, but not limited to, installation of steel sheet piling with concrete cap, site restoration, etc.

Turkey Creek Dam and Dike Conservancy District Lake Wawasee Dike Rehabilitation Project

3.01 The part of the Project that pertains to the Work has been designed by **Christopher J. Jeter, PE, Lawson-Fisher Associates P.C.**

3.02 The Owner has retained **Lawson-Fisher Associates P.C.** (“Engineer”) to act as Owner’s representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

A. The Work will be substantially completed on or before _____, 2023, and completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions on or before _____, 2023.

4.03 *Liquidated Damages*

- A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial and other losses if the Work is not completed and Milestones not achieved within the times specified in Paragraph 4.02 above, plus any extensions thereof allowed in accordance with the Contract. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty):
1. Substantial Completion: Contractor shall pay Owner \$1,500.00 for each day that expires after the time (as duly adjusted pursuant to the Contract) specified in Paragraph 4.02.A above for Substantial Completion until the Work is substantially complete.
 2. Completion of Remaining Work: After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Contractor shall pay Owner \$1,500.00 for each day that expires after such time until the Work is completed and ready for final payment.
 3. Liquidated damages for failing to timely attain Substantial Completion and final completion are not additive and will not be imposed concurrently.

ARTICLE 5 – CONTRACT PRICE

- 5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents the amounts that follow, subject to adjustment under the Contract:
- A. For all Work, at the prices stated in Contractor's Bid (Bid Proposal Page B-_____ of B-_____, inclusive) attached hereto as an exhibit.

ARTICLE 6 – PAYMENT PROCEDURES

6.01 *Submittal and Processing of Payments*

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

6.02 *Progress Payments; Retainage*

- A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment on or about the 15th day of each month during performance of the Work as provided in Paragraph 6.02.A.1 below, provided that such Applications for Payment have been submitted in a timely manner and otherwise meet the requirements of the Contract. All such payments will be measured by the Schedule of Values established as provided in the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no Schedule of Values, as provided elsewhere in the Contract.

1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Owner may withhold, including but not limited to liquidated damages, in accordance with the Contract
 - a. 95 percent of Work completed (with the balance being retainage).
 - b. 95 percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).
- B. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 95 percent of the Work completed, less such amounts set off by Owner pursuant to Paragraph 15.01.E of the General Conditions, and less 200 percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the punch list of items to be completed or corrected prior to final payment.

6.03 *Final Payment*

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

ARTICLE 7 – INTEREST

- 7.01 All amounts not paid when due shall bear interest at the maximum rate allowed by law at the place of the project.

ARTICLE 8 – CONTRACTOR'S REPRESENTATIONS

- 8.01 In order to induce Owner to enter into this Contract, Contractor makes the following representations:
 - A. Contractor has examined and carefully studied the Contract Documents, and any data and reference items identified in the Contract Documents.
 - B. Contractor has visited the Site, conducted a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
 - C. Contractor is familiar with and is satisfied as to all Laws and Regulations that may affect cost, progress, and performance of the Work.
 - D. Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or adjacent to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings, and (2) reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings.
 - E. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Site-related reports and drawings identified in the Contract Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance

of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (3) Contractor's safety precautions and programs.

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

ARTICLE 9 – CONTRACT DOCUMENTS

9.01 *Contents*

- A. The Contract Documents consist of the following:
 - 1. This Agreement (pages AB-1 to AB-8, inclusive).
 - 2. Performance bond (pages AB-9 to AB-12, inclusive).
 - 3. Payment bond (pages AB-13 to AB-16, inclusive).
 - 4. Other bonds.
 - a. Maintenance Bond, (pages 1 to 2, inclusive).
 - b. Escrow Agreement (pages 1 to 3, inclusive).
 - c. Employment Eligibility Verification (page 1 of 1, inclusive)
 - d. Contractor's Certification Regarding Investment in Iran (page 1 of 1, inclusive).
 - 5. General Conditions (pages GC-1 to GC-66, inclusive).
 - 6. Supplementary Conditions (pages SC-1 to SC-_____, inclusive).
 - 7. Specifications bearing the title **Turkey Creek Dam and Dike Conservancy District – Lake Wawasee Dike Rehabilitation Project** and consisting of _____ division as listed in the table of contents thereof.
 - 8. Drawings (not attached but incorporated by reference) consisting of _____ sheets with each sheet bearing the following general title: **Turkey Creek Dam and Dike Conservancy District – Lake Wawasee Dike Rehabilitation Project**.
 - 9. Addenda (numbers _____ to _____, inclusive).

10. Exhibits to this Agreement (enumerated as follows):
 - a. Contractor's Bid (pages B-1 to B-_____, inclusive).
11. The following which may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:
 - a. Notice to Proceed.
 - b. Work Change Directives.
 - c. Change Orders.
 - d. Field Orders.
- B. The documents listed in Paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 9.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in the General Conditions.

ARTICLE 10 – MISCELLANEOUS

10.01 Terms

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

10.02 Assignment of Contract

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

10.03 Successors and Assigns

- A. 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.

10.04 Severability

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

10.05 *Contractor's Certifications*

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

10.06 *Other Provisions*

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

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

This Agreement will be effective on _____, 2023 (which is the Effective Date of the Contract).

OWNER:

**Turkey Creek Dam and Dike Conservancy
District – Lake Wawasee Dike Rehabilitation
Project**

CONTRACTOR:

By: _____

Title: _____

By: _____

Title: _____

By: _____

Title: _____

Attest: _____

Address for giving notices:

By: _____

Title: _____

[Corporate Seal]

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

By: _____

Title: _____

Attest: _____

Title: _____

Address for giving notices:

License No.: _____
(where applicable)

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

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

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PERFORMANCE BOND

CONTRACTOR *(name and address):*

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

OWNER **Turkey Creek Dam and Dike Conservancy District**

CONSTRUCTION CONTRACT

Effective Date of the Agreement:

Amount:

Description *(name and location):* **Lake Wawasee Dike Rehabilitation Project**

BOND

Bond Number:

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

Amount:

Modifications to this Bond Form: ☐ None ☐ See Paragraph 16

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

CONTRACTOR AS PRINCIPAL

SURETY

Contractor's Name and Corporate Seal

Surety's Name and Corporate Seal

By: _____
Signature

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

Print Name

Print Name

Title

Title

Attest: _____
Signature

Attest: _____
Signature

Title

Title

Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner, or other party shall be considered plural where applicable.

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

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

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

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

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

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

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

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

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

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

5.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the

Owner and a contractor selected with the Owners concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Paragraph 7 in excess of the Balance of the Contract Price incurred by the Owner as a result of the Contractor Default; or

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

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

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

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

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

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

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

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

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

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

the Owner or its heirs, executors, administrators, successors, and assigns.

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

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

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

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

14. Definitions

14.1 Balance of the Contract Price: The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made including

allowance for the Contractor for any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

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

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

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

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

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

16. Modifications to this Bond are as follows:

(This page left intentionally blank.)

PAYMENT BOND

CONTRACTOR *(name and address)*:

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

OWNER *(name and address)*: **Turkey Creek Dam and Dike Conservancy District**

CONSTRUCTION CONTRACT

Effective Date of the Agreement:

Amount:

Description *(name and location)*: **Lake Wawasee Dike Rehabilitation Project**

BOND

Bond Number:

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

Amount:

Modifications to this Bond Form: ☐ None ☐ See Paragraph 18

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

CONTRACTOR AS PRINCIPAL

SURETY

(seal)

Contractor's Name and Corporate Seal

(seal)

Surety's Name and Corporate Seal

By: _____
Signature

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

Print Name

Print Name

Title

Title

Attest: _____
Signature

Attest: _____
Signature

Title

Title

Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner, or other party shall be considered plural where applicable.

1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner to pay for labor, materials, and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference, subject to the following terms.
2. If the Contractor promptly makes payment of all sums due to Claimants, and defends, indemnifies, and holds harmless the Owner from claims, demands, liens, or suits by any person or entity seeking payment for labor, materials, or equipment furnished for use in the performance of the Construction Contract, then the Surety and the Contractor shall have no obligation under this Bond.
3. If there is no Owner Default under the Construction Contract, the Surety's obligation to the Owner under this Bond shall arise after the Owner has promptly notified the Contractor and the Surety (at the address described in Paragraph 13) of claims, demands, liens, or suits against the Owner or the Owner's property by any person or entity seeking payment for labor, materials, or equipment furnished for use in the performance of the Construction Contract, and tendered defense of such claims, demands, liens, or suits to the Contractor and the Surety.
4. When the Owner has satisfied the conditions in Paragraph 3, the Surety shall promptly and at the Surety's expense defend, indemnify, and hold harmless the Owner against a duly tendered claim, demand, lien, or suit.
5. The Surety's obligations to a Claimant under this Bond shall arise after the following:
 - 5.1 Claimants who do not have a direct contract with the Contractor,
 - 5.1.1 have furnished a written notice of non-payment to the Contractor, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were, or equipment was, furnished or supplied or for whom the labor was done or performed, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the Claim; and
 - 5.1.2 have sent a Claim to the Surety (at the address described in Paragraph 13).
 - 5.2 Claimants who are employed by or have a direct contract with the Contractor have sent a Claim to the Surety (at the address described in Paragraph 13).
6. If a notice of non-payment required by Paragraph 5.1.1 is given by the Owner to the Contractor, that is sufficient to satisfy a Claimant's obligation to furnish a written notice of non-payment under Paragraph 5.1.1.
7. When a Claimant has satisfied the conditions of Paragraph 5.1 or 5.2, whichever is applicable, the Surety shall promptly and at the Surety's expense take the following actions:
 - 7.1 Send an answer to the Claimant, with a copy to the Owner, within sixty (60) days after receipt of the Claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed; and
 - 7.2 Pay or arrange for payment of any undisputed amounts.
 - 7.3 The Surety's failure to discharge its obligations under Paragraph 7.1 or 7.2 shall not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a Claim, except as to undisputed amounts for which the Surety and Claimant have reached agreement. If, however, the Surety fails to discharge its obligations under Paragraph 7.1 or 7.2, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs thereafter to recover any sums found to be due and owing to the Claimant.
8. The Surety's total obligation shall not exceed the amount of this Bond, plus the amount of reasonable attorney's fees provided under Paragraph 7.3, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.
9. Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any construction performance bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.
10. The Surety shall not be liable to the Owner, Claimants, or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for the payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligation to make payments to or give notice on behalf of Claimants, or otherwise have any obligations to Claimants under this Bond.

11. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders, and other obligations.
12. No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the state in which the project that is the subject of the Construction Contract is located or after the expiration of one year from the date (1) on which the Claimant sent a Claim to the Surety pursuant to Paragraph 5.1.2 or 5.2, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.
13. Notice and Claims to the Surety, the Owner, or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears. Actual receipt of notice or Claims, however accomplished, shall be sufficient compliance as of the date received.
14. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.
15. Upon requests by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor and Owner shall promptly furnish a copy of this Bond or shall permit a copy to be made.
16. **Definitions**
 - 16.1 **Claim:** A written statement by the Claimant including at a minimum:
 1. The name of the Claimant;
 2. The name of the person for whom the labor was done, or materials or equipment furnished;
 3. A copy of the agreement or purchase order pursuant to which labor, materials, or equipment was furnished for use in the performance of the Construction Contract;
 4. A brief description of the labor, materials, or equipment furnished;
 5. The date on which the Claimant last performed labor or last furnished materials or equipment for use in the performance of the Construction Contract;
 - 16.2 **Claimant:** An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials, or equipment for use in the performance of the Construction Contract. The term Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic's lien or similar statute against the real property upon which the Project is located. The intent of this Bond shall be to include without limitation in the terms of "labor, materials, or equipment" that part of the water, gas, power, light, heat, oil, gasoline, telephone service, or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials, or equipment were furnished.
 - 16.3 **Construction Contract:** The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and all changes made to the agreement and the Contract Documents.
 - 16.4 **Owner Default:** Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.
 - 16.5 **Contract Documents:** All the documents that comprise the agreement between the Owner and Contractor.
17. If this Bond is issued for an agreement between a contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.
18. Modifications to this Bond are as follows:
6. The total amount earned by the Claimant for labor, materials, or equipment furnished as of the date of the Claim;
7. The total amount of previous payments received by the Claimant; and
8. The total amount due and unpaid to the Claimant for labor, materials, or equipment furnished as of the date of the Claim.

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MAINTENANCE BOND

KNOW ALL MEN BY THESE PRESENTS: That we _____

_____ Contractors, as Principal, and _____
_____ as Surety, are held and firmly
bound to the TURKEY CREEK DAM AND DIKE CONSERVANCY DISTRICT, in the sum of (10% of
Contract Price) _____ for the payment of which will and truly to be
made we jointly and severally bind ourselves, our heirs, executors, administrators and assigns
firmly by these presents.

THE CONDITIONS OF THE ABOVE OBLIGATIONS ARE, that whereas the said _____
did on the _____ day of _____, 20____, enter into a Contract
with the TURKEY CREEK DAM AND DIKE CONSERVANCY DISTRICT for LAKE WAWASEE DIKE
REHABILITATION PROJECT for the TURKEY CREEK DAM AND DIKE CONSERVANCY DISTRICT
according to certain Plans and Specifications, and also warranting and guaranteeing the work,
material, and conditions of the work thereof as provided in aforesaid Contract and Specifications
for a period of three (3) years from the date of final acceptance, _____, of the work
by the TURKEY CREEK DAM AND DIKE CONSERVANCY DISTRICT.

NOW, if the said _____ shall faithfully perform and fulfill all the requirements of said
warranty and guaranty, and make all repairs required under said guaranty and, in the manner
provided for, then this Bond to be null and void; otherwise to be in full force and effect.

WITNESS our hands and seals this _____ day of _____, 20____.

(SEAL)

Surety

By: _____

Title

(SEAL)

ATTEST:

Contractor

Title

By: _____

Title

(SEAL)

TURKEY CREEK DAM AND DIKE
CONSERVANCY DISTRICT
By and Through Its

_____, President

_____, Vice President

_____, Member

APPROVED: This _____ day of _____, 20____.

ESCROW AGREEMENT
(Contracts in Excess of \$100,000.00)

This Escrow Agreement is made this _____ day of _____, 20____, between the TURKEY CREEK DAM AND DIKE CONSERVANCY DISTRICT, through its _____, (The Owner), _____ (The Contractor), and _____ (The Escrow Agent), _____ (Address).

Concurrently herewith, the Owner and the Contractor have entered into a Construction Contract which is in excess of \$100,000.00, dated _____, 20____, providing for the construction by the Contractor of a public work in accordance with IC 36-1-12-14, the parties agree as follows:

1. To the extent that the Owner retains funds out of payments applied for by the Contractor under the provisions of the Construction Contract providing for payment based on the value of the work in place and the materials stored, the Owner shall place the funds so retained in an Escrow Account(s). This Escrow Agreement shall have no application to payments withheld by the Owner pursuant to provisions of the Construction Contract or otherwise, which are intended to protect the Owner from loss on account of defective work not remedied, claims filed on reasonable evidence; failure of the Contractor to make payments when due to subcontractors or for material or labor; reasonable doubt that the contract can be completed by the balance then unpaid, damage to another Contractor; failure or refusal of the Contractor to prosecute the work in strict compliance with applicable progress schedules; any similar provisions; or for any other reason described in the General Conditions or other contract provisions between the Owner and Contractor. Additionally, this Escrow Agreement shall not be construed as a waiver of the Owner's rights to said deposited funds as security or payment for damages which might become due to the Owner from the Contractor under the terms of said Construction Contract.
2. The Escrow Agent shall promptly invest all escrowed principal in such obligations as selected by the Escrow Agent at its discretion.
3. The income from and earnings on and all gains derived from the investment and reinvestment of the funds (escrow income) shall be held in the Escrow Account(s). The Escrow Agent shall deposit all funds and hold investment in a separate escrow fund so that a quarterly accounting can be made to the Contractor of all deposits and investments made in such funds.
4. The Escrow Agent may commingle the escrow funds with other escrow funds or invested construction funds held by it pursuant to other Escrow Agreements or Trust Instruments to which Owner or Contractor are parties. To expedite the handling of the investments and reinvestments of the escrow funds, the Escrow Agent may cause all savings accounts, securities, obligations and investments (other than bearer

instruments) to be registered in its own name or in the name of its nominee or nominees, or in such form that title may pass by delivery.

5. The Escrow Agent shall hold all of the escrow funds and shall release the principal thereof only upon the execution and delivery to it of an escrow release executed by the Owner and by the Contractor specifying the portion or portions of the principal of the escrow funds to be released and the person or persons to whom such portions are to be released. Such release of escrow funds shall be no more than thirty (30) days from date of receipt by the Escrow Agent of the release executed by the Owner and Contractor. No income earned on the escrow funds shall be released until the final withdrawal of principal.
6. The Escrow Agent shall deduct, before any payment from the amounts received hereunder, its reasonable fees as Escrow Agent, which fee shall be payable from the income earned and which escrow fee shall be, but in no event exceed _____ percent (____%) of said income.
7. Escrow account statements shall be submitted to both the Owner and the Contractor.
8. Escrow account statements shall provide the name of the Contractor on the account.
9. All Fees associated with the escrow account are to be paid by the Contractor.
10. The signatory for any release of escrow on the Owner's behalf will be:
_____ (name), _____ (title).

11. Escrow Account Number

12. Contact Name

13. Bank Telephone Number

(Owner)

TOWN OF SYRACUSE, INDIANA through its
Town Council

By:

_____, President

_____, Vice President

_____, Member

(Contractor)

By: _____

Printed Signature

Title

(Escrow Agent) _____

Bank

By: _____

Printed Signature

Title

CONTRACTOR FEDERAL TAX I.D. NUMBER: _____

EMPLOYMENT ELIGIBILITY VERIFICATION

STATE OF INDIANA)
) SS:
_____ COUNTY)

The Contractor affirms under the penalties of perjury that he/she/it does not knowingly employ an unauthorized alien.

The Contractor shall enroll in and verify the work eligibility status of all his/her/its newly hired employees through the E-Verify program as defined in IC 22-5-1.7-3. The Contractor is not required to participate should the E-Verify program cease to exist. Additionally, the Contractor is not required to participate if the Contractor is self-employed and does not employ any employees.

The Contractor shall not knowingly employ or contract with an unauthorized alien. The Contractor shall not retain an employee or contract with a person that the Contractor subsequently learns is an unauthorized alien.

The Contractor shall require his/her/its subcontractors, who perform work under this contract, to certify to the Contractor that the subcontractor does not knowingly employ or contract with an unauthorized alien and that the subcontractor has enrolled and is participating in the E-Verify program. The Contractor agrees to maintain this certification throughout the duration of the term of a contract with a subcontractor.

The Town may terminate for default if the Contractor fails to cure a breach of this provision no later than thirty (30) days after being notified by the Town.

Dated this _____ day of _____, 20 ____.

Contractor/Bidder (Firm)

Signature of Contractor/Bidder or Its Agent

Printed Name and Title

Subscribed and sworn to before me this _____ day of _____, 20____.

My Commission Expires _____

Notary Public

County of Residence _____

CONTRACTOR'S CERTIFICATION REGARDING INVESTMENT IN IRAN

The undersigned Contractor affirms under penalty of perjury, pursuant to Indiana Code §5-22-16.5, that:

1. Contractor has not, nor has any successor or affiliate of Contractor, engaged in investment activities in Iran.
2. For purposes of this Certification, "Iran" includes the government of Iran and any agency or instrumentality of the government of Iran, as provided in Indiana Code §5-22-16.5-4.
3. As provided by Indiana Code §5-22-16.5-8, a Contractor is engaged in investment activities in Iran if either:
 - a. the Contractor provides goods or services of twenty million dollars (\$20,000,000) or more in value in the energy sector of Iran, including providing any of the following for the energy sector of Iran:
 - i. Oil or liquefied natural gas tankers.
 - ii. Products used to construct or maintain pipelines used to transport oil or liquefied natural gas.
 - b. the Contractor is a financial institution that extends twenty million dollars (\$20,000,000) or more in credit to another person, for forty-five (45) days or more, if that other person:
 - i. will use the credit to provide goods or services in the energy sector in Iran; and
 - ii. is, at the time the financial institution extends credit, a person identified by the Indiana Department of Administration as a non-responsible bidder by virtue of activity contrary to Indiana Code §5-22-16.5.

I hereby affirm under the penalties of perjury that the foregoing is true and correct.

Dated this ____ day of _____, 20__.

Contractor/Bidder (Firm Name)

Signature of Contractor/Bidder or its Agent

Printed Name and Title



STANDARD FORMS

- Notice of Award
- Notice to Proceed
- Application for Payment
- Recommendation of Payment
- Certificate of Substantial Completion
- Change Order
- Field Order
- Work Change Directive

NOTICE OF AWARD

Date of Issuance:

Owner: Town of Syracuse – Town Council Owner's Contract No.:
Engineer: Lawson-Fisher Associates P.C. Engineer's Project No.: 201845.00
Project: Syracuse Lake Control Structure Contract Name:
Improvements

Bidder:

Bidder's Address:

TO BIDDER:

You are notified that Owner has accepted your Bid dated [] for the above Contract, and that you are the Successful Bidder and are awarded a Contract for:

[describe Work, alternates, or sections of Work awarded]

The Contract Price of the awarded Contract is: \$ [] *[note if subject to unit prices, or cost-plus]*

[] unexecuted counterparts of the Agreement accompany this Notice of Award, and one copy of the Contract Documents accompanies this Notice of Award, or has been transmitted or made available to Bidder electronically. *[revise if multiple copies accompany the Notice of Award]*

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

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

1. Deliver to Owner [] counterparts of the Agreement, fully executed by Bidder.
2. Deliver with the executed Agreement(s) the Contract security *[e.g., performance and payment bonds]* and insurance documentation as specified in the Instructions to Bidders and General Conditions, Articles 2 and 6.
3. Other conditions precedent (if any):

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

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

Owner: Town of Syracuse – Town Council

By: _____

(Authorized Signature)

Title: _____

Copy: Engineer

NOTICE TO PROCEED

Owner:	Town of Syracuse - Town Council	Owner's Contract No.:	
Contractor:		Contractor's Project No.:	
Engineer:	Lawson-Fisher Associates P.C.	Engineer's Project No.:	201845.00
Project:	Syracuse Lake Control Structure Improvements	Contract Name:	
		Effective Date of Contract:	

TO CONTRACTOR:

Owner hereby notifies Contractor that the Contract Times under the above Contract will commence to run on [REDACTED], 20[REDACTED]. *[see Paragraph 4.01 of the General Conditions]*

On that date, Contractor shall start performing its obligations under the Contract Documents. No Work shall be done at the Site prior to such date. In accordance with the Agreement, [the date of Substantial Completion is _____], and the date of readiness for final payment is _____.

Before starting any Work at the Site, Contractor must comply with the following:
[Note any access limitations, security procedures, or other restrictions]

Owner: Town of Syracuse
Town Council

By: _____
(Authorized Signature)

Title: _____
Date Issued: _____

Copy: Engineer

Contractor's Application for Payment No.

Application Period:		Application Date:
To (Owner): Town of Syracuse - Town Council	From (Contractor):	Via (Engineer):
Project: Syracuse Lake Control Structure Improvements	Contract:	
Owner's Contract No.:	Contractor's Project No.:	Engineer's Project No.: 201845.00

**Application For Payment
Change Order Summary**

Approved Change Orders	1. ORIGINAL CONTRACT PRICE.....	\$
Number Additions Deductions	2. Net change by Change Orders.....	\$
	3. Current Contract Price (Line 1 ± 2).....	\$
	4. TOTAL COMPLETED AND STORED TO DATE	
	(Column F total on Progress Estimates).....	\$ #REF!
	5. RETAINAGE:	
	a. X #REF! Work Completed.....	\$ #REF!
	b. X #REF! Stored Material.....	\$ #REF!
	c. Total Retainage (Line 5.a + Line 5.b).....	\$ #REF!
	6. AMOUNT ELIGIBLE TO DATE (Line 4 - Line 5.c).....	\$ #REF!
	7. LESS PREVIOUS PAYMENTS (Line 6 from prior Application).....	\$
	8. AMOUNT DUE THIS APPLICATION.....	\$ #REF!
	9. BALANCE TO FINISH, PLUS RETAINAGE	
	(Column G total on Progress Estimates + Line 5.c above).....	\$ #REF!
TOTALS		
NET CHANGE BY		
CHANGE ORDERS		

Contractor's Certification

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

Contractor Signature

By:	Date:
-----	-------

Payment of: \$ _____
 (Line 8 or other - attach explanation of the other amount)

is recommended by: _____ (Engineer) _____ (Date)

Payment of: \$ _____
 (Line 8 or other - attach explanation of the other amount)

is approved by: _____ (Owner) _____ (Date)

Approved by: _____
 Funding or Financing Entity (if applicable) (Date)

Progress Estimate - Unit Price Work

Contractor's Application

[illegible]

Stored Material Summary

Contractor's Application

[illegible]

TURKEY CREEK DAM AND DIKE CONSERVANCY DISTRICT

RECOMMENDATION OF PAYMENT

Invoice No. _____

Recommendation of Payment No. _____

Turkey Creek Dam and Dike Conservancy District Project No. _____

Project	_____		
Contractor	_____		
Contract for	_____		
Contract Date	_____	Application Amount	\$ _____
Application Date	_____	Work (\$) this Period	\$ _____
For Period Ending	_____	Paid to Escrow this Period	\$ _____

TO TURKEY CREEK DAM AND DIKE CONSERVANCY DISTRICT, OWNER

Attached hereto is the CONTRACTOR'S Application for Payment for Work accomplished under the Contract through the date indicated above. The Application meets the requirements of the Contract Documents and includes the CONTRACTOR'S Certificate stating that all previous payments to him under the Contract have been applied by him to discharge in full all of his obligations in connections with the Work covered by all prior Applications for Payments.

In accordance with the Contract the undersigned recommends payment to the CONTRACTOR of the amount due as shown below.

LAWSON-FISHER ASSOCIATES P.C.

STATEMENT OF WORK

Original Contract Price	\$ _____	Work Completed To Date	\$ _____
Net Change Order #1	\$ _____	Payments To Date	\$ _____
Current Contract Price	\$ _____	Less Previous Payments	\$ _____
Less Work to Date	\$ _____	Rec. of Payment No. 2 (Final)	\$ _____
Current Balance Due	\$ _____	% Contract Complete	_____
10% Retainage Status:			_____
Total Retainage Released to Date			_____
Current Retainage Balance			_____

CERTIFICATE OF SUBSTANTIAL COMPLETION

Owner: Turkey Creek Dam and Dike Conservancy District	Owner's Contract No.:
Contractor:	Contractor's Project No.:
Engineer: Lawson-Fisher Associates P.C.	Engineer's Project No.: 202104.00
Project: Lake Wawasee Dike Rehabilitation Project	Contract Name:

This [preliminary] [final] Certificate of Substantial Completion applies to:

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

Date of Substantial Completion

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

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

The responsibilities between Owner and Contractor for security, operation, safety, maintenance, heat, utilities, insurance, and warranties upon Owner's use or occupancy of the Work shall be as provided in the Contract, except as amended as follows: *[Note: Amendments of contractual responsibilities recorded in this Certificate should be the product of mutual agreement of Owner and Contractor; see Paragraph 15.03.D of the General Conditions.]*

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

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

The following documents are attached to and made a part of this Certificate: *[punch list; others]*

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

EXECUTED BY ENGINEER:	RECEIVED:	RECEIVED:
By: _____ (Authorized signature)	By: _____ Owner (Authorized Signature)	By: _____ Contractor (Authorized Signature)
Title: _____	Title: _____	Title: _____
Date: _____	Date: _____	Date: _____

Change Order No. _____

Date of Issuance:	Effective Date:
Owner: Turkey Creek Dam and Dike Conservancy District	Owner's Contract No.:
Contractor:	Contractor's Project No.:
Engineer: Lawson-Fisher Associates P.C.	Engineer's Project No.: 202104.00
Project: Lake Wawasee Dike Rehabilitation Project	Contract Name:

The Contract is modified as follows upon execution of this Change Order:

Description:

Attachments: *[List documents supporting change]*

CHANGE IN CONTRACT PRICE	CHANGE IN CONTRACT TIMES <i>[note changes in Milestones if applicable]</i>
Original Contract Price: \$ _____	Original Contract Times: Substantial Completion: _____ Ready for Final Payment: _____ days or dates
[Increase] [Decrease] from previously approved Change Orders No. ____ to No. ____: \$ _____	[Increase] [Decrease] from previously approved Change Orders No. ____ to No. ____: Substantial Completion: _____ Ready for Final Payment: _____ days
Contract Price prior to this Change Order: \$ _____	Contract Times prior to this Change Order: Substantial Completion: _____ Ready for Final Payment: _____ days or dates
[Increase] [Decrease] of this Change Order: \$ _____	[Increase] [Decrease] of this Change Order: Substantial Completion: _____ Ready for Final Payment: _____ days or dates
Contract Price incorporating this Change Order: \$ _____	Contract Times with all approved Change Orders: Substantial Completion: _____ Ready for Final Payment: _____ days or dates

RECOMMENDED:		ACCEPTED:		ACCEPTED:	
By: _____	By: _____	By: _____	By: _____	By: _____	By: _____
Engineer (if required)	Owner (Authorized Signature)	Contractor (Authorized Signature)			
Title: _____	Title: _____	Title: _____	Title: _____	Title: _____	Title: _____
Date: _____	Date: _____	Date: _____	Date: _____	Date: _____	Date: _____

Approved by Funding Agency (if applicable)

By: _____ Date: _____
Title: _____

Field Order No. _____

Date of Issuance:

Effective Date:

Owner: **Turkey Creek Dam and
Dike Conservancy District**

Owner's Contract No.:

Contractor:

Contractor's Project No.:

Engineer: **Lawson-Fisher Associates P.C.**

Engineer's Project No.: **202104.00**

Project: **Lake Wawasee
Dike Rehabilitation Project**

Contract Name:

Contractor is hereby directed to promptly execute this Field Order, issued in accordance with General Conditions Paragraph 11.01, for minor changes in the Work without changes in Contract Price or Contract Times. If Contractor considers that a change in Contract Price or Contract Times is required, submit a Change Proposal before proceeding with this Work.

Reference: _____
Specification(s) Drawing(s) / Detail(s)

Description:

Attachments:

ISSUED:

RECEIVED:

By: _____ By: _____
Engineer (Authorized Signature) Contractor (Authorized Signature)

Title: _____ Title: _____

Date: _____ Date: _____

Copy to: Owner

Work Change Directive No.

Date of Issuance:

Effective Date:

Owner: **Turkey Creek Dam and
Dike Conservancy District**

Owner's Contract No.:

Contractor:

Contractor's Project No.:

Engineer: **Lawson-Fisher Associates P.C.**

Engineer's Project No.: **202104.00**

Project: **Lake Wawasee
Dike Rehabilitation Project**

Contract Name:

Contractor is directed to proceed promptly with the following change(s):

Description:

Attachments: *[List documents supporting change]*

Purpose for Work Change Directive:

Directive to proceed promptly with the Work described herein, prior to agreeing to changes on Contract Price and Contract Time, is issued due to: *[check one or both of the following]*

☐ Non-agreement on pricing of proposed change.

☐ Necessity to proceed for schedule or other Project reasons.

Estimated Change in Contract Price and Contract Times (non-binding, preliminary):

Contract Price \$ [increase] [decrease].

Contract Time days [increase] [decrease].

Basis of estimated change in Contract Price:

☐ Lump Sum

☐ Unit Price

☐ Cost of the Work

☐ Other

RECOMMENDED:

AUTHORIZED BY:

RECEIVED:

By: _____
Engineer (Authorized Signature)

By: _____
Owner (Authorized Signature)

By: _____
Contractor (Authorized Signature)

Title: _____

Title: _____

Title: _____

Date: _____

Date: _____

Date: _____

Approved by Funding Agency (if applicable)

By: _____ Date: _____
Title: _____



APPENDIX A

PROJECT PLAN SET



APPENDIX B

PERMITS



State of Indiana
Department of Natural Resources



CERTIFICATE OF APPROVAL

Application #: PL-24634-0

This Certificate of Approval is a Permit for Construction under the authority of the Lake Preservation Act, IC 14-26-2 with 312 IAC 11 as administered by the Department of Natural Resources.

Approval Issued To: Turkey Creek Dam and Dike Conservancy District (TCDDCD), William J. Pipp, 11566 IN-13, Syracuse, IN 46567

Approval Issued By:

Mail Date: 12/7/2022

Jordan Smithers, CFM, Division of Water

Permit Effective Date: 12/25/2022

Permit Expiration Date: 12/06/2024

Pursuant to IC 4-21.5-3-5(f), this Permit becomes Effective eighteen (18) days from the Mail Date to provide a stay period for a Petition for Administrative Review with the Indiana Natural Resources Commission, Division of Hearings. Initiating construction authorized in this Permit prior to the Permit Effective Date constitutes a violation. This Permit is only valid until the Permit Expiration Date.

PROJECT INFORMATION:

Waterbody: Lake Wawasee

County: Kosciusko

Project Description Narrative: A new 425' steel sheet piling seawall will be installed. The seawall will have a 24" wide by 15" thick concrete cap. The wall's lakeward face will be located at or landward of the lake's legal shoreline.

Project Location: 550 feet north of the intersection of South Koko Drive and East Palm Drive near Syracuse

PERMIT CONDITIONS:

This Certificate of Approval is valid only if the construction project is in compliance with all Conditions in this Permit.

DNR PROJECT SPECIFIC PERMIT CONDITIONS

- 1) Minimize the movement of resuspended bottom sediment from the immediate project area.
- 2) Appropriately designed measures for controlling erosion and sediment must be implemented to prevent sediment from entering the waterbody or leaving the construction site; maintain these measures until construction is complete and all disturbed areas are stabilized.
- 3) Revegetate all bare and disturbed areas landward of the shoreline with a mixture of grasses (excluding all varieties of tall fescue) and legumes as soon as possible upon completion.
- 4) To prevent the spread of aquatic invasive species, any equipment used for the project shall be cleaned of any plants, mud, and debris prior to project initiation and after completion of the work.

5) Construct the seawall in conformance with the approved plans.

DNR PROJECT GENERAL PERMIT CONDITIONS

1) Any modifications or additional construction beyond what was shown on plans received at the Division of Water shall require an additional review and approval from the Department of Natural Resources.

2) This Permit must be posted and maintained at the project site until the project is completed.

3) This Permit shall not be assigned or transferred without the prior written approval of the Department of Natural Resources.

4) If any prehistoric or historic archaeological artifacts or human remains are uncovered during construction, demolition, or earthmoving activities, state law (IC 14-21-1-27 and 29) requires that the discovery must be reported to the Department of Natural Resources within two (2) business days.

5) This Permit may be revoked by the Department of Natural Resources for violation of any condition or applicable statute or rule.

6) The Department of Natural Resources shall have the right to enter upon the site of the permitted activity for the purpose of inspecting the work authorized under this Permit.

Certificate of Approval Attachments: Approved Plan Set.pdf

RIGHT TO ADMINISTRATIVE REVIEW:

A party may appeal this Department of Natural Resources Action through the administrative review procedures found in the Administrative Orders and Procedures Act, IC 4-21.5, and the rules promulgated thereunder 312 IAC 3-1. If an appeal is filed, the final agency determination will be made by the Natural Resources Commission following a legal proceeding conducted before an Administrative Law Judge. The Department of Natural Resources will be represented by legal counsel at all stages of administrative review.

In order to obtain an administrative review, a written petition must be filed with the Division of Hearings within 18 days of the Mail Date of the Action. The petition must contain specific reasons for the appeal and indicate the portion or portions of the project to which the appeal pertains. The petition must be addressed to the Division of Hearings, Indiana Government Center North, Room N103, 100 North Senate Avenue, Indianapolis, Indiana 46204

SERVICE LIST:

Applicant(s):

Turkey Creek Dam and Dike Conservancy District (TCDDCD), William J. Pipp, 11566 IN-13, Syracuse, IN 46567

Agent(s):

Lawson-Fisher Associates P.C., Christopher J Jeter, 525 West Washington Avenue, South Bend, IN 46601

Adjacent Landowners and Interested Parties:

Wawasee Area Conservancy Foundation, PO Box 548, Syracuse, IN 46567

Aaron G and Marty L Meyer, 807 South Harkless Drive, Syracuse, IN 46567

Thomas B Hallberg, 711 South Harkless Drive, Syracuse, IN 46567

Kosciusko County Area Plan Commission, Matthew M Sandy, Court House, 3rd floor 100 West Center Street, Warsaw, IN 46580

King and Julie Traub, 5213 Tidewater Preserve Boulevard, Bradenton, FL 34208

James Curtis and Roberta Brown, 400 East Palm Drive, Syracuse, IN 46567

Dallas and Sharon Thornso Mckibben, 812 South Koko Drive, Syracuse, IN 46567

Todd L Cripe, 810 South Koko Drive, Syracuse, IN 46567

Thomas and Dana Lenahan, 4628 Saratoga Avenue, Downers Grove, IL 60515

Laura Yant Martz, 801 South Harkless Drive, Syracuse, IN 46567
Derek H Powell, PO Box 234, Syracuse, IN 46567
Richard and Karen Weaver, 809 South Harkless Drive, Syracuse, IN 46567
Resia Rinker, 4142 East Bowser Road, Syracuse, IN 46567
Richard and Olga Glossett, 413 East Pickwick Drive, Syracuse, IN 46567
Brent and Lynn Bobeck, 11815 South County Line Road, Syracuse, IN 46567
Bradley and Stacie Bobeck, 11815 South County Line Road, Syracuse, IN 46567
Lindsey Lee Parker, 713 South Harkless Drive, Syracuse, IN 46567
Sally L Snyder, 715 South Harkless, Syracuse, IN 46567
David and Sherry Elliott, 806 South Koko Drive, Syracuse, IN 46567
Bradley and Mary Jane Miller, 405 East Pickwick Drive, Syracuse, IN 46567
DP Real Estate Ventures LLC, 812 South Lakeside Drive, Syracuse, IN 46567
Swiss Perfection LLC, 100 South Huntington Street, Syracuse, IN 46567
St. Joseph River Basin Commission, Matt Meersman, 227 West Jefferson Boulevard, Room 1120, South Bend, IN 46601

Courtesy Notification:

US Army Corps of Engineers, Detroit District, Michiana Branch 2422 Viridian Drive, Suite 200, South Bend, IN 46628
Kosciusko County SWCD, 217 East Bell Drive, Warsaw, IN 46582
Kosciusko County Drainage Board, Courthouse, Room 103 100 West Center Street, Warsaw, IN 46580
DNR Law Enforcement District 1, 9822 North Turkey Road, Syracuse, IN 46567
Department of Natural Resources, Jon Eggen, Division of Water 402 West Washington Street, Room W264, Indianapolis, IN 46204

ADDITIONAL PERMITTING AGENCIES:

This is not a waiver of any local ordinance or other state or federal law and does not relieve the permittee of any liability for the effects which the project may have upon the safety of the life or property of others.

This does not relieve the permittee of the responsibility of obtaining permits, approvals, easements, etc. under other regulatory programs administered by, but not limited to, the U.S. Army Corps of Engineers, County Drainage Board, Indiana Department of Environmental Management and local, city, or county floodplain management, planning or zoning commissions.



APPENDIX C

GEOTECHNICAL EVALUATION



Geotechnical Design Report Lake Wawasee Dike Repair

To: Chris Jeter – Lawson-Fisher Associates P.C. (LFA)
From: Mike Wigger – Terracon Consultants, Inc. (Terracon)
CC: Adeline Evans – Terracon, Easa Khan – LFA
Date: April 23, 2022
Re: Lake Wawasee Dike Repair
Syracuse, Indiana

Project Understanding

We understand that representatives of Turkey Creek Conservancy District are planning to improve their dike located as shown on the attached Exploratory Location Plan. The nature and need for the improvements are not known; however, flooding has historically occurred at the dike possibly due to overtopping. To make the improvements, LFA has proposed a sheet pile wall along the dike, and from our discussion on April 18th, we understand you plan to use an earth pressure approach to determine the section modulus and embedment depth for the sheeting. At this time, no other information is known.

Subsurface Conditions

The subsurface conditions at the boring locations varied. At Borings B-1 through B-3, the profile was generally characterized as sand to depths of about 10 to 15 ft overlying silty clay that extended to the maximum depth explored (40 ft). At Borings B-4 and B-5, the conditions were characterized as organic and marly clay and peat extending to depths of about 15 to 20 ft overlying sand that extended to the maximum depth explored. Refer to the attached boring logs.

Geotechnical Parameters

In addition to the parameters below, we recommend you consider the groundwater being at the ground surface at the top of the dike in anticipation of high lake levels.

Profile Observed at Borings B-1 through B-3

- Sand to a depth of 5 ft
 - Total unit weight – 115 pcf
 - Angle of internal friction – 28 deg
- Sand from 5 to 15 ft
 - Total unit weight – 120 pcf
 - Angle of internal friction – 32 deg
- Silty Clay below 15 ft
 - Total unit weight – 135 pcf
 - Cohesion – 750 psf

Profile Observed at Borings B-4 & B-5

- Organic and marly clay and peat to 20 ft
 - Total unit weight – 85 pcf
 - Angle of internal friction – 10 deg
- Sand below 15 ft
 - Total unit weight – 120 pcf
 - Angle of internal friction – 32 deg

Installation of the sheeting will cause vibration, and the soil conditions are such that some risk will be present for sloughing of the dike. Although the head across the dike appears to be only about 2 ft based on the topographic information you provided us, we recommend Terracon be present during sheeting installation to make observations of dike performance. We recommend borrow be made available to be used if need to address sloughing conditions. We also recommend that the tree roots and stumps be left in place so as to reduce the risk of disturbance to the dike. Once the sheeting is installed, the risks of leaving the tree roots and stumps in place will be moot.

Attachments:

Exploratory Location Plan (Drawing No. CJ215009.A1)
Log of Test Boring Logs (5)
Grain Size Distribution Curve (3)



VICINITY MAP
1:100,000



NOTES

1. Base map developed using aerial imagery from Indiana Geological and Water Survey. Aerial imagery may not reflect current site conditions.
2. Vicinity map generated using data from Indiana Geological and Water Survey and Esri.
3. Exploratory locations marked in the field by Terracon Consultants, Inc.
4. Exploratory locations are approximate.

LEGEND

- Test Boring Location and Designation

EXPLORATORY LOCATION PLAN

PROJECT: Lake Wawasee Dike Repair
 LOCATION: Syracuse, IN
 CLIENT: Lawson-Fisher Associates P.C.
 PROJECT NO.: CJ215009
 SCALE: 1" : 100'

PROJECT ENG.:

MSW

REVIEWED BY:

KLZ

DRAWN BY:

ARE

DATE:

04/05/2022

DRAWING NO.:

CJ215009.A1





LOG OF TEST BORING

Project **Lake Wawassee Dike Repair**
 Location **Syracuse, IN**
 Client **Lawson-Fisher Associates P.C.**
 7770 West New York Street - Indianapolis, Indiana 46214
 317-273-1690 / 317-273-2250 (Fax)

Boring No. **B-01**
 Elevation **860**
 Datum **WGS 84**
 Proj. No. **CJ215009**
 Sheet **1** of **2**

Proj. No. --- Latitude **41.41322** Weather **Partly Cloudy** Driller **J.S.**
 Struct. No. --- Longitude **-85.7426** Temp. **62° F** Inspector **---**

SAMPLE				Depth ft Elev	DESCRIPTION/CLASSIFICATION and REMARKS	SOIL PROPERTIES						
No.	Typ	Rec %	N Value			q _p tsf	q _u tsf	γ _d pcf	W %	LL %	PL %	PI %
					TOPSOIL							
SS-1	X	20	4		SP-SM, POORLY GRADED SAND WITH SILT , trace gravel, medium dense, moist, brown, (fill)							
SS-2	X	20	2	855	OH, SANDY ORGANIC CLAY , trace gravel, soft, moist, dark brown, LOI = 23 percent	1/2						
SS-3	X	35	26		SP-SM, POORLY GRADED SAND WITH SILT AND GRAVEL , medium dense, wet, gray							
SS-4	X	45	18	850								
SS-5	X	15	7			<1/4			20.5			
SS-6	X	55	10	845	CL-ML, SILTY CLAY WITH SAND , trace gravel, soft to stiff, moist, gray, with silt seam near 13 ft	1 1/4			23.2			
SS-7	X	55	6			1/2			27.0			
SS-8	X	65	4	840		1/2		103.4	27.6			
SS-9	X	100	4			1/2			24.9			
SS-10	X	100	6	835		1			26.8			
SS-11	X	90	9			1			21.7			
SS-12	X	100	8	830		3/4			23.2			

Continued Next Page

WATER LEVEL OBSERVATIONS

Depth ft ▽ While Drilling ▼ Upon Completion ▽ After Drilling
 To Water **5** **BF*** **---**
 To Cave-in _____

The stratification lines represent the approximate boundary between soil/rock types and the transition may be gradual.

GENERAL NOTES

Start **3/17/22** End **3/17/22** Rig **D-50**
 Drilling Method **Mud Rotary** **Track**
 Remarks ***Backfilled with bentonite grout.**



LOG OF TEST BORING

Project **Lake Wawassee Dike Repair**
Location **Syracuse, IN**
Client **Lawson-Fisher Associates P.C.**
7770 West New York Street - Indianapolis, Indiana 46214
317-273-1690 / 317-273-2250 (Fax)

Boring No. **B-01**
Elevation **860**
Datum **WGS 84**
Proj. No. **CJ215009**
Sheet **2** of **2**

Proj. No. --- Latitude **41.41322** Weather **Partly Cloudy** Driller **J.S.**
Struct. No. --- Longitude **-85.7426** Temp. **62° F** Inspector ---

SAMPLE					DESCRIPTION/CLASSIFICATION and REMARKS	SOIL PROPERTIES							
No.	Type	Rec %	N Value	Depth ft Elev		q _p tsf	q _u tsf	γ _d pcf	W %	LL %	PL %	PI %	
					CL-ML, SILTY CLAY WITH SAND, trace gravel, soft to stiff, moist, gray, with silt seam near 13 ft								
SS-13	X	100	7			¾			20.8				
SS-14	X	100	7			½			23.3				
SS-15	X	100	13			½		111.8	22.8				
SS-16	X	100	11		<¼			25.0					
End of Boring at 40 ft													

The stratification lines represent the approximate boundary between soil/rock types and the transition may be gradual.



LOG OF TEST BORING

Project **Lake Wawassee Dike Repair**
 Location **Syracuse, IN**
 Client **Lawson-Fisher Associates P.C.**
 7770 West New York Street - Indianapolis, Indiana 46214
 317-273-1690 / 317-273-2250 (Fax)

Boring No. **B-02**
 Elevation **861**
 Datum **WGS 84**
 Proj. No. **CJ215009**
 Sheet **1** of **2**

Proj. No. --- Latitude **41.41346** Weather **Partly Cloudy** Driller **J.S.**
 Struct. No. --- Longitude **-85.7430** Temp. **71° F** Inspector **---**

SAMPLE					DESCRIPTION/CLASSIFICATION and REMARKS	SOIL PROPERTIES							
No.	Type	Rec %	N Value	Depth ft Elev		q _p tsf	q _u tsf	γ _d pcf	W %	LL %	PL %	PI %	
				860	TOPSOIL CH, SANDY FAT CLAY , trace gravel, trace organics, very soft, moist, dark brown, LOI = 4 percent								
SS-1	X	10	3			1/4			15.4				
SS-2	X	35	2	5	SP-SM, POORLY GRADED SAND WITH SILT AND GRAVEL , very loose to medium dense, wet, gray								
SS-3	X	55	17										
SS-4	X	45	16	10	SP-SM, POORLY GRADED SAND WITH SILT , trace gravel, medium dense, wet, gray								
SS-5	X	35	11										
SS-6	X	55	8	15	CL-ML, SILTY CLAY WITH SAND , trace gravel, soft to very stiff, moist, gray, with silt seams near 13 ft and 28 ft	2			18.5				
SS-7	X	55	6			3/4			21.1				
SS-8	X	65	5	20		1			23.7				
SS-9	X	65	7			1/2			28.4				
SS-10	X	65	7	25		3/4			20.4				
SS-11	X	100	7			1/2			14.3				
SS-12	X	100	7	30	1		106.8	25.3					

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WATER LEVEL OBSERVATIONS

Depth ft ▽ While Drilling ▼ Upon Completion ▽ After Drilling
 To Water **3** **BF*** **---**
 To Cave-in _____ _____

The stratification lines represent the approximate boundary between soil/rock types and the transition may be gradual.

GENERAL NOTES

Start **3/17/22** End **3/17/22** Rig **D-50**
 Drilling Method **Mud Rotary** **Track**
 Remarks ***Backfilled with bentonite grout.**



LOG OF TEST BORING

Project **Lake Wawassee Dike Repair**
Location **Syracuse, IN**
Client **Lawson-Fisher Associates P.C.**
7770 West New York Street - Indianapolis, Indiana 46214
317-273-1690 / 317-273-2250 (Fax)

Boring No. **B-02**
Elevation **861**
Datum **WGS 84**
Proj. No. **CJ215009**
Sheet **2** of **2**

Proj. No. --- Latitude **41.41346** Weather **Partly Cloudy** Driller **J.S.**
Struct. No. --- Longitude **-85.7430** Temp. **71° F** Inspector ---

SAMPLE					DESCRIPTION/CLASSIFICATION and REMARKS	SOIL PROPERTIES							
No.	Type	Rec %	N Value	Depth ft Elev		q _p tsf	q _u tsf	γ _d pcf	W %	LL %	PL %	PI %	
				830	<div></div> CL-ML, SILTY CLAY WITH SAND , trace gravel, soft to very stiff, moist, gray, with silt seams near 13 ft and 28 ft	1			21.6				
						1			22.2				
				35									
				825		1			22.8				
						½		104.3	23.4				
				40		End of Boring at 40 ft							

The stratification lines represent the approximate boundary between soil/rock types and the transition may be gradual.



LOG OF TEST BORING

Project **Lake Wawassee Dike Repair**
 Location **Syracuse, IN**
 Client **Lawson-Fisher Associates P.C.**
 7770 West New York Street - Indianapolis, Indiana 46214
 317-273-1690 / 317-273-2250 (Fax)

Boring No. **B-03**
 Elevation **860**
 Datum **WGS 84**
 Proj. No. **CJ215009**
 Sheet **1** of **2**

Proj. No. --- Latitude **41.41375** Weather **Sunny** Driller **J.S.**
 Struct. No. --- Longitude **-85.7430** Temp. **68° F** Inspector **---**

SAMPLE					DESCRIPTION/CLASSIFICATION and REMARKS	SOIL PROPERTIES							
No.	Type	Rec %	N Value	Depth ft Elev		q _p tsf	q _u tsf	γ _d pcf	W %	LL %	PL %	PI %	
SS-1	X	30	5		SP-SM, POORLY GRADED SAND WITH SILT, trace gravel, loose, moist, brown (fill)								
SS-2	X	15	3		SP-SM, POORLY GRADED SAND WITH SILT AND GRAVEL, loose to medium dense, wet, gray								
SS-3	X	20	26										
SS-4	X	35	24										
SS-5	X	15	24		SP-SM, POORLY GRADED SAND WITH SILT, trace gravel, medium dense, wet, gray								
SS-6	X	35	23										
					CL-ML, SILTY CLAY WITH SAND, trace gravel, soft to stiff, moist, gray	¾			24.0				
SS-7	X	35	6										
SS-8	X	100	7			1			22.0				
SS-9	X	100	7			½			24.6				
SS-10	X	100	6			½		104.1	23.8				
SS-11	X	100	9		½			21.6					
SS-12	X	90	8		¾			23.5					

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WATER LEVEL OBSERVATIONS

Depth ft ▽ While Drilling ▼ Upon Completion ▽ After Drilling
 To Water 3 BF* ---
 To Cave-in _____

The stratification lines represent the approximate boundary between soil/rock types and the transition may be gradual.

GENERAL NOTES

Start 3/17/22 End 3/17/22 Rig D-50
 Drilling Method Mud Rotary Track
 Remarks *Backfilled with bentonite grout.



LOG OF TEST BORING

Project **Lake Wawassee Dike Repair**
Location **Syracuse, IN**
Client **Lawson-Fisher Associates P.C.**
7770 West New York Street - Indianapolis, Indiana 46214
317-273-1690 / 317-273-2250 (Fax)

Boring No. **B-03**
Elevation **860**
Datum **WGS 84**
Proj. No. **CJ215009**
Sheet **2** of **2**

Proj. No. --- Latitude **41.41375** Weather **Sunny** Driller **J.S.**
Struct. No. --- Longitude **-85.7430** Temp. **68° F** Inspector ---

SAMPLE					DESCRIPTION/CLASSIFICATION and REMARKS	SOIL PROPERTIES							
No.	Type	Rec %	N Value	Depth ft Elev		q _p tsf	q _u tsf	γ _d pcf	W %	LL %	PL %	PI %	
					CL-ML, SILTY CLAY WITH SAND, trace gravel, soft to stiff, moist, gray								
SS-13	X	100	9			¾		104.1	25.3				
SS-14	X	100	7			1			24.9				
				35 825									
SS-15	X	100	6			½			24.0				
SS-16	X	90	8			¾			21.8				
				40 820									
End of Boring at 40 ft													

The stratification lines represent the approximate boundary between soil/rock types and the transition may be gradual.



LOG OF TEST BORING

Project **Lake Wawasee Dike Repair**
 Location **Syracuse, IN**
 Client **Lawson-Fisher Associates P.C.**
 7770 West New York Street - Indianapolis, Indiana 46214
 317-273-1690 / 317-273-2250 (Fax)

Boring No. **B-04**
 Elevation **859**
 Datum **WGS 84**
 Proj. No. **CJ215009**
 Sheet **1** of **2**

Proj. No. --- Latitude **41.41393** Weather **Sunny** Driller **J.S.**
 Struct. No. --- Longitude **-85.7428** Temp. **12° F** Inspector **---**

SAMPLE					DESCRIPTION/CLASSIFICATION and REMARKS	SOIL PROPERTIES							
No.	Type	Rec %	N Value	Depth ft Elev		q _p tsf	q _u tsf	γ _d pcf	W %	LL %	PL %	PI %	
					TOPSOIL								
SS-1	X	55	12		SP-SM, POORLY GRADED SAND WITH SILT, trace gravel, medium dense, moist, brown (fill)								
SS-2	X	35	2	855	OH, SANDY ORGANIC CLAY, trace gravel, very soft, moist, dark brown, SS-3 : LOI = 18 percent	<1/4			203.4				
SS-3	X	35	2			<1/4			298.5	94	34	60	
SS-4	X	35	0	850		<1/4			409.3				
SS-5	X	35	0			<1/4			373.7				
SS-6	X	45	0	845		<1/4			403.6				
SS-7	X	55	7										
SS-8	X	45	9	840									
SS-9	X	45	6			SP-SM, POORLY GRADED SAND WITH SILT AND GRAVEL, loose to medium dense, wet, gray							
SS-10	X	45	15	835									
SS-11	X	45	10										
SS-12	X	60	17	830									

Continued Next Page

WATER LEVEL OBSERVATIONS

Depth ft ▽ While Drilling ▼ Upon Completion ▽ After Drilling
 To Water 5 BF* ---
 To Cave-in _____

The stratification lines represent the approximate boundary between soil/rock types and the transition may be gradual.

GENERAL NOTES

Start 1/26/22 End 1/26/22 Rig D-50
 Drilling Method 3 1/4" I.D. HSA Track
 Remarks *Backfilled with bentonite grout.

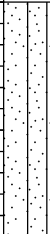



LOG OF TEST BORING

Project **Lake Wawassee Dike Repair**
Location **Syracuse, IN**
Client **Lawson-Fisher Associates P.C.**
7770 West New York Street - Indianapolis, Indiana 46214
317-273-1690 / 317-273-2250 (Fax)

Boring No. **B-04**
Elevation **859**
Datum **WGS 84**
Proj. No. **CJ215009**
Sheet **2** of **2**

Proj. No. --- Latitude **41.41393** Weather **Sunny** Driller **J.S.**
Struct. No. --- Longitude **-85.7428** Temp. **12° F** Inspector ---

SAMPLE					DESCRIPTION/CLASSIFICATION and REMARKS	SOIL PROPERTIES							
No.	Type	Rec %	N Value	Depth ft Elev		q _p tsf	q _u tsf	γ _d pcf	W %	LL %	PL %	PI %	
					 SP-SM, POORLY GRADED SAND WITH SILT AND GRAVEL , loose to medium dense, wet, gray								
SS-13	X	55	25										
SS-14	X	45	24	825									
				35	 CL-ML, SILTY CLAY WITH SAND , trace gravel, stiff to hard, moist, gray	>4½							
SS-15	X	60	22										
SS-16	X	60	23	820		1½							
				40	End of Boring at 40 ft								

The stratification lines represent the approximate boundary between soil/rock types and the transition may be gradual.



LOG OF TEST BORING

Project **Lake Wawassee Dike Repair**
 Location **Syracuse, IN**
 Client **Lawson-Fisher Associates P.C.**
 7770 West New York Street - Indianapolis, Indiana 46214
 317-273-1690 / 317-273-2250 (Fax)

Boring No. **B-05**
 Elevation **859**
 Datum **WGS 84**
 Proj. No. **CJ215009**
 Sheet **1** of **2**

Proj. No. --- Latitude **41.41392** Weather **Sunny** Driller **J.S.**
 Struct. No. --- Longitude **-85.7424** Temp. **12° F** Inspector **---**

SAMPLE					DESCRIPTION/CLASSIFICATION and REMARKS	SOIL PROPERTIES							
No.	Type	Rec %	N Value	Depth ft Elev		q _p tsf	q _u tsf	γ _d pcf	W %	LL %	PL %	PI %	
					TOPSOIL								
SS-1	X	45	15		SP-SM, POORLY GRADED SAND WITH SILT, trace gravel, medium dense, moist, brown (fill)								
SS-2	X	35	2	855	Pt, PEAT, trace gravel, very soft, moist, dark brown, SS-6 : LOI = 44 percent	<1/4			298.5				
SS-3	X	35	2			<1/4			70.1				
SS-4	X	45	2	850		<1/4			195.7				
SS-5	X	55	2			<1/4			270.6				
SS-6	X	55	3	845		<1/4			159.7				
SS-7	X	55	2			1/4			681.3				
SS-8	X	55	3	840		<1/4			73.3				
SS-9	X	55	14			SP-SM, POORLY GRADED SAND WITH SILT AND GRAVEL, medium dense, wet, gray							
SS-10	X	55	21	835									
SS-11	X	55	20								NP	NP	NP
SS-12	X	55	27	830									

Continued Next Page

WATER LEVEL OBSERVATIONS

Depth ft ▽ While Drilling ▼ Upon Completion ▽ After Drilling
 To Water **5** **BF*** **---**
 To Cave-in _____

The stratification lines represent the approximate boundary between soil/rock types and the transition may be gradual.

GENERAL NOTES

Start **1/26/22** End **1/26/22** Rig **D-50**
 Drilling Method **3 1/4" I.D. HSA** **Track**
 Remarks ***Backfilled with bentonite grout.**



LOG OF TEST BORING

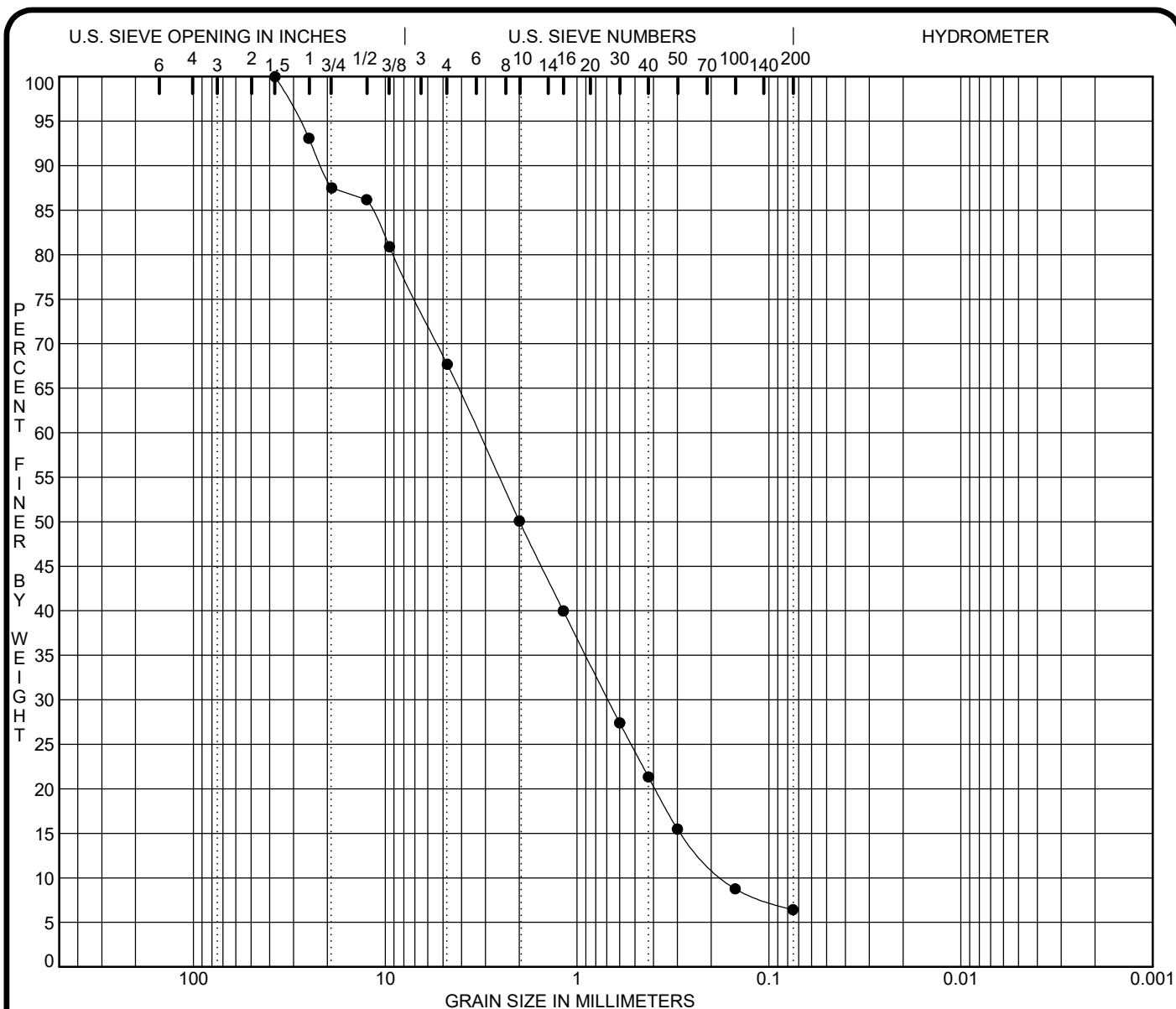
Project **Lake Wawassee Dike Repair**
Location **Syracuse, IN**
Client **Lawson-Fisher Associates P.C.**
7770 West New York Street - Indianapolis, Indiana 46214
317-273-1690 / 317-273-2250 (Fax)

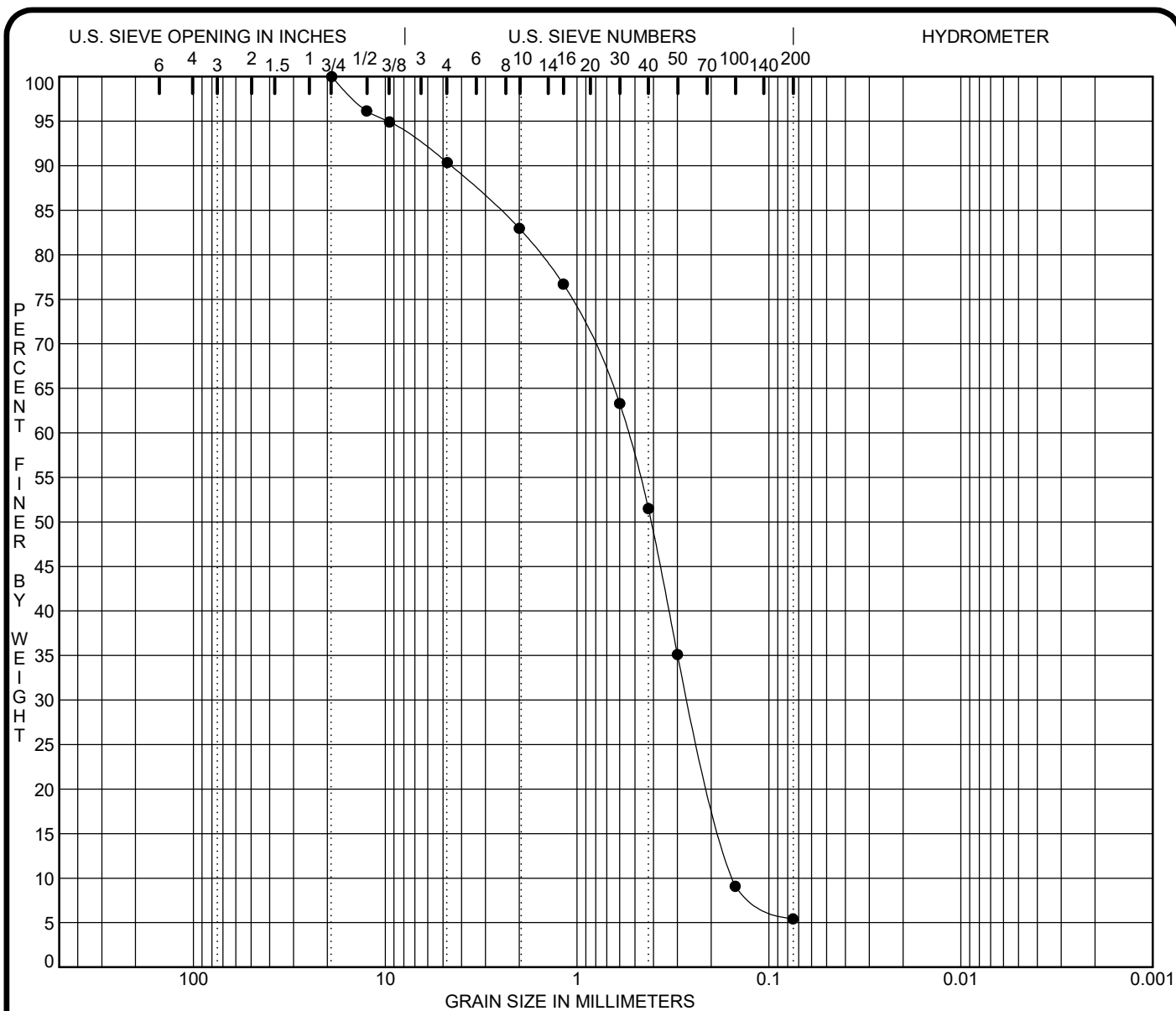
Boring No. **B-05**
Elevation **859**
Datum **WGS 84**
Proj. No. **CJ215009**
Sheet **2** of **2**

Proj. No. --- Latitude **41.41392** Weather **Sunny** Driller **J.S.**
Struct. No. --- Longitude **-85.7424** Temp. **12° F** Inspector ---

SAMPLE							DESCRIPTION/CLASSIFICATION and REMARKS	SOIL PROPERTIES							
No.	Type	Rec %	N Value	Depth ft Elev				q _p tsf	q _u tsf	γ _d pcf	W %	LL %	PL %	PI %	
							SP-SM, POORLY GRADED SAND WITH SILT AND GRAVEL, medium dense, wet, gray								
SS-13	X	55	25												
SS-14	X	65	23	825			SP-SM, POORLY GRADED SAND WITH SILT, trace gravel, medium dense, wet, gray								
				35											
SS-15	X	65	27									NP	NP	NP	
SS-16	X	55	25	820											
				40			End of Boring at 40 ft								

The stratification lines represent the approximate boundary between soil/rock types and the transition may be gradual.





COBBLES	GRAVEL		SAND			SILT OR CLAY
	coarse	fine	coarse	medium	fine	

Sample Identification		USCS Classification		MC%	LL	PL	PI	Cc	Cu	
●	B-05	SS-15	SP-SM, POORLY GRADED SAND with SILT			NP	NP	NP	0.82	3.5
% Gravel (>4.75mm)			% Sand (4.75 to .075mm)		% Silt (.075 to .005 mm)			% Clay (<.005mm)		
9.6			84.9							
Grain Size (mm)		% Passing	Grain Size (mm)	% Passing	Grain Size (mm)		% Passing			
64.0			0.5	57.1	0.016					
16.0		98.4	0.25	28.3	0.008					
4.0		88.9	0.125	8.1	0.005					
2.0		83.0	0.075	5.4	0.002					
1.0		73.4	0.050							

Terracon

PROJECT Lake Wawassee Dike Repair
LOCATION Syracuse, IN
CLIENT Lawson-Fisher Associates P.C.
TCI PROJECT NO. CJ215009

CLIENT ID NO.
DATE

GRAIN SIZE DISTRIBUTION CURVE

Terracon Consultants, Inc.
 7770 West New York Street, Indianapolis, IN 46214
 317-273-1690 / 317-273-2250 (Fax)