



TOWN OF SCARBOROUGH



CONTRACT AND SPECIFICATIONS

For

NORTH SCARBOROUGH
THREE INTERSECTION DESIGN
RFP #: 382024

DATED: MARCH 28, 2024

Prepared by
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TOWN OF SCARBOROUGH NORTH SCARBOROUGH THREE INTERSECTION DESIGN

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SECTION 111 - ADVERTISEMENT FOR BIDS FOR CONSTRUCTION CONTRACTS

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TOWN OF SCARBOROUGH
SCARBOROUGH, MAINE
NORTH SCARBOROUGH THREE INTERSECTION DESIGN

ADVERTISEMENT FOR BIDS

Sealed Bids for the construction of RFP #382024, North Scarborough Three Intersection Design will be received, by the Town of Scarborough, at the office of the Office of the Town Clerk, until 10:00 AM local time on April 18, 2024, at which time the Bids received will be privately opened and read. The Project consists of constructing signal improvements to the following intersections: County Road and Gorham Road, and Gorham Road and Saco Street. At County Road and Gorham Road, roadway improvements will be made to the merge taper, and at Gorham Road and Saco Street, a left turn lane will be added on Saco Street and the right turn lane will be improved on Gorham Road.

Bids will be received for a single prime Contract. Bids shall be on a lump sum and unit price basis, with additive alternate bid items as indicated in the Bid Form.

The Issuing Office for the Bidding Documents is: Angela Blanchette, Engineering & Technical Services, Scarborough Town Hall, 259 U.S. Route 1, Lower Level, Room 105. Prospective Bidders may obtain copies of the Bidding Documents from the Issuing Office as described below.

Bidding Documents may be ordered by emailing the Issuing Office at kmorrison@scarboroughmaine.org. Following the request, bidder shall receive copies of the bidding documents as portable document format (PDF) files.

A pre-bid conference will be held at 10:00 AM local time on April 8, 2024 at the Scarborough Town Hall, 259 U.S. Route 1, Council Chambers A. Attendance at the pre-bid conference is highly encouraged but is not mandatory.

Bid security shall be furnished in accordance with the Instructions to Bidders.

Owner: Town Of Scarborough

By: Tody Justice

Title: Town Clerk

Date: March 28, 2024

+ + END OF ADVERTISEMENT FOR BIDS + +

SECTION 200 - INSTRUCTIONS TO BIDDERS FOR CONSTRUCTION CONTRACTS

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SUGGESTED INSTRUCTIONS TO BIDDERS

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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.

ARTICLE 2 – COPIES OF BIDDING DOCUMENTS

2.01 Complete sets of the Bidding Documents may be obtained from the Issuing Office in the number and format stated in the advertisement or invitation to bid.

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 5 days of Owner's request, Bidder shall submit written evidence establishing its qualifications such as financial data, previous experience, and present commitments.

3.02 A Bidder's failure to submit required qualification information within the times indicated may disqualify Bidder from receiving an award of the Contract.

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

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

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. Required easements for the work are being procured by the Owner. The Bidder shall coordinate with the owner prior to and during construction to determine when the Bidder may access sites requiring an easement.

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. 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: 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.
- 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. agree that the submission of a Bid will constitute an incontrovertible representation by Bidder that Bidder has complied with every requirement of this Article, that without exception the Bid and all prices in the Bid are premised upon performing and furnishing the Work required by the Bidding Documents.

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. Bidders are 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 in writing to kmorrison@scarboroughmaine.org. Interpretations or clarifications considered necessary by Engineer in response to such questions will be issued by Addenda delivered to all parties recorded as having received the Bidding Documents. Questions received less than eight 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 5 percent of Bidder's maximum Bid price (determined by adding the base bid and all alternates) and in the form of a certified check, bank money order, or a Bid bond (on the form included in the Bidding Documents) issued by a surety meeting the requirements of Paragraphs 6.01 and 6.02 of the General Conditions.
- 8.02 The Bid security of the apparent Successful Bidder will be retained until Owner awards the contract to such Bidder, and such Bidder has executed the Contract Documents, furnished the required contract security, and met the other conditions of the Notice of Award, whereupon the Bid security will be released. If the Successful Bidder fails to execute and deliver the Contract Documents and furnish the required contract security within 15 days after the Notice of Award, Owner may consider Bidder to be in default, annul the Notice of Award, and the Bid security of that Bidder will be forfeited. Such forfeiture shall be Owner's exclusive remedy if Bidder defaults.
- 8.03 The Bid security of other Bidders that Owner believes to have a reasonable chance of receiving the award may be retained by Owner until the earlier of seven days after the Effective Date of the Contract or 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 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 the following portions of the Work: electrical.

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, in which case apparent Successful Bidder shall submit a substitute, Bidder’s Bid price will be increased (or decreased) by the difference in cost occasioned by such substitution, and Owner may consider such price adjustment in evaluating Bids and making the Contract award.

- 12.04 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.
- 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 firm’s address for receiving notices shall be shown.
- 13.05 A Bid by an individual shall show the Bidder’s name and 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 joint venture’s address 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 *Base Bid with Alternates*

- A. Bidders shall submit a Bid on a lump sum basis for the base Bid and include a separate price for each alternate described in the Bidding Documents and as provided for in the Bid Form. The price for each alternate will be the amount added to or deleted from the base Bid if Owner selects the alternate.
- B. In the comparison of Bids, alternates will be applied in the same order of priority as listed in the Bid Form.

14.02 *Unit Price*

- A. Bidders shall submit a Bid on a unit price basis for each item of Work listed 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.

14.03 *Allowances*

- A. For cash allowances the Bid price shall include such amounts as the Bidder deems proper for Contractor's overhead, costs, profit, and other expenses on account of cash allowances, if any, named in the Contract Documents, in accordance with Paragraph 13.02.B of the General Conditions.

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 Tody Justice, Town Clerk, P.O. Box 360, Scarborough, ME 04070-0360.
- 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 a Bidder wishes to modify its Bid prior to Bid opening, Bidder must withdraw its initial Bid in the manner specified in Paragraph 16.01 and submit a new Bid prior to the date and time for the opening of Bids.
- 16.03 If within 24 hours after Bids are opened any Bidder files a duly signed written notice with Owner and promptly thereafter demonstrates to the reasonable satisfaction of Owner that there was a material and substantial mistake in the preparation of its Bid, that Bidder may withdraw its Bid, and the Bid security will be returned. Thereafter, if the Work is rebid, that Bidder will be disqualified from further bidding on the Work.

ARTICLE 17 – OPENING OF BIDS

- 17.01 Bids will be opened privately.

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 responsible Bidder submitting the lowest responsive Bid.
- 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.

SECTION 410 - BID FORM FOR CONSTRUCTION CONTRACTS

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BID FORM

NORTH SCARBOROUGH THREE INTERSECTIONS DESIGN

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ARTICLE 1 – BID RECIPIENT

1.01 This Bid is submitted to:

Angela Blanchette,
Engineering & Technical Services
Scarborough Municipal Building
259 U.S. Route 1, Lower Level, Room 105

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 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, 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 any thing 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 bid unit prices show in Section 411 - Bid Unit Price Table.

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 and will be completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions on or before the dates or within the number of calendar days indicated in the Agreement.
- 6.02 Bidder accepts the provisions of the Agreement as to liquidated damages.

ARTICLE 7 – ATTACHMENTS TO THIS BID

- 7.01 The following documents are submitted with and made a condition of this Bid:
- A. Bid Unit Price Table;
 - B. Required Bid security;
 - C. List of Proposed Subcontractors

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

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)

Bid Items - Unit Prices, Base Bid

Item No.	Item Description	Unit	Estimated Quantity	Bid Unit Price	Bid Price
203.20	Common Excavation	CY	1140		
203.21	Rock Excavation	CY	20		
304.10	Aggregate Subbase Course - Gravel	CY	630		
304.14	Aggregate Base Course - Type A	CY	310		
403.207	Hot Mix Asphalt, 19.0 mm Nominal Maximum Size	T	190		
403.208	Hot Mix Asphalt, 12.5 mm Nominal Maximum Size	T	130		
409.15	Bituminous Tack Coat, Applied	Gal	46		
502.341	Structural Concrete - Roadway Median	CY	32		
603.159	12 inch Culvert pipe Option III	LF	4		
604.16	Altering Catch Basin to Manhole	EA	1		
604.18	Adjusting Manhole or Catch Basin to Grade	EA	2		
604.247	Catch Basin Type F5-C	EA	1		
609.21	Concrete Slipform Curb	LF	860		
609.219	Concrete Slipform Curb - 4' Terminal End	EA	11		
615.07	Loam	CY	53		
618.13	Seeding Method Number 1	Unit	5		
626.11	Precast Concrete Junction Box	EA	7		
626.21	Metallic Conduit - 2" Steel	LF	26		
626.22	Non-Metallic Conduit - 2" Sched 80Pvc (Traffic Signals)	LF	520		
626.35	Controller Cabinet Foundation	EA	2		
626.44	36" Diameter Foundation	EA	5		
626.451	42" Diameter Foundation	EA	3		
627.733	4" White or Yellow Painted Pavement Marking Line	LF	6650		

Bid Items - Unit Prices, Base Bid (Continued)

Item No.	Item Description	Unit	Estimated Quantity	Bid Unit Price	Bid Price
627.75	White or Yellow Pavement & Curb marking	SF	740		
627.77	Removing Existing Pavement Marking	SF	2350		
627.94	Preformed Thermoplastic Pavement Marking	SF	1050		
643.80	Traffic Signal: County Road At Gorham Road (includes InSync Adaptive)	LS	1		
643.80	Traffic Signal: Gorham Rd At Saco St/Beech Ridge Rd (includes InSync Adaptive)	LS	1		
643.831	Radar/Thermal Detection Camera	EA	8		
643.91	Dual Purpose Mast Arm Pole (With 25 Ft Arm)	EA	1		
643.91	Dual Purpose Mast Arm Pole (With 30 Ft Arm)	EA	2		
643.91	Dual Purpose Mast Arm Pole (With 35 Ft Arm)	EA	1		
643.91	Dual Purpose Mast Arm Pole (With 40 Ft Arm)	EA	2		
643.93	Steel Strain Poles	EA	2		
645.116	Reinstall Regulatory, Warning, Confirmation and Route Assembly Marker	EA	2		
645.271	Regulatory, Warning, Confirmation and Route Assembly Sign, Type I	SF	190		
652.361	Maintenance of Traffic Control Devices	LS	1		
656.75	Temporary Soil Erosion and Water Pollution Control	LS	1		
658.20	Acrylic Green Paint	SY	30		
659.10	Mobilization	LS	1		
832.07	Owner's Testing Allowance	LS	2	\$ 5,000.00	\$ 10,000.00
803.01	Test Pits	EA	2		
Total Bid Price, Base Bid =					

Bid Items - Unit Prices, Bid Alternate 1

Item No.	Item Description	Unit	Estimated Quantity	Bid Unit Price	Bid Price
203.20	Common Excavation	CY	640		
203.21	Rock Excavation	CY	10		
304.10	Aggregate Subbase Course - Gravel	CY	410		
304.14	Aggregate Base Course - Type A	CY	140		
403.207	Hot Mix Asphalt, 19.0 mm Nominal Maximum Size	T	110		
403.208	Hot Mix Asphalt, 12.5 mm Nominal Maximum Size	T	64		
409.15	Bituminous Tack Coat, Applied	Gal	24		
603.1311	8" PVC Pipe	LF	2		
603.159	12 inch Culvert pipe Option III	LF	300		
604.072	Catch Basin Type A1-C	EA	1		
604.16	Altering Catch Basin to Manhole	EA	2		
604.18	Adjusting Manhole or Catch Basin to Grade	EA	2		
604.243	Catch Basin Type F3-C	EA	1		
604.249	Catch Basin Type F6-C	EA	1		
610.08	Plain Rip Rap	CY	1		
615.07	Loam	CY	19		
618.13	Seeding Method Number 1	Unit	2		
627.733	4" White or Yellow Painted Pavement Marking Line	LF	1250		
627.75	White or Yellow Pavement & Curb marking	SF	300		
627.77	Removing Existing Pavement Marking	SF	310		
Total Bid Price, Bid Alternate 1 =					

Bid Items - Unit Prices, Bid Alternate 2

Item No.	Item Description	Unit	Estimated Quantity	Bid Unit Price	Bid Price
609.21	Concrete Slipform Curb	LF	270		
609.219	Concrete Slipform Curb - 4' Terminal End	EA	4		
609.31	Curb Type 3	LF	12		
Total Bid Price, Bid Alternate 2 =					

Bid Items - Unit Prices, Bid Alternate 3

Item No.	Item Description	Unit	Estimated Quantity	Bid Unit Price	Bid Price
201.23	Removing Single Tree Top Only	EA	2		
201.24	Removing Stump	EA	2		
202.15	Removing Manhole or Catch Basin	EA	2		
203.20	Common Excavation	CY	270		
203.21	Rock Excavation	CY	10		
304.10	Aggregate Subbase Course - Gravel	CY	77		
304.14	Aggregate Base Course - Type A	CY	67		
403.207	Hot Mix Asphalt, 19.0 mm Nominal Maximum Size	T	22		
403.208	Hot Mix Asphalt, 12.5 mm Nominal Maximum Size	T	33		
409.15	Bituminous Tack Coat, Applied	Gal	5		
603.159	12 inch Culvert pipe Option III	LF	46		
609.21	Concrete Slipform Curb	LF	58		
609.219	Concrete Slipform Curb - 4' Terminal End	EA	2		
610.08	Plain Rip Rap	CY	1		
615.07	Loam	CY	35		
618.13	Seeding Method Number 1	Unit	3		
627.733	4" White or Yellow Painted Pavement Marking Line	LF	320		
Total Bid Price, Bid Alternate 3 =					

Bid Items - Unit Prices, Bid Summary

Bid	Bid Price (words)	Bid Price (Figures)
Base Bid		
Bid Alternate 1		
Bid Alternate 2		
Bid Alternate 3		

SECTION 430 - 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*):

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

(Seal)

(Seal)

Bidder'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

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.

SECTION 510
NOTICE OF AWARD

Date of Issuance:

Owner:

Owner's Contract No.:

Engineer:

Engineer's Project No.:

Project:

Contract Name:

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 North Scarborough Three Intersection Design.

The Contract Price of the awarded Contract is: \$ _____ subject to unit prices.

One (1) 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.

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 one (1) 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.

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:

Authorized Signature

By:

Title:

Copy: Engineer

SECTION 520 - AGREEMENT BETWEEN OWNER AND CONTRACTOR FOR CONSTRUCTION CONTRACT

Prepared by



Issued and Published Jointly by



Endorsed by



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

THIS AGREEMENT is by and between _____ (“Owner”) and
_____ (“Contractor”).

Owner and Contractor hereby agree as follows:

ARTICLE 1 – WORK

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

ARTICLE 2 – THE PROJECT

2.01 The Project, of which the Work under the Contract Documents is a part, is generally described as follows: constructing signal improvements to the following intersections: County Road and Gorham Road, and Gorham Road and Saco Street. At County Road and Gorham Road, roadway improvements will be made to the merge taper, and at Gorham Road and Saco Street, a left turn lane will be added on Saco Street and the right turn lane will be improved on Gorham Road.

ARTICLE 3 – ENGINEER

3.01 The part of the Project that pertains to the Work has been designed by Barton & Loguidice.
3.02 The Owner has retained Barton & Loguidice (“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.

ARTICLE 4 – CONTRACT TIMES

4.01 *Time of the Essence*

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

4.02 *Contract Times: Dates*

A. The Work within the limits of the roadway will be substantially completed on or before July 15, 2024. All other work will be substantially completed on or before June 1, 2025. All work will be completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions on or before July 1, 2025.

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 \$750 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.

ARTICLE 5 – CONTRACT PRICE

5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents the amounts that follow, subject to adjustment under the Contract:

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

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 30th 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. 90 percent of Work completed (with the balance being retainage). If the Work has been 50 percent completed as determined by Engineer, and if the character and progress of the Work have been satisfactory to Owner and Engineer, then as long as the character and progress of the Work remain satisfactory to Owner and Engineer, there will be no additional retainage; and
- b. No payment will be made for materials and equipment not incorporated in the Work.

- B. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 98 percent of the Work completed, less such amounts set off by Owner pursuant to Paragraph 15.01.E of the General Conditions, and less 100 percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the 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, less a 2% retainage. The final 2% retainage shall be held during the one year warranty period and released only after the project has been accepted by the owner.

ARTICLE 7 – INTEREST

- 7.01 All amounts not paid when due shall bear interest at the maximum legal rate.

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 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, 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.
 2. Performance bond.
 3. Payment bond.
 4. General Conditions.
 5. Supplementary Conditions.
 6. Specifications.
 7. Drawings (not attached but incorporated by reference) consisting of 37 sheets with each sheet bearing the following general title: Town of Scarborough Intersection Improvements.
 8. Addenda.
 9. Exhibits to this Agreement (enumerated as follows):
 - a. Contractor's Bid.
 10. 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 any thing of value likely to influence the action of a public official in the bidding process or in the Contract execution;
 - 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
 - 3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
 - 4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

10.06 *Other Provisions*

- 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 _____ (which is the Effective Date of the Contract).

OWNER:

CONTRACTOR:

By: _____

By: _____

Title: _____

Title: _____

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

Attest: _____

Attest: _____

Title: _____

Title: _____

Address for giving notices:

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.

SECTION 550
NOTICE TO PROCEED

Owner:	Owner's Contract No.:
Contractor:	Contractor's Project No.:
Engineer:	Engineer's Project No.:
Project:	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 _____, 20__.

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. Dates of Substantial Completion and readiness for final payment are as stated in the Agreement.

Owner:

Authorized Signature

By:

Title:

Date Issued:

Copy: Engineer

SECTION 610
PERFORMANCE BOND

CONTRACTOR *(name and address)*:

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

OWNER *(name and address)*:

CONSTRUCTION CONTRACT

Effective Date of the Agreement:

Amount:

Description *(name and location)*:

BOND

Bond Number:

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

Amount:

Modifications to this Bond Form: None See Paragraph 16

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

CONTRACTOR AS PRINCIPAL

SURETY

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

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

By: _____
Signature

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

Print Name

Print Name

Title

Title

Attest: _____
Signature

Attest: _____
Signature

Title

Title

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14. Definitions

14.1 Balance of the Contract Price: The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made including allowance for the Contractor for any amounts received or to be received by the Owner in settlement of insurance or other claims

for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

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

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

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

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

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

16. Modifications to this Bond are as follows:

PAYMENT BOND

CONTRACTOR *(name and address)*:

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

OWNER *(name and address)*:

CONSTRUCTION CONTRACT

Effective Date of the Agreement:

Amount:

Description *(name and location)*:

BOND

Bond Number:

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

Amount:

Modifications to this Bond Form: None See Paragraph 18

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

CONTRACTOR AS PRINCIPAL

SURETY

_____ *(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;
 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
 - 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.
8. The total amount due and unpaid to the Claimant for labor, materials, or equipment furnished as of the date of the Claim.
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:

SECTION 700 - STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

Prepared by



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STANDARD GENERAL CONDITIONS OF THE
CONSTRUCTION CONTRACT

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ARTICLE 1 – DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

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

has declined to address. A demand for money or services by a third party is not a Claim.

11. *Constituent of Concern*—Asbestos, petroleum, radioactive materials, polychlorinated biphenyls (PCBs), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. (“CERCLA”); (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§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*

- 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

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

2.04 *Preconstruction Conference; Designation of Authorized Representatives*

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

2.05 *Initial Acceptance of Schedules*

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

2.06 *Electronic Transmittals*

- A. Except as otherwise stated elsewhere in the Contract, the Owner, Engineer, and Contractor may transmit, and shall accept, Project-related correspondence, text, data, documents, drawings, information, and graphics, including but not limited to Shop Drawings and other submittals, in electronic media or digital format, either directly, or through access to a secure Project website.
- B. If the Contract does not establish protocols for electronic or digital transmittals, then Owner, Engineer, and Contractor shall jointly develop such protocols.
- C. When transmitting items in electronic media or digital format, the transmitting party makes no representations as to long term compatibility, usability, or readability of the items resulting from the recipient's use of software application packages, operating systems, or

computer hardware differing from those used in the drafting or transmittal of the items, or from those established in applicable transmittal protocols.

ARTICLE 3 – DOCUMENTS: INTENT, REQUIREMENTS, REUSE

3.01 *Intent*

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

3.02 *Reference Standards*

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

3.03 *Reporting and Resolving Discrepancies*

- A. *Reporting Discrepancies:*
 - 1. *Contractor's Verification of Figures and Field Measurements:* Before undertaking each part of the Work, Contractor shall carefully study the Contract Documents, and check and verify pertinent figures and dimensions therein, particularly with respect to applicable field measurements. Contractor shall promptly report in writing to Engineer any conflict, error, ambiguity, or discrepancy that Contractor discovers, or has actual knowledge of, and shall not proceed with any Work affected thereby until the conflict,

error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract Documents issued pursuant to Paragraph 11.01.

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*

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

4.02 *Starting the Work*

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

4.03 *Reference Points*

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

4.04 *Progress Schedule*

- A. Contractor shall adhere to the Progress Schedule established in accordance with Paragraph 2.05 as it may be adjusted from time to time as provided below.
 - 1. Contractor shall submit to Engineer for acceptance (to the extent indicated in Paragraph 2.05) proposed adjustments in the Progress Schedule that will not result in changing the Contract Times.

2. Proposed adjustments in the Progress Schedule that will change the Contract Times shall be submitted in accordance with the requirements of Article 11.
- B. Contractor shall carry on the Work and adhere to the Progress Schedule during all disputes or disagreements with Owner. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, or during any appeal process, except as permitted by Paragraph 16.04, or as Owner and Contractor may otherwise agree in writing.

4.05 *Delays in Contractor's Progress*

- A. If Owner, Engineer, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress of the Work, then Contractor shall be entitled to an equitable adjustment in the Contract Times and Contract Price. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.
- B. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delay, disruption, or interference caused by or within the control of Contractor. Delay, disruption, and interference attributable to and within the control of a Subcontractor or Supplier shall be deemed to be within the control of Contractor.
- C. If Contractor's performance or progress is delayed, disrupted, or interfered with by unanticipated causes not the fault of and beyond the control of Owner, Contractor, and those for which they are responsible, then Contractor shall be entitled to an equitable adjustment in Contract Times. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times. Such an adjustment shall be Contractor's sole and exclusive remedy for the delays, disruption, and interference described in this paragraph. Causes of delay, disruption, or interference that may give rise to an adjustment in Contract Times under this paragraph include but are not limited to the following:
1. severe and unavoidable natural catastrophes such as fires, floods, epidemics, and earthquakes;
 2. abnormal weather conditions;
 3. acts or failures to act of utility owners (other than those performing other work at or adjacent to the Site by arrangement with the Owner, as contemplated in Article 8); and
 4. acts of war or terrorism.
- D. Delays, disruption, and interference to the performance or progress of the Work resulting from the existence of a differing subsurface or physical condition, an Underground Facility that was not shown or indicated by the Contract Documents, or not shown or indicated with reasonable accuracy, and those resulting from Hazardous Environmental Conditions, are governed by Article 5.
- E. Paragraph 8.03 governs delays, disruption, and interference to the performance or progress of the Work resulting from the performance of certain other work at or adjacent to the Site.
- F. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for any delay, disruption, or interference if such delay is concurrent with a delay, disruption, or interference caused by or within the control of Contractor.

- G. Contractor must submit any Change Proposal seeking an adjustment in Contract Price or Contract Times under this paragraph within 30 days of the commencement of the delaying, disrupting, or interfering event.

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

5.01 *Availability of Lands*

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

5.02 *Use of Site and Other Areas*

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

1. Contractor shall confine construction equipment, temporary construction facilities, the storage of materials and equipment, and the operations of workers to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and such other adjacent areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility for (a) damage to the Site; (b) damage to any such other adjacent areas used for Contractor's operations; (c) damage to any other adjacent land or areas; and (d) for injuries and losses sustained by the owners or occupants of any such land or areas; provided that such damage or injuries result from the performance of the Work or from other actions or conduct of the Contractor or those for which Contractor is responsible.
2. If a damage or injury claim is made by the owner or occupant of any such land or area because of the performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible, Contractor shall (a) take immediate corrective or remedial action as required by Paragraph 7.12, or otherwise; (b) promptly attempt to settle the claim as to all parties through negotiations with such owner or occupant, or otherwise resolve the claim by arbitration or other dispute resolution proceeding, or at law; and (c) to the fullest extent permitted by Laws and Regulations, indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against any such claim, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable, brought by any such owner or occupant against Owner, Engineer, or any other party indemnified hereunder to the extent caused directly or indirectly, in whole or in part

by, or based upon, Contractor's performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible.

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

5.03 *Subsurface and Physical Conditions*

- A. *Reports and Drawings:* The Supplementary 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.

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*

- 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*

- 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.

6.02 *Insurance—General Provisions*

- A. Owner and Contractor shall obtain and maintain insurance as required in this Article and in the Supplementary Conditions.
- B. All insurance required by the Contract to be purchased and maintained by Owner or Contractor shall be obtained from insurance companies that are duly licensed or authorized, in the state or jurisdiction in which the Project is located, to issue insurance policies for the required limits and coverages. Unless a different standard is indicated in the Supplementary Conditions, all companies that provide insurance policies required under this Contract shall have an A.M. Best rating of A-VII or better.
- C. 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.

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:
 - 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.
- 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

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.

7.10 *Laws and Regulations*

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

7.11 *Record Documents*

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

7.12 *Safety and Protection*

- A. Contractor shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. Such responsibility does not relieve Subcontractors of their responsibility for the safety of persons or property in the performance of their work, nor for compliance with applicable safety Laws and Regulations. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to:
 - 1. all persons on the Site or who may be affected by the Work;

2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and
 3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, other work in progress, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.
- B. Contractor shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection. Contractor shall notify Owner; the owners of adjacent property, Underground Facilities, and other utilities; and other contractors and utility owners performing work at or adjacent to the Site, when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property or work in progress.
 - C. Contractor shall comply with the applicable requirements of Owner's safety programs, if any. The Supplementary 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.

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.

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.

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*

- A. If Owner and Engineer have agreed that Engineer will furnish a Resident Project Representative to represent Engineer at the Site and assist Engineer in observing the progress and quality of the Work, then the authority and responsibilities of any such Resident Project Representative will be as provided in the Supplementary Conditions, and limitations on the responsibilities thereof will be as provided in 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.

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
 - 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.
 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:*

- 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.
- 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.

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*

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

SECTION 800 - GUIDE TO THE PREPARATION OF SUPPLEMENTARY CONDITIONS

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ARTICLE 2 – PRELIMINARY MATTERS

SC-2.01 Delivery of Bonds and Evidence of Insurance

- SC-2.01 Delete Paragraphs 2.01 B. and C. in their entirety and insert the following in their place:
- B. Evidence of Contractor's Insurance: When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner copies of the policies of insurance (including all endorsements, and identification of applicable self-insured retentions and deductibles) required to be provided by Contractor in Article 6. Contractor may block out (redact) any confidential premium or pricing information contained in any policy or endorsement furnished under this provision.
 - C. Evidence of Owner's Insurance: After receipt from Contractor of the executed counterparts of the Agreement and all required bonds and insurance documentation, Owner shall promptly deliver to Contractor copies of the policies of insurance to be provided by Owner under Article 6 (if any). Owner may block out (redact) any confidential premium or pricing information contained in any policy or endorsement furnished under this provision.

SC-2.02 Copies of Documents

- SC-2.02.A. Amend the first sentence of Paragraph 2.02.A. to read as follows:
- Owner shall furnish to Contractor one copies of the Contract Documents in electronic portable document format (PDF).
- SC-2.02 Delete Paragraph 2.02.A in its entirety and insert the following new paragraph in its place:
- A. Owner shall furnish to Contractor one copies of conformed Contract Documents incorporating and integrating all Addenda and any amendments negotiated prior to the Effective Date of the Contract (including one fully executed counterpart of the Agreement) in electronic portable document format (PDF).

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

SC-5.03 Subsurface and Physical Conditions

- 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 December 30, 2022, prepared by S. W. Cole Engineering, Inc., Gray, ME, entitled: "Subsurface Exploration Services Proposed Mast Arm and Overhead Signage Structures Gorham Road, Beech Ridge Road, County Road, & Saco Street Scarborough, Maine", consisting of 23 pages. The Technical Data contained in such report upon whose accuracy Contractor may rely are indicated in the definition of Technical Data in the General Conditions.

- D. The following drawings of physical conditions relating to existing surface or subsurface structures at or adjacent to the Site (except Underground Facilities) are known to Owner:
 - 1. Drawings dated May 31, 2019, of County Road - Route 22, Gorham Road – Route 114 & Saco Street, prepared by Owen Haskell, Inc., Falmouth, ME, entitled: “Existing Conditions Survey, County Road - Route 22, Gorham Road – Route 114 & Saco Street, Scarborough, Maine”, consisting of 7 sheets numbered SV-101 to SV-107, inclusive.
 - a. All of the information in such drawings constitutes Technical Data on whose accuracy Contractor may rely.

SC-5.06 Hazardous Environmental Conditions

- 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-6.02 Insurance—General Provisions

- SC-6.02 Add the following paragraph immediately after Paragraph 6.02.B:
- 1. Contractor may obtain worker’s compensation insurance from an insurance company that has not been rated by A.M. Best, provided that such company (a) is domiciled in the state in which the project is located, (b) is certified or authorized as a worker’s compensation insurance provider by the appropriate state agency, and (c) has been accepted to provide worker’s compensation insurance for similar projects by the state within the last 12 months.

SC-6.03 Contractor’s Insurance

- SC 6.03 Add the following new paragraph immediately after Paragraph 6.03.J:
- K. The limits of liability for the insurance required by Paragraph 6.03 of the General Conditions shall provide coverage for not less than the following amounts or greater where required by Laws and Regulations:
 - 1. Workers’ Compensation, and related coverages under Paragraphs 6.03.A.1 and A.2 of the General Conditions:

Employer’s Liability:

Bodily injury, each accident	\$ <u>1,000,000.00</u>
Bodily injury by disease, each employee	\$ <u>1,000,000.00</u>
 - 2. Contractor’s Commercial General Liability under Paragraphs 6.03.B and 6.03.C of the General Conditions:

- | | |
|---|---|
| Each Occurrence (Bodily Injury and Property Damage) | \$ <u>2,000,000.00</u> |
| 3. Automobile Liability under Paragraph 6.03.D. of the General Conditions: | |
| Combined Single Limit of | \$ <u>500,000.00</u> |
| 4. Excess or Umbrella Liability: | |
| General Aggregate | \$ <u>1,000,000.00</u> |
| 5. Contractor's Pollution Liability: | |
| Each Occurrence | \$ <u>n/a</u> |
| General Aggregate | \$ <u>n/a</u> |
| <input checked="" type="checkbox"/> | If box is checked, Contractor is not required to provide Contractor's Pollution Liability insurance under this Contract |
| 6. Additional Insureds: In addition to Owner and Engineer, include as additional insureds the following: <i>n/a</i> | |

ARTICLE 7 – CONTRACTOR'S RESPONSIBILITIES

SC-7.02 Labor; Working Hours

Paragraph 7.02.B of the General Conditions restricts Contractor to working during "regular hours" Monday through Friday, and no work is permitted on "legal holidays."

- A. To provide details regarding the meaning of the terms "regular hours" and "legal holidays," consider specifically defining them by adding the following:

SC-7.02.B. Add the following new subparagraphs immediately after Paragraph 7.02.B:

1. Regular working hours will be 7:00 AM to 7:00 PM Monday through Friday.
2. Owner's legal holidays are New Year's Day, Martin Luther King Day, President's Day, Patriot's Day, Memorial Day, Juneteenth, Independence Day, Labor Day, Indigenous People's Day, Veteran's Day, Thanksgiving, Friday following Thanksgiving, Christmas Day.

ARTICLE 9 – OWNER’S RESPONSIBILITIES

SC-9.13 *Owner’s Site Representative*

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

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. Owner’s Site Representative will be as designated by the Owner. The authority and responsibilities of Owner’s Site Representative follow:

- A. Conduct site observations,
- B. Furnish reports to the owner, and
- C. Other tasks as designated by the owner.

ARTICLE 10 – ENGINEER’S STATUS DURING CONSTRUCTION

SC-10.03 *Project Representative*

SC-10.03 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 13 – COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK

SC-13.03 Unit Price Work

SC 13.03.E Delete Paragraph 13.03.E in its entirety and insert the following in its place:

- E. The unit price of an item of Unit Price Work shall be subject to reevaluation and adjustment under the following conditions:
1. if the extended price of a particular item of Unit Price Work amounts to 5 percent or more of the Contract Price (based on estimated quantities at the time of Contract formation) and the variation in the quantity of that particular item of Unit Price Work actually furnished or performed by Contractor differs by more than 20 percent from the estimated quantity of such item indicated in the Agreement; and
 2. if there is no corresponding adjustment with respect to any other item of Work; and
 3. if Contractor believes that Contractor has incurred additional expense as a result thereof, Contractor may submit a Change Proposal, or if Owner believes that the quantity variation entitles Owner to an adjustment in the unit price, Owner may make a Claim, seeking an adjustment in the Contract Price.

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

SC-15.03 Substantial Completion

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.

ARTICLE 17 – FINAL RESOLUTION OF DISPUTES

SC-17.03 Attorneys' Fees

SC-17.03 Add the following new paragraph immediately after Paragraph 17.02.

SC-17.03 Attorneys' Fees: For any matter subject to final resolution under this Article, the prevailing party shall be entitled to an award of its attorneys' fees incurred in the final resolution proceedings, in an equitable amount to be determined in the discretion of the court, arbitrator, arbitration panel, or other arbiter of the matter subject to final resolution, taking into account the parties' initial demand or defense positions in comparison with the final result.

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ARTICLE 1 – DESIGN STANDARDS AND SPECIFICATIONS

1.01 *MaineDOT Standard Specifications and Standard Details*

- A. The Work shall be constructed in accordance with the Maine Department of Transportation Standard Specifications, March 2020 Edition, and the Supplemental Specifications dated February 16, 2024, and the Maine Department of Transportation Standard Details, March 2020 Edition, and all revisions to the Standard Details published by the MaineDOT.
- B. The Materials shall meet the requirements specified in the Maine Department of Transportation Standard Specifications, March 2020 Edition, and the Supplemental Specifications dated December 4, 2023. The Contractor shall provide submittals meeting MaineDOT requirements of all proposed materials for the Work, prior to commencement of construction, for approval by the Engineer.
- C. Any reference to Section XXX or Section XXX.XX herein shall refer to the relevant section in the MaineDOT Standard Specifications, March 2020 Edition.

ARTICLE 2 – UTILITY COORDINATION

2.01 *Notifications*

- A. The Contractor has primary responsibility for coordinating their work with utilities after the Effective Date of the Contract.
- B. The Contractor will be responsible for notifying utility representatives of the anticipated construction schedule. All utilities present within the limits of the Work and/or listed as utility contacts in the Drawings shall be notified. The Contractor shall provide copies of communications to the Owner and the Engineer.
- C. The Contractor shall notify any affected residents of issues regarding utility work or damage to utilities.

2.02 *Meetings*

- A. The Contractor shall schedule a pre-construction utility conference with any utilities being removed, relocated, or constructed within the project limits and shall include in the meeting the Owner, the Engineer, and the Owner's Representative.

2.03 *Construction*

- A. Fire hydrants shall not be disturbed until all necessary work has been accomplished to provide proper fire protection.
- B. All clearing and tree removal in areas where utilities are involved must be completed before the utilities are able to relocate their facilities.
- C. The contractor shall provide the utilities access to the new pole locations. Construction of any spot cuts or fills in excess of 2 feet must be completed prior to utility relocations. The contractor shall prepare a plan for how access and the spot cuts and fills will be accomplished and what the schedule will be for performing the work. This plan will be discussed at the pre-construction utility meeting.
- D. Any utility working within the construction limits of this project shall ensure that the traveling public is adequately protected at all times that the utility is on Site. All work areas shall be

signed, lighted, and traffic flaggers employed as determined by field conditions. All traffic controls shall be in accordance with the latest edition of the Manual on Uniform Traffic Control Devices for Streets and Highways, as issued by the Federal Highway Administration.

2.04 *Maintaining Utility Location Markings*

- A. The Contractor will be responsible for maintaining the buried utility location markings following the initial locating by the appropriate utility or their designated representative.

ARTICLE 3 – NOTIFICATIONS

3.01 *State and Municipal Services and Departments*

- A. The contractor shall notify the Maine Department of Transportation of the anticipated construction schedule.
- B. The contractor shall notify the Scarborough Police Department, Scarborough Fire & Rescue, Scarborough Public Schools, and Scarborough Public Works of the anticipated construction schedule and of any anticipated lane closures. No roadways shall be blocked or closed during the construction of the Work.

ARTICLE 4 – TREE LIMBING AND CLEARING

4.01 *Description of Work*

- A. Tree Limbing shall include trimming of all tree branches to 20 feet above the pavement by a tree specialist subcontracted for this work.

4.02 *Payment*

- A. Payment for this work will be made by invoice plus 5%.

4.03 *Damage*

- A. The contractor shall be responsible for the preservation of all trees on the project which are not called to be removed or limbed to meet roadway and utility clearance requirements. Any trees damaged by the Contractor's operations shall be repaired using approved tree dressing or shall be replaced with a planting meeting the Owner's specification.

ARTICLE 5 – STRUCTURAL CONCRETE

5.01 *Description*

- A. This work shall consist of furnishing and placing portland cement concrete pavement for Roadway Median Islands and incidental construction as shown on the plans, or as directed by the Resident. Except as otherwise specified in this Special Provision, all work shall be in conformity with the MaineDOT Standard Specifications, March 2020 Edition, and the Supplemental Specifications dated February 16, 2024.

5.02 *Materials*

- A. Concrete: Concrete shall be Class A/Method C.
- B. Reinforcing Steel: Reinforcing steel shall be 152 x 152 – W1.4 x W1.4 Welded Steel Fabric as shown on the plans.

5.03 *Construction Requirements*

- A. Preparation of Foundation: The foundation bed shall be well graded and compacted, as directed by the Owner or the Owner's Representative, to provide the thickness of concrete indicated on the plans. Prior to the concrete placement, the foundation bed shall be thoroughly and uniformly saturated with water. The bed shall be free of puddles and excessive surface water.
- B. Placement of Concrete: The concrete mix shall be placed in a continuous placement operation. The surface of the concrete shall receive a float finish in accordance with Section 502.13 - Finishing Concrete Surfaces. Immediately following the float finish, the surface shall be textured at right angles to the roadway using an approved open-pile, stiff bristle broom finish. The curing period for the concrete shall be seven days and shall meet the requirements of Section 502.14 - Curing Concrete. The finished surface of the concrete shall receive a protecting coating in accordance with Section 515 - Protective Coating for Concrete Surfaces.

5.04 *Method of Measurement*

- A. Structural Concrete – Roadway Median, satisfactorily placed and accepted, will be measured for payment by the cubic yard, in accordance with the dimensions shown on the plans or authorized by the Owner.

5.05 *Basis of Payment*

- A. The accepted quantity of Structural Concrete - Roadway Median will be paid for at the contract unit price per cubic yard, which payment will be full compensation for all labor, materials, equipment, and incidentals necessary to complete the work, including the fabrication, delivery, and placement of reinforcement, and the furnishing and the application of the protective coating.
- B. Excavation for the placement of the Structural Concrete – Roadway Median will be paid for under the appropriate contract pay item.
- C. Payment will be made under:

502.341	Structural Concrete – Roadway Median	CY
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ARTICLE 6 – PIPES, CULVERTS, AND STORM DRAINS

6.01 *Basis of Payment*

- A. Section 603.12, Basis of Payment, of the MaineDOT Standard Specifications shall be amended with the addition of the following:

603.1311	8" PVC Pipe	LF
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ARTICLE 7 – CATCH BASINS AND MANHOLES

7.01 *Description of Manhole Cover and Frame*

- A. Manhole cover and frame shall be called REXUS or approved equal.
- B. Cover and frame shall be manufactured from Ductile Iron and be party certified and ISO 9000 approved.

- C. Covers shall be hinged and incorporate a 90-degree blocking system to prevent accidental closure.
- D. Covers shall be one-person operable using standard tools and shall be capable of withstanding a test load of 100,000 lbs.
- E. The cover shall incorporate a spring bar locking system, which automatically activates when the cover is closed. Additional security features to include a device to prevent the cover from being completely removed from the frame. This device shall be capable of being deactivated if required.
- F. Frames shall be circular, incorporate a seating ring, and have a nominal 24-inch clear opening.
- G. Frame depth shall not exceed 4 inches, and the flange shall incorporate bedding slots and bolt holes.

7.02 *Description of Catch Basin Grating and Frame*

- A. Catch basin cover and frame shall be REXUS or approved equal.
- B. Gratings and Frames shall be manufactured from Ductile Iron in accordance with ISO 1083.
- C. Gratings shall incorporate non-captive hinge system.
- D. Gratings shall be one-person operable using standard tools and shall be capable of withstanding a minimum load of 100,000 lbs.
- E. Gratings shall incorporate a spring bar lock as a deterrent to access by children of unauthorized adults. The spring bar lock should automatically activate when grating is properly closed.
- F. Gratings shall be non-rocking and silent in use.
- G. Gratings shall be capable of being fitted with additional security devices after installation.
- H. Gratings will feature raised studs and slots layout for increased hydraulic performance and pedestrian and cyclist safety.
- I. Waterway area shall not be less than 290 square inches.
- J. Frame depth shall not exceed 4" and flanges shall incorporate bolt holes.
- K. All components shall be black coated.
- L. Product shall be manufactured in ISO 9000 certified manufacturing plants.

7.03 *Basis of Payment*

- A. These items shall be incidental to all relevant items in Section 604 – Manholes, Inlets, and Catch Basins.

ARTICLE 8 – CONCRETE SLIPFORM CURB

8.01 *Description*

- A. This work shall consist of furnishing and placing Slipform Concrete Curb in close conformity with the plans, or as authorized by the Owner.

8.02 *Materials*

- A. Except as provided below, the materials used shall meet the requirements specified in Section 700 – Materials:

Portland Cement and Portland Pozzolan Cement	701.01
Water	701.02
Fine Aggregate for Concrete	703.01
Coarse Aggregate for Concrete	703.02
Air Entraining Admixtures	703.03

- B. The aggregate shall conform to the requirements of Subsections 703.01 and 703.02.
- C. A mix design for the Portland Cement Concrete shall be submitted to the Resident meeting the requirements of Class A or Class LP with the exception that permeability requirements shall be waived. Entrained air content of Slipform curbing shall be 4.0% to 7.0%.
- D. Partially discharged loads may be retempered with water provided the maximum water to cement ratio is not exceeded.
- E. Maximum concrete temperature at placement shall be 90 F.
- F. Proposed mix designs may contain polypropylene fibers.

8.03 *General*

- A. Preparation of Base: Before placing the curb, the foundation course shall be thoroughly cleaned of all foreign and objectionable material. The Contractor shall not place Slipform Concrete Curb on a wet or frozen base. Base pavement for placing epoxy resin binder and slipform curbing may be in an SSD condition but no standing water shall be allowed. String or chalk lines shall be positioned on the prepared base to provide guide lines. For HMA or PCC base the foundation shall be uniformly painted with an epoxy resin adhesive that meets AASHTO M 235, Type I, II, III, IV, or V. Proposed Epoxy Resin Adhesive from the Departments QPL shall be submitted with the concrete mix design for approval prior to placement and used in accordance with manufacturers recommendations.
- B. Placing: Concrete shall be placed with an approved Slipform machine that will produce a finished product according to the design specified in the plans. For cold weather Slipforming, the outside temperature must be at least 36°F (2.2°C) and rising. The curb shall be placed on a firm, uniform bearing surface, shall conform to the section profile specified in the plans, and shall match the appropriate grade. Expansion joints will be provided at ends of curve radii, or wherever the curb meets rigid structures such as building foundations or fire hydrants. Contraction joints will be placed at 10 foot (3 m) intervals using sawing methods, which shall cut 1-3" into the concrete. Joints shall be constructed perpendicular to the subgrade and match other joints in roadways, sidewalks or other structures when applicable.
- C. Curing and Sealing: Proper curing shall be insured through the use of either a combination curing/sealing compound spray that meets ASTM 1315 Type 1-Class A, or a curing compound spray that meets ASTM 309 type 1-D – Class A. Curing may also be accomplished by the

methods specified in Section 502.15 of the Specifications. If a combination curing/sealing compound spray is not used, a separate sealing compound from the MaineDOT Qualified Products List for a Type 2 sealer shall be applied after the concrete has cured.

- D. Protection: Slipform curb must be adequately protected after placement. The concrete shall be allowed to cure for at least 72 hours. During cold weather conditions, when temperatures drop below the required temperature of 36°F (2.2°C) after placement, curbing shall be protected by concrete blankets or a combination of plastic sheeting and straw. After any placement of Slipform curb, regardless of weather conditions, the placed curb shall be adequately protected by traffic control devices as necessary.
- E. Marking: When required, the curb shall be painted and coated with glass beads in accordance with Section 627 - Pavement Marking. Curb designated to be painted shall not be sealed unless a combination curing/sealing compound is used.
- F. Acceptance: Curb shall be accepted or rejected based on finish, alignment, entrained air content, and compressive strength. Acceptance testing for air content and compressive strength will be under Section 502 Method C. All damaged curb shall be removed and replaced at the Contractor's expense.

8.04 *Method of Measurement*

- A. Concrete Slipform curb will be measured by the linear foot along the front face of the curb at the elevation of the finished pavement, complete in place and accepted.

8.05 *Basis of Payment*

- A. The accepted quantities of curb will be paid for at the contract unit price per linear foot as specified.
- B. There will be no separate payment for concrete, sealing, incidental materials, or labor needed to install the curb, but these will be considered included in the work of the related curb.
- C. Removal of existing curb and necessary excavation for installing curb will not be paid for directly, but shall be considered to be included in the curb pay item. Base and Subbase material will be paid for under Section 304 - Aggregate Base and Subbase Course. Backing up machine laid curb is incidental to the curb items. Loam, as directed, will be paid under Section 615 – Loam.
- D. Payment will be made under:

609.161	Concrete Slipform Curb – Vertical	LF
609.21	Concrete Slipform Curb	LF
609.219	Concrete Slipform Curb – Terminal End	LF

ARTICLE 9 – PAVEMENT MARKING TAPE

9.01 *Description*

- A. This work shall consist of furnishing and placing reflective pavement marking tape in conformity with the Plans, as specified herein and as directed by the Resident.

9.02 *Materials*

- A. For the Solid Lane Lines, Pavement Marking Tapes shall be 3M Stamark™ High Performance Tape Series 380AW – High Performance pavement marking tape, four (4) inch wide, as manufactured by 3M of St. Paul, Minnesota.
- B. For the Broken White Lane Line (BWL), Pavement Marking Tape shall be 3M Stamark™ High Performance Tape Series 380AW – High Performance pavement marking tape, four (4) inch width, as manufactured by 3M of St. Paul, Minnesota.
- C. For the Dotted White Lane Line (DWL), Pavement Marking Tape shall be 3M Stamark™ High Performance Tape Series 380I ES – High Performance pavement marking tape, four (4) inch wide and twelve (12) inch wide, as manufactured by 3M of St. Paul, Minnesota.

3M Traffic Safety Systems Division

Mr. Michael D. Allen

Tel: (401) 368-0438

Email: mdallen@mmm.com

9.03 *General*

- A. The tape shall be used as a lane line and be installed shown on the Plans.

9.04 *Preparation of Surface*

- A. The Contractor shall mill a groove in the pavement for each tape length to be placed (“in-and-out” pattern). Continuous grooving for installation of the tape shall not be allowed. The groove length shall be the required tape length plus 12 inches on both ends. Tape length spacing shall be as shown on the plans. The groove width for inlaid tape pavement marking shall be the pavement marking width plus 1 inch, with a tolerance of $\pm \frac{1}{4}$ inch. The groove shall have a uniform depth of 150 Mil (±20 Mil). Groove position shall be a minimum of 2 inches from the edge of the pavement marking to the longitudinal pavement joint. The bottom of the groove shall have a smooth, flat finished surface. The use of gang stacked Diamond cutting blades is required for asphalt pavement surfaces. The spacers between blade cuts shall be such that there will be less than a 10 mil rise in the finished groove between the blades.
- B. Grooves shall be clean, dry and free of laitance, oil, dirt, grease, paint or other foreign contaminants. The Contractor shall prevent traffic from traversing the grooves, and re-clean grooves, as necessary, prior to application of the primer and pavement marking tape. Depth plates shall be provided by the contractor to assure that desired groove depth is achieved.
- C. Reference is made to 3M Information Folder 5.18 Grooving Applications, May 2011, “Application Guidelines for Pavement Marking in Grooved Pavement Surfaces.”

9.05 *Method of Measurement*

- A. The quantity of Pavement Marking Tape measured for payment will be the linear feet of tape in place and accepted. The measurement will not include the gaps.

9.06 *Basis of Payment*

A. The accepted quantity of pavement marking tape will be paid for at the Contract unit price per linear foot which price shall include all material, pavement grooving, equipment, labor and incidentals necessary to complete the work.

B. Payment will be made under:

627.94	Pavement Marking Tape	LF
627.941	Pavement Marking Tape – Dotted White Lane Line, 4-inch Width	LF
627.942	Pavement Marking Tape – Dotted White Lane Line, 12-inch Width	LF

ARTICLE 10 – TRAFFIC SIGNALS

10.01 *Additions and Modifications*

A. The provisions of Section 643 of the Maine Department of Transportation (MaineDOT) Standard Specifications shall apply with the following additions and modifications:

B. Please note, it is the responsibility of the contractor to confirm with the Town of Scarborough Public Works Department that all of the specifications listed herein are current and are approved by the Town before ordering any signal equipment.

10.02 *Description*

A. The project will result in the installation of new traffic control signals in the Town of Scarborough. Equipment includes, but is not limited to, Advanced Traffic Control Cabinet (ATCC) with ATC controller, new mast arms and pedestal poles, vehicular signal heads, retroreflective backplates, wiring, signal cable, overhead mast arm mounted signs (subsidiary to Traffic Signals), vehicle detection, emergency vehicle preemption, and all appurtenances and incidentals required for complete functioning installations. In addition, the project will provide the means for remote communications to the traffic signal control cabinet equipment by cellular modem/field monitoring unit with provisions for future (by others) fiber optic interconnection.

B. The Contractor will note that soil borings have been provided under separate cover for all mast arm and steel strain pole locations as appropriate for foundation design in conjunction with the final structural design of all proposed mast arms called for by this project and the connection of the mast arm uprights and steel strain poles to their foundations. All designs shall be prepared and stamped by a professional engineer licensed in the State of Maine. Design computations, including design loads (overturning moment, torsion, shear force, and axial load) at the top of the foundations, and shop drawings shall be submitted for review by the Design Engineer and Town. No materials shall be ordered or fabrications initiated until the design has been approved.

C. Backplates will be provided for all new vehicle signal heads. The backplates shall be a minimum of 5-inches with 3-inch fluorescent yellow retroreflective strips. New backplates shall provide louvers for one-way, three-, four- and five-section, and 12-inch signal heads.

D. All traffic signal controller timing parameters shall be programmed initially to provide optimized free operations.

- E. It is noted that due to the existing traffic signal system equipment currently in place in the Town of Scarborough, specific requirements have been included in these project provisions that define equipment configuration options that differ from standard MaineDOT traffic signal devices. This allows the municipality to maintain a level of downward compatibility while also taking advantage of enhanced monitoring and control capability available through the town's Siemens Tactics Traffic Management System (TMS). All controller cabinet assemblies, to include controller unit, MMU, detection systems, cabinet monitoring units shall be programmed and tested by the manufacturer's designated representative: Ocean State Signal, Co., 27 Thurber Blvd, Smithfield, RI 02917.
- F. This project will also provide Intelligent Transportation Systems (ITS) associated Adaptive Signal Control Technology (ASCT) and a dual mode Dedicated Short Range Communications (DSRC)/4GLTE-5G Road Side Unit (RSU) integrated into the ATCC. See Article 11 for ASCT (In|Sync) and Article 12 for RSU specifications.
- G. The town has installed and supplied both back-up power and fiber optics nearby to each proposed traffic signal cabinet on an existing utility pole. These are both to be connected to the proposed traffic signal cabinets appropriately along with necessary equipment to allow for fully functional fiber optics connection and communications, and back-up power connection with automatic switch in the event of a power outage. Contractor shall coordinate with the Town of Scarborough I.T. Department as necessary for connection to the fiber optics and to coordinate both start-up and acceptance testing. The traffic signal will be connected via single mode fiber optics to the Town's Network at the Town's Fire Station facility located within the project extents. Contractor shall verify locations of fiber optics and back-up power with the Town.
- H. All work under these items shall conform to the relevant provisions in the 2023 Manual on Uniform Traffic Control Devices (MUTCD).

10.03 *Additional Materials*

- A. Materials shall also meet the requirements in the following Special Provision:

Advanced Transportation Controller (Town Specification)	Article 16.02
Advanced Transportation Control Cabinet (Town Specification)	Article 16.03
Field Monitoring Unit	Article 16.04
Emergency Vehicle Preemption System	Article 16.05
Vehicle Detection (in support of both 643.80 and 643.831)	Article 16.06
Ethernet Managed Switch	Article 16.07
Small Form-Factor Pluggable (SFP) Optic Modules	Article 16.08
Vehicle Signals	Article 16.09

10.04 *Painting*

- A. Unless otherwise directed, all exterior parts of the listed equipment shall be delivered to the project finished as follows and conforming to Town of Scarborough standards:
 - 1. Vehicular Signal Heads – all parts moss green.
 - 2. Signal Backplates – black and louvered w/ fluorescent yellow retroreflective strip.
 - 3. Controller Cabinet – moss green / aluminum.
 - 4. Mast Arms, Uprights, and Bases – moss green / galvanized steel.
 - 5. Pedestal Posts and Bases – moss green / aluminum.

10.05 *Basis of Payment*

- A. The traffic signal (Item 643.80) will be paid for at the contract lump sum price for the intersection, which payment will be full compensation for furnishing and installing all materials, including, but not limited to ATCC complete with Field Monitoring Unit, generator transfer switch, mast arm and pedestal poles, risers, vehicular signal heads, retroreflective backplates, astro-brackets, signal cable, LED lamps, overhead mast arm mounted static signs (in accordance with Section 645 and 719 but paid as subsidiary to 643.80), emergency vehicle preemption and all appurtenances and incidentals required for complete functioning installations and for furnishing all tools and labor necessary for completing the installations.
- B. The on-street light-based fire pre-emption system (see Article 16 – Traffic Signals Materials for more information) will be paid for under pay item 643.80, which price will be full compensation for furnishing and installing all materials, appurtenances, and incidentals required for a complete functioning installation and for furnishing all tools and labor necessary for completing the installation.
- C. Non-Invasive Stop Bar and Advance Vehicle Detection system (see Article 11 – Intelligent Transportation Systems, Adaptive Signal Control Technology System and Article 16 – Traffic Signals Materials for more information) will be paid for under pay item 643.831, which price will be full compensation for furnishing and installing all materials, appurtenances, and incidentals required for a complete functioning installation and for furnishing all tools and labor necessary for completing the installation.
- D. Dual Purpose Mast Arm Pole (Item 643.91) will be paid for at the contract unit price each which payment shall be full compensation for furnishing and installing all materials, tools and labor necessary to erect and install the structure, including an overhead luminaire on a luminaire arm attached to the extended pole upright meeting town lighting standard heights (see mast arm pole structure at US1 at Willowdale Road and Enterprise Drive for representative luminaire and arm height installation).
- E. Steel strain poles (Item 643.93) will be paid for at the contract unit price each which payment shall be full compensation for furnishing and installing all materials, tools and labor necessary to erect and install the structures.
- F. Payment will be made under the following:

643.80	Traffic Signal at: County Road at Gorham Road	LS
643.80	Traffic Signal at: Gorham Road at Saco Street	LS

643.91	Dual Purpose Mast Arm Pole	EA
643.93	Steel Strain Pole	EA

ARTICLE 11 – INTELLIGENT TRANSPORTATION SYSTEMS, ADAPTIVE SIGNAL CONTROL TECHNOLOGY SYSTEM

11.01 *Description*

- A. This item shall consist of furnishing and installing and Adaptive Signal Control Technology (ASCT) System shown on the plans.
- B. Please note, it is the responsibility of the contractor to confirm with the Town of Scarborough Public Works Department that all of the specifications listed herein are current and are approved by the Town before ordering any signal equipment.

11.02 *Materials*

- A. The ASCT shall be Rhythm Engineering In|Sync and include equipment meeting the following and all the requirements as defined under Article 16. No additional hardware, software items and/or subscription fees/costs shall be needed/allowed to satisfy the requirements as defined in these specifications. At a minimum, the following shall be procured:
 1. In|Sync System with Radar based detection and queue analysis. ATSPM Module included.
 2. Includes hardware (Intercept Module) for SDLC integration.
 3. Hawkeye Equipment Panel for intersections with up to 3 sensors.
 4. Visual context camera for Hawkeye Detection system. Includes 1 Axis 2600 130 Degree View - Wide Angle Camera.
 5. Hawkeye Junction Box – Required per each radar detector.
 6. Mounting Hardware for Radar. Bracket comes standard with surge protector and 3 axis configuration capability.
 7. SDLC Module
 8. Cable, Dual Serial IM / SDLC
 9. Cable, SDLC to BIU (1)

Installation instructions and supporting documentation for all adaptive equipment is available by contacting Rhythm Engineering.

11.03 *Construction Requirements*

- A. The Contractor shall be responsible for furnishing all training, labor, materials, cables, connectors, tools, equipment, shipping and incidental items necessary to complete the installation and make the ASCT system fully operational.
- B. Installation of the ASCT system shall include the installation of any and all associated equipment including, but not limited to, the following:

1. Creation of a system that shall allow for secure remote Virtual Private Network (VPN) access.
2. Configuration of all network/data links between the Advanced Transportation Controller Cabinet (ATCC), existing Town networks, and/or Field Monitoring Unit (FMU).
3. Configuration of all ASCT system parameters including but not limited to signal phasing, vehicle detector inputs, system/subsystem maps and intersection geometry.
4. ASCT shall provide for a single point platform that shall integrate all sub-systems including Non-Invasive Stop Bar Detection, Non-Invasive Advance Detection, and Connected Vehicle System.

11.04 *Method of Measurement*

- A. The ASCT applications will be measured by lump sum for the systems installed at the intersections of 1) County Road at Gorham Road, and 2) Gorham Road at Saco Street, furnished and installed and included as part of Item 643.80. All equipment, labor and incidentals required to create a fully functional system will be considered incidental to the cost of this item.

11.05 *Basis of Payment*

- A. Payment will not be made separately but will included as part of and made under Item 643.80, lump sum, for full compensation for furnishing, transporting, handling, installing and testing the materials and equipment specified. The Contractor shall furnish all labor, tools, equipment, and incidentals necessary to complete the work. It is the responsibility of the contractor to retain a representative from Rhythm Engineering on site to assist as needed. Costs for the representative from Rhythm Engineering will be by the responsibility of the contractor.
- B. Payment will be made under the following:

643.80	Traffic Signal at: County Road at Gorham Road	LS
643.80	Traffic Signal at: Gorham Road at Saco Street	LS

ARTICLE 12 – INTELLIGENT TRANSPORTATION SYSTEMS, CONNECTED ROADSIDE UNIT

12.01 *Description*

- A. This item shall consist of furnishing and installing for connected vehicle (CV) roadside unit(s) (RSU) including all necessary fittings and mounting hardware at the locations shown on the plans.
- B. Please note, it is the responsibility of the contractor to confirm with the Town of Scarborough Public Works Department that all of the specifications listed herein are current and are approved by the Town before ordering any signal equipment.

12.02 *Materials*

- A. The RSU system shall include equipment meeting the following General, CV Device Interoperability, Wireless Communication, RSU Configuration and Management, Device Interfaces, Systems Communications, Ports and Connectors, Mechanical, Electrical,

Environment, Operating System, and Federal Communications Commission (FCC) requirements:

1. General:

- a. CV equipment includes all hardware and materials, software, and any necessary ancillary equipment for a complete assembly necessary to enable wireless vehicle-to-infrastructure (V2I) and vehicle-to-vehicle (V2V) communication. The CV equipment shall also fully support Dual Mode C-V2X at the same time as fully supporting DSRC V2X operations. Only new equipment and materials, except as specified in the contract shall be allowed. The CV equipment shall integrate into the ATC traffic signal controller and provide connected vehicle applications to mobile devices through a hybrid system using cellular vehicle-to-everything (C-V2X) and dedicated short-range radio communications (DSRC).
- b. CV equipment must be compatible with existing traffic controller assemblies unless otherwise shown on the Plans. The CV equipment must create a system that provides the minimum required functions and applications as shown on the Plans.
- c. Ensure the CV equipment is permanently and legibly marked with a serial number, date of manufacture, and part number.
- d. Connected vehicle equipment and systems must support the project goals and applications described in the contract.
- e. CV equipment must be compatible with a Security Credential Management System for V2V, V2I and C-V2X communication and meet the applicable industry standards listed in Table 1.
- f. CV equipment must be capable of remote firmware updates. Device manufacturers must make firmware updates available to the town and maintaining agency at no cost.

Table 1 CV Roadside Unit (RSU) Requirements and Standards	
Document Identifier	Description
USDOT RSU, Version 4.1	DSRC Roadside Unit (RSU) Specifications Document
SAE J2735, released 2016.03.30	Dedicated Short Range Communications (DSRC) Message Set Dictionary
SAE J2945, released 2017.12.07	On-Board System Requirements for V2V Safety Communications
C-V2X 3GPP Rel.14	LTE support for V2x services, eLAA, 4 band Carrier Aggregation, inter-band Carrier Aggregation
IEEE 802.11p	IEEE Standard for Information Technology– Telecommunications and information exchange between systems local and metropolitan area networks

	– Specific Requirements Part 11: Wireless LAN Medium Access Control (MAC) and Physical Layer (PHY) Specifications
IEEE 1609.0	IEEE Guide for Wireless Access in Vehicular Environments (WAVE) – Architecture
IEEE 1609.2	IEEE Standard for WAVE – Security Services for Applications and Management Messages
IEEE 1609.3	IEEE Standard for WAVE – Networking Services
IEEE 1609.4	IEEE Standard for WAVE – Multi-Channel Operation
IEEE 1609.12	IEEE Standard for WAVE – Identifier Allocations
IEEE 802.3at	Standard for Power over Ethernet
ASTM E2213-03	Standard Specification for Telecommunications and Information Exchange Between Roadside and Vehicle Systems — 5-GHz Band Dedicated Short-Range Communications (DSRC), Medium Access Control (MAC), and Physical Layer (PHY) Specifications
Federal Communications Commission (FCC) Title 47, Parts 0, 1, 2, 15, 90, and 95	FCC Code of Federal Regulations

2. CV Device Interoperability: Provide standards-based CV devices that are interoperable with CV devices from other manufacturers. Ensure that RSUs and Onboard Units (OBUs) are compatible and interoperable. All proposed CV equipment, consisting of a complete engineered solution meeting the contract requirements must be provided to the town, at no additional cost, within 45 days of contract execution for testing.
3. Wireless Communications: Ensure wireless communications are secure and compatible with the carrier used by the agency responsible for system operation and maintenance.
4. Roadside Unit (RSU):
 - a. The RSU must be a commercially available product that provides information and supports public safety operations in a V2I/V2V and C-V2X communication environment. RSUs must be successfully demonstrated to the town and shown to support the functional features and CV applications identified in the contract.
 - b. The RSU must be preconfigured by the manufacturer or an authorized manufacturer’s representative so that it is ready for installation and operation at the site(s) shown on the Plans. The town will provide on-site data, such as MAP data. Upon receipt of the RSU(s), the town will validate the configuration of the unit. The contractor will provide all required support, throughout the configuration

process until approved by the town. The RSU must include antennas for all radio frequency connectors, surge protection device(s) (SPDs), mounting hardware, all associated cabling, and any other equipment required for a fully functional and complete installation.

- c. The RSU must automatically recover from a power failure once power is restored. The Contractor shall verify and document that all programmable settings are restored to their previous configurations and that the system resumes proper operation. Documentation shall be submitted to the town and the Engineer.

5. Configuration and Management:

- a. RSU must be provided with all hardware, software, configuration tools and software licenses required for local and remote configuration, operation, and management including access to all user-programmable features as well as health and status monitoring, event logging, and diagnostic utilities. Configuration and management functions must be password protected. Access to all user-programmable features, alarm monitoring, configuration parameters, event logging and diagnostic utilities must be through a vendor provided Graphical User Interface (GUI). The RSU must be provided with an open application programming interface (API) and software development kit available to the town at no additional cost. This vendor provided GUI must be able to create Transportation Information Messages and send them to the RSU.
- b. Alarm monitoring must include communication failure, power failure, GPS deviations, and time source lost. The RSU must include an event log that includes the date and time of the event(s). The RSU must be capable of storing a minimum of 500 events as defined by USDOT RSU specification.
- c. All major components of the RSU shall be of a modular design to facilitate future CV frequency changes as set forth by the FCC.

6. Device interfaces: The RSU must include wired (Ethernet) and wireless interfaces specified in the USDOT RSU specification. The RSU must provide cellular interfaces for system communication, as shown on the Plans. The Contractor shall verify and document that all interfaces are protected by a configurable firewall with a default to be to inactive.

- a. DSRC Interface. The RSU must include a commercial-grade radio that transmits and receives DSRC messages within the 5.855 – 5.925 GHz band per the USDOT RSU specification.
- b. C-V2X. The RSU must include a commercial-grade radio that transmits and receives messages over C-V2X within the 5.855 – 5.925 GHz band.
- c. Antennas. The RSU must use antennas that were tested with the device to obtain the FCC Grant of Equipment Authorization (or similar antennas with equal gain). Antennas must be removable to allow for the antennas to be installed at a distance from the RSU unit or replaced as needed. The Contractor shall not co-locate or operate RSU antennas with any other antenna or transmitter, except in accordance with the FCC multi-transmitter policy.

- 1) DSRC radio characteristics:

- i) Protocol: IEEE 802.11p
 - ii) Freq. band: 5.855 – 5.925 GHz (LTE B47)
 - iii) 10 MHz channel spacing
 - iv) Output power: 20 dBm (power class 3)
 - v) Sensitivity: typ. -95 dB
 - 2) C-V2X radio characteristics:
 - i) Protocol: 3GPP C-V2X Rel.14
 - ii) Freq. band: 5.855 – 5.925 GHz (LTE B47)
 - iii) 10 MHz channel spacing, PC5 side link
 - iv) Output power: 20 dBm (power class 3)
 - v) Sensitivity: typ. -95 dB
- 7. Systems Communications: All Contractor supplied equipment, including connected vehicle equipment and roadside devices (ATC, FMU, Detection systems and Ethernet Switch), shall be compatible and interoperable. In addition, all IP based network equipment supplied by the Contractor shall be fully compatible with all existing and local agency data networks.
- 8. Ports and Connectors: The RSU must include all necessary ports and connectors for a complete assembly. All ports and connectors must be weather proof and inhibit the ingress of water, dirt, sand and other foreign materials from entering the enclosure. All ports must be legibly and permanently marked designating their intended use. All labels must be weather resistant.
 - a. Copper Ports: The RSU must include a minimum of one Type RJ-45 Ethernet port. The Type RJ-45 port must be capable of auto-negotiating speed (i.e., 10/100 Base) and duplex (i.e. full or half). All 10/100 Base TX connections must be compliant with the IEEE 802.3 standard pinouts.
 - b. Radio Frequency (RF) Connectors: The RSU must include at least three Type N weatherproof female RF ports.
 - c. Power over Ethernet (POE): The RSU must include at least one POE connector. The POE connector must be compliant with the Outdoor IP 66 rating.
- 9. Mechanical Specification: Ensure equipment is permanently marked with manufacturer name or trademark, part number, date of manufacture and serial number. All parts must be made of corrosion-resistant materials.
- 10. Electrical Specification:
 - a. Ensure that all wiring complies with the latest edition of the National Electrical Code (NEC), National Electrical Safety Code (NESC), any local jurisdictional requirements, and IEEE 802.3.
 - b. Ensure that the RSU operates at a nominal voltage between 37 and 57 Voltage Direct Current (VDC).

- c. Ensure that the POE injector used to power the RSU operates using a nominal input voltage of 120 Voltage Alternating Current (VAC). If any system device requires operating voltages other than 120 VAC, supply a voltage converter.
11. Environmental Specification: Ensure that the RSU complies with all environmental requirements of the latest edition of the Dedicated Short-Range Communications Roadside Unit Specifications published by the USDOT. Must be compliant with section 2 of the NEMA TS2 standard.
 12. Operating System: The RSU's processor must run the latest version of the Linux operating system, at time of bid, and all applications must be written as Linux based applications. Additionally, the RSU must meet the minimum requirements for processing, memory, and storage as required in the USDOT RSU specification.
 13. Applications: The RSU shall include software and business logic to support the following applications:
 - a. Signal Phase and Timing (SPaT),
 - b. Traveler Information Messages (TIM),
 - c. Work Zone Alert,
 - d. Emergency Vehicle Preemption (EVP),
 - e. Snowplow Signal Priority,
 - f. Freight Signal Priority,
 - g. Pedestrian Warning (PedSafe),
 - h. Queue Warning, and
 - i. Curve Speed Warning.
 - j. Data Pass Through
 14. FCC License: Compile all information required to register RSU devices and locations with the FCC and provide this information to the town for review in accordance with Section 7-2. Support the permitting effort until complete. The Contractor shall procure all FCC licenses on the town's behalf. All fees associated with procuring the FCC licenses shall be included as part of the bid price.
 15. Connected Vehicle Management Software: The Contractor shall provide, configure and install a Connected Vehicle Management Software (CVMS) system on the cloud-based server that contains the CMS systems. The CVMS shall provide for local and remote configuration of the RSU, diagnostics, alarms, retrieval and storage of data. The CVMS shall function locally as well as remotely over an Ethernet network using the FMU or existing City owned network connections. All fees associated with procuring the CVMS licenses shall be included as part of the bid price.
 16. Storage, Logs, and Routing: The RSU must store and transmit periodic status messages, capture System Status Logs and Communication Message Logs as well as route and forward IPv6 traffic for connected mobile units.

12.03 Construction Requirements

- A. The Contractor shall be responsible for furnishing all training, labor, materials, cables, connectors, tools, equipment, shipping and incidental items necessary to complete the installation and make the RSU system fully operational. Installation of the RSU system shall include the installation of any and all associated equipment including, but not limited to, the following:
1. RSU Installation:
 - a. Install RSUs on existing poles or sign structures, or on new poles, as shown on the Plans. The RSU, mounting hardware, and any other related material that is exposed to the environment must be designed for 150 mph wind speeds and meet the requirements of the town's Structures Manual. Submit electronic configuration file backups to the town following field testing. Backup files must include communication settings, firmware, and all other files and settings required to restore current operation and program a new replacement RSU.
 - b. The Contractor may mount the RSU in an alternate location than shown on the plans provided the antennae have a clear line of sight for all approaches. This (alternate location) provision is to better assist the Contractor to stay within the typical 100 meter limitation of CAT5 cable runs without having to purchase repeaters to match the proposed plan locations.
 2. Cabling: Ensure that all device cabling is free from defects. Provide sufficient cabling slack within existing cabinets and pull boxes to facilitate future re-terminations and any required adjustments needed to shift the RSU along the mounting structure. Neatly bundle and coil all slack within storage areas and prior to entering the RSU. Provide weatherproof cable tags at all storage points and at cable termination ends. All unshielded and shielded twisted pair Ethernet gel filled cabling shall be compliant with the EIA/TIA-568-B-2-1, CSA and ISO/IEC 11801 standards. Neatly coil and band all cable slack together using heavy duty cable locking ties. The use of standard zip-ties will not be permitted.
 3. Testing: The following testing requirements shall be met.
 - a. General. CV equipment to field acceptance tests (FAT). The town reserves the right to witness all FATs. Meet the requirements of T612.
 - b. Field Testing. Once the CV equipment has been installed, conduct local FATs at each field site according to the test plan(s). Perform the following:
 - 1) Verify that physical construction has been completed as detailed on the Plans.
 - 2) Inspect the installation of the CV Equipment and its associated cabling for a secure installation.
 - 3) Inspect the quality and tightness of ground and surge protector connections.
 - 4) Verify proper voltages for all power supplies and related power circuits.
 - 5) Connect devices to the power sources.
 - 6) Verify all connections, including correct installation of communication and power cables.

- 7) Verify all wire and cable connections are correct and secure.
- 8) Verify the configuration of CV device network interfaces.
- 9) Verify that the CV equipment can be accessed and manipulated using the secured Shell from the remote computer.
- 10) Verify over the air that the RSU broadcasts using an approved multi-channel test tool (MCTT).
 - i) Ensure data logging is active on all units under test and that data logs are sent to data repository per contract documents.
 - ii) Test the DSRC with security on and off. With mismatched security certificates, ensure that messages are logged but payload is not decoded.
 - iii) Scan all DSRC channels and document sources of potential interference.

4. Warranty:

- a. Ensure that CV equipment has a manufacturer’s warranty covering defects for a minimum of 5 years from the date of final acceptance by the town.
- b. Ensure the warranty includes providing replacements within 10 calendar days of notification for defective parts and equipment during the warranty period at no cost to the town.

12.04 *Method of Measurement:*

- A. The RSU for CV applications will be measured by lump sum for units installed at the intersections of 1) County Road at Gorham Road, and 2) Gorham Road at Saco Street, furnished and installed. All equipment, labor, training and incidentals required to create a fully functional system will be included in this item.

12.05 *Basis of Payment*

- A. This item will not be measured for separate payment however, it is incidental to and included as part of the payment for Item 643.80, Traffic Signal at: 1) County Road at Gorham Road, and 2) Gorham Road and Saco Street; Traffic Signal Payment will be full compensation for furnishing, transporting, handling, and installing the materials and equipment specified and for furnishing all labor, tools, equipment, and incidentals necessary to complete the work.
- B. Payment will be made under the following:

643.80	Traffic Signal at: County Road at Gorham Road	LS
643.80	Traffic Signal at: Gorham Road at Saco Street	LS

ARTICLE 13 – MAINTENANCE AND PROTECTION OF TRAFFIC

13.01 *Description of Work*

- A. Item 652.361, Maintenance of Traffic, shall include all signs, flashers, barriers, temporary lighting devices, temporary signalization, and any other required traffic control devices. It shall also include all labor, equipment rental, and time required to create a traffic control plan and maintain traffic control devices in place.

13.02 *Traffic Control Plans*

- A. The Contractor shall be responsible for the maintenance and protection of all vehicular and pedestrian traffic at all times during construction and shall erect suitable signs, flashers, barriers, temporary signalization, or temporary lighting devices to afford protection to the traveling public. The Contractor shall be held responsible for all damage and injury to the traveling public resulting from inadequate or failing traffic control devices.
- B. All traffic controls shall be in accordance with the latest edition of the Manual on Uniform Traffic Control Devices for Streets and Highways, as issued by the Federal Highway Administration.
- C. The Contractor shall be held responsible for all damage to the work due to any failure of the warning devices to properly protect the work from the traffic.
- D. The Contractor is required to submit a traffic control plan meeting Maine Department of Transportation and Manual on Uniform Traffic Control Devices requirements to the Maine Department of Transportation, the Owner, and the Engineer, and receive approval for the traffic control plan in advance of commencement of construction.

13.03 *Approaches*

- A. Approach signing shall include the following signs at a minimum. Field conditions may warrant the use of additional signs as determined by the Engineer or the Owner's Representative.
 - 1. Road Work Next X Miles
 - 2. Road Work 500 Feet (Ahead)
 - 3. End Road Work

13.04 *Work Areas*

- A. At each work site, signs and channelizing devices shall be used as directed by the Engineer or the Owner's Representative. The below list of work area signs are representative of the contract requirements. Other sign legends may be required.
 - 1. Signs include:
 - a. Road Work XXXX or Road Work Ahead
 - b. One Lane Road Ahead
 - c. Flagger Sign
 - 2. Other Typical Signs Include:
 - a. Be Prepared to Stop
 - b. Low Shoulder
 - c. Bump
 - d. Pavement Ends
- B. Unless otherwise submitted and approved in the traffic control plan, the following shall apply:

1. The Contractor shall conduct their operations in such a manner that the roadway will not be restricted to one lane for more than 2,500 feet at each work area and no more than 4,000 feet for paving and milling work areas.
2. Where more than one work area restricts traffic to one lane operation, these work areas shall be separated by at least 1 mile of two-way operation.
3. No roadways shall be blocked or closed during construction of the project.
4. The Contractor shall maintain access to all driveways. Minor blockages of driveways may be permitted for short durations with the approval of the Owner and the affected land owner.

13.05 *Temporary Centerline*

- A. A temporary centerline shall be placed each day on all new pavement to be used by traffic. The temporary centerline, when specified of reflectorized traffic paint, shall conform to the standard marking patterns used for permanent markings. Failure to apply a temporary centerline daily will result in a Traffic Control Violation and suspension of paving operations until temporary markers are applied to all previously placed pavement.

ARTICLE 14 – TEST PITS

14.01 *Description of Work*

- A. Item 803.01, Test Pits, shall consist of excavating and back filling test holes to locate existing utilities at locations shown on the plans or as directed by the Owner.

14.02 *Construction Requirements*

- A. The work shall be done in a manner that provides safe passage of the traveling public at all times. Coordination with the utilities is required prior and during the test pit activities. An authorized representative from the utility shall be present during the test pit activity. Test pits shall be completed in a manner that does not damage any utilities. Any damage to utilities or other roadway features by the test pit operations shall be repaired by the Contractor at no additional cost and shall be to the Resident's satisfaction.
- B. The Contractor shall coordinate with the Department's surveyor on locating the utilities once exposed.
- C. Once the location work is complete, the Contractor shall backfill the hole, place gravel and pavement over the test pits in a manner consistent with the existing conditions and in accordance with the standard specifications for backfilling.

14.03 *Method of Measurement*

- A. Test Pits will be measured for payment by each.

14.04 *Payment*

- A. The accepted quantity of Test Pits will be paid for at the contract unit price per each, which shall be full compensation for all labor, materials, tools, equipment, and incidentals necessary to complete the work. Associated traffic control will not be paid for separately and is considered incidental to the test pit item.
- B. Payment will be made under:

ARTICLE 15 – OWNER’S TESTING ALLOWANCE

15.01 *Description of Work*

- A. Item 832.07, Owner’s Testing Allowance, shall include all necessary compaction testing and all testing of pavement and gravels required by MaineDOT. All testing shall be performed by a MaineDOT approved lab.

15.02 *Payment*

- A. Payment shall be made by invoice plus 15%.

ARTICLE 16 – TRAFFIC SIGNALS MATERIALS

16.01 *Additions and Modifications*

- A. The provisions of Section 718 of the Maine Department of Transportation (MaineDOT) Standard Specifications shall apply with the following additions and modifications.
- B. Please note, it is the responsibility of the contractor to confirm with the Town of Scarborough Public Works Department that all of the material specifications listed herein are current and are approved by the Town before ordering any signal equipment.

16.02 *Controllers*

- A. Traffic signal controllers shall be modified as follows: Delete all paragraphs in 718.07 and add the following text:
- B. Advanced Transportation Controller (ATC)
 1. This specification describes the minimum hardware requirements for a shelf-mount or rack-mount, fully actuated traffic controller. The controller shall be configurable to meet, at a minimum, all applicable sections of the NEMA TS2-2016 and ATC Standard 5.2b standards.
 2. The controller unit shall be a shelf-mounted or rack-mounted, keyboard-entry, menu-driven unit manufactured by Siemens Mobility, Model M60, with internal time-base coordination, emergency preemption, and programmatic capability. The controller shall be complete with a module, including modem card and physical connector, to support closed loop and ethernet communication.
 3. The local system intersection controller shall include all of the following internal functions:
 - a. Full software compatible with the control and data protocol of a Siemens manufactured on-street master and TACTICS central-office traffic signal management software.
 - b. Local time-based scheduler including automatic accommodation for daylight savings time and internal second by second GPS synchronization.
 - c. Local time based coordination control.

- d. Local Preemption and Priority control with at least six programmable internal Preemption and Priority sequences.
 - e. Priority routines shall include Full, Minimum and Partial control.
 - f. Data upload and download capability.
 - g. Perform internal and external Peer-to-Peer Functions.
 - h. Perform extensive failure evaluation of the controller, detectors, and communications.
 - i. Perform PING function for IP based connected devices.
 - j. Controllers shall be capable of Adaptive Maximum green times. They shall operate as follows: after a phase maxes out twice in a row and on each successive max out thereafter, one step value will be added to the Adaptive Max until the value of the Dynamic Max is reached. Returning to Normal Max shall be achieved in the same fashion. After a phase gaps out twice in a row on each successive gap out thereafter one step value, and only one step value, will be subtracted from the Adaptive Max until the value of the Normal Max is reached.
4. All controllers must be compatible with the municipality's/agency's Siemens Tactics TMS. Tactics TMS shall be able to upload/download full controller functionality including: Phase, Unit, Coordination, Time Base, Pre-emption, Priority, Peer-to-Peer and Network data.
 5. To minimize training and simplify local programming, all local parameter access shall utilize prompting and English language displays, and all codes needed by the user, if any, shall be on the front panel or on the display screen to avoid the need for memorization or the presence of a manual. Programming information shall be accessed via the HELP button.

C. Hardware

1. Traffic signal controller shall operate within conditions specified in this section:
 - a. Temperature Range: -37°C to +74°C
 - b. Service Voltage: 89 to 135 VAC, 57 to 63 Hz
 - c. Power Consumption shall be typically 25 Watts.
 - d. Power Consumption shall not exceed 120 Watts.

D. Configurations

1. It shall be possible to configure the controller for multiple configurations including:
 - a. ATC Configuration: It shall be possible to configure the controller to comply with the ATC Standard version 5.2b specifications.
 - b. NEMA Configuration: It shall be possible to deploy the NEMA controller in either a NEMA TS-2, Type 1 cabinet configuration using the Port 1 SDLC port to communicate with NEMA cabinet BIUs or it shall also be possible to deploy the same controller in a NEMA TS1 cabinet using NEMA ABC connectors to communicate with the cabinet backpanel. Deployment of the NEMA controller in either NEMA type cabinet shall be possible without modification of the controller.

E. Central Processor Unit (CPU) or Engine Board

1. In addition to the NEMA and ATC requirements, the CPU shall be provided with the following:
 - a. Linux Operating System with runtime license and Kernel,
 - b. MPC 8270 microprocessor operating at 266 MHz,
 - c. 64 MB (minimum) dynamic random-access memory (DRAM),
 - d. 512 MB (minimum) FLASH memory organized as a disk drive,
 - e. 2 MB (minimum) static random-access memory (SRAM),
 - f. Time-of-Day (TOD) clock with hours, minutes, seconds, month, year, and automatic day-light savings time adjustment. Time of day operation may be implemented in the CPU via electronic circuitry, operating system software, or a combination. During power failures, the SRAM and TOD shall be powered by STANDBY voltage from the power supply.

F. ATC Communications Module

1. The ATC Communication module shall be a plug-in type module. The ATC Communication module shall provide the following communications options:
 - a. Four built-in USB 2.0 ports.
 - b. Built-in 10 Base-T Ethernet with four RJ-45 connectors.
 - c. Built-in 9pin EIA-574 SP8 Port for GPS connection
 - d. Built-in 8MB Datakey Port.
 - e. Dedicated normally flashing red 'CPU Active' LED to indicate CPU failure.

G. Power Supply

1. In addition to the NEMA and ATC requirements, the Power Supply shall provide the following:
 - a. Line Frequency Reference signal shall be generated by a crystal oscillator, which shall synchronize to the 60-Hz VAC incoming power line at 120 and 300 degrees.
 - b. A continuous square wave signal shall be +5 VDC amplitude, 8.333 ms half-cycle pulse duration, and 50 +/- 1% duty cycle. The Line Frequency Reference shall compensate for missing pulses and line noise during normal operation. The Line Frequency Reference shall continue through 450 mS power interruptions.
 - c. STANDBY voltage via supercapacitor for backup power during loss of service voltage shall be provided. Supercapacitor shall have a minimum of 15-farad nominal size. No batteries of any type are allowed.
 - d. Light-Emitting Diode backlight for the LCD.
 - e. Connector compatible with C60 of Joint NEMA/AASHTO/ITE ATC Standard, with the addition of +5VDC supplied by the controller on C60, Pin 1. Keyboard and display may be removed for cost savings by the Agency.

2. In order to reduce errors, it shall be possible to view the active status screens simultaneously with other programming menu screens. It shall be possible to assign a specific menu screen to one of the available function buttons on the keyboard. The operator shall be able to evoke a context sensitive Help screen using a clearly identified HELP button. For ease of operation for first responders and agency staff, the controller shall provide a clearly identified Auxiliary ON/OFF switch on the keypad.

H. Communications

1. In addition to the NEMA requirements, the controller shall provide the following:
 - a. Built-in 10 Base-T Ethernet with an RJ-45 connector on the controller front panel.
 - b. Built-in Media Access Control (MAC) address assigned by the Institute of Electrical and Electronic Engineers (IEEE).
 - c. Built-in 1200 baud Frequency Shift Keying (FSK) modem. The modem is optional per Agency specifications. A choice of 2 or 4 wire operation is available.
 - d. Built-in EIA-232 port for uploading and downloading applications software, as well as to update the operating system.
 - e. Built-in C60 connector for use with removable Keyboard and Display, Personal Computer COM1 or Personal Digital Assistant (PDA). C60 protocol shall per Joint NEMA/AASHTO/ITE ATC standard.
 - f. One built-in USB 2.0 port on controller front panel.

I. Enclosure

1. In addition to the NEMA and ATC requirements, the controller housing shall provide the following:
 - a. One slot with card guides for standard Joint NEMA/AASHTO/ITE ATC modems. The modems are optional, per Agency specification.
 - b. Polycarbonate construction, except back panel, rear mounting tabs and power supply mounting plate shall be aluminum for electrical grounding.
 - c. Built-in carrying handle.
 - d. Two adjustable front mounting feet, used to raise the front cables and vary the display viewing-angle.
 - e. The controller physical dimensions shall not exceed 7" H x 9.5" D x 15.5" W.
 - f. Controller weight shall not exceed 2 pounds.
2. The controller identification label shall be located on the front of the controller and include:
 - a. The controller part or model number.
 - b. The controller serial number.
 - c. A product code to decipher controller month and year of production.

16.03 *Controller Cabinets*

- A. Traffic signal controller cabinets shall be modified as follows: Delete all paragraphs in 718.08 and add the following text:
- B. Advanced Transportation Controller Cabinet (ATCC)
 - 1. This specification describes the Advanced Transportation Controller Cabinet (ATCC). The ATCC is part of the ATC suite of standards published by ITE, AASHTO, and NEMA to describe advanced traffic control products. The ATCC is intended for traffic control operation, but can be utilized for a variety of other purposes. This specification describes the 120VAC, rack-mount versions of the ATCC. These cabinets include EIA 19" rack(s) to mount subassemblies. The cabinet shall include the following subassemblies as a minimum: one (1) 16-channel 120VAC Output Assembly (OA), one (1) 24-channel Input Assembly (IA), one (1) 24-channel Field Output Panel (FOP), one (1) Service Assembly (SA), one (1) DC Power/Communication Bus, one (1) AC Clean Power Bus, and one (1) Auxiliary Display Unit (ADU). One (1) additional 16-channel Output Assembly, and up to three (3) additional 24-channel Input Assemblies and 24-channel Field Output Panels may be installed in the cabinet, if the intersection phasing requires more than 16 outputs or more than 24 inputs.
- C. ATC Cabinet General Requirements
 - 1. The subassemblies in the cabinet shall be removable with simple hand tools such as a screwdriver, and without removing any other equipment. The cabinet shall be capable of remaining in flashing operation with any of the following subassemblies removed: Input Assembly, Output Assembly, Cabinet Power Supply, and Controller. Any components over 50 VAC with exposed terminals shall be protected from incidental contact per NEC requirements. All equipment in the cabinet shall be clearly and permanently labeled. All marker strips shall be made of material that can be easily written on using a pencil or ballpoint pen. Marker strips shall be located immediately below the item they are to identify and must be clearly visible with the items installed. Card guides (top and bottom) shall be provided for the plug-ins.
- D. Cabinet Shell
 - 1. The housings shall include, but not be limited to, the following:
 - a. Enclosure
 - b. Doors
 - c. Gasketing
 - d. Lift Ears
 - e. Latches, Handles, and Locks
 - f. Ventilation
 - g. Hinges and Door Stops
 - h. Police Panel
 - i. Cage Supports
- E. Housing Construction

1. The housing shall be rainproof. It shall have front and rear doors, each equipped with a lock and handle. The enclosure top shall be crowned to prevent standing water.
2. The cabinet shall be constructed per the nominal dimensions in Table 1 (rounded to the nearest inch):

F. Table 1 – Cabinet Shell Dimensions

Model Number	Dimensions	Mounting Style
350	67"H X 44"W X 26"D	Ground
352	67"H X 24"W X 30"D	Ground
352D	67"H X 48"W X 30"D	Ground
356	46"H X 24"W X 20"D	Pole

G. Material Thickness

1. The enclosure, doors, lift ears, gasket channels, police panel door, spacer supports and all supports welded to the enclosure and doors shall be fabricated of sheet aluminum with a minimum material thickness of 0.125-inch. The filter shell, filter trough, fan support and police panel enclosure shall be fabricated sheet aluminum with a minimum material thickness 0.080-inch. The spacer supports shall have the option to use stainless steel sheet with a minimum material thickness of 0.059-inch.

H. Welding

1. All exterior seams for enclosure and doors shall be continuously welded and shall be smooth. All edges shall be filled to a radius of 0.03125 inch minimum. Exterior cabinet welds shall be made by a gas Tungsten arc TIG process only. ER5356 aluminum alloy bare welding electrodes conforming to AWS A5.10 requirements shall be used for welding on aluminum. Procedures, welders and welding operators shall conform to the requirements and practices in AWS B3.0 and C5.6 for aluminum. Internal cabinet welds shall be made by a gas metal arc MIG or gas Tungsten arc TIG process.

I. Aluminum Surface Finish

1. The cabinet finish shall be a natural bare aluminum finish. Powder coating and/or anodizing are available and shall be determined per the procurement requirement.

J. Enclosure Door Frames

1. The enclosure door frames shall be double-flanged out on all four sides and shall have strikers to hold tension on, and to form a firm seal between, the door gasketing and the frame. The dimension between the door edge and the enclosure external surface when the door is closed and locked shall be 0.156 inch (+/-0.08 inches).

K. Gasketing

1. Gasketing shall be provided on all door openings and shall be dust-tight. Gaskets shall be 0.25 inches minimum thickness closed cell PVC (Gaska Tape V715 series) and shall be permanently bonded to the metal. The gasket shall include a polyester film to prevent

the gasket from sticking to the cabinet surface. A gasket top and side channels shall be provided to support the top gasket on the doors to prevent gasket gravitational fatigue.

L. Lift Ears

1. The housing shall be provided with two (2) lift ears for placing the cabinet on its foundation or mounting it to a pole. Each lift ear shall have an eye opening with a minimum diameter of 0.75 inches. The lift ear mounting bolts shall be stainless steel carriage bolts to prevent tampering from outside the cabinet. Each lift ear shall utilize two (2) bolts to mount to the cabinet.

M. Door Latches, Handles, and Locks

1. The latching handles shall have provision for padlocking in the closed position. Each handle shall be 0.75 inch diameter stainless steel with a minimum 0.5 inch shank. The padlock attachment shall be vertically mounted and placed at least 4 inches from the handle shank center, to clear the lock and key. The latching mechanism shall be a three-point draw roller type. The shootbars shall be turned edgewise at the outward supports and have a cross section of 0.25 inch thick by 0.75 inch wide, minimum. The shootbars and cam shall be stainless steel construction. The doors shall only open when the handles are turned towards the center of the door. The door rollers shall be 1 inch diameter with nylon rollers and steel ball bearings. When the door is closed and latched, the door shall be locked.
2. The locks and handles shall be on the right side of the front door and left side of the rear door. The lock and lock bracket shall be rigidly mounted on the door. The locks shall be Corbin #2 type, or approved equal. The lock cover shall be attached at the top of each lock. The rear door lock shall be inverted from the front door lock to meet this requirement. One key shall be supplied with each lock. The keys shall be removable in the locked position only. The locks shall have rectangular, spring-loaded bolts. The bolts shall have 0.281 inch throw and shall be 0.75 inches wide by 0.75 inches thick (tolerance is ± 0.035 inch).

N. Hinges

1. Stainless steel hinges (two bolts per leaf) shall be provided to bolt the enclosure to the doors. Each door shall have four (4) hinges per door for the 350 and 352 models, and three (3) hinges per door for the 356 models. Each hinge shall be 4 inches in length and have a fixed pin. The pin ends shall be either staked or welded to hinge and ground smooth. The pins and bolts shall be covered by the door edge and not accessible when the door is closed.

O. Door Stops

1. Front and rear doors shall be provided with catches to hold the door open at both 90° and 165° (+/-10°). The catch shall be constructed of zinc plated steel rods with a minimum diameter of 0.375 inches. The catches must be capable of holding the door open at 90 degrees in a 60 mph wind acting at an angle perpendicular to the plane of the door.

P. Police Panel

1. A police panel assembly shall be provided to allow limited control access for police functions. The panel door shall be equipped with a lock and master police key. The

front and back of the panel shall be enclosed with a rigid metal covering so that no parts having live voltage are exposed. The cabinet shall have one switch provided and labeled "SIGNALS ON/OFF" and one switch provided and labeled "FLASH/AUTO".

Q. 19" Rack Cage

1. A standard rack cage shall be installed inside the housing for mounting of the controller, cabinet subassemblies, and side panel(s). Type 350 cabinets shall include two (2) of these cages. The EIA rack portion of the cage shall consist of four continuous, adjustable equipment mounting angles. The mounting angle nominal thickness shall be 11-gauge plated steel. The mounting angles shall be tapped with 10-32 threads with EIA universal spacing. The mounting angle shall comply with standard EIA-310-B and shall be supported at the top and bottom by either welded or bolted support angles to form a cage. The mounting angles shall provide holes to mount the side panels. The cage shall be bolted to the cabinet at four (4) points via the housing cage supports and four (4) points via associated spacer brackets (top and bottom). Cage mounting supports shall be provided on either side, level with the bottom edge of the door opening, for horizontal support and bolt attachment; side cage supports provided for the bracket cage supports; and bracket cage support attachments. Clearance between the rails for mounting assemblies shall be 17.75" nominal.

R. Housing Ventilation

1. The housing ventilation shall include intake, exhaust, filtration, fans, and thermostat. The louvered vent depth shall be a maximum of 0.25 inch. A removable and reusable air filter shall be housed behind the door vents. The filter filtration shall cover the vent opening area. A filter shell shall be provided that fits over the filter providing mechanical support for the filter. The shell shall be louvered to direct the incoming air downward. The shell sides and top shall be bent over a minimum of 0.25 inch to house the filter. The filter resident in its shell shall be held firmly in place with a bottom trough and spring-loaded upper clamp. No incoming air shall bypass the filter. The bottom filter shall be formed into a waterproof sump with drain holes to the outside housing. The filter shall be 16" wide by 12" high by 0.875" thick. The filter shall be an ECO-AIR Product E35S or approved equal.

S. 16-channel 120VAC Output Assembly

1. The Output Assembly shall be a 3U high rack mounted assembly. The Output Assembly shall accommodate eight (8) Model 2202-HV High-Density Switch Pack/Flasher Units (HDSP/FU), providing a total of 48 outputs (Red, Yellow and Green for 16 channels). The Output Assembly shall accommodate one (1) Model 2218 Serial Interface Unit (SIU) to provide interface and control via system SB1/SB2. The Output Assembly shall accommodate one (1) Model 2212 Cabinet Monitor Unit (CMUip). The Output Assembly shall include a hinged front panel with the following items: Stop Time Switch, Auto/Flash Switch, four (4) Circuit Breakers and a 24 VDC Bypass Switch. This 24 VDC Bypass switch shall be a momentary push button switch that, when pressed, energizes the 24 VDC to the HDSPs during Flash Mode. The button shall be labeled "24 VDC BYPASS" and shall be located on the front of the Output Assembly. This allows a technician to momentarily apply 24VDC power to the HDSPs while in a Flash condition. The front panel shall be attached with thumb screws to allow access to the wiring. The Output Assembly circuit breakers shall be rated at 5A. The breakers shall be Carling Technologies "B" series or

approved equal. Each breaker shall protect (2) HDSPs. The breakers shall be protected by a flip-up cover to protect against accidental activation. The Output Assembly shall utilize four (4) 24-pin connectors, Molex 39-28-8240, to interface the HDSP outputs to the Field Output Panel. All exposed AC voltage on the Output Assembly circuit boards shall be protected using a removable Lexan cover mounted on standoffs.

T. 16-Channel Field Output Panel

1. The 16-Channel Field Output Panel (FOP) shall be coupled with the 16-Channel Output Assembly to provide pluggable connectors for the signal output field terminals, flash programming, and flash transfer relays. The FOP shall house eight (8) Model 21H High-Density Flash Transfer Relays (HDFTR) and eight (8) Flash Program Blocks (FPB). The HDFTRs and FPBs shall be provided to control and select the flash color (Red, Yellow, or No Flash) during flashing operation. HDSP Suppressors shall be provided at the field terminals for the protection of the HDSP. These suppressors shall plug in on the back side of the FOP. Each HDFTR position shall be labeled with the number of its associated HDSP (1-16). Each FPB position shall be labeled with the number of its associated channel (1-16). The Field Output Panel shall be provided with sixteen (16) 6-position Phoenix Contact terminal block model number 1777765 plugs and 1720615 sockets. Each Field Terminal Block socket shall be labeled with the number of its associated channel (1-16). Additional labels shall be provided to clearly indicate which terminals correspond to the red, yellow, and green switch pack outputs. The Field Output Panel shall be mounted across the EIA rails and it shall swing down using thumbscrews to provide access to the HDSP Suppressors and the wiring for the FOP. The Field Output Panel shall utilize eight (8) 12-pin connectors, Molex 39-28-8120, to interface the HDSP outputs to the FOP. The cables shall be long enough to allow the FOP to swing down with no interference.

U. 24-Channel Input Assembly

1. The Input Assembly shall be a 3U high rack mounted assembly providing twelve slots of 22/44 pin PCB sockets for utilizing input devices such as loop detectors, AC and DC isolators, and Emergency Vehicle Preemption equipment. The Input Assembly shall accommodate one (1) Model 2218 Serial Interface Unit (SIU) to provide interface and control between the Controller and the input devices via system SB1/SB2. The Input Assembly shall house twelve (12) 2-channel detection modules, six (6) 4-channel detection modules, or a combination of 2- and 4- channel detection modules up to 24 total input channels. The Input Assembly shall utilize two (2) 26-position ribbon cable connectors, TE Connectivity model 102321-6, for connections to the Field Input Panel.

V. 24-Channel Field Input Panel

1. The 24-Channel Field Input Panel (FIP) shall be coupled with the 24-Channel Input Assembly. The FIP shall provide a convenient landing point with pluggable terminal blocks for the field input wires. The FIP shall have positions for landing twenty-four (24) two-wire inputs and their associated earth ground wires. The landing points shall be pluggable terminal blocks with ten positions for each block. The terminal blocks shall be Phoenix Contact model 1757093 or approved equivalent. Each input terminal position shall be labeled with its associated channel number. The FIP shall have positions for 12 pluggable Detection Module Suppressors. The Detection Module Suppressors shall be supplied with the cabinet. The FIP shall be mounted across the EIA

rails and it shall swing down using thumbscrews to provide access to the back of the assemblies mounted in the opposite side.

W. Service Assembly

1. The Service Assembly shall be modular and shall house:
 - a. One (1) Model 2202-HV High-Density Switch Pack/Flasher Unit (HDSP/FU),
 - b. Pluggable Cabinet Suppressor-Filter,
 - c. Convenience outlet with integrated UPS sockets,
 - d. Four (4) HDFU output fuses,
 - e. Five (5) Circuit Breakers, and
 - f. One (1) Raw AC utility power input terminal block having five screw terminals.
2. The circuit breakers shall be provided for these functions:
 - a. Main – 30A
 - b. Clean AC Power – 15A
 - c. Raw AC Power – 15A
 - d. Output Assembly – 15A
 - e. HDFU – 15A
3. The circuit breakers shall be Carling Technologies “B” series or approved equal. The circuit breakers shall be protected by flip-up covers to protect against accidental activation. The HDFU outputs shall be individually fused. The fuses shall be 3A cartridge fuses, size 3AG, fast-blow type. The Service Assembly shall be 3U in height and mounted across the EIA rails.

X. DC Power/Communication Bus

1. DC Power/Communication Bus shall include eight DB25 D-sub socket connectors to interconnect the SB1/SB2 communication ports of the assemblies and Controller. It shall include a termination circuit at the end of the connections (S8) to prevent radio frequency signal reflection. DC Power/Communication Bus shall include one Phoenix Contact plug block or approved equal to bring the DC power to the Bus; such power shall be distributed to the ATC Cabinet Assemblies through seven Phoenix Contact receptacle blocks or approved equal. The copper traces for the DC voltages shall support at least 10 Amp. The bus shall include four Ethernet jacks to interconnect the SB3 communication ports of the assemblies. DC Power/Communication Bus shall be mounted across the EIA rails and it shall swing down to provide access to the back of the assemblies mounted in the opposite side. Thumbscrews shall be provided to access the hinging mechanism to swing down this bus.

Y. AC Clean Power Bus

1. The AC Clean Power Bus shall include eight NEMA 5-15 receptacles, to provide AC Clean Power to the ATC Cabinet Assemblies, the Controller and Cabinet Power Supply. The AC Clean Power Bus shall be a 1U rack mounted assembly.

Z. Slide-Out Drawer/Shelf

1. A telescoping slide-out drawer shall be provided for document storage. The Slide-Out Drawer/Shelf shall be mounted across the EIA rails and include a lip or handle for pulling. The Slide-Out Drawer/Shelf shall include sufficient depth to store the CMU MonitorKey Programming Tool.

AA. Service Panel

1. A side panel shall be provided and mounted on the 19" rack on the right side when viewing from the rear of the cabinet. The panel shall be .080" thick minimum and shall be silkscreened to label the components.
2. The panel shall include these items:
 - a. A 13-position minimum neutral bus.
 - b. A 13-position minimum equipment ground bus.

BB. Detector Test Switch Assembly

1. The Detector Test Switch Assembly shall allow a technician to initiate a call to the controller by actuating the detectors in the Input Assembly. This allows the detectors to be tested without a loop or pedestrian push button actuation. The Detector Test Switch Assembly shall include (24) toggle switches. The switches shall be configured for On (constant call), Off (calls are only actuated through the detector) and Call (momentary call). The switches shall be C&K Component's model 7107SYZQE or equivalent. The assembly shall include (24) red LED indicators to indicate that a call has been initiated by the corresponding switch. The LED indicators shall be Avago model HLMP-C025-P0000 or equivalent. The detector switch calls shall be routed through the SIU located in the Input Assembly. The assembly shall not include a separate SIU. Multiple Detector Test Switch Assemblies may be used if multiple Input Assemblies are included in the cabinet. The connection to the Input Assembly shall be through a ribbon cable connection. The Detector Test Switch Assembly shall be 1U height and mounted across the EIA rails.

CC. ATC Cabinet Plugins

1. Model 2202-HV High-Density Switch Pack/Flasher Unit (HDSP/FU)
 - a. The HDSP/FU shall be compact, pluggable, modular PCB-based, and equipped with DIN connectors. The HDSP/FU shall be compatible with ultra-low power LED signal heads and it shall have a current monitoring feature for each output of each channel. The HDSP/FU shall use real-time standardized serial high-speed communication with the Cabinet Monitor Unit to send a complete set of RMS voltage and load current measurements. The HDSP/FU shall be 4.5 inches high by 6.5 inches deep, and shall be equipped with a Lexan handle, reset push-button switch, six RYG LED indicators, four flasher LED indicators, one power LED indicator and two Rx/Tx LED indicators. The HDSP-FU can function as either a Switch Pack (HDSP) or as a Flasher Unit (HDFU).
 - 1) When installed in the Output Assembly, the High-Density Switch Pack (HDSP) shall provide two RYG channels of operation (6 individual field outputs).
 - 2) When installed in the Service Assembly, the High-Density Flasher Unit (HDFU) shall function as a four-output flasher.

2. Model 2212-HV Cabinet Monitor Unit (CMU)
 - a. The Cabinet Monitor Unit (CMU) shall be compact, pluggable and modular. The CMU shall use real-time standardized 614.4 Kbps SDLC communications with the ATC to transfer command and response data on Serial Bus #1 (SB1). The CMU shall be capable of monitoring up to 32 physical switch pack channels (RYG) and shall have an optional four virtual channels. The CMU shall provide a Flasher Alarm feature. This alarm shall not put the cabinet into a Flash condition. The CMU shall analyze the ATC output commands and field input status to isolate the failure source by channel and color. The CMU shall include an Ethernet port to support remote connections to the unit.
 - b. The CMU configuration programming shall be provided by an interchangeable Datakey non-volatile memory device. This rugged key shall store all CMU configuration parameters and shall eliminate programming using jumpers, diodes, or DIP switches. The CMU shall maintain a non-volatile event log recording the complete intersection status as well as time-stamped previous fault events, AC Line events, configuration changes, monitor resets, cabinet temperature and true RMS voltages and currents for all field inputs. The signal sequence history log stored in non-volatile memory shall graphically display up to 30 seconds of signal status prior to the fault trigger event with 50 ms resolution to ease diagnosing of intermittent and transient faults.
3. Model 2218 Serial Interface Unit (SIU)
 - a. The Model 2218 Serial Interface Unit (SIU) shall be compact, pluggable and modular. The SIU shall use real-time standardized 614.4 Kbps SDLC communications with the ATC to transfer command and response data on Serial Bus #1 (SB1). The SIU shall be equipped with 54 programmable input/output pins, four optically isolated input pins, one line sync reference input pin and four address select input pins. The optically isolated inputs shall work with either 12 VAC or 24 VDC. The SIU outputs shall be rated at 150 mA continuous sink current. Each output shall provide a 500 mA typical current limit and shall be rated to 50 V and utilize a voltage clamp for inductive transient protection. The SIU shall be equipped with a front panel LED indicator that can report the current SIU assembly address assignment of the SIU for cabinet configuration verification. The SIU shall require a nominal supply voltage of 24 VDC (+/-2 VDC). A voltage of 16 VDC or less shall be considered loss of power and a voltage of 18 VDC or greater shall be considered adequate for operation. The SIU shall not require more than 300 mA over the voltage range of 16 VDC to 30 VDC and the power surge shall be limited to a maximum of 1.25 Amperes from initial application of DC power. The SIU shall not be damaged by insertion to, or removal from, powered input or output assemblies. The SIU shall operate normally for 700 milliseconds after power loss.
4. Model 2220 Auxiliary Display Unit (ADU)
 - a. The ADU shall install in a 1U rack space and shall provide a menu driven user interface to the enhanced features of the CMU monitor including the built-in Diagnostic Wizard. The ADU shall provide 32 channels of Red, Yellow and Green LED indicators that display full intersection status and 32 Blue fault status LED indicators to identify faulty channels. The ADU shall provide proper electrical

termination to SB3. The ADU shall have a 4 line by 20-character menu driven liquid crystal display with backlight and heater. The ADU built-in Diagnostic Wizard shall automatically pinpoint faulty signals, offer trouble-shooting guidance and automatically isolate and identify problems. The ADU shall be equipped with Event Logging displaying the CMU time-stamped non-volatile event log records with the complete intersection status as well as AC Line events, monitor resets, temperature and true RMS voltages and currents.

5. Model 2216 Cabinet Power Supply (CPS)

- a. The Model 2216 Cabinet Power Supply is a modular 19-inch rack mounted power supply device providing the DC voltages necessary for operating the ATC Cabinet. Power Factor Correction shall be provided. The PS2216-24-HV provides a regulated 24 VDC output and a regulated 48 VDC output. The PS2216-2412-HV model provides a regulated 24 VDC output, a regulated 48 VDC output, and a regulated 12 VDC output option for powering the Input Assembly devices. Unless otherwise specified, all PS2216 requirements apply to both model types. The CPS shall be 1U (1.7") in height maximum and designed to mount into a 19-inch EIA rack. The maximum depth of the PS2216 shall be less than 8.0 inches. The CPS shall be powered from AC Line provided by an AC Line cord with a NEMA Type 515 plug. The input voltage range shall be 80 to 270 VAC, 45 to 65 Hz. Power Factor Correction shall be greater than 0.95.
- b. The PS2216-2412 shall provide:
 - 1) 48 VDC +/- 2 VDC at 1 Amp maximum
 - 2) 24 VDC +/- 2 VDC at 4 Amps maximum
 - 3) 12 VDC +/- 1 VDC at 5 Amps maximum
- c. Each DC output shall be electrically isolated from AC Mains and Earth Ground. The 24 VDC and 12 VDC outputs share a common ground. The DC Output Ripple on each output shall be less than 300 mVpp when measured at 20MHz of bandwidth using a 12 inch twisted pair-wire terminated with a 0.1uf and 47uf capacitor. The DC outputs shall attain regulated output levels within 500 milliseconds of applied AC Line voltage of 110 VAC nominal across the operating temperature range and at rated full load. The DC outputs shall maintain regulated output level for a minimum of 50 milliseconds across the operating temperature range and at rated full load. All indicators shall be clear LEDs. Clear LEDs shall not depend on a reflector or diffusion as part of its design. Clear LEDs shall not appear to be ON when exposed to ambient light. The following indicators shall be provided:
 - 1) A green AC Line indicator shall illuminate to indicate Operational input voltage is proper and the AC Line fuse is intact.
 - 2) A green indicator shall illuminate to indicate the 48 VDC output is active and the fuse is intact.
 - 3) A green indicator shall illuminate to indicate the 24 VDC output is active and the fuse is intact.
 - 4) A green indicator shall illuminate to indicate the 12 VDC output is active and the fuse is intact (PS2216-2412 Only).

- d. Banana style test jacks shall be provided on the front panel for each DC output and DC ground. Mating banana plug spring width shall be 0.175 inches nominal. The output connector shall be a Phoenix Contact 1825161 and shall mate with a Phoenix Contact 1825352 or equivalent. Pin #1 shall be the right most pin when viewed from the rear of the supply.
- e. Table 2 – Power Supply Connector Pin-Out

Pin	Function
1	+48VDC
2	48VDC Ground**
3	+24VDC
4	+12VDC (PS2216-2412 Only)
5	24/12VDC Ground
6	Chassis Ground

**Note that the 48 VDC output shall be electrically isolated from the AC Line input and the 24VDC and 12 VDC outputs. The 48VDC Ground (pin #2) must be connected within the cabinet to the same AC Neutral that the Cabinet Monitor Unit (CMU) is connected to in the cabinet.

- 6. MonitorKey Programming Tool
 - a. The Programming Tool provides the capability to read and write data from the CMU Datakey device. The MonitorKey software shall be compatible with the CMUip-2212. One Programming Tool shall be supplied with each new cabinet. The Programming Tool shall be stored in the cabinet's Slide-Out Drawer/Shelf.
- 7. Model 21H High-Density Flash Transfer Relay (HDFTR)
 - a. The HDFTR shall be a Struthers-Dunn model 21XBHHL-48VDC or approved equal. The HDFTR shall have a hermetically sealed cover and shall be moisture proof. The HDFTR shall be filled with dry nitrogen to protect contacts from corrosion and to prevent condensation. The HDFTR shall have a cupronickel cover that is salt water resistant. The HDFTR contacts shall be rated at 10 Amps @ 120 VAC. The coil of the HDFTR shall be rated at 48 VDC. The HDFTR shall have an LED indicator to display contact transfer status.
- 8. Main Contactor (MC)
 - a. The MC shall be a combination solid-state and electromechanical relay in parallel and shall be rated at 60 Amps @120 VAC and 50 Amps @ 240VAC. The coil of the MC shall be rated at 48 VDC. The MC shall be equipped with input indicator and shall have SPST- N.O. contacts. The MC shall be hermetically sealed. The MC shall be easily accessible without removing any covers or panels. The MC shall be mounted on the service panel for access to the wiring and to view the LED indicator.

9. Cabinet Suppressor-Filter

- a. The cabinet shall be equipped with a pluggable Cabinet Suppressor-Filter, mounted in the Service Assembly. The pluggable Cabinet Suppressor-Filter shall be an Asco Power SHA-1250, Hesco HE1750, or approved equivalent. The unit shall incorporate the use of warning and failure indicators and shall have a dry relay contact remote sensing circuit. The unit shall be modular and pluggable with a 12-position Beau 5412 connector. The unit shall be rated at continuous service current of 15 Amp and maximum clamp voltage of 390 VAC. The unit shall filter noise and spike from 10 KHz to 25 MHz and shall have a peak surge current of 48 KA.

10. Detection Module Suppressor

- a. The Detection Module Suppressor shall be Hesco model HE6LC-6 or Asco Power model MRA-6LC-6. The Detection Module Suppressor shall be modular and pluggable. The unit shall be epoxy encapsulated and equipped with 6-position 5.08 mm Phoenix Contact or approved equal connector. The unit shall be able to protect 6 circuits. The device operating voltage shall be 75 VAC and clamping voltage shall be 130 VDC. The device dimensions shall be 2" H x 0.7" W x 1.2" D.

11. HDSP Protector

- a. The HDSP Protector shall be modular and pluggable. The unit shall be a Hesco HE103C-9, Asco MPA303-9, or approved equal. The unit shall be epoxy encapsulated and equipped with 9-position 5.08 mm Phoenix Contact connector or approved equal. The unit shall be able to protect 6 circuits. The device operating voltage shall be 120 VAC and clamping voltage shall be 340 VAC. The unit dimensions shall be 2" H x 0.7" W x 2" D.

DD. Auxiliary Cabinet Equipment

1. Ventilation Fan

- a. A thermostatically controlled fan shall be provided to ventilate the cabinet. The fan shall operate at 48VDC and be powered by the cabinet power supply. Each electric fan shall be equipped with ball or roller bearings and shall have a minimum capacity of 100 cubic feet of free air delivery per minute. The fan shall be protected by a finger guard. The fan circuit shall be protected at 125% of the fan motor ampacity.

2. Thermostat

- a. The fans shall be thermostatically controlled and shall be manually adjustable to turn on between 32°F and 140°F with a differential of not more than 20°F between automatic turn on and off. The manual adjustment shall be graded in 20°F increment scale. The Thermostat shall be an Omega KT01101141900 or approved equal.

3. Cabinet Lighting

- a. The cabinet shall include two (2) LED light strips to illuminate the interior of the cabinet.
- b. The LED light strips shall be mounted near the ceiling of the cabinet, with one panel mounted above each door. The LEDs shall be mounted on aim-able brackets. Both

LED strips shall illuminate whenever either door is opened. The LED strips shall be Superbright LBFA series.

4. Generator Switch panel

- a. The cabinets shall be supplied with a generator panel. The generator panel shall consist of a manual transfer switch and twist-lock connector for generator hookup. The manual generator transfer switch shall be Reliance Controls model CSR302 or approved equal. The transfer switch and twist lock connector shall be located inside the generator access panel with separate lockable door mounted on the lower left, exterior of the control side wall of the cabinet. The door shall be equipped with a tamper resistant hinge. The generator panel assembly shall be housed in a heavy duty, vandal resistant, weatherproof, dustproof, enclosure designed for exterior applications. The connection to an external generator shall be waterproof, secure connection. The connection shall allow authorized personal: to access, connect and secure an external electrical source to the cabinet for power restoration. The generator panel door shall be constructed with a weatherproof seal and supplied with a lock accessed with a #1 skeleton key only.

5. Field Monitoring Unit (FMU)

- a. Each ATTC shall be supplied and installed with an activated Field Monitoring Unit. The FMU shall be Applied Information model AI-500-085-02. The FMU shall be capable of cabinet monitoring, preemption, priority, GPS, video streaming and Connected Vehicle applications. The FMU shall have a built in 4G modem, capable of future upgrades to 5G. The FMU shall be supplied with a Support Plan that includes factory support, free over the air updates for the life of the plan, hardware warranty for the life of the plan and a cellular data plan (determined in years by designer) that covers all overage fees.

6. Documentation

- a. The contractor shall supply (3) full sets of cabinet wiring diagrams. The wiring diagrams shall depict all of the as built cabinet wiring routing and terminations. Each in cabinet device shall be labeled on the wiring diagrams.

7. Testing

- a. Each cabinet assembly shall be tested as a complete entity under signal load. The cabinet shall be assembled and tested by the manufacturer or authorized local distributor to ensure proper component integration operation.

EE. Component Requirements

1. Service Assembly Components Requirements

- a. Service Assembly (1-HDFU)
- b. (1 each) Model 2202-HV HDFU
- c. (1 each) Cabinet Suppressor-Filter

2. Output Assembly Components Requirements

- a. Output Assembly (16-Channel)
- b. (16 each) Model 2202-HV HDSP

- c. (1 each) Model 2218 SIU
- d. (1 each) Model 2212-HV CMU
- 3. Field Output Panel Components Requirements
 - a. Field Output Panel (16-Channel)
 - b. (8 each) Model 21H HDFTR
 - c. (8 each) HDSP Suppressor
 - d. (16 each) Red Flash Program Block
 - e. (4 each) Yellow Flash Program Block
 - f. (4 each) White Flash Program Block
- 4. Input Assembly Components Requirements
 - a. Input Assembly (24-Channel)
 - b. (1 each) Model 2218 SIU
 - c. (variable by location) Detection Module
 - d. (variable by location) Isolation Module (242L)
- 5. Field Input Panel Components Requirements
 - a. Field Input Panel (24-Channel)
 - b. (12 each) Detection Module Suppressor
- 6. Cabinet Components Requirements
 - a. DC Power/Communications Bus
 - b. AC Clean Power Bus
 - c. Detector Test Switch Assembly (optional)
 - d. (1 each) Model 2220 ADU
 - e. (1 each) Model 2216-24 CPS

16.04 *Field Monitoring Unit (FMU)*

- A. This item of work shall conform to this specification. This item shall consist of furnishing and installing a Field Monitoring Unit (FMU) and software, as well as all needed accessories required for a full and complete installation, including but not limited to power adapters, Ethernet cables, and interface cables, as described herein.
- B. For all intersections as part of the project, communications from the town's signal system to the on-street traffic signal controller shall be made through the Field Monitoring Unit (FMU) as shown on the plans. The Contractor shall furnish and install all materials necessary for a complete and operational connection to all project intersections as shown on the plans. All connections to the town's signal system shall be via a secure VPN network.
- C. The FMU shall be the only remote connection device used by isolated intersections to connect to the town's signal system. All connections shall be encrypted VPN tunnels. The Contractor shall coordinate all configuration settings with town IT and the Engineer.

- D. The FMU shall be Applied Information model as called out in 718.08.
- E. The Contractor shall be responsible for determining which compatible cellular provider can provide the best network coverage to the shelf mount FMU for remote communications to the CMS and provide the proper SIM card on a per site basis.
- F. The FMU central web based interface shall be a separate element from the town's signal system.
- G. The Contractor shall provide sufficient slack cable to the shelf mount FMU harness so the device can be rotated around without having to disconnect the harness.
- H. The Contractor shall procure a high gain antenna in lieu of the standard FMU petri dish antenna.
- I. The materials for this work shall conform to the following requirements:
 - 1. The work under this item specifies the requirements for the FMU. The FMU shall operate independent of the brand/type of intersection controller deployed in the traffic cabinet.
 - 2. The FMU shall conform to the following requirements:
 - a. The FMU shall function correctly between -34 degrees C and +74 degrees C.
 - b. The FMU shall be provided with appropriately rated connectors that allows the FMU to be exchanged by unplugging connectors, without tools.
 - c. The FMU shall monitor and log all Controller and cabinet faults and or alarms.
 - d. The FMU shall be wired directly to the cabinet.
 - e. The FMU shall contain two individually switchable 120VAC outlets controlled via the cloud-based management software.
 - f. The following two devices shall be plugged into the outlets:
 - 1) Non-Invasive detection system
 - 2) C-V2X/DSRC unit
 - g. The FMU shall have an internal cellular modem running at 5G.
 - h. The FMU shall incorporate an integrated GPS and cell modem.
 - i. The configuration of the FMU shall be accomplished by accessing the internal web server with a browser. It shall be possible to configure the FMU without any special software.
 - j. The FMU shall be powered via a standard 120V input power.
 - k. The FMU shall allow for the routing of the controller configuration packets to and from the controller (either by Ethernet or serial communications) for any type of controller utilized by the MaineDOT. In this way it shall be possible to configure the controller and utilize the controller specific software to interrogate the controller, and the FMU shall provide the communications pipe which allows this to be accomplished.
 - l. The FMU shall be configured to allow for the remote display and control of the connected traffic signal controller via the FMU manufacturer cloud hosted web-

based software. This feature shall not require the end user to create a separate VPN connection to the FMU.

- m. The FMU shall be configured to provide access to view the detection system, including the video image of each approach, via the FMU web-based software. This feature shall not require the end user to create a separate VPN connection to the FMU.
 - n. The FMU shall perform a load test of the connected Battery Backup System (BBS) batteries on a scheduled or on demand basis (if applicable).
 - o. The FMU shall include web services built into the FMU manufacturer cloud hosted web-based software to allow the installation of 3rd party software programs and the software programmed hosted at no additional charge.
 - p. The FMU shall, within the size limitations above, include a battery and battery charging/monitoring circuit, to allow the FMU to function correctly even when all power to the intersection has failed. The battery shall continue to power the FMU for a minimum of 5 hours after all power has failed to the intersection.
 - q. The FMU shall incorporate an integrated GPS which will allow the FMU to geo-locate itself on the FMU management software map, without configuration.
 - r. The FMU shall operate without requiring a static IP address. The only configuration required at the FMU is to enter the URL of where the FMU management software is hosted.
 - s. In the event that the cell service is interrupted or is not available, the FMU shall store any events that occur in internal memory and forward these events automatically to the FMU management software when the cell service is restored. In this way, a complete record of events at the device can be maintained even if cell service is interrupted for a period. The system will store 5000 events.
 - t. The FMU shall utilize HTTP and HTTPS protocols, and XML data structures, for communication with the FMU management software. In this way the data will be open for future expansion and competition. The use of secret proprietary protocols is not permitted.
 - u. The FMU shall include Ethernet communications via an Ethernet Port with RJ45 connector.
 - v. The FMU shall include weather proof high gain antennas.
3. Map Display FMU Management Software
- a. The FMU shall include a scrollable, zoomable map display, with the intersections and other monitored devices shown as representative icons on the map. The map shall include the ability to see the intersections using Google Streetview.
 - b. The alarm status of the intersection shall be clearly indicated on the icon on the map, so that the user can see at a glance which intersections are in alarm.
 - c. The map display shall also include a list of intersections, with the number and priority of alarms indicated on the list. Intersections in high priority alarm shall be moved to the top of the list, followed by medium priority, low priority and then finally by intersections not in alarm.

- d. The icons shall change to be able to clearly indicate if an intersection is offline.
 - e. Clicking on the icon on the map shall expose a box with the current parameters of the intersection shown.
 - f. The default map display position and zoom shall be configurable by user, so that the user's view will default to show the intersections that the user is responsible for managing.
 - g. The map view shall have the ability to show Google traffic overlays on the map.
4. Intersection Detail Display FMU Management Software
- a. It shall be possible to identify, either from the map icon or from the list, to a device level detail for the intersection, which as a minimum shall display the following parameters:
 - 1) The alarm status, with priority indicated, and a text description of the alarm (if an alarm is present for this device).
 - 2) The time since the last communication with the device
 - 3) The following parameters (real time now values, minimum for the day values, maximum for the day values, and average for the day values)
 - i) The AC mains voltage (value)
 - ii) The battery back-up voltage (value)
 - iii) The cabinet temperature (value)
 - iv) The cabinet humidity (value)
 - v) The presence of AC power (OK or Fail)
 - vi) The flashing status of the intersection (OK or Flashing)
 - vii) Stop Time status (OK or Stop Time Active)
 - viii) The cabinet door status (Open or Closed)
 - ix) The intersection fan status (Fan On or Fan off)
 - 4) It shall be possible to view graphs of each of the value parameters in graphical form, over the recent two-week period. This includes real time graphs of:
 - i) The AC mains voltage
 - ii) The battery back-up voltage
 - iii) The cabinet temperature
 - iv) The cabinet humidity
5. Diagnostics and Log Display FMU Management Software
- a. From the device level detail within the FMU management software, it shall be possible to drill down to get the raw data; the error logs; and the communications logs to allow a technician to fault-find problems.
 - b. It shall be possible to filter the logs by Device; by Device Type and/or by Group as well as between dates.

- c. It shall be possible to print these selected logs to a local printer or a PDF file.
 - d. It shall be possible to export these logs to Excel on the local computer for further analysis.
6. Alarms FMU Management Software
- a. The FMU management software shall have a comprehensive alarm generation capability
 - b. It shall be possible to configure alarms to be generated on any parameter becoming out of tolerance, including analog values, digital values and enumerated values.
 - c. Alarms shall be configurable to be of Low, High or Critical Priority.
 - d. The alarm priority shall be displayed throughout the FMU management software, on all displays, using color codes such as red-critical; yellow – high; and amber-low to indicate the priority of the alarm.
 - e. The current active alarms shall be accessible for view via an expandable window, to see which alarms are active and when the alarm occurred. The highest priority alarms shall rise to the top of the list.
7. Alerts FMU Management Software
- a. The FMU management software shall have comprehensive alerting capability, to enable the response personnel to be notified when an abnormal situation has occurred.
 - b. It shall be possible to configure alerts to one or more personnel for each alarm. This will cause, as selected, an SMS and/or an email to be sent to the person when an alarm occurs.
 - c. The alert shall be configurable to optionally send via email and/or via SMS a message when an alarm clears.
 - d. The intention is that the FMU management software provides the alerts to the user in near real time. The SMS and email shall be issued within 30 seconds of the occurrence of event which results in an alert being issued.
8. Hosting and Connectivity and Service FMU / FMU Management Software
- a. The contractor shall supply the FMU with the FMU manufacturers 10 year options for Connectivity and Service, as part of the purchase price. The Connectivity and Service agreement shall include at a minimum:
 - 1) Cellular Connectivity
 - 2) No cellular overage charges
 - 3) Extended warranty on the hardware for the period of the Connectivity and Service Agreement
 - 4) Over-the-air software updates
 - 5) Over-the-air security updates
 - 6) Remote Front Panel of the connected traffic signal controller

- 7) SPaT message broadcast to mobile device application
- 8) The FMU shall be configured for SPaT data.
- 9) The FMU shall be supplied with the unlimited video/data streaming service.
- 10) The FMU shall be configured with Traffic Signal Controller remote front panel access.
- 11) The FMU shall be configured to supply streaming video from the detection system.
- 12) At the time of the shop drawing submittal, Contractor shall supply a detailed list of available FMU functions for the agency consideration
- 13) Future Connected Vehicles Service

16.05 *Emergency Vehicle Preemption System*

- A. The emergency vehicle preemption systems shall be installed as shown in the plans. All new or modified traffic signal controller cabinets shall provide Optical Emergency Vehicle Preemption. The emergency vehicle preemption system shall be GTT OPTICOM Priority Control System Model 700 series installed in the same cabinet as the controller.
- B. The emergency vehicle preemption control system shall consist of a data-encoded phase selector to be installed within the traffic control cabinet. This unit will serve to validate, identify, classify and record the signal from the optical detectors located on support structures at the intersection. Upon receiving a valid signal from the detector, the phase selector shall generate a preempt call to the controller initiating a preemption operation as shown on the plans.
- C. The optical detectors shall be single input, single output units used to control one approach. The optical detectors shall be GTT OPTICOM model 711 series.
- D. The phase selector shall be a rack-mounted, plug-in, four channel, dual-priority device manufactured by GTT OPTICOM model 700 series with built in Ethernet port. The phase selector shall plug into the Loop Detector Rack. Programming the phase selector shall be via a PC-based computer utilizing unit specific software.
- E. Emergency Vehicle Preemption system must be approved by the Fire Department for system compatibility. No " or equal" will be accepted.
- F. In addition, the system shall be configured such that preemption or priority control can be initiated through the Dedicated Short-Range Communications (DSRC)/4GLTE – 5G Roadside Unit (RSU) by means of an approaching authorized vehicle with an On-Board Unit (OBU).

16.06 *Vehicle Detection*

- A. Stop line and advance radar based vehicle detection shall be installed as shown in the plans. This specification sets forth the minimum requirements for a system that detects traffic on a roadway using Hawkeye Equipment in support of both local free and adaptive operations. At a minimum, the following shall be procured:
 1. In|Sync System with Radar based detection and queue analysis. ATSPM Module included.
 2. Includes hardware (Intercept Module) for SDLC integration.

3. Hawkeye Equipment Panel for intersections with up to 3 sensors
 4. Visual context camera for Hawkeye Detection system. Includes 1 Axis 2600 130 Degree View - Wide Angle Camera
 5. Hawkeye Junction Box – Required per each radar detector
 6. Mounting Hardware for Radar. Bracket comes standard with surge protector and 3 axis configuration capability
 7. SDLC Module
 8. Cable, Dual Serial IM / SDLC
 9. Cable, SDLC to BIU (1)
- B. Installation instructions and supporting documentation for Hawkeye equipment is available by contacting Rhythm Engineering. It is the responsibility of the contractor to retain a representative from Rhythm Engineering on site to assist as needed.

16.07 *Ethernet Managed Switch*

- A. This specification sets forth the minimum requirements for an environmentally hardened Ethernet Managed Switch (EMS) that provides connection to all Ethernet equipment as shown on the plans.
- B. System Hardware
1. The Ethernet Managed Switch shall be a ComNet CNGE3FE8MS. The module shall support transmission utilizing Category 5 cable or better and multimode or single-mode fiber through the use of additional SFP modules. The unit shall support the Ethernet data IEEE 802.3 protocol using Auto-negotiating and Auto-MDI/MDI-X features. The unit shall feature eight 10/100TX RJ-45 ports and three 100/1000FX SFP ports. The unit shall require no in-field electrical or optical adjustments or in-line attenuators to ease installation. The unit shall provide power, link speed, and fiber port status indicating LED's for monitoring proper system operation. The unit shall have redundant power supply connections to minimize single point failures. The unit shall provide a serial connection for local management of the device, as well as a web-based configuration and management interface hosted on the device. The unit shall have a lifetime warranty to reduce system life cycle cost in an event of a unit failure. The EMS shall be installed in the cabinet as shown on the plans and or as directed by the Engineer.
 2. The EMS shall support the following IEEE Networking Standards:
 - a. IEEE 802.3 10Base-T Ethernet
 - b. IEEE 802.3u 100Base-TX Fast Ethernet
 - c. IEEE 802.3ab 1000Base-TX
 - d. IEEE 802.3z Gigabit Ethernet Fiber
 - e. IEEE 802.3x Flow Control and Back-pressure
 - f. IEEE 802.1p class of service
 - g. IEEE 802.1Q VLAN and GVRP
 - h. IEEE 802.1D-2004 Rapid Spanning Tree Protocol (RSTP)

- i. IEEE802.3ad LACP
 - j. IEEE802.1X Port based Network Access Control
3. The EMS shall provide the following switch performance:
- a. Switch Technology: Store and Forward Technology with 32Gbps Switch Fabric.
 - b. System Throughput: 14,880pps for 10M Ethernet; 148,800pps for 100M Fast Ethernet; 1,488,100 for Gigabit Ethernet
 - c. Transfer Packet Size: 64 bytes to 1522 bytes (with VLAN Tag)
 - d. MAC Address: 8K MAC
 - e. Packet Buffer: 1Mbits
 - f. Relay Alarm: Dry Relay output with 1A@24V ability

16.08 *Small Form-Factor Pluggable (SFP) Optic Modules*

- A. This specification sets forth the minimum requirements for SFP Optic Modules. SFP devices shall be a ComNet SFP-(x) Series module (Network specific). The interchangeable SFP modules supplied shall support single-mode optical fiber. The optical fiber SFP modules shall support Gigabit Ethernet transmission and accommodate two fiber strands via a duplex LC optical connector. The supplied SFP modules shall operate at the 1310 nm wavelengths with optical power to support transmission up to 15 kilometers. The module shall require no in-field electrical or optical adjustments or in-line attenuators to ease installation. The module shall have a MTBF of > 100,000 hours and operate in an environment of -40° C to +75° C and relative humidity between 0% to 95% (non-condensing). The module shall be UL and ULC listed and CE marked. The circuit board shall be UL 94 flame rated and meet all IPC standards. All PC boards shall be designated with part number, PC board number and show appropriate revision number. Housing shall be of all metal construction. The module shall have a lifetime warranty to reduce system life cycle cost in an event of a module failure.

16.09 *Vehicle Signals*

- A. This specification sets forth the minimum requirements for vehicle traffic control signals.
- B. Shall be Mobotrex/Eagle Traffic Control Systems Co. Model SG series with 12" diameter lens, or as specified on the plans, and meet the following requirements.
- C. Body
- 1. Shall be a one-piece aluminum unit with integral serrations at 5-degree increments in the end sections. Each body shall provide for mounting terminal blocks and attaching back plates. The body shall be painted Moss Green.
- D. Doors
- 1. Shall be a one-piece aluminum unit equipped with stainless steel hinge pins. Thumbscrews shall hold the door against the body. The door shall be painted Moss Green.
- E. Visors

1. Shall be one-piece aluminum, either cap or tunnel style, as specified on the plans, with slotted mounting holes. The visor shall be painted Moss Green on the inside of the visor and Moss Green on the outside of the visor.
- F. LED
1. For uniformity and interchangeability, all Red, Yellow, and Green signal indications shall be manufactured by Leotek or Dialight.
- G. Red and Green LED
1. All Red and Green signal modules shall conform to "Interim LED Purchase Specification of the Institute of Transportation Engineers, Vehicle Traffic Control Signal Heads –Part 2; Light Emitting Diode (LED) Vehicle Signal Modules" July 1998 or most current version, Institute of Transportation Engineers, (ITE), 525 School St, SW, Suite 410, Washington DC, 20024-2797.
- H. Yellow LED
1. Shall conform to the above specification with the exception that the yellow modules shall meet Maintained Minimum Luminous Intensity values of Table 1, Section 4 of the above referenced ITE specification of compliant green signal modules at 25°C at 120 volts AC, throughout the useful life based on typical use in traffic signal operation over the specified temperature range.
- I. Backplate
1. Shall be either Louvered with 2" Reflective Yellow Taped Border or Non-Louvered (Flat) with 3" Reflective Border.

ARTICLE 17 – WASTE MATERIAL AND WASTE AREAS

17.01 *General*

- A. The Contractor shall be responsible for the removal and disposal of waste in accordance with all applicable local, state and federal laws and regulations. All waste material shall be removed from the site and the area left clean upon completion of work.

ARTICLE 18 – OCCUPATIONAL SAFETY AND HEALTH

18.01 *Requirements*

- A. The Contractor is hereby advised that all work to be furnished to the Owner shall be performed with equipment, methods, and use of personnel in conformance with the pertinent Occupational Safety and Health Act requirements of the State of Maine and with the regulations for construction as specified by the Department of Labor and Occupational Safety and Health Administration (OSHA) as currently amended.
- B. The extent of excavation open at any one time shall be controlled by OSHA regulations and by existing conditions and location of work area.

ARTICLE 19 – LIMITATION OF OPERATIONS

19.01 *Progress of Work*

- A. The Contractor shall conduct the work at all times in such a manner and in such sequence as will assure the efficient and coordinated progress of the work. The Owner may require the Contractor to finish a section on which work is in progress before work is started on any additional sections, if finishing such section is essential to convenience or the project.

ARTICLE 20 – DUST CONTROL FOR STREET

20.01 *Calcium Chloride*

- A. Calcium chloride shall be spread only on disturbed unpaved areas. Calcium chloride shall not be spread on paved areas that are covered by granular material. These areas shall be swept clean of all granular material. Dust on paved areas shall be controlled with water before sweeping. Contractor shall apply additional applications of calcium chloride and water as necessary and/or directed by the Owner throughout construction.

ARTICLE 21 – MAINTENANCE AND DEFECT GAURANTEE

21.01 *Warranty*

- A. The Contractor shall warranty the project free from defects for a period of one year from the date of substantial completion and acceptance by the owner.