ADDENDUM #1

City of South Portland
Chemical Storage Tank Replacement

February 22, 2018

The attention of contractors submitting bids for the work named in the above Invitation is called to the following modification to the documents as were issued.

The items set forth herein, whether of clarification, omission, addition, and/or substitution, shall be included and form a part of the Contractor's submitted material and the corresponding Contract upon execution. No claim for additional compensation, due to lack of knowledge of the contents of this Addendum shall be considered.

ALL BIDDERS ARE ADVISED THAT RECEIPT OF THIS NOTICE MUST BE DULY ACKNOWLEDGED BY THE INSERTION OF THE ACKNOWLEDGEMENT OF BID ADDENDUMS FORM SIGNED AND SUBMITTED WITH THE CONTRACTOR'S BID

THE FOLLOWING LISTING PROVIDES QUESTIONS RAISED BY BIDDERS AS WELL AS THE CORRESPONDING RESPONSES.

1. Q1: Can we remove all three tanks the same day?
   R1: The City does not chlorinate over the winter so the whole system is down. We start chlorinating May 15 through till the end of October. Therefore, all three tanks could be removed the same day.

2. Q2: Is there hypo in them now?
   R2: The tanks are empty except maybe for an inch in the bottom which the City will clean out.

3. Q3: Can the existing flex connections be re-used?
   R3: We are looking to replace the existing flex connection.

4. Q4: You have added a 3 inch fitting on top for a level instrument. Are you providing the level instrument?
   R4: The level instrument will be put in by the City at a later date.
5. Q5: Is a 5% bid bond required?
   R5: Bid bond not required.

6. Q6: Is a performance and payment bond required?
   R6: Performance and payment bond not required.

7. Q7: Is there an actual bid form needed to submit a bid for this project?
   R7: The City is now using the EJCDC Contract short form for projects less than $100,000. This is the first time we have used this document. The idea here is to make small projects less onerous to the Contractors along with not adding unnecessary costs to the project as well. For the bid the Contractor shall submit Section 00 52 10. Within this section at the top of the page 4.05 Payment is the area you will write in your bid amount.

8. Q8: Are there drawings showing the desired fitting locations, sizes, etc.
   R8: We do not have a drawing of the desired fitting locations, sizes, etc. We have used Snyder Tanks in the initial construction in the 1995 Upgrade and have replaced these tanks once already. Again using Snyder Tanks. John Cook representing Snyder Tanks was up the other day to review the tanks. They have the information from the two previous installation already so we didn’t feel we needed to include this information.

9. Q9: The tanks may not be ready by the May 1st deadline with a 7 week lead time not including submittal approval. Is there another option?
   R9: We have heard feedback from a number of contractors and Snyder on the lead time for these tanks to be delivered and installed by May 1st. After review internally with the Operations and Maintenance staff along with Administration, we concluded a temporary system would not be feasible along with the additional associated cost. Remember we chlorinate between April 15 to October 31. We will proceed with the bidding for this project. The Substantial Completion deadline will be changed from May 1st to November 23 with the Final Completion date of November 30th. This will give ample time for the Contractor to submit and get approved the Submittals. This will also allow enough time to fabricate the tanks for delivery the second week of November. We have no room onsite to accept these tanks early than November or means to store them properly from UV degradation. The Contractor will be allowed to perform this work between November 5th and November 23rd.
AMEND the SPECIFICATIONS as follows:

**Specification 00 52 10 Contract for Construction of Chemical Storage Tank Replacements**

DELETE “Section 00 52 10 Contract for Construction of Chemical Storage Tank Replacements” in its entirety

REPLACE with the attached revised Section 00 52 10

**Specification 43 41 43 Polyethylene Chemical Storage Tanks, Article 1.01-B.1**

DELETE this article in its entirety

REPLACE with “1. Complete all Work between November 5 and November 23, 2018 for Substantial Completion. Final Completion will be November 30, 2018.”

**Specification 43 41 43 Polyethylene Chemical Storage Tanks, Article 1.03-D.1**

DELETE this sentence in its entirety “The design calculations shall also show the seismic criteria used to size the respective tank restraint system.”

**Specification 43 41 43 Polyethylene Chemical Storage Tanks, Article 1.03-D.2**

DELETE in the first sentence “and site conditions”

**Specification 43 41 43 Polyethylene Chemical Storage Tanks, Article 2.02-B**

DELETE “37’-6” (Maximum)” for Tank Diameter

REPLACE with “142 inches”

**Specification 43 41 43 Polyethylene Chemical Storage Tanks, Article 2.02-B**

DELETE “Siphon” for Outlet Type

REPLACE with “SUMO”
Section 00 52 10

CONTRACT FOR CONSTRUCTION
of
Chemical Storage Tank Replacements

This Contract is by and between City of South Portland (Owner) and ____________________________ (Contractor).

Owner and Contractor hereby agree as follows:

ARTICLE 1 - THE WORK

1.01 Work

A. Work includes all labor, materials, equipment, services, and documentation necessary to construct the Project defined herein. The Work may include related services such as testing, start-up, and commissioning, all as required by the Contract Documents.

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

1. The City uses three 7,000 gallon sodium hypochlorite storage tanks located in the chemical building at the wastewater treatment plant for disinfection processes. The current existing tanks are over 10 years old. The City intends to replace all three tanks.

2. Scope of Work:
   a. Complete all work between November 5 and November 23, 2018 for Substantial Completion. Final Completion will be November 30, 2018.
   b. The City will be responsible for draining and flushing the tanks of any residual sodium hypochlorite prior to removal by the contractor.
   c. Remove/Reinstall existing sodium hypochlorite feed pumps which are skid mounted for easy removal/reinstallation of the tanks. The pumps have electrical plugs to allow for easy disconnection.
   d. Remove/Reinstall all piping that will interfere with the removal/reinstallation of the tanks. Most of the piping already has unions on them.
   e. Remove three existing 7,000 gallon tanks and reinstall three new 7,000 gallon tanks.
   f. Properly dispose of all three tanks per local, State, and Federal codes.
   g. Supply and install new flexible tank connections to each new tank.
   h. Install new piping and fittings as needed for a complete and functional system.
   i. Existing ladders shall be reused.
   j. Test all piping, tanks, and chemical feed pumps to verify a complete and functional system.
ARTICLE 2 - CONTRACT DOCUMENTS

2.01 Intent of Contract Documents

A. It is the intent of the Contract Documents to describe a functionally complete project. The Contract Documents do not indicate or describe all of the Work required to complete the Project. Additional details required for the correct installation of selected products are to be provided by the Contractor and coordinated with the Owner and Engineer. This Contract supersedes prior negotiations, representations, and agreements, whether written or oral. The Contract Documents are complementary; what is required by one part of the Contract Documents is as binding as if required by other parts of the Contract Documents.

B. During the performance of the Work and until final payment, Contractor and Owner shall submit all matters in question concerning the requirements of the Contract Documents, or relating to the acceptability of the Work under the Contract Documents to the Engineer. Engineer will be the initial interpreter of the requirements of the Contract Documents, and judge of the acceptability of the Work thereunder.

C. Engineer will render a written clarification, interpretation, or decision on the issue submitted, or initiate a modification to the Contract Documents.

D. Contractor, and its subcontractors and suppliers, shall not have or acquire any title to or ownership rights to any of the Drawings, Specifications, or other documents (including copies or electronic media editions) prepared by Engineer or its consultants.

2.02 Contract Documents Defined

A. The Contract Documents consist of the following documents:

1. This Contract.
2. Specifications.
3. Drawings.
4. Addenda.
5. The following which may be delivered or issued on or after the Effective Date of the Contract:
   a. Work Change Directives (EJCDC C-940).
   b. Change Orders (EJCDC C-941).
   c. Field Orders.

ARTICLE 3 - ENGINEER

3.01 Engineer

A. The Engineer for this Project is the City of South Portland.

ARTICLE 4 - CONTRACT TIMES

4.01 Contract Times

A. The Work will be substantially completed on or before November 23, 2018 and completed and ready for final payment on or before November 30, 2018.
4.02 Liquidated Damages

A. Contractor and Owner recognize that time is of the essence in the performance of the Contract, and that Owner will incur damages if Contractor does not complete the Work according to the requirements of Paragraph 4.01. Because such damages for delay would be difficult and costly to determine, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty) Contractor shall pay Owner $500 for each day that expires after the Contract Time for substantial completion.

4.03 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 or their subcontractors or suppliers.

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.

D. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for any delay, disruption, or interference caused by or within the control of Contractor or Contractor’s subcontractors or suppliers.

4.04 Progress Schedules

A. Contractor shall develop a progress schedule and submit to the Engineer for review and comment before starting Work on the Site. The Contractor shall modify the schedule in accordance with the comments provided by the Engineer.

B. The Contractor shall update and submit the progress schedule to the Engineer each month. The Owner may withhold payment if the Contractor fails to submit the schedule.
CONTRACT PRICE

4.05 Payment

A. Owner shall pay Contractor in accordance with the Contract Documents at the following lump sum price for all work:

<table>
<thead>
<tr>
<th>Item No.</th>
<th>Description</th>
<th>Unit</th>
<th>Estimated Quantity</th>
<th>Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Chemical Storage Tank Replacements</td>
<td>LS</td>
<td>1</td>
<td></td>
</tr>
</tbody>
</table>

**Total price of Work** $

ARTICLE 5 - BIDDER'S REPRESENTATIONS

5.01 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:

<table>
<thead>
<tr>
<th>Addendum No.</th>
<th>Addendum, Date</th>
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</tbody>
</table>

B. Bidder acknowledges that its Bid will be rejected if the Issuing Office does not have a record that the Bidder has been provided with at least one electronic or hardcopy set of the Bidding Documents from the issuing Office in the name of the Bidder that appears in the Bid.

C. Bidder understands that, if a Contract is to be awarded, it will be awarded to the lowest responsive, responsible Bidder whose evaluation by Owner indicates to Owner that the Award will be in the best interest of the Project and the public.

ARTICLE 6 - INSURANCE

6.01 Insurance

A. Provide insurance certificate showing proof of public liability, and umbrella insurance coverage not less than One Million Dollars ($1,000,000) per occurrence, auto liability insurance coverage not less than One Million Dollars ($1,000,000) combined single limit and provide such workers’ compensation coverage as is required by law. Insurance limits may be amended from time to time. The coverages shall be placed with an insurance company licensed to do business in the State of Maine.

ARTICLE 7 - CONTRACTOR'S RESPONSIBILITIES

7.01 Supervision and Superintendence

A. Contractor shall supervise 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, safety, and procedures of construction.

B. Contractor shall assign a competent resident superintendent who is to be present at all times during the execution of the Work. This resident superintendent shall not be replaced without written notice to and approval by the Owner and Engineer except under extraordinary circumstances.

C. Contractor shall at all times maintain good discipline and order at the Site.

D. 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.

7.02 Other Work at the Site

A. In addition to and apart from the Work of the Contractor, other work may occur at or adjacent to the Site. 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 or adjacent to the Site.

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 new, of good quality and 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 Subcontractors and Suppliers

A. Contractor may retain subcontractors and suppliers for the performance of parts of the Work. Such subcontractors and suppliers must be acceptable to Owner.

7.05 Quality Management

A. Contractor is fully responsible for the managing quality to ensure Work is completed in accordance with the Contract Documents.

7.06 Licenses, Fees and Permits

A. Contractor shall pay all license fees and royalties and assume all costs incident to performing 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.

B. Contractor shall obtain and pay for all construction permits and licenses unless otherwise provided in the Contract Documents.

7.07 Laws and Regulations; Taxes

A. Contractor shall give all notices required by and shall comply with all local, state, and federal 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. 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 if Contractor performs any Work or takes any other action knowing or
having reason to know that it is contrary to Laws or Regulations.

C. Contractor shall pay all applicable sales, consumer, use, and other similar taxes Contractor is
required to pay in accordance with Laws and Regulations.

7.08 Record Documents

A. Contractor shall maintain one printed record copy of all Drawings, Specifications, Addenda,
Change Orders, Work Change Directives, Field Orders, written interpretations and
clarifications, and approved shop drawings in a safe place at the Site. Contractor shall
annotate them to show changes made during construction. Contractor shall deliver these
record documents to Engineer upon completion of the Work.

7.09 Safety and Protection

A. Contractor shall be solely responsible for initiating, maintaining, and supervising all safety
precautions and programs in connection with the Work.

B. 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.

C. All damage, injury, or loss to any property caused, directly or indirectly, in whole or in part,
by Contractor, or anyone for whose acts the Contractor may be liable, shall be remedied by
Contractor at its expense (except damage or loss attributable to the fault of Contract
Documents or to the acts or omissions of Owner or Engineer and not attributable, directly or
indirectly, in whole or in part, to the fault or negligence of Contractor).

D. 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.

E. In emergencies affecting the safety or protection of persons or the Work or property at the
Site or adjacent thereto, Contractor shall 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.

7.10 Shop Drawings, Samples, and Other Submittals

A. Contractor shall review and coordinate the shop drawing and samples with the requirements
of the Work and the Contract Documents and shall verify all related field measurements,
quantities, dimensions, specified performance and design criteria, installation requirements,
materials, catalog numbers, and similar information.
B. 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.

C. With each submittal, Contractor shall give Engineer specific written notice, in a communication separate from the submittal, of any variations that the shop drawing or sample may have from the requirements of the Contract Documents.

D. Engineer will provide timely review of shop drawings and samples.

E. Engineer’s review and approval will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions or programs.

F. Engineer’s review and approval of a separate item does not indicate approval of the assembly in which the item functions.

G. 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.

H. Shop drawings are not Contract Documents.

7.11 Warranties and Guarantees

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.

7.12 Correction Period

A. If within one year after the date of substantial completion, 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 and without cost to Owner, correct such defective Work.

7.13 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 they may be liable.
ARTICLE 8 - OWNER’S RESPONSIBILITIES

8.01 Owner’s Responsibilities

A. Except as otherwise provided in the Contract Documents, Owner shall issue all communications to Contractor through Engineer.

B. Owner shall make payments to Contractor as provided in this Contract.

C. Owner shall provide Site and easements required to construct the Project.

D. If Owner intends to contract with others for the performance of other work at or adjacent to the Site, unless stated elsewhere in the Contract Documents, Owner shall have sole authority and responsibility for such coordination.

E. The Owner shall be responsible for performing inspections and tests required by applicable codes.

F. 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, 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.

G. 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.

H. Owner shall furnish copies of any applicable Owner safety programs to Contractor.

ARTICLE 9 - ENGINEER’S STATUS DURING CONSTRUCTION

9.01 Engineer’s Status

A. Engineer will be the City of South Portland during construction. The duties and responsibilities and the limitations of authority of Engineer as Owner’s representative during construction are set forth in this Contract.

B. Neither Engineer’s authority or responsibility under this Article 9 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.

C. Engineer will make visits to the Site at intervals appropriate to the various stages of construction. Engineer will not be required to make exhaustive or continuous inspections on the Site to check the quality or quantity of the Work.

D. Engineer has the authority to reject Work if Contractor fails to perform Work in accordance with the Contract Documents.

E. Engineer will render decisions regarding the requirements of the Contract Documents, and judge the acceptability of the Work.

F. 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, 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.
ARTICLE 10 - CHANGES IN THE WORK

10.01 Authority to Change 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.

10.02 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 the Work which are: (a) ordered by Owner or (b) agreed to by the parties or (c) resulting from the Engineer’s decision, 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

3. Changes in the Contract Price or Contract Times or other changes which embody the substance of any final binding results under Article 12.

B. 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 11 - DIFFERING SUBSURFACE OR PHYSICAL CONDITIONS

11.01 Differing Conditions Process

A. If Contractor believes that any subsurface or physical condition including but not limited to utilities or other underground facilities that are uncovered or revealed at the Site either differs materially from that shown or indicated in the Contract Documents or 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), 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. After receipt of written notice, Engineer will promptly:

1. Review the subsurface or physical condition in question;

2. Determine necessity for Owner obtaining additional exploration or tests with respect to the condition;

3. Determine whether the condition falls within the differing site condition as stated herein;

4. Obtain any pertinent cost or schedule information from Contractor;
5. 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

6. Advise Owner in writing of Engineer's findings, conclusions, and recommendations.

C. After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor 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.

ARTICLE 12 - CLAIMS AND DISPUTE RESOLUTION

12.01 Claims Process

A. The party submitting a claim shall deliver it directly to the other party to the Contract and the Engineer promptly (but in no event later than 10 days) after the start of the event giving rise thereto.

B. 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. All actions taken on a claim shall be stated in writing and submitted to the other party.

C. 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 45 days, the claim is deemed denied.

D. If the dispute is not resolved to the satisfaction of the parties, Owner or Contractor shall give written notice to the other party of the intent to submit the dispute to a court of competent jurisdiction unless the Owner and Contractor both agree to an alternative dispute resolution process.

ARTICLE 13 - TESTS AND INSPECTIONS; CORRECTION OF DEFECTIVE WORK

13.01 Tests and Inspections

A. Owner and Engineer 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.

B. Contractor shall give Engineer timely notice of readiness of the Work for all required inspections and tests, and shall cooperate with inspection and testing personnel to facilitate required inspections and tests.

C. If any Work 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.

13.02 Defective Work

A. Contractor shall ensure that the Work is not defective.

B. Engineer has the authority to determine whether Work is defective, and to reject defective Work.

C. Prompt notice of all defective Work of which Owner or Engineer has actual knowledge will be given to Contractor.
D. The Contractor shall promptly correct all such defective Work.

E. 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. 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.

ARTICLE 14 - PAYMENTS TO CONTRACTOR

14.01 Progress Payments
A. The Contractor shall prepare a schedule of values that will serve as the basis for progress payments. The schedule of values will be in a form of application for payment acceptable to Engineer. The unit price breakdown submitted with the bid will be used for unit price work. Break lump sum items into units that will allow for measurement of Work in progress.

14.02 Applications for Payments:
A. Contractor shall submit an application for payment in a form acceptable to the Engineer, no more frequently than monthly, to Engineer. Applications for payment will be prepared and signed by Contractor. Contractor shall provide supporting documentation required by the Contract Documents. Payment will be paid for Work completed as of the date of the application for payment.

B. 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.

14.03 Retainage
A. The Owner shall retain 10% of each progress payment until the Work is substantially complete.

14.04 Review of Applications
A. Within 10 days after receipt of each application for payment, the Engineer will either indicate in writing a recommendation for payment and present the application for payment to Owner or return the application for payment to Contractor indicating in writing Engineer’s reasons for refusing to recommend payment. The Contractor will make the necessary corrections and resubmit the application for payment.

B. Engineer will recommend reductions in payment (set-offs) which, in the opinion of the Engineer, are necessary to protect Owner from loss because the Work is defective and requires correction or replacement.

C. The Owner is entitled to impose set-offs against payment based on any claims that have been made against Owner on account of Contractor’s conduct in the performance of the Work, incurred costs, losses, or damages on account of Contractor’s conduct in the performance of the Work, or liquidated damages that have accrued as a result of Contractor’s failure to complete the Work.

14.05 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.

14.06 Substantial Completion

A. The Contractor shall notify Owner and Engineer in writing that the Work is substantially complete and request the Engineer issue a certificate of substantial completion when Contractor considers the Work ready for its intended use. 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. Engineer will make an inspection of the Work with the Owner and Contractor to determine the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify Contractor and Owner in writing giving the reasons therefor.

C. If Engineer considers the Work substantially complete or upon resolution of all reasons for non-issuance of a certificate identified in 14.06.B, Engineer will deliver to Owner a certificate of substantial completion which shall fix the date of substantial completion and include a punch list of items to be completed or corrected before final payment.

14.07 Final Inspection

A. Upon written notice from Contractor that the entire Work 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.

14.08 Final Payment

A. Contractor may make application for final payment after Contractor has satisfactorily completed all Work defined in the Contract, including providing all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of inspection, annotated record documents and other documents.

B. The final application for payment shall be accompanied (except as previously delivered) by:
   1. All documentation called for in the Contract Documents;
   2. Consent of the surety to final payment;
   3. 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;
   4. A list of all disputes that Contractor believes are unsettled; and
   5. 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.

C. 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.

14.09 Waiver of Claims

A. The making of final payment will not constitute a waiver by Owner of claims or rights against Contractor.

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.
ARTICLE 15 - SUSPENSION OF WORK AND TERMINATION

15.01 Owner May Suspend Work

A. At any time and without cause, Owner may suspend the Work or any portion thereof for a period of not more than 60 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.

15.02 Owner May Terminate for Cause

A. Contractor’s failure to perform the Work in accordance with the Contract Documents or other failure to comply with a material term of the Contract Documents will constitute a default by Contractor and justify termination for cause.

B. If Contractor defaults in its obligations, 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. Owner may not proceed with termination of the Contract under Paragraph 15.02.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.

D. 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.

E. In the case of a termination for cause, if the cost to complete the Work, including related claims, costs, losses, and damages, exceeds the unpaid contract balance, Contractor shall pay the difference to Owner.

15.03 Owner May Terminate for Convenience

A. Upon seven days written notice to Contractor, 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.
15.04 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) 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 provided Owner does not remedy such suspension or failure within that time, either stop the Work until payment is received, or terminate the Contract and recover payment from the Owner.

ARTICLE 16 - CONTRACTOR'S REPRESENTATIONS

16.01 Contractor Representations

A. Contractor makes the following representations when entering into this Contract:

1. Contractor has examined and carefully studied the Contract Documents, and any data and reference items identified in the Contract Documents.

2. Contractor has visited the Site, conducted a thorough 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.

3. Contractor is familiar with and is satisfied as to all Laws and Regulations that may affect cost, progress, and performance of the Work.

4. 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:
   a. The cost, progress, and performance of the Work;
   b. The means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and
   c. Contractor's safety precautions and programs.

5. 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.

6. 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.

7. 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.

8. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

9. Contractor's entry into this Contract constitutes an incontrovertible representation by Contractor that, without exception, all prices in the Contract are premised upon performing and furnishing the Work required by the Contract Documents.
ARTICLE 17 - MISCELLANEOUS

17.01 Cumulative Remedies
   
   A. The duties and obligations imposed by this Contract 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.

17.02 Limitation of Damages
   
   A. Neither Owner, 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.

17.03 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.

17.04 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.

17.05 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.

17.06 Controlling Law
   
   A. This Contract is to be governed by the law of the state in which the Project is located.
IN WITNESS WHEREOF, Owner and Contractor have signed this Contract.
This Contract will be effective on __________ (which is the Effective Date of the Contract).

OWNER:

By: __________________________
Title: __________________________

Attest: _________________________
Title: __________________________
Address for giving notices:
________________________________
________________________________

CONTRACTOR:

By: __________________________
Title: __________________________

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

Attest: _________________________
Title: __________________________
Address for giving notices:
________________________________
________________________________

License No.: _____________________ (where applicable)

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