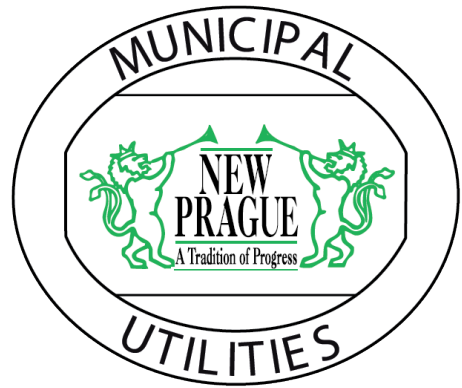


# **Project Manual**

## **West Energy Station Site Grading**

**New Prague Utilities Commission  
New Prague, Minnesota**



**July 2025**

**DGR Project No. 417209**



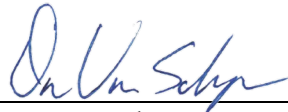
## **Project Manual**

### **West Energy Station Site Grading**

**New Prague Utilities Commission  
New Prague, Minnesota**



I hereby certify that this plan, specification or report was prepared by me or under my direct supervision and that I am a duly Licensed Professional Engineer under the laws of the State of Minnesota.

Signature:   
Dan Van Schepen, P.E.

Date: 7-24-2025 License No. 45596

DGR Project No. 417209

## **DGR Engineering**

1302 South Union Street  
Rock Rapids, IA  
(712) 472-2531  
dgr@dgr.com

**Project Manual**  
**West Energy Station Site Grading**  
**New Prague Utilities Commission**  
**New Prague, Minnesota**

Contact persons for this project are as follows:

**Owner's**

**Representative:**

Bruce Reimers  
General Manager  
New Prague Utilities  
118 Central Avenue N.  
New Prague, MN 56071  
Telephone (952) 758-4401  
E-mail: [breimers@ci.new-prague.mn.us](mailto:breimers@ci.new-prague.mn.us)

**Engineer:**

Dan Van Schepen, P.E.  
Project Manager  
DGR Engineering  
1302 South Union Street  
Rock Rapids, Iowa 51246  
Telephone (712) 472-2531  
E-mail: [dan.vanschepen@dgr.com](mailto:dan.vanschepen@dgr.com)

## **Project Manual**

### **West Energy Station Site Grading**

#### **New Prague Utilities Commission New Prague, Minnesota**

### **TABLE OF CONTENTS**

| <b>Category I – Proposal Information and Contract Forms:</b>                                | <b>Page No.</b>     |
|---------------------------------------------------------------------------------------------|---------------------|
| Advertisement for Proposals                                                                 | AP-1                |
| Instructions to Bidders                                                                     | IB-1 – IB-11        |
| Minnesota Responsible Contractor Verification Form                                          | 1 – 6               |
| Proposal Form                                                                               | BF-1 – BF-6         |
| Performance Bond                                                                            | 1 – 2               |
| Payment Bond                                                                                | 1 – 2               |
| Agreement                                                                                   | A-1 – A-9           |
| <br><b>Miscellaneous Forms:</b>                                                             |                     |
| Notice of Award                                                                             | 1                   |
| Notice to Proceed                                                                           | 1                   |
| Certificate of Substantial Completion                                                       | 1                   |
| Work Change Directive                                                                       | 1                   |
| Change Order                                                                                | 1                   |
| Field Order                                                                                 | 1                   |
| Exemption from Surety Deposits for Non-Minnesota Contractors (SDE)                          | 1 – 2               |
| Withholding Affidavit for Contractors (IC134)                                               | 1 – 2               |
| Certificate of Exemption (ST3)                                                              | 1 – 5               |
| Waiver and Release of Lien                                                                  | 1                   |
| Certificate of Contractor and Indemnity Agreement                                           | 1 – 2               |
| Engineer's Statement of Final Completion and<br>Owner's Acceptance of Contract Construction | 1                   |
| Contractor's Receipt for Final Payment                                                      | 1                   |
| <br><b>Category II – Contract Conditions:</b>                                               | <br><b>Page No.</b> |
| General Conditions                                                                          | 1 – 65              |
| Supplementary Conditions                                                                    | SC-1 – SC-6         |



**Category III – Technical Specifications:****Page No.****Division 1 - General Requirements**

|         |                                     |       |
|---------|-------------------------------------|-------|
| 01 1100 | Summary of Work                     | 1 - 3 |
| 01 2000 | Price and Payment Procedures        | 1 - 4 |
| 01 3100 | Project Management and Coordination | 1     |
| 01 3119 | Project Meetings                    | 1 - 2 |
| 01 3213 | Construction Schedule               | 1 - 2 |
| 01 3236 | Project Record Documents            | 1 - 2 |
| 01 3300 | Submittal Procedures                | 1 - 4 |
| 01 3523 | Safety Requirements                 | 1     |
| 01 4113 | Applicable Codes and Standards      | 1 - 2 |
| 01 4126 | Permits, Laws, and Ordinances       | 1     |
| 01 4500 | Quality Control                     | 1 - 3 |
| 01 5000 | Temporary Facilities and Controls   | 1 - 3 |
| 01 6000 | Product Requirements                | 1 - 3 |
| 01 6500 | Product Delivery Requirements       | 1     |
| 01 7100 | Examination and Preparation         | 1 - 2 |
| 01 7300 | Execution Requirements              | 1 - 2 |
| 01 7400 | Cleaning and Disposal Management    | 1 - 3 |
| 01 7513 | Checkout Procedures                 | 1     |
| 01 7800 | Closeout Submittals                 | 1 - 3 |
| 01 7836 | Warranties                          | 1     |

**Division 31 - Earthwork**

|         |                                                                            |       |
|---------|----------------------------------------------------------------------------|-------|
| 31 0113 | Subsurface Information                                                     | 1     |
| 31 0116 | Existing Utilities, Underground Obstructions,<br>and Subsurface Conditions | 1 - 4 |
| 31 1100 | Maintenance of Clearing                                                    | 1 - 3 |
| 31 1200 | Storm Sewers/Drain Tile                                                    | 1 - 6 |
| 31 2350 | Site Earthwork                                                             | 1 - 7 |
| 31 2326 | Soil Testing                                                               | 1     |

**Category IV – Appendix:**

1. Project Drawings
  - WES-C1 Generation Topographic Survey
  - WES-C2 Generation Site Plan
  - WES-C3 Generation Site Details
  - WES-C4 Generation Site Details
  - WES-C5 Generation Site Details
2. Storm Water Management Plan

**Category V – Technical Data:**

1. Geotechnical Report by Chosen Valley Testing, 24480.24.MNR.

(This data is presented for informational purposes only and is not part of the Contract Documents.)

# **CATEGORY I**

## **Proposal Information and Contract Forms**

- **Advertisement for Proposals**
- **Instructions to Bidders**
- **Minnesota Responsible Contractor Verification Form**
- **Proposal Form**
- **Performance Bond**
- **Payment Bond**
- **Agreement**

### **Miscellaneous Forms:**

- **Notice of Award**
- **Notice to Proceed**
- **Certificate of Substantial Completion**
- **Work Change Directive**
- **Change Order**
- **Field Order**
- **Exemption from Surety Deposits for Non-Minnesota Contractors**
- **Withholding Affidavit for Contractors (IC134)**
- **Certificate of Exemption (ST3)**
- **Waiver and Release of Lien**
- **Certificate of Contractor and Indemnity Agreement**
- **Engineer's Statement of Final Completion and Owner's Acceptance of Contract Construction**
- **Contractor's Receipt for Final Payment**

## ADVERTISEMENT FOR PROPOSALS

Notice is hereby given that sealed proposals will be received by the General Manager of New Prague Utilities Commission (NPUC), New Prague, Minnesota at NPUC offices at 118 Central Avenue N., New Prague, MN 56071, until **2:00 P.M. on the 21<sup>st</sup> day of August 2025**, for the West Energy Station Site Grading. At said time and place, the proposals shall be received by the Owner.

The general nature of the work on which proposals will be received consists of site grading for the West Energy Station (WES) site. The Contractor will be responsible for supplying all labor, materials and equipment for grading operations and for installation of fill, gravel surfacing, silt fences, etc. to complete the project.

The above work shall be in accordance with the specifications and proposed form of contract now on file in the office of New Prague Utilities Commission in said City of New Prague, Minnesota, by this reference made a part hereof, as though fully set out and incorporated herein.

The Contractor and all subcontractors shall submit to the Owner a signed statement verifying compliance with each of the criteria described in the State of Minnesota "Responsible Contractor" law as codified in Minnesota Statute section 16C.285. See the Instructions to Bidders for more details.

Payment to the Contractor will be made on the basis of ninety-five percent (95%) upon certification of work completed; five percent (5%) within thirty-one (31) days after final completion and acceptance. The construction shall be performed upon a Notice to Proceed issuance. Substantial completion of the project shall be no later than **November 28, 2025**. See the specifications for more details on construction timing requirements.

NPUC reserves the right to defer acceptance of any proposal for a period not to exceed thirty (30) days after the date proposals are received and no proposal may be withdrawn during this period. NPUC also reserves the right to reject any or all proposals and enter into such contract as it shall deem to be in the best interest of New Prague Utilities Commission.

NEW PRAGUE UTILITIES COMMISSION

By           /s/ Bruce Reimers            
General Manager

## **INSTRUCTIONS TO BIDDERS**

### **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 Proposal Documents are to be issued and where the proposal procedures are to be administered.
  - B. *Successful Bidder* - The responsible Bidder submitting a responsive Proposal to whom OWNER (on the basis of OWNER's evaluations as hereinafter provided) makes an award.

### **ARTICLE 2 - COPIES OF PROPOSAL DOCUMENTS**

- 2.01 Complete sets of the Proposal Documents in the number and for the deposit sum, if any, stated in the Advertisement for Proposals may be obtained from the Issuing Office.
- 2.02 Complete sets of Proposal Documents shall be used in preparing Proposals; neither Owner nor Engineer assumes any responsibility for errors or misinterpretations resulting from the use of incomplete sets of Proposal Documents.
- 2.03 Owner and Engineer, in making copies of Proposal Documents available on the above terms, do so only for the purpose of obtaining Proposals for the Work and do not authorize or confer a license or grant for any other use.

### **ARTICLE 3 - QUALIFICATIONS OF BIDDERS**

- 3.01 To demonstrate Bidder's qualifications to perform the Work, prior to award, within five days of Owner's request, Bidder shall submit written evidence such as financial data, previous experience, present commitments, statement of compliance with any statutory requirements, and such other data as may be deemed appropriate by OWNER for making a complete evaluation.
- 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 Proposal 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 Proposal Documents. By definition, the Site includes rights-of-way, easements, and other lands furnished by Owner for the use of the Contractor. Any additional lands required for temporary construction facilities, construction equipment, or storage of materials and equipment, and any access needed for such additional lands, are to be obtained and paid for by Contractor.

#### 4.02 *Existing Site Conditions*

- A. Subsurface and Physical Conditions; Hazardous Environmental Conditions
  - 1. The Supplementary Conditions identify:
    - a. those reports known to Owner of explorations and tests of subsurface conditions at or adjacent to the Site.
    - b. those drawings known to Owner of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities).
    - c. reports and drawings known to Owner relating to Hazardous Environmental Conditions that have been identified at or adjacent to the Site.
    - d. Technical Data contained in such reports and drawings.
  - 2. Owner will make copies of reports and drawings referenced above available to any Bidder on request. These reports and drawings are not part of the Contract Documents, but the Technical Data contained therein upon whose accuracy Bidder is entitled to rely, as provided in the General Conditions, has been identified and established in the Supplementary Conditions. Bidder is responsible for any interpretation or conclusion Bidder draws from any Technical Data or any other data, interpretations, opinions, or information contained in such reports or shown or indicated in such drawings.
  - 3. If the Supplementary Conditions do not identify Technical Data, the default definition of Technical Data set forth in Article 1 of the General Conditions will apply.
- B. Underground Facilities: Information and data shown or indicated in the Proposal Documents with respect to existing Underground Facilities at or contiguous to the Site are set forth in the Contract Documents and are based upon information and data furnished to Owner and Engineer by owners of such Underground Facilities, including Owner, or others. Information or data regarding Underground Facilities may be missing or incomplete. Location and avoidance of underground facilities is a part of the Work as required by the Supplementary Conditions.

- 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 Proposal 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*

On request, Owner will provide Bidder access to the Site to conduct such examinations, investigations, explorations, tests, and studies as Bidder deems necessary for submission of a Proposal. 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. Bidder shall comply with all applicable Laws and Regulations relative to excavation and utility locates.

- 4.04 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 Proposal 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 Proposal to:

- A. examine and carefully study the Proposal Documents, and any data and reference items identified in the Proposal Documents;
- B. visit the Site, conduct a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and satisfy itself as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work;
- C. become familiar with and satisfy itself as to all Laws and Regulations that may affect cost, progress, and performance of the Work;
- D. carefully study all: (1) reports of explorations and tests of subsurface conditions at or adjacent to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings, and (2) reports and drawings relating to Hazardous

Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings;

- E. consider the information known to Bidder itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Proposal Documents; and the Site-related reports and drawings identified in the Proposal 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 Proposal no further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of its Proposal for performance of the Work at the price proposal and within the times required, and in accordance with the other terms and conditions of the Proposal 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 Proposal Documents;
- H. promptly give Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder discovers in the Proposal Documents and confirm that the written resolution thereof by Engineer is acceptable to Bidder;
- I. determine that the Proposal 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 Proposal will constitute an incontrovertible representation by Bidder that Bidder has complied with every requirement of this Article, that without exception the Proposal and all prices in the Proposal are premised upon performing and furnishing the Work required by the Proposal Documents.

## **ARTICLE 6 - NOT USED**

## **ARTICLE 7 - INTERPRETATIONS AND ADDENDA**

- 7.01 All questions about the meaning or intent of the Proposal Documents are to be submitted to Engineer in writing. Interpretations or clarifications considered necessary by Engineer in response to such questions will be issued by Addenda mailed or delivered to all parties recorded by Engineer as having received the Proposal Documents. Questions received less than seven days prior to the date for opening of Proposals 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, or change the Proposal Documents.

## **ARTICLE 8 - BID SECURITY (NOT USED)**

## **ARTICLE 9 - CONTRACT TIMES**

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

## **ARTICLE 10 - LIQUIDATED DAMAGES**

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

## **ARTICLE 12 - SUBCONTRACTORS, SUPPLIERS AND OTHERS**

12.01 If the Supplementary Conditions require the identity of certain Subcontractors, Suppliers, individuals, or entities to be submitted to Owner in advance of a specified date prior to the Effective Date of the Agreement, the apparent Successful Bidder, and any other Bidder so requested, shall within five days after Proposal opening, submit to Owner a list of all such Subcontractors, Suppliers, individuals, or entities proposed for those portions of the Work for which such identification is required. Such list shall be accompanied by an experience statement with pertinent information regarding similar projects and other evidence of qualification for each such Subcontractor, Supplier, individual, or entity if requested by Owner. If Owner or Engineer, after due investigation, has reasonable objection to any proposed Subcontractor, Supplier, individual, or entity, Owner may, before the Notice of Award is given, request apparent Successful Bidder to submit a substitute, without an increase in the Proposal.

12.02 If apparent Successful Bidder declines to make any such substitution, Owner may award the Contract to the next lowest Bidder that proposes to use acceptable Subcontractors, Suppliers, individuals, or entities. Declining to make requested substitutions will not constitute grounds for forfeiture of the Bid security of any Bidder. Any Subcontractor, Supplier, individual, or entity so listed and against which Owner or Engineer makes no written objection prior to the giving of the Notice of Award will be deemed acceptable to

Owner and Engineer subject to revocation of such acceptance after the Effective Date of the Agreement as provided in Paragraph 7.06 of the General Conditions.

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

## **ARTICLE 13 - PREPARATION OF PROPOSAL**

- 13.01 The Proposal Form is included with the Proposal Documents.

- A. All blanks on the Proposal Form shall be completed in ink and the Proposal Form signed in ink. Erasures or alterations shall be initialed in ink by the person signing the Proposal Form. A Proposal price shall be indicated for each section, Proposal item, alternate, adjustment unit price item, and unit price item listed therein.
- B. If the Proposal 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 Proposal" or "Not Applicable."
- C. Where the Proposal Form includes more than one item, the Bidder may attach a substitute Proposal Form printed by a computer in lieu of completing the printed Proposal Form. If a substitute Proposal Form is used, it shall be attached to the back side of the printed Proposal Form. Such computer printed substitute Proposal Form shall include the following at the top of each page:
  - 1. Project Title
  - 2. Letting Date
  - 3. Bidder's Name

- 13.02 The substitute computer printed Proposal Form shall have column headings that include the Item Number, Number of Units, Item Description, Unit Proposal Price, Amount Proposed for each item, Total Gross Sum Proposed below the last proposal item and bidder's name, signature in ink and title at the end of the Proposal Form. The signature on the substitute computer printed Proposal Form shall be the same as that on the bound Proposal Form. The total gross sum proposal shall also be written in ink in the space provided in the bound Proposal Form. In case of a discrepancy between the item number, item description, and/or quantity shown in the bound Proposal Form and those shown in the substitute computer printed Proposal Form, the proposal item description and/or quantity shown in the bound Proposal Form shall govern. The unit proposal price shown on the substitute computer printed Proposal Form shall govern whether or not the amount proposed shown is correct. The substitute Proposal Form page size and size of printed characters shall be approximately the same as the bound Proposal Form. Solid lines for separating may be arranged either vertically or horizontally on the substitute Proposal Form. Pages must be numbered by page number of the total pages (Page 1 of 4). Item numbers must follow the Item numbers on the Proposal Form. Any abnormalities which are not waived by the Owner as a technicality will result in rejection of the proposal.

- 13.03 A Proposal by a corporation shall be executed in the corporate name by the president or a vice-president or other corporate officer accompanied by evidence of authority to sign. If required by State where work is to be performed, the corporate seal shall be affixed and attested by the secretary or an assistant secretary. The corporate address and state of incorporation shall be shown.
- 13.04 A Proposal 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 official address of the partnership shall be shown.
- 13.05 A Proposal by a limited liability company shall be executed in the name of the firm by a member and accompanied by evidence of authority to sign. The state of formation of the firm and the official address of the firm shall be shown.
- 13.06 A Proposal by an individual shall show the Bidder's name and official address.
- 13.07 A Proposal by a joint venture shall be executed by each joint venturer in the manner indicated on the Proposal Form. The official address of the joint venture shall be shown.
- 13.08 All names shall be typed or printed in ink below the signatures.
- 13.09 The Proposal shall contain an acknowledgment of receipt of all Addenda, the numbers of which shall be filled in on the Proposal Form.
- 13.10 Postal and e-mail addresses and telephone number for communications regarding the Proposal shall be shown.
- 13.11 The Proposal shall contain evidence of Bidder's authority and qualification to do business in the state where the Project is located or covenant to obtain such qualification prior to award of the Contract. Bidder's state contractor license number, if any, for the state of the Project, shall also be shown on the Proposal Form.

## **ARTICLE 14 - BASIS OF PROPOSAL; COMPARISON OF PROPOSALS**

The Proposal shall be furnished on the basis (lump sum or unit price) as indicated on the Proposal Form.

### **14.01 *Lump Sum***

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

### **14.02 *Unit Price***

- A. Bidders shall submit a Proposal on a unit price basis for each item of Work listed in the Proposal schedule.

- B. The total of all estimated prices will be the sum of the products of the estimated quantity of each item and the corresponding unit price. The final quantities and Contract Price will be determined in accordance with Paragraph 13.03 of the General Conditions.
- C. Discrepancies between the multiplication of units of Work and unit prices will be resolved in favor of the unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum. Discrepancies between words and figures will be resolved in favor of the words.

## **ARTICLE 15 - SUBMITTAL OF PROPOSAL**

- 15.01 With each copy of the Proposal Documents, a Bidder is furnished one separate unbound copy each of the Proposal Form, and, if required, the Bid Bond Form. The unbound copy of the Proposal Form is to be completed and submitted with all attachments listed in Article 7 of the Proposal.
- 15.02 A Proposal shall be submitted no later than the date and time prescribed and at the place indicated in the Advertisement for Proposals 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 Proposal is submitted), the name and address of Bidder, and shall be accompanied by the Bid security and other required documents. If a Proposal is sent by mail or other delivery system, the sealed envelope containing the Proposal shall be enclosed in a separate package plainly marked on the outside with the notation "PROPOSAL ENCLOSED." Whether using the mail, personal delivery, or some other delivery system, the Bidder is totally responsible for the mail or other delivery system delivering the Proposal at the place and prior to that time indicated in the Advertisement. Note that the location for the Proposal opening may be a rural location not reliably covered by the "delivery time guarantee" of various delivery services. A mailed Proposal shall be addressed to the Owner at the address specified by the Proposal Notice.
- 15.03 Proposals received after the date and time prescribed for the opening of proposals, or not submitted at the correct location or in the designated manner, will not be accepted and will be returned to the Bidder unopened.
- 15.04 **Proposal Form shall be submitted electronically to both emails listed below.**
- 15.05 Address for submission of Proposals is as follows:

New Prague Utilities Commission  
Attn: Mr. Bruce Reimers, General Manager  
Proposal Enclosed – West Energy Station Site Grading  
118 Central Avenue N.  
New Prague, MN 56071  
breimers@ci.new-prague.mn.us

DGR Engineering  
Attn: Dan Van Schepen, PE  
1302 S Union St.  
Rock Rapids, IA 51246  
dan.vanschepen@dgr.com

## **ARTICLE 16 - MODIFICATION AND WITHDRAWAL OF PROPOSAL**

- 16.01 A Proposal may be withdrawn by an appropriate document duly executed in the same manner that a Proposal must be executed and delivered to the place where Proposals are to be submitted prior to the date and time for the opening of Proposals. Upon receipt of such notice, the unopened Proposal will be returned to the Bidder.
- 16.02 If a Bidder wishes to modify its Proposal prior to Proposal opening, Bidder must withdraw its initial Proposal in the manner specified in Paragraph 16.01 and submit a new Proposal prior to the date and time for the opening of Proposals.
- 16.03 If within 24 hours after Proposals 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 Proposal, that Bidder may withdraw its Proposal, and the Bid security will be returned. Thereafter, if the Work is rebid, that Bidder will be disqualified from further bidding on the Work. This provision to withdraw a Proposal without forfeiting the Bid Security does not apply to Bidder's errors in judgment in preparing the Proposal.

## **ARTICLE 17 - OPENING OF PROPOSALS**

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

## **ARTICLE 18 - PROPOSALS TO REMAIN SUBJECT TO ACCEPTANCE**

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

## **ARTICLE 19 - EVALUATION OF PROPOSALS AND AWARD OF CONTRACT**

- 19.01 Owner reserves the right to reject any or all Proposals, including without limitation, nonconforming, nonresponsive, unbalanced, or conditional Proposals. Owner further reserves the right to reject the Proposal of any Bidder whom it finds, after reasonable inquiry and evaluation, to not be responsible. Owner may also reject the Proposal of any Bidder if Owner believes that it would not be in the best interest of the Project to make an award to that Bidder. Owner also reserves the right to waive all informalities not involving price, time, or changes in the Work and to negotiate contract terms with the Successful Bidder.
- 19.02 More than one Proposal for the same Work from an individual or entity under the same or different names will not be considered. Reasonable grounds for believing that any Bidder has an interest in more than one Proposal for the Work may be cause for disqualification of that Bidder and the rejection of all Proposals in which that Bidder has an interest.

- 19.03 In evaluating Proposals, Owner will consider whether or not the Proposals comply with the prescribed requirements, and such alternates, unit prices and other data, as may be requested in the Proposal Form or prior to the Notice of Award.
- 19.04 In evaluating Bidders, Owner will consider the qualifications of Bidders and may consider the qualifications and experience of Subcontractors, Suppliers, and other individuals or entities proposed for those portions of the Work for which the identity of Subcontractors, Suppliers, and other individuals or entities must be submitted as provided in the Supplementary Conditions.
- 19.05 Owner may conduct such investigations as Owner deems necessary to establish the responsibility, qualifications, and financial ability of Bidders, proposed Subcontractors, Suppliers, individuals, or entities proposed for those portions of the Work in accordance with the Contract Documents. If the Contract is to be awarded, Owner will award the Contract to the responsible Bidder whose Proposal is in the best interests of the Project.

## **ARTICLE 20 - BONDS AND INSURANCE**

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

## **ARTICLE 21 - SIGNING OF AGREEMENT**

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

## **ARTICLE 22 - SALES AND USE TAXES**

- 22.01 The unit prices for construction units in this Proposal shall be deemed to include provisions for the payment of all moneys which will be payable by the Bidder or the Owner in connection with the construction of the project on account of taxes imposed by any taxing authority upon the sale, purchase or use of materials, supplies, labor, and equipment to be incorporated in the project as part of such construction units. The Bidder shall furnish to the appropriate taxing authorities, all required information and reports pertaining to materials and services used in the construction of the project.
- 22.02 The Contractor shall pay sales and use taxes to the State of Minnesota, for all materials incorporated in the work. The Contractor shall, at the conclusion of the project, furnish the Owner with a complete and accurate schedule of all purchases of equipment used in the project, along with the associated taxes paid on this equipment. See SC-7.09.A.1 for additional requirements.

## **ARTICLE 23 - RETAINAGE**

23.01 Provisions concerning Contractor's rights to deposit securities in lieu of retainage are set forth in the Agreement.

## **ARTICLE 24 - NOT USED**

## **ARTICLE 25 - NOT USED**

## **ARTICLE 26 - NOT USED**

## **ARTICLE 27 - STATE OF MINNESOTA WITHHOLDING**

27.01 The Contractor shall furnish Minnesota Department of Revenue form IC-134 for all required contractors and subcontractors involved on the project.

## **ARTICLE 28 - STATE OF MINNESOTA "RESPONSIBLE CONTRACTOR" PROVISIONS**

28.01 A Contractor responding to this solicitation document shall submit to the Owner a signed statement under oath by an owner or officer verifying compliance with each of the minimum criteria in Minnesota Statutes, section 16C.285, subdivision 3.

28.02 The term 'responsible Contractor' as used in this solicitation document means a Contractor as defined in Minnesota Statutes, section 16C.285, subdivision 3.

28.03 Any prime Contractor or subcontractor that does not meet the minimum criteria in Minnesota Statutes, section 16C.285, subdivision 3 or fails to verify that it meets those criteria is not a responsible Contractor and is not eligible to be awarded the construction contract for the project or to perform work on the project.

28.04 A false statement under oath verifying compliance with any of the minimum criteria shall render the prime Contractor or subcontractor that makes the false statement ineligible to be awarded a construction contract on the project and may result in termination of a contract awarded to a prime Contractor or subcontractor that submits a false statement.

28.05 A prime Contractor shall submit to the Owner upon request copies of the signed verifications of compliance from all subcontractors of any tier pursuant to Minnesota Statutes, section 16C.285, subdivision 3, clause 7.

\* \* \* END OF SECTION \* \* \*

# ATTACHMENT A

## RESPONSIBLE CONTRACTOR VERIFICATION AND CERTIFICATION OF COMPLIANCE

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

The undersigned is an owner or officer of the company named below (the "Company") and signs this statement under oath verifying that at the time it responded to the solicitation document on the above referenced project ("Project"), the Company was in compliance with each of the minimum criteria in Minn. Stat. § 16C.285, subd. 3 (hereinafter "subdivision 3"), with the exception of clause (7).

Minn. Stat. § 16C.285, Subd. 7. **IMPLEMENTATION.** "...any prime contractor or subcontractor or motor carrier that does not meet the minimum criteria in subdivision 3 or fails to verify that it meets those criteria is not a responsible contractor and is not eligible to be awarded a construction contract for the project or to perform work on the project."

Minn. Stat. § 16C.285, Subd. 3. **RESPONSIBLE CONTRACTOR, MINIMUM CRITERIA.** "Responsible contractor" means a contractor that conforms to the responsibility requirements in the solicitation document for its portion of the work on the project and verifies that it meets the following minimum criteria:

- |     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|-----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (1) | The Contractor:<br><br>(i) is in compliance with workers' compensation and unemployment insurance requirements;<br><br>(ii) is in compliance with the Department of Revenue and Department of Employment and Economic Development registration requirements if it has employees;<br><br>(iii) has a valid federal tax identification number or a valid Social Security number if an individual; and<br><br>(iv) has filed a certificate of authority to transact business in Minnesota with the Secretary of State if a foreign corporation or cooperative.                                                                                                                                                                                                                                                   |
| (2) | The contractor or related entity is in compliance with and, during the three-year period before submitting the verification, has not violated section 177.24, 177.25, 177.41 to 177.44, 181.03, 181.101, 181.13, 181.14, or 181.722, and has not violated United States Code, title 29, sections 201 to 219, or United States Code, title 40, sections 3141 to 3148. For purposes of this clause, a violation occurs when a contractor or related entity:<br><br>(i) repeatedly fails to pay statutorily required wages or penalties on one or more separate projects for a total underpayment of \$25,000 or more within the three-year period, provided that a failure to pay is "repeated" only if it involves two or more separate and distinct occurrences of underpayment during the three-year period; |



|     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|-----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|     | <p>(ii) has been issued an order to comply by the commissioner of Labor and Industry that has become final;</p> <p>(iii) has been issued at least two determination letters within the three-year period by the Department of Transportation finding an underpayment by the contractor or related entity to its own employees;</p> <p>(iv) has been found by the commissioner of Labor and Industry to have repeatedly or willfully violated any of the sections referenced in this clause pursuant to section 177.27;</p> <p>(v) has been issued a ruling or findings of underpayment by the administrator of the Wage and Hour Division of the United States Department of Labor that have become final or have been upheld by an administrative law judge or the Administrative Review Board;</p> <p>(vi) has been found liable for underpayment of wages or penalties or misrepresenting a construction worker as an independent contractor in an action brought in a court having jurisdiction; or</p> <p>(vii) has been convicted of a violation of section 609.52, subdivision 2, clause (19).</p> <p>Provided that, if the contractor or related entity contests a determination of underpayment by the Department of Transportation in a contested case proceeding, a violation does not occur until the contested case proceeding has concluded with a determination that the contractor or related entity underpaid wages or penalties;*</p> |
| (3) | The contractor or related entity is in compliance with and, during the three-year period before submitting the verification, has not violated section 181.723 or chapter 326B. For purposes of this clause, a violation occurs when a contractor or related entity has been issued a final administrative or licensing order;*                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| (4) | The contractor or related entity has not, more than twice during the three-year period before submitting the verification, had a certificate of compliance under section 363A.36 revoked or suspended based on the provisions of section 363A.36, with the revocation or suspension becoming final because it was upheld by the Office of Administrative Hearings or was not appealed to the office;*                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| (5) | <p>The contractor or related entity has not received a final determination assessing a monetary sanction from the Department of Administration or Transportation for failure to meet targeted group business, disadvantaged business enterprise, or veteran-owned business goals, due to a lack of good faith effort, more than once during the three-year period before submitting the verification;*</p> <p>* Any violations, suspensions, revocations, or sanctions, as defined in clauses (2) to (5), occurring prior to July 1, 2014, shall not be considered in determining whether a contractor or related entity meets the minimum criteria.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| (6) | The contractor or related entity is not currently suspended or debarred by the federal government or the state of Minnesota or any of its departments, commissions, agencies, or political subdivisions that have authority to debar a contractor; and                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                 |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (7)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | All subcontractors and motor carriers that the contractor intends to use to perform project work have verified to the contractor through a signed statement under oath by an owner or officer that they meet the minimum criteria listed in clauses (1) to (6). |
| Minn. Stat. § 16C.285, Subd. 5. <b>SUBCONTRACTOR VERIFICATION.</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                 |
| <p>A prime contractor or subcontractor shall include in its verification of compliance under subdivision 4 a list of all of its first-tier subcontractors that it intends to retain for work on the project. Prior to execution of a construction contract, and as a condition precedent to the execution of a construction contract, the apparent successful prime contractor shall submit to the contracting authority a supplemental verification under oath confirming compliance with subdivision 3, clause (7). Each contractor or subcontractor shall obtain from all subcontractors with which it will have a direct contractual relationship a signed statement under oath by an owner or officer verifying that they meet all of the minimum criteria in subdivision 3 prior to execution of a construction contract with each subcontractor.</p> <p>If a prime contractor or any subcontractor retains additional subcontractors on the project after submitting its verification of compliance, the prime contractor or subcontractor shall obtain verifications of compliance from each additional subcontractor with which it has a direct contractual relationship and shall submit a supplemental verification, , confirming compliance with subdivision 3, clause (7), within 14 days of retaining the additional subcontractors.</p> <p>A prime contractor or subcontractor shall obtain annually from all motor carriers submit to the contracting authority upon request copies of the signed verifications of compliance from all subcontractors of any tier pursuant to subdivision 3, clause (7). A prime contractor and subcontractors shall not be responsible for the false statements of any subcontractor with which they do not have a direct contractual relationship. A prime contractor and subcontractors shall be responsible for false statements by their first-tier subcontractors with which they have a direct contractual relationship only if they accept the verification of compliance with actual knowledge that it contains a false statement.</p> <p>Subd. 5a. <b>MOTOR CARRIER VERIFICATION.</b> A prime contractor or subcontractor shall obtain annually from all motor carriers with which it will have a direct contractual relationship a signed statement under oath by an owner or officer verifying that they meet all the minimum criteria in subdivision 3 prior to execution of a construction contract with each motor carrier. A prime contractor or subcontractor shall require each such motor carrier to provide it with immediate written notification in the event that the motor carrier no longer meets one or more of the minimum criteria in subdivision 3 after submitting its annual verification. A motor carrier shall be ineligible to perform work on a project covered by this section if it does not meet all the minimum criteria in subdivision 3. Upon request, a prime contractor or subcontractor shall submit to the contracting authority the signed verifications of compliance from all motor carriers providing for-hire transportation of materials, equipment, or supplies for a project.”</p> |                                                                                                                                                                                                                                                                 |

Minn. Stat. § 16C.285, Subd. 4. **VERIFICATION OF COMPLIANCE.**

“A contractor responding to a solicitation document of a contracting authority shall submit to the contracting authority a signed statement under oath by an owner or officer verifying compliance with each of the minimum criteria in subdivision 3, with the exception of clause (7), at the time that it responds to the solicitation document.

A contracting authority may accept a signed statement under oath as sufficient to demonstrate that a contractor is a responsible contractor and shall not be held liable for awarding a contract in reasonable reliance on that statement. A prime contractor, subcontractor, or motor carrier that fails to verify compliance with any one of the required minimum criteria or makes a false statement under oath in a verification of compliance shall be ineligible to be awarded a construction contract on the project for which the verification was submitted.

A false statement under oath verifying compliance with any of the minimum criteria may result in termination of a construction contract that has already been awarded to a prime contractor or subcontractor or motor carrier that submits a false statement. A contracting authority shall not be liable for declining to award a contract or terminating a contract based on a reasonable determination that the contractor failed to verify compliance with the minimum criteria or falsely stated that it meets the minimum criteria. A verification of compliance need not be notarized. An electronic verification of compliance made and submitted as part of an electronic bid shall be an acceptable verification of compliance under this section, provided that it contains an electronic signature as defined in section 325L.02 paragraph (h).”

**CERTIFICATION**

**By signing this document, I certify that I am an owner or officer of the company, and I swear under oath that:**

- 1) My company meets each of the Minimum Criteria to be a responsible contractor as defined herein and is in compliance with Minn. Stat. § 16C.285, and
- 2) if my company is awarded a contract, I will submit Attachment A-1 prior to contract execution, and
- 3) if my company is awarded a contract, I will also submit Attachment A-2 as required.

**Authorized Signature of Owner or Officer:**

**Printed Name:**

**Title:**

**Date:**

**Company Name:**

NOTE: Minn. Stat. § 16C.285, Subd. 2, (c) If only one prime contractor responds to a solicitation document, a contracting authority may award a construction contract to the responding prime contractor even if the minimum criteria in subdivision 3 are not met.

## ATTACHMENT A-1

### FIRST-TIER SUBCONTRACTORS LIST

#### SUBMIT WITH PRIME CONTRACTOR RESPONSE

Minn. Stat. § 16C.285, Subd. 5. A prime contractor or subcontractor shall include in its verification of compliance under subdivision 4, a list of all of its first-tier subcontractors that it intends to retain for work on the project.

This list should also include all subcontractors listed on your Small and Underutilized Business (SUBP) Participation form.

| <b>FIRST TIER SUBCONTRACTOR NAMES<br/>(Legal name of company as registered with the<br/>Secretary of State)</b> | <b>Name of city where<br/>company home office<br/>is located</b> | <b>% of value of<br/>Contract</b> | <b>Is the First Tier<br/>Subcontractor<br/>a TG/ED/VO?*</b> |
|-----------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------|-----------------------------------|-------------------------------------------------------------|
|                                                                                                                 |                                                                  |                                   |                                                             |
|                                                                                                                 |                                                                  |                                   |                                                             |
|                                                                                                                 |                                                                  |                                   |                                                             |
|                                                                                                                 |                                                                  |                                   |                                                             |
|                                                                                                                 |                                                                  |                                   |                                                             |
|                                                                                                                 |                                                                  |                                   |                                                             |
|                                                                                                                 |                                                                  |                                   |                                                             |

\* TG/ED/VO = Certified Targeted Group Business, Economically Disadvantaged Business, and/or Veteran-Owned Business.

Attach additional sheets as needed for submission of all first-tier subcontractors.

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                      |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|
| <b>SUPPLEMENTAL CERTIFICATION FOR ATTACHMENT A-1</b>                                                                                                                                                                                                                                                                                                                                                                                                                |                      |
| <b>By signing this document, I certify that I am an owner or officer of the company, and I swear under oath that:</b>                                                                                                                                                                                                                                                                                                                                               |                      |
| All first-tier subcontractors listed on Attachment A-1 have verified through a signed statement under oath by an owner or officer that they meet the minimum criteria to be a responsible contractor as defined in Minn. Stat. § 16C.285. A prime contractor shall submit to the contracting authority upon request copies of the signed verifications of compliance from all subcontractors of any tier and motor carriers, pursuant to subdivision 3, clause (7). |                      |
| <b>Authorized Signature of Owner or Officer:</b>                                                                                                                                                                                                                                                                                                                                                                                                                    | <b>Printed Name:</b> |
| <b>Title:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                       | <b>Date:</b>         |
| <b>Company Name:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                |                      |

## ATTACHMENT A-2

### ADDITIONAL SUBCONTRACTORS LIST

#### PRIME CONTRACTOR TO SUBMIT AS SUBCONTRACTORS ARE ADDED TO THE PROJECT

SUBMIT WITHIN 14 DAYS OR RETAINING ADDITIONAL SUBCONTRACTORS DURING PROJECT.  
This form must be submitted to the Project Manager or individual as identified in the solicitation document.

Minn. Stat. § 16C.285, Subd. 5. ... If a prime contractor or any subcontractor retains additional subcontractors on the project after submitting its verification of compliance, the prime contractor or subcontractor shall obtain verifications of compliance from each additional subcontractor with which it has a direct contractual relationship and shall submit a supplemental verification confirming compliance with subdivision 3, clause (7), within 14 days of retaining the additional subcontractors.

| ADDITIONAL SUBCONTRACTOR NAMES<br>(Legal name of company as registered with the Secretary of State) | Name of city where company home office is located | % of value of Contract | Is the First Tier Subcontractor a TG/ED/VO?* |
|-----------------------------------------------------------------------------------------------------|---------------------------------------------------|------------------------|----------------------------------------------|
|                                                                                                     |                                                   |                        |                                              |
|                                                                                                     |                                                   |                        |                                              |
|                                                                                                     |                                                   |                        |                                              |
|                                                                                                     |                                                   |                        |                                              |
|                                                                                                     |                                                   |                        |                                              |
|                                                                                                     |                                                   |                        |                                              |

\* TG/ED/VO = Certified Targeted Group Business, Economically Disadvantaged Business, and/or Veteran-Owned Business.

Attach additional sheets as needed for submission of all first-tier subcontractors.

|                                                                                                                                                                                                                                           |                      |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|
| <b>SUPPLEMENTAL CERTIFICATION FOR ATTACHMENT A-2</b>                                                                                                                                                                                      |                      |
| <b>By signing this document, I certify that I am an owner or officer of the company, and I swear under oath that:</b>                                                                                                                     |                      |
| All additional subcontractors listed on Attachment A-2 have verified through a signed statement under oath by an owner or officer that they meet the minimum criteria to be a responsible contractor as defined in Minn. Stat. § 16C.285. |                      |
| <b>Authorized Signature of Owner or Officer:</b>                                                                                                                                                                                          | <b>Printed Name:</b> |
| <b>Title:</b>                                                                                                                                                                                                                             | <b>Date:</b>         |
| <b>Company Name:</b>                                                                                                                                                                                                                      |                      |

## PROPOSAL FORM

### ARTICLE 1 – PROPOSAL RECIPIENT

1.01 This Proposal is submitted to:

Owner Name: Utilities Commission  
New Prague Utilities Commission  
breimers@ci.new-prague.mn.us

Owner Address: 118 Central Avenue N.  
New Prague, MN 56071

1.02 This Proposal is submitted by:

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

1.03 The undersigned Bidder proposes and agrees, if this Proposal is accepted, to enter into an Agreement with Owner in the form included in the Proposal Documents to perform all Work as specified or indicated in the Proposal Documents for the prices and within the times indicated in this Proposal and in accordance with the other terms and conditions of the Proposal 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 Proposal will remain subject to acceptance for 30 days after the Proposal 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 Proposal, Bidder represents that:

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

**Addendum No.**

**Addendum Date**

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

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

- 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, if any are available, all: (1) reports of explorations and tests of subsurface conditions at or adjacent to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings, and (2) reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings.
- E. Bidder has considered the information known to Bidder itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Proposal Documents; and any Site-related reports and drawings identified in the Proposal 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 Proposal for performance of the Work at the price proposed and within the times required, and in accordance with the other terms and conditions of the Proposal 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 Proposal Documents.
- H. Bidder has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Proposal Documents, and confirms that the written resolution thereof by Engineer is acceptable to Bidder.
- I. The Proposal 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 Proposal constitutes an incontrovertible representation by Bidder that Bidder has complied with every requirement of this Article, and that without exception the Proposal and all prices in the Proposal are premised upon performing and furnishing the Work required by the Proposal Documents.

## **ARTICLE 4 – BIDDER’S CERTIFICATION**

4.01 Bidder certifies that:

- A. This Proposal 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 Proposal;
- 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 proposal process;
  - 2. “fraudulent practice” means an intentional misrepresentation of facts made (a) to influence the proposal process to the detriment of Owner, (b) to establish proposal 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 proposal 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 proposal process or affect the execution of the Contract.

## **ARTICLE 5 – BASIS OF PROPOSAL**

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



**PROPOSAL FORM**

Power Plant Generation Site Grading  
New Prague Utilities  
New Prague, Minnesota

| Unit    | Description                                 | Unit Price     |       |           |                   | Extended Price |
|---------|---------------------------------------------|----------------|-------|-----------|-------------------|----------------|
|         |                                             | Est # of Units | Labor | Materials | Labor & Materials |                |
| Formula | Formula to be used to perform calculations  | U              | L     | M         | L+M               | (L+M) x U      |
| M1      | Excavation and Embankment (cy)              | 1,300          |       |           |                   |                |
| M2      | Embankment Borrow (cy)                      | 1,065          |       |           |                   |                |
| M3      | Pavement Removals (sy)                      | 1,010          |       |           |                   |                |
| M4      | 4" Perforated Subdrain (lf)                 | 125            |       |           |                   |                |
| M5      | 8" Perforated Subdrain (lf)                 | 90             |       |           |                   |                |
| M6      | 6" CMP Subdrain Outlet (ea)                 | 1              |       |           |                   |                |
| M7      | 10" CMP Subdrain Outlet (ea)                | 1              |       |           |                   |                |
| M8      | Silt Fence/Wattles/Rock log (lf)            | 350            |       |           |                   |                |
| M9      | Connect to Existing Storm Sewer (ea)        | 1              |       |           |                   |                |
| M10     | Water Quality Intake Structure (ea)         | 1              |       |           |                   |                |
| M11     | Concrete Filled Bollard (ea)                | 12             |       |           |                   |                |
| M12     | Stabilized Construction Entrance (lump sum) | 1              |       |           |                   |                |
| M13     | Bioswale Filter Material (sy)               | 60             |       |           |                   |                |
| M14     | Turf Reinforcement Mat (sy)                 | 100            |       |           |                   |                |
| U1      | Mobilization (as req'd.)                    | 1              |       |           |                   |                |

**TOTAL:** \_\_\_\_\_

## **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 PROPOSAL**

- 7.01 The following documents are submitted with and made a condition of this Proposal:
- A. Required Bid security in the form of NA;
  - B. List of proposed subcontractors
  - C. List of proposed suppliers
  - D. List of project references
  - E. Signed statement of compliance with Minnesota Statute section 16C.285 (the “Responsible Contractor” law).

## **ARTICLE 8 – DEFINED TERMS**

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

## ARTICLE 9 – PROPOSAL 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)*

## 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

\_\_\_\_\_  
Surety's Name and Corporate Seal

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

By: \_\_\_\_\_  
Signature *(attach power of attorney)*

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

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

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

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

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

1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.
2. If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except when applicable to participate in a conference as provided in Paragraph 3.
3. If there is no Owner Default under the Construction Contract, the Surety's obligation under this Bond shall arise after:
  - 3.1. The Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice shall indicate whether the Owner is requesting a conference among the Owner, Contractor, and Surety to discuss the Contractor's performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Paragraph 3.1 shall be held within ten (10) business days of the Surety's receipt of the Owner's notice. If the Owner, the Contractor, and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default;
  - 3.2. The Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and
  - 3.3. The Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.
4. Failure on the part of the Owner to comply with the notice requirement in Paragraph 3.1 shall not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.
5. When the Owner has satisfied the conditions of Paragraph 3, the Surety shall promptly and at the Surety's expense take one of the following actions:
  - 5.1. Arrange for the Contractor, with the consent of the Owner, to perform and complete the Construction Contract;
  - 5.2. Undertake to perform and complete the Construction Contract itself, through its agents or independent contractors;
  - 5.3. Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and a contractor selected with the Owners concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Paragraph 7 in excess of the Balance of the Contract Price incurred by the Owner as a result of the Contractor Default; or
  - 5.4. Waive its right to perform and complete, arrange for completion, or obtain a new contractor, and with reasonable promptness under the circumstances:
    - 5.4.1. After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, make payment to the Owner; or
    - 5.4.2. Deny liability in whole or in part and notify the Owner, citing the reasons for denial.
6. If the Surety does not proceed as provided in Paragraph 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Paragraph 5.4, and the Owner refuses the payment or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.
7. If the Surety elects to act under Paragraph 5.1, 5.2, or 5.3, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication for:
  - 7.1. the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;
  - 7.2. additional legal, design professional, and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Paragraph 5; and
  - 7.3. liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.
8. If the Surety elects to act under Paragraph 5.1, 5.3, or 5.4, the Surety's liability is limited to the amount of this Bond.
9. The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, successors, and assigns.
10. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders, and other obligations.
11. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after a declaration of Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this paragraph are void or prohibited by law, the minimum periods of limitations available to sureties as a defense in the jurisdiction of the suit shall be applicable.
12. Notice to the Surety, the Owner, or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears.
13. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.
14. Definitions
  - 14.1. Balance of the Contract Price: The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made including allowance for the Contractor for any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.
  - 14.2. Construction Contract: The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and changes made to the agreement and the Contract Documents.
  - 14.3. Contractor Default: Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with a material term of the Construction Contract.
  - 14.4. Owner Default: Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.
  - 14.5. Contract Documents: All the documents that comprise the agreement between the Owner and Contractor.
15. If this Bond is issued for an agreement between a contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.
16. Modifications to this Bond are as follows:

## 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)*

\_\_\_\_\_  
*(seal)*

Contractor's Name and Corporate Seal

Surety's Name and Corporate Seal

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

By: \_\_\_\_\_  
Signature *(attach power of attorney)*

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

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

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

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

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

1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner 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
    8. The total amount due and unpaid to the Claimant for labor, materials, or equipment furnished as of the date of the Claim.
  - 16.2. **Claimant:** An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials, or equipment for use in the performance of the Construction Contract. The term Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic's lien or similar statute against the real property upon which the Project is located. The intent of this Bond shall be to include without limitation in the terms of "labor, materials, or equipment" that part of the water, gas, power, light, heat, oil, gasoline, telephone service, or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials, or equipment were furnished.
  - 16.3. **Construction Contract:** The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and all changes made to the agreement and the Contract Documents.
  - 16.4. **Owner Default:** Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.
  - 16.5. **Contract Documents:** All the documents that comprise the agreement between the Owner and Contractor.
17. If this Bond is issued for an agreement between a contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.
18. Modifications to this Bond are as follows:

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

THIS AGREEMENT is by and between **New Prague Utilities Commission, New Prague, Minnesota** (“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:

**Site Grading work for the West Energy Station (WES) Site Grading.**

**ARTICLE 2 – THE PROJECT**

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

**West Energy Station (WES) Site Grading construction and associated work.**

**ARTICLE 3 – ENGINEER**

- 3.01 The Project has been designed by DGR Engineering.
- 3.02 The Owner has retained DGR Engineering (“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 will be substantially completed on or before **November 28, 2025**, and completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions on or before **December 31, 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 **\$500** for each day that expires after the time (as duly adjusted pursuant to the Contract) specified in Paragraph 4.02.A above for Substantial Completion until the Work is substantially complete.
  2. Completion of Remaining Work: After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Time (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Contractor shall pay Owner **\$500** for each day that expires after such time until the Work is completed and ready for final payment.
  3. Liquidated damages for failing to timely attain Substantial Completion and final completion are not additive and will not be imposed concurrently.

### **ARTICLE 5 – CONTRACT PRICE**

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

- A. For all Work, at the prices stated in Contractor's Bid, attached hereto as an exhibit.
- B. For all Unit Price Work, an amount equal to the sum of the established unit price for each separately identified item of Unit Price Work times the estimated quantity of that item as indicated in the Contractor's Bid. As provided in Paragraph 13.03 of the General Conditions, estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by Engineer as provided in Paragraph 10.06 of the General Conditions. Unit prices have been computed as provided in Paragraph 13.03 of the General Conditions.

### **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 1<sup>st</sup> day of each month during performance of the Work as provided in Paragraph 6.02.A.1 below, provided that such Applications for Payment have been submitted in a timely manner and otherwise meet the requirements of the Contract. All such payments will be measured by the Schedule of Values established as provided in the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no Schedule of Values, as provided elsewhere in the Contract.
1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Owner may withhold, including but not limited to liquidated damages, in accordance with the Contract
- a. 95 percent of Work completed (with the balance being retainage); and
- b. 0 percent (with the balance being retainage) of cost of materials and equipment not incorporated in the Work (but delivered, suitably stored, and accompanied by documentation satisfactory to Owner.
- B. Within 60 days of Substantial Completion, the Owner will reduce the amount retained to the total of the following, all in accordance with Minnesota Statutes, section 15.72, subdivision 2, and Minnesota Statutes, section 337.10, subdivision 4:
1. 250% of the cost to correct or complete work known at the time of substantial completion; and
2. The greater of \$500 or one percent (1%) of the value of the contract, in anticipation of the completion of final paperwork.
- If the Owner withholds payments as described in 1. or 2. above, the Owner will provide a written statement to the Contractor detailing amount and basis of the withholding.
- C. The Contractor shall comply with all requirements of Minnesota Statutes, section 15.72, subdivision 2, and Minnesota Statutes, section 337.10, subdivision 4, regarding reduction of retainage for subcontractors, as well as timely payment of subcontractors.

## 6.03 *Final Payment*

- A. Upon final completion and acceptance of the Work in accordance with Paragraph 15.06 of the General Conditions, or as required by Minnesota Statutes, section

15.72, subdivision 2, and Minnesota Statutes, section 337.10, subdivision 4, Owner shall pay the remainder of the Contract Price as recommended by Engineer as provided in said Paragraph 15.06 or Minnesota Statutes, section 15.72, subdivision 2, and Minnesota Statutes, section 337.10, subdivision 4.

- B. Amounts withheld in accordance with 6.02B shall be released within sixty (60) days after completion of the work (clause 6.02B1.), and sixty (60) days after receipt of all final paperwork (clause 6.02B2.)

## **ARTICLE 7 – INTEREST**

7.01 All amounts not paid when due shall bear interest at the rate of 7 percent per annum.

## **ARTICLE 8 – CONTRACTOR’S REPRESENTATIONS**

8.01 In order to induce Owner to enter into this Contract, Contractor makes the following representations:

- A. Contractor has examined and carefully studied the Contract Documents, and any data and reference items identified in the Contract Documents.
- B. Contractor has visited the Site, conducted a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
- C. Contractor is familiar with and is satisfied as to all Laws and Regulations that may affect cost, progress, and performance of the Work.
- D. Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or adjacent to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings, and (2) reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings. If no such reports have been made available to Contractor, Contractor agrees that none are required from Owner.
- E. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Site-related reports and drawings identified in the Contract Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (3) Contractor’s safety precautions and programs.

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

## ARTICLE 9 – CONTRACT DOCUMENTS

### 9.01 *Contents*

- A. The Contract Documents consist of the following:
  - 1. This Agreement (pages A-1 to **A-9**, inclusive).
  - 2. Performance bond (pages 1 to 2, inclusive).
  - 3. Payment bond (pages 1 to 2, inclusive).
  - 4. General Conditions (pages 1 to 65, inclusive).
  - 5. Supplementary Conditions (pages SC-1 to **SC-6**, inclusive).
  - 6. Specifications as listed in the table of contents of the Project Manual.
  - 7. Drawings (not attached but incorporated by reference) consisting of **4** sheets with each sheet bearing the following general title: **West Energy Station (WES) Site Grading, New Prague Utilities Commission, New Prague, Minnesota.**
  - 8. Addenda (numbers \_\_\_\_ to \_\_\_\_, inclusive).
  - 9. Exhibits to this Agreement (enumerated as follows):
    - a. Contractor's Proposal (pages **BF-1** to **BF-6**, inclusive).

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 *Multiple Parts; Copies Same as Originals; Electronic and Scanned Signatures Permitted*

- A. This Agreement may be executed in multiple parts and in duplicates. Any duplicates of this Agreement shall each be given full effect.
- B. Any photocopies, electronic copies, or scanned copies of this Agreement shall be given full force and effect as the original(s).
- C. Given the distance between the parties and the time-sensitive nature of this Agreement, the parties stipulate that each party and/or their individual representatives may execute this Agreement using an electronic or scanned signature. Such electronic or scanned signatures shall be given full effect by the parties.

10.07 *Other Provisions*

A. None.

**ARTICLE 11 – CONTRACTOR AS AGENT**

- 11.01 This Agreement will establish the Agency relationship between the OWNER and the CONTRACTOR, for purposes of purchase of capital equipment by the CONTRACTOR on behalf of the OWNER.
- 11.02 This Agreement binds the OWNER for payment of equipment purchased by the CONTRACTOR on behalf of the OWNER.
- 11.03 By this Agreement, OWNER appoints and CONTRACTOR agrees to become the Agent for the OWNER with respect to equipment and material purchases, as described in these Contract Documents.

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:

**New Prague Utilities Commission**

Sign: \_\_\_\_\_

Sign: \_\_\_\_\_

Print: \_\_\_\_\_

Print: \_\_\_\_\_

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

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

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

Attest: \_\_\_\_\_

Attest: \_\_\_\_\_

Print: \_\_\_\_\_

Print: \_\_\_\_\_

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

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

Address for giving notices:

Address for giving notices:

**118 Central Avenue N.**

**New Prague, MN 56071**

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.)*



**MISCELLANEOUS FORMS**

## NOTICE OF AWARD

Date of Issuance: \_\_\_\_\_  
Owner: \_\_\_\_\_ Owner's Contract No.: \_\_\_\_\_  
Engineer: **DGR Engineering** Engineer's Project No.: \_\_\_\_\_  
Project: \_\_\_\_\_ Contract Name: \_\_\_\_\_  
Bidder: \_\_\_\_\_  
Bidder's Address: \_\_\_\_\_

### TO BIDDER:

You are notified that Owner has accepted your Bid dated \_\_\_\_\_, 20\_\_ for the above Contract, and that you are the Successful Bidder and are awarded a Contract for: **Total Work**.

The Contract Price of the awarded Contract is: \$\_\_\_\_\_ [Contract is subject to unit prices]

[ 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.

☒ 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 receipt of this Notice of Award:

1. Deliver with the executed Agreement(s) the Contract security **Performance and Payment Bonds** and insurance documentation as specified in the Instructions to Bidders (Article 20), General Conditions (Articles 2 and 6) and the Supplementary Conditions.
2. Other conditions precedent (if any): **Insurance Certificates – Including additional insureds as specified in the Supplementary Conditions**

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  
Sign: \_\_\_\_\_  
Print: \_\_\_\_\_  
Title: \_\_\_\_\_

Copy: **DGR Engineering**

## NOTICE TO PROCEED

---

Owner: \_\_\_\_\_ Owner's Contract No.: \_\_\_\_\_  
Contractor: \_\_\_\_\_ Contractor's Project No.: \_\_\_\_\_  
Engineer: **DGR Engineering** Engineer's Project No.: \_\_\_\_\_  
Project: \_\_\_\_\_ Effective Date of Contract: \_\_\_\_\_  
Contract Name: \_\_\_\_\_

### TO CONTRACTOR:

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

Before starting any Work at the Site, Contractor must comply with the following:

1. **Attend Preconstruction Meeting**
2. **Provide Shop Drawings for Engineer Review**

---

Owner:

Authorized Signature:

Sign: \_\_\_\_\_

Print: \_\_\_\_\_

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

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

Copy: **DGR Engineering**

## CERTIFICATE OF SUBSTANTIAL COMPLETION

|             |                 |                           |       |
|-------------|-----------------|---------------------------|-------|
| Owner:      | _____           | Owner's Contract No.:     | _____ |
| Contractor: | _____           | Contractor's Project No.: | _____ |
| Engineer:   | DGR Engineering | Engineer's Project No.:   | _____ |
| Project:    | _____           |                           | _____ |

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

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

### Date of Substantial Completion

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

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

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

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

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

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

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

|                              |                                 |                  |                              |                  |                                   |
|------------------------------|---------------------------------|------------------|------------------------------|------------------|-----------------------------------|
| <b>EXECUTED BY ENGINEER:</b> |                                 | <b>RECEIVED:</b> |                              | <b>RECEIVED:</b> |                                   |
| By:                          | _____                           | By:              | _____                        | By:              | _____                             |
|                              | Engineer (Authorized Signature) |                  | Owner (Authorized Signature) |                  | Contractor (Authorized Signature) |
| Print:                       | _____                           | Print:           | _____                        | Print:           | _____                             |
| Title:                       | _____                           | Title:           | _____                        | Title:           | _____                             |
| Date:                        | _____                           | Date:            | _____                        | Date:            | _____                             |

# Work Change Directive

No. \_\_\_\_\_

Date of Issuance: \_\_\_\_\_ Effective Date: \_\_\_\_\_

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

Owner: \_\_\_\_\_ Owner's Contract No.: \_\_\_\_\_

Engineer: DGR Engineering Engineer's Project No.: \_\_\_\_\_

Contractor: \_\_\_\_\_ Contractor's Project No.: \_\_\_\_\_

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

Description: \_\_\_\_\_

Attachments (list documents supporting change): \_\_\_\_\_

## Purpose for Work Change Directive:

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

- ☐ Non-agreement on pricing of proposed change.  
☐ Necessity to proceed for schedule or other project reasons.

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

Contract Price: \$ \_\_\_\_\_ [increase] [decrease].

Contract Time: \_\_\_\_\_ days [increase] [decrease].

## Basis of estimated change in Contract Price:

☐ Lump Sum ☐ Unit Price ☐ Cost of Work ☐ Other

### RECOMMENDED:

By: \_\_\_\_\_  
Engineer (Authorized Signature)

Print: \_\_\_\_\_

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

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

### AUTHORIZED BY:

By: \_\_\_\_\_  
Owner (Authorized Signature)

Print: \_\_\_\_\_

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

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

### RECEIVED:

By: \_\_\_\_\_  
Contractor (Authorized Signature)

Print: \_\_\_\_\_

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

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

Approved by Funding Agency (if applicable):

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

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

Print: \_\_\_\_\_

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

Date of Issuance: \_\_\_\_\_ Effective Date: \_\_\_\_\_

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

Owner: \_\_\_\_\_ Owner's Contract No.: \_\_\_\_\_

Engineer: DGR Engineering Date of Contract: \_\_\_\_\_

Contractor: \_\_\_\_\_ Engineer's Project No.: \_\_\_\_\_

**The Contract Documents are modified as follows upon execution of this Change Order:**

Description: \_\_\_\_\_

Attachments (list documents supporting change): \_\_\_\_\_

**CHANGE IN CONTRACT PRICE:**

Original Contract Price:

\$ \_\_\_\_\_

[Increase] [Decrease] from Previously Approved  
Change Orders No. \_\_\_\_\_ to No. \_\_\_\_\_:

\$ \_\_\_\_\_

Contract Price Prior to this Change Order:

\$ \_\_\_\_\_

[Increase] [Decrease] of this Change Order:

\$ \_\_\_\_\_

Contract Price Incorporating this Change Order:

\$ \_\_\_\_\_

**CHANGE IN CONTRACT TIMES:**

Original Contract Times: ☐ Working Days ☐ Calendar Days

Substantial Completion (days or date): \_\_\_\_\_

Ready for Final Payment (days or date): \_\_\_\_\_

[Increase] [Decrease] from Previously Approved Change Orders  
No. \_\_\_\_\_ to No. \_\_\_\_\_:

Substantial Completion (days or date): \_\_\_\_\_

Ready for Final Payment (days or date): \_\_\_\_\_

Contract Times Prior to this Change Order:

Substantial Completion (days or date): \_\_\_\_\_

Ready for Final Payment (days or date): \_\_\_\_\_

[Increase] [Decrease] of this Change Order:

Substantial Completion (days or date): \_\_\_\_\_

Ready for Final Payment (days or date): \_\_\_\_\_

Contract Times with all Approved Change Orders:

Substantial Completion (days or date): \_\_\_\_\_

Ready for Final Payment (days or date): \_\_\_\_\_

**RECOMMENDED:**

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

Engineer (Authorized Signature)

Print: \_\_\_\_\_

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

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

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

Owner (Authorized Signature)

Print: \_\_\_\_\_

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

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

**ACCEPTED:**

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

Contractor (Authorized Signature)

Print: \_\_\_\_\_

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

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

Approved by Funding Agency (if applicable):

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

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

Print: \_\_\_\_\_

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

Date of Issuance: \_\_\_\_\_ Effective Date: \_\_\_\_\_

Project: \_\_\_\_\_  
Owner: \_\_\_\_\_ Owner's Contract No.: \_\_\_\_\_  
Engineer: DGR Engineering Engineer's Project No.: \_\_\_\_\_  
Contractor: \_\_\_\_\_ Contractor's Project No.: \_\_\_\_\_

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

Reference: \_\_\_\_\_  
Specification(s) Drawing(s) / Detail(s)

Description: \_\_\_\_\_

Attachments (list documents supporting change): \_\_\_\_\_

| ISSUED:                         |              | RECEIVED:                         |              |
|---------------------------------|--------------|-----------------------------------|--------------|
| By: _____                       | By: _____    | By: _____                         | By: _____    |
| Engineer (Authorized Signature) |              | Contractor (Authorized Signature) |              |
| Print: _____                    | Print: _____ | Print: _____                      | Print: _____ |
| Title: _____                    | Title: _____ | Title: _____                      | Title: _____ |
| Date: _____                     | Date: _____  | Date: _____                       | Date: _____  |

**Copy to: Owner**

## Exemption from Surety Deposits for Non-Minnesota Contractors

Please type or print clearly. This information will be used for returning the form to you.

|            |  |  |                                                                                                                                                                                            |                           |
|------------|--|--|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------|
| Contractor |  |  | Total contract amount                                                                                                                                                                      | Minnesota tax ID number   |
| Address    |  |  | \$                                                                                                                                                                                         |                           |
| City       |  |  | Contact person                                                                                                                                                                             | Daytime phone             |
| State      |  |  | Contract starting date                                                                                                                                                                     | Projected completion date |
| ZIP code   |  |  | Business type (check one):<br><input type="checkbox"/> Corporation <input type="checkbox"/> S corporation<br><input type="checkbox"/> Partnership <input type="checkbox"/> Sole proprietor |                           |

|                                       |  |  |                |                |
|---------------------------------------|--|--|----------------|----------------|
| Name of business or government agency |  |  | Contact person | Daytime phone  |
| Contract owner's address              |  |  | City           | State          |
|                                       |  |  | ZIP Code       | Project number |
| Project location address              |  |  | City           | State          |
|                                       |  |  | ZIP code       |                |

I request exemption from surety deposits under Minnesota law (M.S. 290.9705) for the following reason (*check one box only and complete the information requested*):

- ☐ I have a cash surety or a bond secured by an insurance company licensed in Minnesota. The bond must be 8 percent of the total contract amount. Attach a copy of Form SDB, Non-Minnesota Contractor's Bond.
- |                 |  |  |                                 |  |  |
|-----------------|--|--|---------------------------------|--|--|
| Bonding Company |  |  | Bonding Agent                   |  |  |
| Address         |  |  | Daytime Phone                   |  |  |
| City            |  |  | State                           |  |  |
| ZIP Code        |  |  | Period of Bond (Month/Day/Year) |  |  |
|                 |  |  | From / / To / /                 |  |  |
- ☐ I have done construction work in Minnesota during the past three calendar years and have fully complied with Minnesota law regarding Minnesota income, sales and use, corporate franchise, and withholding taxes.
- ☐ I am performing work for a government agency and have a payment and performance bond.
- ☐ I am performing work for a government agency and have a cash surety issued by a state bank, national bank, or savings and loan association doing business in Minnesota.

*I declare this information is true and complete to the best of my knowledge and belief. I authorize the Department of Revenue to send a copy of this form to the contract owner and discuss this case and related taxes with the bonding company.*

|                        |       |      |
|------------------------|-------|------|
| Contractor's signature | Title | Date |
|------------------------|-------|------|

**Mail to:** Minnesota Revenue, Mail Station 6501, St. Paul, MN 55146-6501

### Department of Revenue Approval

The above-named non-Minnesota contractor is exempt from the surety requirements of Minnesota Statute 290.9705 for this project.

Department of Revenue approval

Date



# Form SDE Instructions

---

*Unless the non-Minnesota construction contractor is approved for exemption, any person or business that hires or contracts with the contractor must withhold 8 percent of their compensation as a Minnesota surety deposit.*

*The withholding amount is deposited with the department and is used as a surety to guarantee that the contractor has fulfilled the requirements for withholding, sales and use, franchise, and income taxes.*

*For additional information regarding the 8 percent withholding, see Fact Sheet 12, Surety Deposits for Non-Minnesota Construction Contractors.*

## Purpose of Form SDE

If you are a non-Minnesota construction contractor and you want to apply for an exemption from the surety deposit (see “Exemption Requirements” below), complete and file Form SDE with the department before you start the project.

If approved, give the original, signed Form SDE to the person or business for whom you are doing the work to show you are exempt from the 8 percent surety deposit.

## Surety Deposit Law

If you hire or contract with a non-Minnesota contractor to perform construction work in Minnesota, you must withhold 8 percent (.08) of their compensation as a Minnesota surety deposit. Payments are subject to 8 percent withholding only if the work was performed in Minnesota and the total payments during the year exceed \$50,000. If the total payments exceed \$50,000 in a calendar year, all of the payments, even the first \$50,000, are subject to withholding.

## Exemption Requirements

A non-Minnesota construction contractor may qualify for an exemption from the surety deposit if one of the following requirements are met:

- The contractor gives the department a bond that is secured by an insurance company licensed in Minnesota and is equal to 8 percent of the contract. The bond remains in effect until the contractor satisfies all tax liabilities. You may choose to complete Form SDB, *Non-Minnesota Contractor's Bond*, to submit to the department.
- The contractor gives the department a cash surety. A cash surety is evidence of a savings account, deposit or certificate of deposit in, or issued by, a state bank, national bank, or savings and loan association doing business in Minnesota. Interest and dividends earned on the principal amount may be retained by the contractor.
- The contractor is performing work for a government agency and has a payment and performance bond.
- The contractor has done construction work in Minnesota during the past three calendar years and has fully complied with Minnesota laws regarding withholding, sales and use, franchise, and income taxes.

If a non-Minnesota contractor is hired or contracted to perform construction work in Minnesota, the person or business who is paying the contractor must withhold 8 percent of the payment as a Minnesota surety deposit.

Unless the contractor has received exemption from surety deposits, payments made to the contractor are subject to 8 percent withholding, if:

- the construction work was performed in Minnesota; and
- the total amount paid to the non-Minnesota construction contractor during the year exceeds \$50,000.

## Who can apply?

A non-Minnesota contractor can apply for an exemption if your contract exceeds or is expected to exceed \$50,000 or multiple contracts have exceeded \$50,000 cumulative per calendar year for work done in Minnesota.

## Before You Start

You must have a Minnesota tax ID number from the Department of Revenue to request an exemption from surety deposit.

If you don't have a Minnesota ID number, you may apply online at [www.revenue.state.mn.us](http://www.revenue.state.mn.us) or by calling our Business Registration Office at 651-282-5225 or 1-800-657-3605.

## How to Apply

To apply for an exemption from Minnesota surety deposits, file Form SDE before you start the project.

Mail this form and any required attachments to the address on the front.

## If You're Approved

If we approve the exemption, we will sign the bottom of the form and return it to you. Make a copy for your records and give the original to the business for whom you are doing the work.

## If You're Not Approved

If we determine you're not eligible for exemption, 8 percent of each payment made to you must be withheld by the business for whom you are doing the work and deposited with the Department of Revenue.

To apply for a refund, complete Form SDR, *Refund of Surety Deposits for Non-Minnesota Contractors*. When the project is complete, and we determine that you have complied with Minnesota income, withholding, corporate franchise and sales and use tax laws, you'll receive a refund plus interest.

## Information and Assistance

Additional forms and information, including fact sheets and frequently asked questions, are available on our website.

Website: [www.revenue.state.mn.us](http://www.revenue.state.mn.us)

Email: [withholding.tax@state.mn.us](mailto:withholding.tax@state.mn.us)

Phone: 651-282 9999 or 1-800-657-3594

This information is available in alternate formats.

## Use of Information

All information on this form is required except for your phone number.

All information, except your Minnesota tax ID number, is private by state law. It cannot be given to others without your permission, except to the Internal Revenue Service, other states that guarantee the same privacy, the contract owner or bonding company and certain government agencies as provided by law.

## Contractor Affidavit

This Contractor Affidavit must be certified by the Minnesota Department of Revenue before the state of Minnesota or any of its subdivisions can make final payment to contractors. For more detailed information, see the instructions on the back of this form.

Please type or print clearly. This information will be used for returning the completed form.

|                     |                       |                         |
|---------------------|-----------------------|-------------------------|
| Company name        | Daytime phone         | Minnesota tax ID number |
| Address             | Total contract amount | Month/year work began   |
| City State ZIP code | \$                    | Month/year work ended   |
|                     | Amount still due      |                         |
|                     | \$                    |                         |

|                |                             |
|----------------|-----------------------------|
| Project number | Project location            |
| Project owner  | Address City State ZIP code |

Did you have employees work on this project? ☐ Yes ☐ No. If no, who did the work?

Check the box that describes your involvement in the project and fill in all information requested.

☐ **Sole contractor**

☐ **Subcontractor**

Name of contractor who hired you

Address

☐ **Prime contractor**—If you subcontracted out any work on this project, all of your subcontractors must submit their own Contractor Affidavits and have them certified by the Department of Revenue *before* you can submit your Contractor Affidavit. For each subcontractor you had, fill in the information below and attach a copy of each subcontractor's certified Contractor Affidavit. If you need more space, attach a separate sheet.

|               |         |               |
|---------------|---------|---------------|
| Business name | Address | Owner/Officer |
|               |         |               |
|               |         |               |
|               |         |               |
|               |         |               |
|               |         |               |

I declare that all information I have filled in on this form is true and complete to the best of my knowledge and belief. I authorize the Department of Revenue to disclose pertinent information relating to this project, including sending copies of this form, to the prime contractor if I am a subcontractor, and to any subcontractors if I am a prime contractor, and to the contracting agency.

|                        |       |      |
|------------------------|-------|------|
| Contractor's signature | Title | Date |
|------------------------|-------|------|

**Mail to:** Minnesota Revenue, Mail Station 6610, St. Paul, MN 55146-6610  
Phone: 651-282-9999 or 1-800-657-3594

### Certificate of Compliance

Based on records of the Minnesota Department of Revenue, I certify that the contractor who has signed this Contractor Affidavit has fulfilled all the requirements of Minnesota Statutes 290.92 and 270C.66 concerning the withholding of Minnesota income tax from wages paid to employees relating to contract services with the state of Minnesota and/or its subdivisions.

Department of Revenue approval

Date

## Form IC134 Instructions

---

### Contractor Affidavit

No state agency or local unit of government can make final payment to a contractor until the Department of Revenue has certified that the contractor and any subcontractor have fulfilled the requirements of Minnesota withholding tax laws.

If you are a prime contractor, a contractor or a subcontractor who did work on a project for the state of Minnesota or any of its local government subdivisions — such as a county, city or school district — you must submit a Contractor Affidavit to the Department of Revenue to receive a certificate of compliance.

### Use of Information

The Department of Revenue needs **all** the requested information to determine if you have met the state income tax withholding requirements. If all required information is not provided, Form IC134 will be returned to you for completion.

All information on this Contractor Affidavit is private by state law. It cannot be given to others without your permission, except to the Internal Revenue Service, other states that guarantee the same privacy and certain government agencies as provided by law.

### Minnesota Tax ID Number

You must have a Minnesota tax ID number if you have employees who work in Minnesota. You must enter your Minnesota tax ID number on Form IC134.

If you don't have a Minnesota tax ID number, apply online at [www.revenue.state.mn.us](http://www.revenue.state.mn.us) or by calling our Business Registration Office at 651-282-5225 or 1-800-657-3605.

If you have no employees and did all the work yourself, you do not need a Minnesota tax ID number. Instead, enter your Social Security number in the space for Minnesota tax ID number and explain who did the work.

### Submit Contractor Affidavit

Form IC134 cannot be processed by the Department of Revenue until you finish the work. If you submit the form before the project is completed, it will be returned to you unprocessed.

If any withholding payments are due to the state, Minnesota law requires certified payments before we approve your Form IC134.

If you are a subcontractor or sole contractor, submit the form when you have completed your part of the project.

If you are a prime contractor, submit the form when the entire project is completed and you have received certified Contractor Affidavits from all of your subcontractors.

### If you're a prime contractor and a subcontractor on the same project

If you were hired as a subcontractor to do work on a project, and you subcontracted all or a part of your portion of the project to another contractor, you are a prime contractor as well. Complete both the subcontractor and prime contractor areas on a single Form IC134.

You may submit your Contractor Affidavit either electronically **or** by mail. This affidavit must be certified and returned before the state or any of its subdivisions can make final payment for your work.

**For an immediate response:** Complete and submit your Contractor Affidavit electronically. Go to [www.revenue.state.mn.us](http://www.revenue.state.mn.us) and choose **Withholding Tax**. Under the File and Pay tab, click on Contractor Affidavit Information for Government Projects.

**You may complete and mail Form IC134 to:** Minnesota Revenue, Mail Station 6610, St. Paul, MN, 55146-6610. If you have fulfilled the requirements of Minnesota withholding tax laws, the department will sign your Form IC134 and return it to you. To receive your final payment, submit the certified Contractor Affidavit to the government unit for which the work was done. If you are a subcontractor, submit the certified Contractor Affidavit to your prime contractor to receive your final payment.

### Information and Assistance

Additional forms and information, including fact sheets and frequently asked questions, are available on our website.

Website: [www.revenue.state.mn.us](http://www.revenue.state.mn.us)

Email: [withholding.tax@state.mn.us](mailto:withholding.tax@state.mn.us)

Phone: 651-282-9999 or 1-800-657-3594

This information is available in alternate formats.

**Form ST3, Certificate of Exemption****Purchaser:** Complete this certificate and **give it to the seller.****Seller:** If this certificate is not completed, you must charge sales tax. Keep this certificate as part of your records.

This is a blanket certificate, unless one of the boxes below is checked. This certificate remains in force as long as the purchaser continues making purchases or until otherwise cancelled by the purchaser.

☐ Check if this certificate is for a single purchase and enter the related invoice/purchase order # \_\_\_\_\_.☐ If you are a contractor and have a purchasing agent agreement with an exempt organization, check the box to make purchases for a specific job. Enter the exempt entity name and specific project:

Exempt entity name \_\_\_\_\_ Project description \_\_\_\_\_

Name of Purchaser \_\_\_\_\_

Business Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ ZIP code \_\_\_\_\_

Purchaser's Tax ID Number \_\_\_\_\_ State of Issue \_\_\_\_\_

|                                                     |      |                                                |
|-----------------------------------------------------|------|------------------------------------------------|
| If no tax ID number,<br>Enter one of the following: | FEIN | Driver's license number/State issued ID number |
|                                                     |      | State of Issue Number                          |

Name of seller from whom you are purchasing, leasing, or renting \_\_\_\_\_

Seller's Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ ZIP code \_\_\_\_\_

**Type of Business**

- |                                                                        |                                                                |
|------------------------------------------------------------------------|----------------------------------------------------------------|
| <input type="checkbox"/> 01 Accommodation and food services            | <input type="checkbox"/> 11 Transportation and warehousing     |
| <input type="checkbox"/> 02 Agricultural, forestry, fishing, hunting   | <input type="checkbox"/> 12 Utilities                          |
| <input type="checkbox"/> 03 Construction                               | <input type="checkbox"/> 13 Wholesale trade                    |
| <input type="checkbox"/> 04 Finance and insurance                      | <input type="checkbox"/> 14 Business services                  |
| <input type="checkbox"/> 05 Information, publishing and communications | <input type="checkbox"/> 15 Professional services              |
| <input type="checkbox"/> 06 Manufacturing                              | <input type="checkbox"/> 16 Education and health-care services |
| <input type="checkbox"/> 07 Mining                                     | <input type="checkbox"/> 17 Nonprofit organization             |
| <input type="checkbox"/> 08 Real estate                                | <input type="checkbox"/> 18 Government                         |
| <input type="checkbox"/> 09 Rental and leasing                         | <input type="checkbox"/> 19 Not a business (explain) _____     |
| <input type="checkbox"/> 10 Retail trade                               | <input type="checkbox"/> 20 Other (explain) _____              |

**Reason for Exemption (See Instructions)**

- |                                                                                                                                     |                                                                                                                            |
|-------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> A Federal government (department) _____                                                                    | <input type="checkbox"/> J Agricultural production                                                                         |
| <input type="checkbox"/> B Specific government exemption _____                                                                      | <input type="checkbox"/> K Industrial production/manufacturing                                                             |
| <input type="checkbox"/> C Tribal government (name) _____                                                                           | <input type="checkbox"/> L Direct pay authorization                                                                        |
| <input type="checkbox"/> D Foreign diplomat # _____                                                                                 | <input type="checkbox"/> M Multiple points of use (services, digital goods, or computer software delivered electronically) |
| <input type="checkbox"/> E Charitable organization # _____                                                                          | <input type="checkbox"/> N Direct mail                                                                                     |
| <input type="checkbox"/> F Educational organization # _____                                                                         | <input type="checkbox"/> O Other (enter number from instructions) _____                                                    |
| <input type="checkbox"/> G Religious organization # _____                                                                           | <input type="checkbox"/> P Percentage exemption                                                                            |
| <input type="checkbox"/> H Resale                                                                                                   | <input type="checkbox"/> Advertising (enter percentage) _____%                                                             |
| <input type="checkbox"/> I Qualifying capital equipment (see instructions when equipment claimed is part of a construction project) | <input type="checkbox"/> Utilities (enter percentage) _____%                                                               |
|                                                                                                                                     | <input type="checkbox"/> Electricity (enter percentage) _____%                                                             |

*I declare that the information on this certificate is correct and complete to the best of my knowledge and belief. (PENALTY: If you try to evade paying sales tax by using an exemption certificate for items or services that will be used for purposes other than those being claimed, you may be fined \$100 under Minnesota law for each transaction for which the certificate is used.)*

Signature of Authorized Purchaser \_\_\_\_\_

Print Name Here \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

# Form ST3 Instructions

---

Fact sheets and industry guides are available on our website at [www.revenue.state.mn.us](http://www.revenue.state.mn.us).

## Purchasers

Complete this certificate and give it to the seller. Include your Minnesota tax identification number if you have one. Do not send it to the Minnesota Department of Revenue.

**Note:** You are responsible for knowing if you qualify to claim exemption from tax and will be held liable for any use tax, interest and possible penalties due if the items you purchased are not eligible for exemption.

## Sellers

Keep this certificate as part of your records. Accepting a completed exemption certificate relieves you from collecting the tax. If this certificate is not completed, you must charge sales tax. You may be required to provide this exemption certificate (or the data elements required on the form) to the state to verify this exemption.

## Exemption Descriptions

Use these descriptions to complete the **Reason for Exemption** section.

**A. Federal government** — Enter the name of the department. The seller must obtain a purchase order, payment voucher, work order, a completed Form ST3 or similar documentation to show the purchase was from the federal government. See the *Government - Federal Government Industry Guide*.

**B. Specific government exemptions** — Enter the specific exemption from the list below.

- Ambulance services
- Biosolids processing equipment
- Bullet-resistant body armor
- Chore/homemaking services
- Correctional facility meals or drinks
- Emergency rescue vehicle repair and replacement parts
- Emergency vehicle accessory items
- Firefighter equipment
- Hospitals
- Libraries
- Local Governments
- Metropolitan Council
- Nursing homes
- Petroleum products used by government
- Regionwide public safety radio communication system
- Solid waste disposal facility
- State or local government agency from another state
- Transit program vehicles
- Water used directly in providing fire protection

See *Fact Sheet 142, Sales to Governments*, *Fact Sheet 135, Fire Fighting, Police and Emergency Equipment*, *Government - Local Governments Industry Guide*, and *Fact Sheet 139, Libraries*.

**C. Tribal government** — All sales to tribal governments are exempt. Enter the name of the tribe. See *Fact Sheet 160, Tribal Governments and Members*.

**D. Foreign diplomat** — Sales tax exemption cards are issued to some foreign diplomats and consular officials stationed in this country. Enter the number issued to the foreign diplomat. See the *Government - Federal Government Industry Guide*.

**E. Charitable organizations** — Must be operated exclusively for charitable purposes. You must apply for and receive exempt status authorization from the department. Some nonprofit organizations do not qualify for sales tax exemption. This exemption may not be used for the purchase of lodging or prepared food. See the *Nonprofit Organizations Industry Guide*.

**F. Educational organizations** — Educational organizations operated exclusively for educational purposes must use Form ST3 on qualifying purchases. Organizations such as nonprofit professional and trade schools, scouts, youth groups, youth athletic and recreational programs, etc., operated exclusively for educational purposes must apply for exempt status authorization from the department and use Form ST3 on qualifying purchases. This exemption may not be used for the purchase of lodging or prepared food. See the *Nonprofit Organizations Industry Guide*.



## Form ST3 instructions (*continued*)

---

- G. Religious organizations** — Churches and other religious organizations operated exclusively for religious purposes can use Form ST3 without exempt status authorization or may apply for exempt status authorization from the department. This exemption may not be used for the purchase of lodging or prepared food. See the *Nonprofit Organizations Industry Guide*.
- H. Resale** — Items or services must be purchased for resale in the normal course of business. You may not use this exemption if the vendor is restricted by federal or state law from selling certain products for resale. **Liquor retailers cannot sell alcoholic beverages exempt for resale.** *M.S. 340A.505*
- I. Qualifying Capital Equipment** — Machinery and equipment purchased or leased primarily for manufacturing, fabricating, mining, or refining tangible personal property to be sold ultimately at retail if the machinery and equipment are essential to the integrated production process.
- Additional information needs to be provided when the CE exemption is claimed for a construction project that would normally be considered an improvement to real property. The purchaser must provide documentation to the contractor to identify the exempt portion of the project.
- See *Fact Sheet 103, Capital Equipment* and *Fact Sheet 128, Contractors*.
- J. Agricultural production** — Materials and supplies used or consumed in agricultural production of items intended to be sold ultimately at retail. Does not cover furniture, fixtures, machinery, tools (except qualifying detachable tools and special tooling) or accessories used to produce a product. See the *Agricultural and Farming Industry Guide*.
- K. Industrial production** — Materials and supplies used or consumed in industrial production of items intended to be sold ultimately at retail. Does not cover furniture, fixtures, machinery, tools (except qualifying detachable tools and special tooling) or accessories used to produce a product. See *Fact Sheet 145, Industrial Production*.
- L. Direct pay** — Allows the buyer to pay sales tax on certain items directly to the state instead of to the seller. Applicants must be registered to collect sales tax in order to qualify and must apply for and receive direct pay authorization from the department. The State of Minnesota (all state agencies) has direct pay authorization. This means state agencies pay sales tax directly to the department, rather than to the seller. Direct pay authorization may not be used for meals and drinks; lodging or related lodging services; admissions to places of amusement or athletic events, or use of amusement devices; motor vehicles; certain services; or memberships to sports and athletic facilities. If you sell any of the excluded items, you should charge sales tax.
- M. Multiple points of use** — Taxable services, digital goods, or electronically delivered computer software that is concurrently available for use in more than one taxing jurisdiction at the time of purchase. Purchaser is responsible for apportioning and remitting the tax due to each taxing jurisdiction.
- N. Direct mail** — Allows the buyer to pay sales tax on direct mail directly to the state instead of to the seller. Direct mail is printed material that meets the three following criteria:
- It is delivered or distributed by U.S. Mail or other delivery service.
  - It is sent to a mass audience or to addresses on a mailing list provided by the purchaser or at the direction of the purchaser.
  - The cost of the items is not billed directly to recipients.
- O. Other exemptions** —
- 1. Aggregate delivered by a third party hauler to be used in road construction.** Charges for delivery of aggregate materials by *third party haulers* are exempt if the aggregate will be used in road construction.
  - 2. Airflight equipment.** The aircraft must be operated under Federal Aviation Regulations, parts 91 and 135. See the *Aircraft Industry Guide*.
  - 3. Ambulance services** — privately owned (leases of vehicles used as an ambulance or equipped and intended for emergency response). Must be used by an ambulance service licensed by the EMS Regulatory Board under section 144E.10. See *Fact Sheet 135, Fire Fighting, Police, and Emergency Equipment*.
  - 4. Aquaculture production equipment.** Qualifying aquaculture production equipment, and repair or replacement parts used to maintain and repair it. See the *Agricultural and Farming Industry Guide*.
  - 5. Automatic fire-safety sprinkler systems.** Fire-safety sprinkler systems and all component parts (including waterline expansions and additions) are exempt when installed in an existing residential dwelling, hotel, motel or lodging house that contains four or more dwelling units.
  - 6. Coin-operated entertainment and amusement devices** are exempt when purchased by retailers who (1) sell admission to places of amusement, or (2) make available amusement devices. See *Fact Sheet 158, Vending Machines and Other Coin-Operated Devices*.
  - 7. Construction exemption for special projects under M.S. 297A.71.** Certain purchases for the construction of a specific project or facility are exempt under M.S. 297A.71, such as waste recovery facilities. This exemption does not apply to projects for which you must pay sales or use tax on qualifying purchases and then apply for a refund.
  - 8. Exempt publications.** Materials and supplies used or consumed in the production of newspapers and publications issued at average intervals of three months or less. Includes publications issued on CD-ROM, audio tape, etc. See *Fact Sheet 109, Printing Industry*.

## Form ST3 Instructions (*continued*)

---

9. **Farm machinery.** Qualifying farm machinery, and repair or replacement parts (except tires) used to maintain and repair it. See the *Agricultural and Farming Industry Guide*.
10. **Handicapped accessible (residential building materials).** Building materials and equipment purchased by nonprofit organizations if the materials are used in an existing residential structure to make it handicapped accessible, and the homeowner would have qualified for a refund of tax paid on the materials under M.S. 297A.71, subd. 11 or subd. 22. Nonprofit organizations include those entities organized and operated exclusively for charitable, religious, educational or civic purposes; and veteran groups exempt from federal taxation under IRC 501(c)(19).
11. **Handicapped accessible (vehicle costs).** Conversion costs to make vehicles handicapped accessible. Covers parts, accessories and labor.
12. **Herbicides for use on invasive aquatic plants.** Starting July 1, 2019, herbicides used under an invasive aquatic plant management permit are exempt from sales tax. The exemption only applies to herbicides labeled for use in water and registered with the Department of Agriculture for use on invasive aquatic plants. The herbicides must be purchased by lakeshore property owners, a lakeshore property association, or a contractor hired to provide invasive aquatic plant management.
13. **Horse materials.** Covers consumable items such as feed, medications, bandages and antiseptics purchased for horses. Does not cover machinery, tools, appliances, furniture and fixtures. See the *Veterinary Practice Industry Guide*.
14. **Hospitals and outpatient surgical centers.** Sales to a hospital and outpatient surgical center are exempt if the items purchased are used in providing hospital or outpatient surgical services. (*M.S. 297A.70, subd. 7*)
15. **Instructional materials** required for study courses by college or private career school students (*M.S. 297A.67, subd. 13a*)
16. **Logging equipment.** Qualifying logging equipment, and repair or replacement parts (except tires) used to maintain and repair it. See *Fact Sheet 108, Logging Equipment*.
17. **Materials used for business outside Minnesota** in a state where no sales tax applies to such items; or for use as part of a maintenance contract. This exemption applies only if the items would not be taxable if purchased in the other state (e.g., a state that does not have sales tax).
18. **Materials used to provide certain taxable services.** Materials must be used or consumed directly in providing services taxable under M.S. 297A.61, subd. 3(g)(6).
19. **Medical supplies for a health-care facility.** Purchases by a licensed health care facility, outpatient surgical center or licensed health-care professional of medical supplies used directly on a patient or resident to provide medical treatment. The exemption does not apply to equipment, lab or radiological supplies, etc. See *Fact Sheet 172, Health Care Facilities*.
20. **Motor carrier direct pay (MCDP).** Allows motor carriers to pay tax directly to the state when they lease mobile transportation equipment or buy certain parts and accessories. Applicants must be registered for sales tax in order to apply. You must apply for and receive MCDP authorization from the Department of Revenue. See the *Motor Vehicle Industry Guide*.
21. **Nonprofit snowmobile clubs.** Certain machinery and equipment is exempt when used primarily to groom state (or grant-in-aid) trails. Prior certification from DNR must be received.
22. **Nursing homes and bonding care homes.** Sales to nursing homes and boarding care homes are exempt. Nursing homes must be licensed by the state. Boarding care homes must be certified as a nursing facility.
23. **Packing materials.** Packing materials used to pack and ship household goods to destinations outside of Minnesota.
24. **Poultry feed.** The poultry must be for human consumption.
25. **Preexisting construction bids and contracts.** Tangible personal property or services purchased in relation to a preexisting construction bid or contract are exempt from a new local tax or a tax rate increase for six months from the effective date of the new local tax or rate increase. This exemption is only for the change in tax on items or services purchased during the transitional period. The preexisting bid must be submitted and accepted before the effective date of the tax change and the building materials or services must be used pursuant to an obligation of the bid. A construction contract must have documentation of a bona fide written lump-sum or fixed price construction contract in force from before the effective date of the tax change.
26. **Prizes.** Items given to players as prizes in games of skill or chance at events such as community festivals, fairs and carnivals lasting fewer than six days.
27. **Purchasing agent.** Allows a business who has been appointed as a purchasing agent by an exempt organization to make purchases exempt from sales tax. All documentation pertaining to the purchasing agent agreement is kept by the purchasing agent to verify exemption.
28. **Repair or replacement parts used in another state or country** as part of a maintenance contract. This does not apply to equipment or tools used in a repair business.
29. **Resource recovery facilities.** Applies to equipment used for processing solid or hazardous waste (after collection and before disposal) at a resource recovery facility. You must apply for and receive approval from the department.

## Form ST3 Instructions (*continued*)

---

30. **Rolling-stock for railroad use.** Railroad businesses involved in interstate or intrastate commerce can buy certain rolling-stock items exempt. See the *Transportation Service Providers Industry Guide*.
31. **Senior citizen groups.** Groups must limit membership to senior citizens age 55 or older, or under 55 but physically disabled. They **must** apply for and receive exempt status authorization from the department.
32. **Ship repair or replacement parts and lubricants.** Repair or replacement parts and lubricants for ships and vessels engaged principally in interstate or foreign commerce. See the *Transportation Service Providers Industry Guide*.
33. **Ski areas.** Items used or consumed primarily and directly for tramways at ski areas, or in snowmaking and snow-grooming operations at ski hills, ski slopes or ski trails. Includes machinery, equipment, water additives and electricity used in the production and maintenance of machine-made snow.
34. **Solar energy system** means a set of devices whose primary purpose is to collect solar energy and convert and store it for useful purposes including heating and cooling buildings or other energy using processes, or to produce generated power by means of any combination of collecting, transferring, or converting solar-generated energy.
35. **Taconite production items.** Mill liners, grinding rods and grinding balls used in taconite production if purchased by a company taxed under the in-lieu provisions of M.S. 298 if they are substantially consumed in the production of taconite. See *Fact Sheet 147, Taconite and Iron Mining*.
36. **Telecommunications, cable television and direct satellite equipment** used directly by a service provider primarily to provide those services for sale at retail. See *Fact Sheet 119, Telecommunications, Pay Television, and Related Services*. **This exemption was not in effect from July 1, 2013 through March 31, 2014.**
37. **Textbooks** required for study to students who are regularly enrolled.
38. **Tribal government construction contract.** Materials purchased on or off the reservation by tribal government or non-tribal government contractors and subcontractors for use in construction projects on the reservation when the tribe or a tribally owned entity is a party to the contract, and the contract is being undertaken for the purpose of the tribe's welfare. It does not extend to the purchase or lease of equipment or tools for use on the project.
41. **TV commercials.** Covers TV commercials and tangible personal property primarily used or consumed in preproduction, production or post-production of a TV commercial. Includes rental equipment for preproduction and production activities only. (Equipment purchased for use in any of these activities is taxable.) See *Fact Sheet 163, TV Commercials*.
42. **Veteran organizations.** Limited exemption applies to purchases by veteran organizations and their auxiliaries if they are organized in Minnesota and exempt from federal income tax under IRC Section 501(c)(19); and the items are for charitable, civic, educational or nonprofit use (e.g. flags, equipment for youth sports teams, materials to make poppies given for donations).
43. **Waste-management containers and compactors** purchased by a waste-management service provider to use in providing waste-management services that are subject to solid-waste management tax.
44. **Wind energy systems.** Wind energy conversion systems and materials used to construct, install, repair or replace them.

### P. Percentage Exemptions —

- **Advertising materials:** Percentage exemptions may be claimed for advertising materials for use outside of Minnesota or local taxing area. Purchaser must enter exempt percentage on Form ST3. See *Fact Sheet 133, Advertising*.
- **Utilities:** Exemption applies to percent of utilities used in agricultural or industrial production. General space heating and lighting is not included in the exemption. Purchaser must enter exempt percentage on Form ST3. See the *Agricultural and Farming Industry Guide* and *Fact Sheet 129, Utilities Used in Production*.
- **Electricity:** Exemption applies to percent of electricity used to operate enterprise information technology equipment, or used in office and meeting spaces, and other support facilities in support of enterprise information technology equipment. Purchaser must enter exempt percentage on Form ST3. See *Revenue Notice 16-07: Sales Tax – Exemptions – Qualified Data Centers*.

## Forms and Information

Website: [www.revenue.state.mn.us](http://www.revenue.state.mn.us).

Email: [SalesUse.Tax@state.mn.us](mailto:SalesUse.Tax@state.mn.us)

Phone: 651-296-6181 or 1-800-657-3777



## WAIVER AND RELEASE OF LIEN

WHEREAS, the undersigned, \_\_\_\_\_  
NAME OF MANUFACTURER, MATERIALMAN OR SUBCONTRACTOR

has furnished to \_\_\_\_\_ the following:

\_\_\_\_\_ for use in the construction of a  
KIND OF MATERIAL AND SERVICES FURNISHED

project belonging to \_\_\_\_\_, and designated as, \_\_\_\_\_.

NOW, THEREFORE, the undersigned, \_\_\_\_\_  
NAME OF MANUFACTURER, MATERIALMAN OR SUBCONTRACTOR

for and in consideration of \$\_\_\_\_\_, and other good and valuable consideration, the receipt whereof is hereby acknowledged, do(es) hereby waive and release any and all liens, or right to or claim of lien, on the above described project and premises, under any law, common or statutory, on account of labor or materials, or both, heretofore or hereafter furnished by the undersigned to or for the account of said \_\_\_\_\_ for said project.

Given under my (our) hand(s) and seal(s) this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
NAME OF MANUFACTURER, MATERIALMAN OR SUBCONTRACTOR

Sign: \_\_\_\_\_  
PRESIDENT, VICE PRESIDENT, PARTNER OR OWNER, OR, IF SIGNED BY  
OTHER THAN ONE OF FOREGOING, ACCOMPANIED BY POWER OF  
ATTORNEY SIGNED BY ONE OF THE FOREGOING IN FAVOR OF THE  
SIGNER (USE DESIGNATION APPLICABLE)

Print: \_\_\_\_\_

## CERTIFICATE OF CONTRACTOR AND INDEMNITY AGREEMENT

\_\_\_\_\_, certifies that he/she is the \* \_\_\_\_\_  
REPRESENTATIVE NAME TITLE OR DESIGNATION  
of \_\_\_\_\_, the Contractor, in a contract No. \_\_\_\_\_ dated  
\_\_\_\_\_, 20 \_\_, entered into between the Contractor and \_\_\_\_\_  
the Owner, for the construction of \_\_\_\_\_; and that he/she is authorized to and  
does make this Certificate and Indemnity Agreement on behalf of the Contractor in order to induce the  
Owner to make payment to the Contractor, in accordance with the provisions of the Contract.  
Undersigned further certifies that:

1. The Project has been completed in accordance with provisions of the Construction Contract; provided however, that acceptance by the Owner shall not be deemed to relieve the Contractor of his obligations contained in the Construction Contract with respect to defective workmanship and materials. The Contractor shall provide a warranty of materials and workmanship as outlined and provided in the Contract Documents.
2. All persons who have finished labor in connection with the Project have been paid in full at hourly wage rates not less than those, if any, set forth in the Construction Contract; that all manufacturers, materialmen and subcontractors which furnished any materials or services, or both, for the Project have been paid in full; that no lien has been filed against the Project and no person has any right to claim any lien against the Project.
3. That the Contractor has delivered to the Owner duplicate releases of liens executed by all manufacturers, materialmen and subcontractors that furnished materials or services for the project as follows:

| Name  | Kind of Material and Services |
|-------|-------------------------------|
| _____ | _____                         |
| _____ | _____                         |
| _____ | _____                         |
| _____ | _____                         |
| _____ | _____                         |

If the Owner pays the Contractor the total amount due under the Contract, which the Contractor agrees is \$\_\_\_\_\_, including \$\_\_\_\_\_ for \*\* state sales and use taxes paid by the Contractor, the Contractor will indemnify and hold harmless and does hereby undertake and agree to indemnify and hold harmless the Owner, including the defense of any suit, from any claim, demand or lien arising out of the acts of the Contractor in the performance of the Contract for which the Contractor is liable and which may have been or may be filed against the Owner.

---

SIGNATURE

---

PRINT

- \* President, Vice President, Partner or Owner, or, if undersigned is other than one of the foregoing, Power of Attorney signed by one of the foregoing in favor of the undersigned should be attached. Indicate applicable designation.
- \*\* In addition, Contractor shall submit a detailed statement of sales and use taxes paid in accordance with requirements of statute in state having jurisdiction.

**ENGINEER'S STATEMENT OF FINAL COMPLETION  
AND  
OWNER'S ACCEPTANCE OF CONTRACT CONSTRUCTION**

TO: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
PROJECT DESIGNATION

I, the undersigned Engineer of the above designated project, do hereby state that:

1. The construction provided for pursuant to Construction Contract No. \_\_\_\_\_, dated \_\_\_\_\_, 20\_\_, including all approved amendments and change orders, (hereinafter called the "Project") between \_\_\_\_\_ ("Owner") and \_\_\_\_\_ ("Contractor") has been completed as of \_\_\_\_\_, 20\_\_ and to the best of my knowledge, information and belief, based on observations made during the period of construction, is in substantial compliance with the provisions of the Construction Contract, including all plans, specifications and drawings, and modifications thereof.

To the best of my knowledge, information, and belief,

2. Defects in workmanship and materials reported during the period of construction of the Project have been corrected.
3. The total cost of the project as completed is \_\_\_\_\_ dollars (\$\_\_\_\_\_).
4. The Final Inventory attached hereto and made a part hereof is a complete and accurate summary of the work performed in accordance with the Construction Contract.

Accepted:

|                |                                             |
|----------------|---------------------------------------------|
| _____<br>Owner | <b>DGR Engineering</b><br>_____<br>Engineer |
| Sign _____     | Sign _____                                  |
| Print _____    | Print _____                                 |
| Title _____    | Title _____                                 |
| Date _____     | Date _____                                  |

## CONTRACTOR'S RECEIPT FOR FINAL PAYMENT

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

Previous Contract Payment      \$ \_\_\_\_\_

Final Contract Payment      \$ \_\_\_\_\_

Total Contract Payment      \$ \_\_\_\_\_

The undersigned acknowledges receipt of the final contract payment shown above as satisfaction in full or all claims of the undersigned under the Construction Contract between the undersigned and \_\_\_\_\_ dated \_\_\_\_\_, 20\_\_ as amended, and as complete performance by the Owner of all obligations to be performed by him pursuant thereto. The total amount received under this contract is shown above.

Name of Contractor: \_\_\_\_\_

Sign: \_\_\_\_\_

Print: \_\_\_\_\_

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

# **CATEGORY II**

## **Contract Conditions**

- **General Conditions**
- **Supplementary Conditions**

## **GENERAL CONDITIONS**

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

## STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

Prepared by



Issued and Published Jointly by





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

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

Copyright © 2013:

National Society of Professional Engineers  
1420 King Street, Alexandria, VA 22314-2794  
(703) 684-2882  
[www.nspe.org](http://www.nspe.org)

American Council of Engineering Companies  
1015 15th Street N.W., Washington, DC 20005  
(202) 347-7474  
[www.acec.org](http://www.acec.org)

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

The copyright for this document is owned jointly by the three sponsoring organizations listed above. The National Society of Professional Engineers is the Copyright Administrator for the EJCDC documents; please direct all inquiries regarding EJCDC copyrights to NSPE.

NOTE: EJCDC publications may be purchased at [www.ejcdc.org](http://www.ejcdc.org), or from any of the sponsoring organizations above.

# STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

## TABLE OF CONTENTS

|                                                                                                                    | Page |
|--------------------------------------------------------------------------------------------------------------------|------|
| ARTICLE 1 – Definitions and Terminology.....                                                                       | 1    |
| 1.01 Defined Terms.....                                                                                            | 1    |
| 1.02 Terminology .....                                                                                             | 5    |
| ARTICLE 2 – Preliminary Matters .....                                                                              | 6    |
| 2.01 Delivery of Bonds and Evidence of Insurance.....                                                              | 6    |
| 2.02 Copies of Documents .....                                                                                     | 6    |
| 2.03 Before Starting Construction .....                                                                            | 6    |
| 2.04 Preconstruction Conference; Designation of Authorized Representatives .....                                   | 7    |
| 2.05 Initial Acceptance of Schedules .....                                                                         | 7    |
| 2.06 Electronic Transmittals.....                                                                                  | 7    |
| ARTICLE 3 – Documents: Intent, Requirements, Reuse.....                                                            | 8    |
| 3.01 Intent.....                                                                                                   | 8    |
| 3.02 Reference Standards .....                                                                                     | 8    |
| 3.03 Reporting and Resolving Discrepancies .....                                                                   | 8    |
| 3.04 Requirements of the Contract Documents .....                                                                  | 9    |
| 3.05 Reuse of Documents .....                                                                                      | 10   |
| ARTICLE 4 – Commencement and Progress of the Work .....                                                            | 10   |
| 4.01 Commencement of Contract Times; Notice to Proceed .....                                                       | 10   |
| 4.02 Starting the Work.....                                                                                        | 10   |
| 4.03 Reference Points .....                                                                                        | 10   |
| 4.04 Progress Schedule .....                                                                                       | 10   |
| 4.05 Delays in Contractor’s Progress .....                                                                         | 11   |
| ARTICLE 5 – Availability of Lands; Subsurface and Physical Conditions; Hazardous Environmental<br>Conditions ..... | 12   |
| 5.01 Availability of Lands .....                                                                                   | 12   |
| 5.02 Use of Site and Other Areas.....                                                                              | 12   |
| 5.03 Subsurface and Physical Conditions.....                                                                       | 13   |
| 5.04 Differing Subsurface or Physical Conditions .....                                                             | 14   |
| 5.05 Underground Facilities.....                                                                                   | 15   |
| 5.06 Hazardous Environmental Conditions at Site .....                                                              | 17   |

|                                                                   |    |
|-------------------------------------------------------------------|----|
| ARTICLE 6 – Bonds and Insurance.....                              | 19 |
| 6.01 Performance, Payment, and Other Bonds .....                  | 19 |
| 6.02 Insurance—General Provisions .....                           | 19 |
| 6.03 Contractor’s Insurance.....                                  | 20 |
| 6.04 Owner’s Liability Insurance .....                            | 23 |
| 6.05 Property Insurance.....                                      | 23 |
| 6.06 Waiver of Rights .....                                       | 25 |
| 6.07 Receipt and Application of Property Insurance Proceeds ..... | 25 |
| ARTICLE 7 – Contractor’s Responsibilities .....                   | 26 |
| 7.01 Supervision and Superintendence .....                        | 26 |
| 7.02 Labor; Working Hours .....                                   | 26 |
| 7.03 Services, Materials, and Equipment.....                      | 26 |
| 7.04 “Or Equals” .....                                            | 27 |
| 7.05 Substitutes .....                                            | 28 |
| 7.06 Concerning Subcontractors, Suppliers, and Others .....       | 29 |
| 7.07 Patent Fees and Royalties .....                              | 31 |
| 7.08 Permits .....                                                | 31 |
| 7.09 Taxes .....                                                  | 32 |
| 7.10 Laws and Regulations.....                                    | 32 |
| 7.11 Record Documents.....                                        | 32 |
| 7.12 Safety and Protection.....                                   | 32 |
| 7.13 Safety Representative .....                                  | 33 |
| 7.14 Hazard Communication Programs .....                          | 33 |
| 7.15 Emergencies .....                                            | 34 |
| 7.16 Shop Drawings, Samples, and Other Submittals.....            | 34 |
| 7.17 Contractor’s General Warranty and Guarantee.....             | 36 |
| 7.18 Indemnification .....                                        | 37 |
| 7.19 Delegation of Professional Design Services .....             | 37 |
| ARTICLE 8 – Other Work at the Site.....                           | 38 |
| 8.01 Other Work .....                                             | 38 |
| 8.02 Coordination .....                                           | 39 |
| 8.03 Legal Relationships.....                                     | 39 |
| ARTICLE 9 – Owner’s Responsibilities .....                        | 40 |
| 9.01 Communications to Contractor.....                            | 40 |
| 9.02 Replacement of Engineer .....                                | 40 |
| 9.03 Furnish Data .....                                           | 40 |

|                                                                        |                                                                                 |    |
|------------------------------------------------------------------------|---------------------------------------------------------------------------------|----|
| 9.04                                                                   | Pay When Due.....                                                               | 40 |
| 9.05                                                                   | Lands and Easements; Reports, Tests, and Drawings .....                         | 40 |
| 9.06                                                                   | Insurance.....                                                                  | 40 |
| 9.07                                                                   | Change Orders.....                                                              | 40 |
| 9.08                                                                   | Inspections, Tests, and Approvals.....                                          | 41 |
| 9.09                                                                   | Limitations on Owner’s Responsibilities .....                                   | 41 |
| 9.10                                                                   | Undisclosed Hazardous Environmental Condition.....                              | 41 |
| 9.11                                                                   | Evidence of Financial Arrangements.....                                         | 41 |
| 9.12                                                                   | Safety Programs .....                                                           | 41 |
| ARTICLE 10 – Engineer’s Status During Construction .....               |                                                                                 | 41 |
| 10.01                                                                  | Owner’s Representative.....                                                     | 41 |
| 10.02                                                                  | Visits to Site.....                                                             | 41 |
| 10.03                                                                  | Project Representative.....                                                     | 42 |
| 10.04                                                                  | Rejecting Defective Work.....                                                   | 42 |
| 10.05                                                                  | Shop Drawings, Change Orders and Payments.....                                  | 42 |
| 10.06                                                                  | Determinations for Unit Price Work .....                                        | 42 |
| 10.07                                                                  | Decisions on Requirements of Contract Documents and Acceptability of Work ..... | 42 |
| 10.08                                                                  | Limitations on Engineer’s Authority and Responsibilities.....                   | 42 |
| 10.09                                                                  | Compliance with Safety Program.....                                             | 43 |
| ARTICLE 11 – Amending the Contract Documents; Changes in the Work..... |                                                                                 | 43 |
| 11.01                                                                  | Amending and Supplementing Contract Documents .....                             | 43 |
| 11.02                                                                  | Owner-Authorized Changes in the Work .....                                      | 44 |
| 11.03                                                                  | Unauthorized Changes in the Work.....                                           | 44 |
| 11.04                                                                  | Change of Contract Price .....                                                  | 44 |
| 11.05                                                                  | Change of Contract Times .....                                                  | 45 |
| 11.06                                                                  | Change Proposals .....                                                          | 45 |
| 11.07                                                                  | Execution of Change Orders.....                                                 | 46 |
| 11.08                                                                  | Notification to Surety.....                                                     | 47 |
| ARTICLE 12 – Claims .....                                              |                                                                                 | 47 |
| 12.01                                                                  | Claims .....                                                                    | 47 |
| ARTICLE 13 – Cost of the Work; Allowances; Unit Price Work .....       |                                                                                 | 48 |
| 13.01                                                                  | Cost of the Work .....                                                          | 48 |
| 13.02                                                                  | Allowances .....                                                                | 50 |
| 13.03                                                                  | Unit Price Work .....                                                           | 51 |

|                                                                                              |    |
|----------------------------------------------------------------------------------------------|----|
| ARTICLE 14 – Tests and Inspections; Correction, Removal or Acceptance of Defective Work .... | 52 |
| 14.01 Access to Work.....                                                                    | 52 |
| 14.02 Tests, Inspections, and Approvals.....                                                 | 52 |
| 14.03 Defective Work.....                                                                    | 53 |
| 14.04 Acceptance of Defective Work.....                                                      | 53 |
| 14.05 Uncovering Work .....                                                                  | 53 |
| 14.06 Owner May Stop the Work .....                                                          | 54 |
| 14.07 Owner May Correct Defective Work.....                                                  | 54 |
| ARTICLE 15 – Payments to Contractor; Set-Offs; Completion; Correction Period .....           | 55 |
| 15.01 Progress Payments.....                                                                 | 55 |
| 15.02 Contractor’s Warranty of Title .....                                                   | 58 |
| 15.03 Substantial Completion .....                                                           | 58 |
| 15.04 Partial Use or Occupancy .....                                                         | 59 |
| 15.05 Final Inspection .....                                                                 | 59 |
| 15.06 Final Payment.....                                                                     | 59 |
| 15.07 Waiver of Claims .....                                                                 | 61 |
| 15.08 Correction Period .....                                                                | 61 |
| ARTICLE 16 – Suspension of Work and Termination .....                                        | 62 |
| 16.01 Owner May Suspend Work .....                                                           | 62 |
| 16.02 Owner May Terminate for Cause.....                                                     | 62 |
| 16.03 Owner May Terminate For Convenience .....                                              | 63 |
| 16.04 Contractor May Stop Work or Terminate .....                                            | 63 |
| ARTICLE 17 – Final Resolution of Disputes .....                                              | 64 |
| 17.01 Methods and Procedures.....                                                            | 64 |
| ARTICLE 18 – Miscellaneous .....                                                             | 64 |
| 18.01 Giving Notice .....                                                                    | 64 |
| 18.02 Computation of Times.....                                                              | 64 |
| 18.03 Cumulative Remedies .....                                                              | 64 |
| 18.04 Limitation of Damages .....                                                            | 65 |
| 18.05 No Waiver .....                                                                        | 65 |
| 18.06 Survival of Obligations .....                                                          | 65 |
| 18.07 Controlling Law .....                                                                  | 65 |
| 18.08 Headings.....                                                                          | 65 |

## ARTICLE 1 – DEFINITIONS AND TERMINOLOGY

### 1.01 *Defined Terms*

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

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

11. *Constituent of Concern*—Asbestos, petroleum, radioactive materials, polychlorinated biphenyls (PCBs), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. (“CERCLA”); (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§5501 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. (“RCRA”); (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; or (g) any other federal, state, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.
12. *Contract*—The entire and integrated written contract between the Owner and Contractor concerning the Work.
13. *Contract Documents*—Those items so designated in the Agreement, and which together comprise the Contract.
14. *Contract Price*—The money that Owner has agreed to pay Contractor for completion of the Work in accordance with the Contract Documents. .
15. *Contract Times*—The number of days or the dates by which Contractor shall: (a) achieve Milestones, if any; (b) achieve Substantial Completion; and (c) complete the Work.
16. *Contractor*—The individual or entity with which Owner has contracted for performance of the Work.
17. *Cost of the Work*—See Paragraph 13.01 for definition.
18. *Drawings*—The part of the Contract that graphically shows the scope, extent, and character of the Work to be performed by Contractor.
19. *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.H shall obligate Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.
- J. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the failure to control, contain, or remove a Constituent of Concern brought to the Site by Contractor or by anyone for whom Contractor is responsible, or to a Hazardous Environmental Condition created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.J shall obligate Contractor to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.
- K. The provisions of Paragraphs 5.03, 5.04, and 5.05 do not apply to the presence of Constituents of Concern or to a Hazardous Environmental Condition uncovered or revealed at the Site.

## ARTICLE 6 – BONDS AND INSURANCE

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

- A. Contractor shall furnish a performance bond and a payment bond, each in an amount at least equal to the Contract Price, as security for the faithful performance and payment of all of Contractor's obligations under the Contract. These bonds shall remain in effect until one year after the date when final payment becomes due or until completion of the correction period 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 consider 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 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 11.01.C.2.a and 11.01.C.2.b is that the Contractor's fee shall be based on: (1) a fee of 15 percent 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 special inspection or testing of the Work, whether or not the Work is fabricated, installed, or completed.

- B. If any Work is covered contrary to the written request of Engineer, then Contractor shall, if requested by Engineer, 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.

## **SUPPLEMENTARY CONDITIONS**

## SUPPLEMENTARY CONDITIONS

These Supplementary Conditions amend or supplement the **Standard General Conditions of the Construction Contract, EJCDC No. C-700 (2013 Edition)**. All provisions which are not so amended or supplemented remain in full force and effect.

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

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

**SC-1.01.A.8.** Add the following language to the end of Paragraph 1.01.A.8:

The Change Order form to be used on this Project is bound in the Miscellaneous Forms section.

**SC-1.01.A.40.** Add the following new subparagraph to the end of Paragraph 1.01.A.40:

- a. Substantial Completion shall include, but not be limited to, installation, testing, and initial cleanup. Final Acceptance will not be made until the entire project has been completed including final cleanup.

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

- A. The Contract Times will commence to run 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 Agreement.

**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 contiguous to the site are known to Owner:
  - 1. Report dated January 20, 2025 prepared by Chosen Valley Testing, entitled: Proposed West Energy Station Addition, consisting of 20 pages. The "technical data" contained in such report upon which Contractor may rely is none.
- D. The reports and drawings identified above are not part of the Contract Documents, but the "technical data" contained therein upon which Contractor may rely, as expressly identified and established above, are incorporated in the Contract Documents by reference. Contractor is not entitled to rely upon any other information and data known to or identified by Owner or Engineer.



- E. Copies of reports and drawings identified in SC-5.03.C and SC-5.03.D that are not included with the Bidding Documents may be examined at the Office of the Engineer, during regular business hours.

**SC – 6.03.I.3** Replace the number “10” with the number “30”, in reference to the number of days notice to the Owner prior to cancellation of the insurance policies.

**SC-6.03.** Add the following new paragraphs 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:

|    |                                            |            |
|----|--------------------------------------------|------------|
| a. | State:                                     | Statutory  |
| b. | Applicable Federal (e.g., Longshoreman’s): | Statutory  |
| c. | Employer’s Liability:                      |            |
|    | Bodily injury, each accident               | \$ 500,000 |
|    | Bodily injury by disease, each employee    | \$ 500,000 |
|    | Bodily injury/disease aggregate            | \$ 500,000 |

The Workers’ Compensation policy shall include a waiver of subrogation clause in favor of the Owner.

2. Contractor’s General Liability under Paragraphs 6.03.B through 6.03.C of the General Conditions.

|    |                                                     |              |
|----|-----------------------------------------------------|--------------|
| a. | General Aggregate                                   | \$ 4,000,000 |
| b. | Products - Completed Operations Aggregate           | \$ 4,000,000 |
| c. | Personal and Advertising Injury                     | \$ 2,000,000 |
| d. | Each Occurrence (Bodily Injury and Property Damage) | \$ 3,000,000 |

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

|    |                          |              |
|----|--------------------------|--------------|
| a. | Combined Single Limit of | \$ 2,000,000 |
|----|--------------------------|--------------|

4. Excess or Umbrella Liability:
  - a. Per Occurrence \$ 2,000,000
  - b. General Aggregate \$ 5,000,000
5. Contractor's Pollution Liability
  - a. Each Occurrence \$ 1,000,000
  - b. General Aggregate \$ 1,000,000
6. The following shall be included as additional insureds and certificate holders in addition to any other individuals or entities identified in the contract documents.

Engineer:

DeWild Grant Reckert and Associates Company d/b/a DGR Engineering  
1302 South Union Street  
Rock Rapids, Iowa, 51246

Owner:

New Prague Utilities Commission (NPUC)  
118 Central Avenue N.  
New Prague, MN 56071

**SC-6.05.** Delete Section 6.05 in its entirety, and replace it with the following:

The Owner will provide Property Insurance for the Project Site.

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

- C. It shall be specifically understood that any work relating to this contract shall not be performed on Sunday unless an emergency arises and special permission is given by the Owner.
- D. Work will be permitted on Saturday; however, involvement of the Owner's personnel will not be allowed. Saturday work must be approved by the Owner.

**SC-7.06.** Add the following new paragraphs immediately after Paragraph 7.06.O:

- P. The Contractor shall not award work valued at more than fifty percent (50%) of the Contract Price to Subcontractor(s), without prior written approval of the Owner.

**SC-7.06.** Add the following subparagraph immediately after Paragraph 7.06.P:

- Q. Prompt payment to subcontractors.** Each subcontract under this Contract must require the Contractor to pay any subcontractor within ten days of the Contractor's receipt of payment from the Owner for undisputed services provided by the subcontractor. The subcontract agreement must require the Contractor to pay interest of 1-1/2 percent per month or any part of a month to the subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of \$100 or more is \$10. For an unpaid balance of less than \$100, the prime contractor shall pay the actual penalty due to the subcontractor. A subcontractor who prevails in a civil action to collect interest penalties from a prime contractor must be awarded its costs and disbursements, including attorney's fees, incurred in bringing the action.

**SC-7.09.** Add the following new subparagraph to the end of Paragraph 7.09.A:

- 1 CONTRACTOR shall pay all sales, use and excise taxes, and such taxes shall be incidental to the Work and included in the Contract Prices.

**SC-9.11.** Add the following new paragraph immediately after Paragraph 9.11.A:

- B.** On request of Contractor prior to the execution of any Change Order involving a significant increase in the Contract Price, Owner shall furnish to Contractor reasonable evidence that adequate financial arrangements have been made by Owner to enable Owner to fulfill the increased financial obligations to be undertaken by Owner as a result of such Change Order.

**SC-9.13.** Add the following new paragraph immediately after Paragraph 9.12:

- 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 an employee of Owner. The authority and responsibilities of Owner's Site Representative will be as defined and described at the Preconstruction Conference (Paragraph 2.04).

**SC-10.03.** Add the following new paragraph immediately after Paragraph 10.03.A:

- B.** On this Project, by agreement with the Owner, Engineer will not furnish a Resident Project Representative to represent Engineer at the Site or assist Engineer in observing the progress and quality of the Work. The authority and responsibilities of the Resident Project Representative (RPR) will be as defined and described at the Preconstruction Conference (paragraph 2.04).

**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 Bid price of a particular item of Unit Price Work amounts to 20, percent or more of the Contract Price and the variation in the quantity of that particular item of Unit Price Work 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 or if Owner believes that the quantity variation entitles Owner to an adjustment in the unit price, either Owner or Contractor may make a Claim for an adjustment in the Contract Price in accordance with Article 10 if the parties are unable to agree as to the effect of any such variations in the quantity of Unit Price Work performed.

**SC-15.01.B.3.** Add the following language at the end of Paragraph 15.01.B.3.:

No payments will be made that would deplete the retainage, place in escrow any funds that are required for retainage, or invest the retainage for the benefit of the Contractor.

**SC-15.01.D.1.** Delete Paragraph 15.01.D.1 in its entirety and insert the following in its place:

1. The Application for Payment with Engineer's recommendations will be presented to the Owner for consideration. If the Owner finds the Application for Payment acceptable, the recommended amount less any reduction under the provisions of Paragraph 15.01.E will become due ten days after the Application for Payment is approved by the Owner, and when due will be paid by Owner to Contractor.

**SC-15.08.F.** Add the following subparagraph to paragraph 15.08:

- F. Contractor shall provide a correction period (warranty) of two (2) years from date of substantial completion for the following items:
  1. All work.

**SC-17.01.** Add the following subparagraphs to Paragraph 17.01.B.3:

- C. If Owner or Contractor have a disputed matter per Paragraph 17.01.A, the following process shall apply:
  1. Within 30 days of the submittal of such claim, Owner and Contractor shall meet and confer regarding the Claim. A good-faith effort to negotiate resolution shall be made by both parties.

2. If the negotiations contemplated by Paragraph SC-17.01.C.1 are unsuccessful, management representatives of Owner and Contractor at least one tier above the individuals who met under SC 17.01.C.1 shall meet, confer, and negotiate within 30 days of the closure of the unsuccessful negotiations.
3. If the Claim is not resolved by negotiation, Engineer's decision regarding Change Proposals or other requests for decisions shall become final and binding 30 days after termination of the negotiations unless, within that time period, Owner or Contractor:
  - a. gives to the other party written notice of intent to submit the Claim to a court of competent jurisdiction, or
  - b. agrees with the other party to submit the Claim to another dispute resolution process.
4. Notwithstanding any applicable statute of limitations, a party giving notice under Paragraph SC 17.01.C.3.a shall commence an action on the Claim within one year of giving such notice. Failure to do so shall result in the Claim being time-barred and Engineer's action or denial shall become final and binding.

\*\*\*END OF SECTION\*\*\*

# **CATEGORY III**

## **Technical Specifications**

- **Division 1**
- **Division 31**

## **DIVISION 1 - GENERAL REQUIREMENTS**

SECTION 01 1100  
SUMMARY OF WORK

PART 1 - GENERAL

1.01 SCOPE:

- A. The GENERAL, SUPPLEMENTAL, and other CONDITIONS of the Contract are hereby made part of this Section.
- B. This Section presents a summary of the intended Work and the Contractor's duties and use of premises relating to the substation project.

1.02 AWARD OF CONTRACTS:

- A. One contract will be awarded for the entire project.

1.03 CONTRACTORS' DUTIES:

- A. Except as specifically noted, provide and pay for:
  - 1. Labor, materials and equipment.
  - 2. Tools, construction equipment and machinery.
  - 3. Water, heat and utilities required for construction.
  - 4. Other facilities and services necessary for proper execution and completion of Work.
  - 5. All applicable taxes and fees including sales and use taxes.
- B. Secure and pay for, as necessary for proper execution and completion of Work, and as applicable at time of receipt of bids:
  - 1. Permits, including building permits.
  - 2. Government fees.
  - 3. Licenses.
- C. Give required notices.
- D. Comply with codes, ordinances, rules, regulations, orders and other legal requirements of public authorities that relate to performance of Work.
  - 1. Promptly submit written notice to Engineer of observed variance of



## SECTION 01 1100

Contract Documents from legal requirements.

2. Assume responsibility for Work known to be contrary to legal requirements if notice is not submitted.
  3. Necessary changes to the Contract Documents will be accomplished by Change Order if the Contract price or completion time is affected.
- E. Enforce strict discipline and good order among employees. Do not employ on Work:
1. Unfit persons.
  2. Persons not skilled in assigned task.

### 1.04 CONTRACTOR USE OF PREMISES:

- A. Confine operations at site to areas permitted by:
1. Law.
  2. Ordinances.
  3. Permits.
  4. Contract Documents.
- B. Do not unreasonably encumber site with materials or equipment.
- C. Do not load any structures with weight that will endanger structure.
- D. Assume full responsibility for protection and safekeeping of products stored on premises.
- E. Move any stored products that interfere with operations of Owner or other Contractor.
- F. Obtain and pay for use of additional storage or work areas needed for operations.

### 1.05 ITEMS BY OTHERS:

- A. Related items include those in the Drawings or elsewhere specified as “By Others” or “By Owner”. Specific items as follows:
1. Utility removals and installations will be completed by Others.

SECTION 01 1100

2. Substation construction, to be completed after site grading work is finished.

B. Contractor shall coordinate work for all items by Others as required.

1.06 SITE LOCATIONS:

- A. The location of the project site is as follows:

West Energy Station  
507 6<sup>th</sup> Avenue NW  
New Prague, MN 56071

- B. All easements and right-of-ways necessary for the construction of the Project have been, or will be obtained by the Owner in such a manner that the construction of the Project may rapidly progress.

PART 2 - PRODUCTS – Not Applicable.

PART 3 - EXECUTION – Not Applicable.

\* \* \* END OF SECTION \* \* \*

SECTION 01 2000  
PRICE AND PAYMENT PROCEDURES

PART 1 - GENERAL

1.01 SCOPE:

- A. The GENERAL, SUPPLEMENTAL, and other CONDITIONS of the Contract are hereby made part of this Section.
- B. This Section presents the Price and Payment Procedures that will be utilized for the project.

1.02 GENERAL:

- A. When the proposal is made on a unit basis the Engineer may specify any combination of construction units that he/she may deem necessary.
- B. The various construction units that are included in this bid and upon which quotations are required are defined by symbols and descriptions set forth in this part.
- C. Separate assembly units are designed for each different arrangement that may be used in the construction of the project. The proposal is based on a consideration of each unit in place and includes only the materials listed on the corresponding construction drawings or as spelled out herein.
- D. The bid prices stated in the proposal shall include all labor, materials, freight, drayage, loading, protection from weather, fabrication, and installation to assure the Owner that the equipment and installation will operate as specified.
- E. The Contractor shall furnish all materials unless stated otherwise on the Drawings or in the Specifications.

1.03 MEASUREMENT:

- A. Measurement for work completed is to be made on a monthly basis.
  - 1. All items will be computed in the units of the Bid Schedule.
    - a. Periodic payments for lump sum items will be on an estimated percentage of completion basis.
- B. The Contractor shall participate in the measurement of completed Work unless agreed otherwise.
  - 1. Specific differences are to be resolved at the time of measurement.

## SECTION 01 2000

2. Unresolved differences shall be directed to the Engineer.

### 1.04 PAYMENT:

- A. All Work required to complete construction shall be deemed to be included in the unit price or lump sum price items listed in the Contractor's Bid Schedule.
- B. Payment may be allowed for material suitably stored on site, so long as adequate documentation as specified in the General Conditions is provided to the Owner's satisfaction.
- C. Neither the payment of any estimate nor of any retained percentage shall relieve the Contractor of any obligation to make good any defective Work or material.

### 1.05 PAYMENTS TO BE WITHHELD:

- A. Applicable retainage, as defined in the Contract Conditions, shall apply to all payments due the Contractor including payment for stored material.
- B. Amounts equal to maximum potential liquidated damages may be withheld from payments due Contractor when Work is not completed within the specified time. Such amounts shall be in addition to other payments withheld.
- C. Payments withheld will be paid as follows:
  1. Normal retainage will be paid as required by the General Conditions.
  2. Potential liquidated damages withheld will be retained until final resolution of Liquidated Damages is made by the Owner.

### 1.06 PAYMENT ITEMS:

- A. Payment items shall be as listed on the Bid Schedule. Measurement of completed work shall be the number of units installed for each unit price item and percentage of completion of the entire item for each lump sum item. (No separate payment will be made for mobilization, engineering or related project initiation expenses.) Payment will be at respective unit or lump sum prices as per the Bid Schedule.
- B. Unit and lump sum prices as listed on the Bid Schedule shall be the full payment for each item as described by the applicable sections of the Technical Specifications and the Drawings.
- C. Description of Payment Items:
  1. SITE PREPARATION: A construction unit(s) consists of all labor and materials required to complete the site work as shown on the Drawings and specified herein. All other work specified, including clearing and grubbing, stockpiling, and spreading shall be incidental to the project. Specific construction units are as follows:

## SECTION 01 2000

### Length Items:

- M4 4" Perforated Subdrain (lf)
- M5 8" Perforated Subdrain (lf)
- M8 Silt Fence/Wattles/Rock log (lf)

Measurement: Furnish and install specified materials. Length and work actually performed converted to bid item units (ln. ft., etc.).

### Surface Area Items:

- M3 Pavement Removal (sy)
- M13 Bioswale Filter Material (sy)
- M14 Turf Reinforcement Mat (sy)

Measurement: Furnish and install specified materials. Length and width of work actually performed converted to bid item units (sq. yd., ac., etc.). The plan quantities shall be agreed upon as complete payment for the work unless additional work is requested by the Owner/Engineer during construction.

### Volume Items:

- M1 Excavation and Embankment (cy)
- M2 Embankment Borrow (cy)

Measurement: Plan quantities include excavation and placement of material on site (compacted volume) or import of approved lean clay materials to construct plan grades. The plan quantities shall be agreed upon as complete payment for the work unless additional work is requested by the Owner/Engineer during construction. The Contractor shall not remove suitable material from the site until construction operations are completed and accepted by the Engineer.

The Contractor will not be paid twice for material removed from the site that is subsequently returned to the site for use as embankment material.

2. QUANTITY ITEMS: This item shall consist of preparatory work and operations, including but not limited to the necessary movement of personnel, equipment, and incidentals to the project site; for the establishment of offices, buildings, and other facilities necessary for work on the projects; and for work and operations which must be performed, and for cost incurred before starting work on the various contract items on the project site.

## SECTION 01 2000

When an item for Mobilization is included in the proposal, payment will be made at the contract unit lump sum price and be considered full compensation for costs incidental thereto. This unit will be paid when work on construction site has begun.

|     |                                       |
|-----|---------------------------------------|
| M6  | 6" CMP Subdrain Outlet (ea)           |
| M7  | 10" CMP Subdrain Outlet (ea)          |
| M9  | Connect to Existing Storm Sewer (ea)  |
| M10 | Water Quality Intake Structure (ea)   |
| M11 | Concrete Filled Bollard (ea)          |
| M12 | Stabilized Construction Entrance (ls) |
| U1  | Mobilization (as req'd.)              |

PART 2 - PRODUCTS – Not Applicable.

PART 3 - EXECUTION – Not Applicable.

\* \* \* END OF SECTION \* \* \*

SECTION 01 3100

PROJECT MANAGEMENT AND COORDINATION

PART 1 - GENERAL

1.01 SCOPE:

- A. The GENERAL, SUPPLEMENTAL, and other CONDITIONS of the Contract are hereby made part of this Section.
- B. This Section describes the Contractor's project management and coordination responsibilities.

1.02 PROJECT MANAGEMENT AND COORDINATION:

- A. Verify layout information shown on Drawings, in relation to property survey and existing benchmarks, before laying out the Work.
- B. Require Installer of each component of the Work to inspect both the substrate and the conditions under which work is to be performed. Do not proceed with installation until unsatisfactory conditions have been corrected.
- C. Any Contractor or Subcontractor working on a specific portion of the project shall so schedule and conduct his work as not to impede unnecessarily any work being done by others on or adjacent to his work.
- D. The Contractor shall be aware that this project will require a high-level of coordination and scheduling with the Owner, Engineer, and major material suppliers.
- E. The Contractor shall have a construction foreman on site at all times during construction, including when subcontractors are working at the site.

PART 2 - PRODUCTS – Not Applicable.

PART 3 - EXECUTION – Not Applicable.

\* \* \* END OF SECTION \* \* \*

SECTION 01 3119  
PROJECT MEETINGS

PART 1 - GENERAL

1.01 SCOPE:

- A. The GENERAL, SUPPLEMENTAL and other CONDITIONS of the Contract are hereby made part of this Section.
- B. This Section describes the intended project meetings required of the Contractor.

1.02 PAYMENT:

- A. Project meetings are considered incidental Work with no separate measurement and payment to be made.

PART 2 - PRODUCTS – Not Applicable.

PART 3 - EXECUTION

3.01 GENERAL:

- A. Project meetings shall be coordinated among the respective Contractors, Owner, and Engineer.
- B. The individual requesting the meeting shall contact those to be in attendance in writing providing the following:
  - 1. Purpose of meeting.
  - 2. Date, time and place.
  - 3. Names of others to be in attendance.
  - 4. Additional information as necessary.

3.02 SCHEDULE:

- A. A preconstruction conference will be scheduled by the Engineer to review the following:
  - 1. Contract Legal Documents and Specifications.
  - 2. Drawings.



## SECTION 01 3119

3. General construction requirements.
  4. Coordination of different contractors.
  5. Pay request procedure.
  6. Shop drawing submittal.
  7. Project observation and inspection.
  8. Coordination with affected agencies and utility companies.
- B. Progress meetings shall be scheduled and held as the need arises throughout the Work.

\* \* \* END OF SECTION \* \* \*

SECTION 01 3213  
CONSTRUCTION SCHEDULE

PART 1 - GENERAL

1.01 SCOPE:

- A. The GENERAL, SUPPLEMENTAL, and other CONDITIONS of the Contract are hereby made part of this Section.
- B. This Section describes the Contractor's project management and coordination responsibilities.

1.02 CONSTRUCTION SCHEDULE:

- A. Prepare a horizontal bar-chart-type, construction schedule. Provide a separate time bar for each activity and a vertical line to identify the first workday of each week. As Work progresses, mark each bar to indicate actual completion.
  - 1. Submit within 20 days after the notification of award of contract.
  - 2. Prepare the schedule on reproducible media, of width sufficient to show data for the entire construction period.
  - 3. Coordinate each element with other activities. Show each activity in proper sequence. Indicate sequences necessary for completion of related Work.
  - 4. Indicate Substantial Completion and allow time for Engineer's procedures necessary for certifying Substantial Completion.
  - 5. Schedule Distribution: Distribute copies to Owner, Engineer, subcontractors, and parties required to comply with dates.
  - 6. Updating: Revise the schedule after each meeting or activity where revisions have been made.
- B. The following dates are the Owner's suggested schedule; however, the dates marked with an asterisk are dates that must be met for the associated activity.

| <u>Task</u>                                                                                                | <u>Required Completion Date</u> |
|------------------------------------------------------------------------------------------------------------|---------------------------------|
| Receive Proposals                                                                                          | 8/21/25                         |
| Site work and grading complete,<br>Project Substantially Complete and<br>Ready for substation construction | 11/28/25*                       |
| Final Completion of all work including<br>Final Documents                                                  | 12/31/25                        |

SECTION 01 3213

\*Liquidated damages apply to these dates for this Contractor.

PART 2 - PRODUCTS – Not Applicable.

PART 3 - EXECUTION – Not Applicable.

\* \* \* END OF SECTION \* \* \*

SECTION 01 3236  
PROJECT RECORD DOCUMENTS

PART 1 - GENERAL

1.01 SCOPE:

- A. The GENERAL, SUPPLEMENTAL and other CONDITIONS of the Contract are hereby made part of this Section.
- B. This Section describes the Contractor's responsibilities regarding the assembly and maintenance of project records.

1.02 PAYMENT:

- A. Project record documents are considered incidental Work with no separate measurement or payment to be made.

PART 2 - PRODUCTS – Not Applicable.

PART 3 - EXECUTION

3.01 GENERAL:

- A. Maintain at office one copy of:
  - 1. Contract Legal Documents and Specifications.
  - 2. Addenda.
  - 3. Drawings.
  - 4. Staking sheets.
  - 5. Construction schedules and progress reports.
  - 6. Minutes of preconstruction conference and other construction meetings.
  - 7. Shop Drawings.
  - 8. Change Orders.
  - 9. Field Orders.
  - 10. Test reports.

## SECTION 01 3236

- B. File documents in an orderly, readily accessible manner.

### 3.02 RECORDING:

- A. Legibly mark documents to record location of other facilities and changes made by Change Order or Field Order.
- B. Keep project records current.

### 3.03 SUBMITTAL:

- A. At completion of construction, the Drawings indicating 'as-constructed' and buried facility information shall be delivered to the Engineer.
- B. With completion of record Drawings, the Contractor's Drawings will be returned if so requested.

\* \* \* END OF SECTION \* \* \*

SECTION 01 3300  
SUBMITTAL PROCEDURES

PART 1 - GENERAL

1.01 SCOPE:

- A. The GENERAL, SUPPLEMENTAL, and other CONDITIONS of the Contract are hereby made part of this Section.
- B. This Section describes the submittal procedures the Contractor shall follow for the project.

1.02 SHOP DRAWINGS, PROJECT DATA AND SAMPLES:

- A. SHOP DRAWINGS: Original drawings, prepared by Contractor, subcontractor, supplier or distributor, which illustrate some portion of the Work; showing fabrication, layout, setting or erection details.
  - 1. Prepared by a qualified detailer.
  - 2. Identify details by reference to specification section or detail number from the Drawings.
  - 3. Minimum sheet size: 8-1/2" x 11".
  - 4. Maximum sheet size: 11" x 17".
- B. PROJECT DATA:
  - 1. Manufacturer's catalog sheets, brochures, diagrams, schedules, performance charts, illustrations and other standard descriptive data.
    - a. Clearly mark each copy to identify pertinent materials, products or models.
    - b. Show dimensions and clearances required.
    - c. Show performance characteristics and capacities.
    - d. Show wiring diagrams and controls.
- C. CONTRACTOR RESPONSIBILITIES:
  - 1. Review Shop Drawings, Project Data and Samples prior to submission to Engineer for review.

## SECTION 01 3300

2. Verify:
  - a. Performance criteria.
  - b. Field measurements.
  - c. Field construction criteria.
  - d. Catalog numbers and similar data.
3. Coordinate the timing of each submittal with requirements of the Work.
4. Contractor's responsibility for errors and omissions in submittals is not relieved by Engineer's review of submittals.
5. Contractor's responsibility for deviations in submittals from requirements of Contract Documents is not relieved by Engineer's review of submittals, unless Engineer gives written acceptance of specific deviations.
6. Notify Engineer, in writing at time of submission, of deviations in submittals from requirements of Contract Documents.
7. Begin no work that requires submittals until return of submittals with Engineer's stamp and initials or signature indicating review.
8. After Engineer's review, distribute copies.

### D. SUBMISSION REQUIREMENTS:

1. Schedule submissions at least fourteen (14) days before date reviewed submittals will be needed.
2. Accompany submittals with transmittal letter, in duplicate, containing:
  - a. Date.
  - b. Project title and number.
  - c. Contractor's name and address.
  - d. The number of each Shop Drawing, Project Data and Sample submitted. Four (4) copies of all submittals are required.
  - e. Notification of deviations from Contract Legal Documents, Specifications and Drawings.
  - f. Other pertinent data.

## SECTION 01 3300

3. Submittals shall include:
  - a. Date and revision dates.
  - b. The names of:
    - (1) Subcontractor.
    - (2) Supplier.
    - (3) Manufacturer.
    - (4) Separate detailer when pertinent.
  - c. Identification of product or material.
  - d. Relation to adjacent structure or materials.
  - e. Field dimensions, clearly identified as such.
  - f. Specification section number.
  - g. Applicable standards, such as ASTM number or Federal Specification.
  - h. A statement signed by the Contractor that the submittal has been reviewed and meets the requirements except as noted.

### E. ENGINEER'S DUTIES:

1. Review and return within fourteen (14) days of receipt.
2. Review of separate item does not constitute review of an assembly in which item functions.
3. Affix stamp and initials or signature certifying review of submittal noting one of the following:
  - a. No exception taken.
  - b. Make corrections noted – No resubmittal required.
  - c. Revise and resubmit.
  - d. Submit specified item.
  - e. Rejected.



SECTION 01 3300

4. Return submittals to Contractor for:
  - a. Distribution if marked "No exceptions taken" or "Make corrections noted – No resubmittal required".
  - b. Resubmittal if marked "Revise and resubmit," "Submit specified item" or "Rejected."

F. RESUBMISSION REQUIREMENTS:

1. Shop Drawings:
  - a. Revise initial drawings as required and resubmit as specified for initial submittal.
  - b. Indicate on drawings any changes which have been made other than those requested by Engineer.

G. DISTRIBUTION OF SUBMITTALS AFTER REVIEW:

1. Contractor shall distribute reviewed copies of Shop Drawings and Project Data that carries the Engineer's stamp, to:
  - a. Contractor's file.
  - b. Job site file.
  - c. Supplier, as appropriate.
2. Engineer will distribute reviewed copies of Shop Drawings and Project Data to:
  - a. Engineer's file.
  - b. Resident Project Representative, if applicable.
  - c. Owner.

PART 2 - PRODUCTS – Not Applicable.

PART 3 - EXECUTION – Not Applicable.

\* \* \* END OF SECTION \* \* \*

SECTION 01 3523  
SAFETY REQUIREMENTS

PART 1 - GENERAL

1.01 SCOPE:

- A. The GENERAL, SUPPLEMENTAL and other CONDITIONS of the Contract are hereby made part of this Section.
- B. This Section describes the safety requirements that the Contractor shall follow.

1.02 OCCUPATIONAL SAFETY AND HEALTH STANDARDS:

- A. The Contractor shall be responsible for the proper application of the Occupational Safety and Health Standards (OSHS) regarding construction of the project. The Owner will not be responsible for enforcing any part of the OSHS with respect to the Contractor's equipment or labor practices.

1.03 OWNER'S SAFETY STANDARDS:

- A. The Contractor shall follow all aspects of the Owner's Safety Standards and program.

PART 2 - PRODUCTS – Not Applicable.

PART 3 - EXECUTION – Not Applicable.

\* \* \* END OF SECTION \* \* \*

SECTION 01 4113  
APPLICABLE CODES AND STANDARDS

PART 1 - GENERAL

1.01 SCOPE:

- A. The GENERAL, SUPPLEMENTAL and other CONDITIONS of the Contract are hereby made part of this Section.
- B. This Section describes the Contractor's responsibilities to adhere to applicable codes and standards.

1.02 PAYMENT:

- A. The requirements of this Section are considered incidental Work with no separate measurement and payment to be made.

1.03 CODES AND STANDARDS:

- A. Design and workmanship of installation and material shall be judged by tests and requirements set forth in the latest revisions of the following codes and standards:
  - 1. American Society for Testing Materials (ASTM).
  - 2. American National Standards Institute (ANSI).
  - 3. American Institute of Steel Construction (AISC).
  - 4. American Concrete Institute (ACI).
  - 5. National Electrical Manufacturer's Association (NEMA).
  - 6. National Electrical Code (NEC).
  - 7. National Electric Safety Code (NESC).
  - 8. Uniform Building Code (UBC).
  - 9. Insulated Cable Engineers Association (ICEA).
  - 10. Institute of Electronic and Electrical Engineers (IEEE).
- B. Where these specifications specifically reference codes or standards and make changes or interpretations of codes or standards, the unchanged provisions of said codes or standards shall remain in effect.

SECTION 01 4113

- C. Where these specifications provide more stringent requirements than referenced standards, the specifications shall prevail.

PART 2 - PRODUCTS – Not Applicable.

PART 3 - EXECUTION – Not Applicable.

\* \* \* END OF SECTION \* \* \*

SECTION 01 4126  
PERMITS, LAWS AND ORDINANCES

PART 1 - GENERAL

1.01 SCOPE:

- A. The GENERAL, SUPPLEMENTAL and other CONDITIONS of the Contract are hereby made part of this Section.
- B. This Section describes the Contractor's responsibilities pertaining to permits, laws and ordinances.

1.02 PAYMENT:

- A. The requirements of this Section are considered incidental Work with no separate measurement and payment to be made.

PART 2 - PRODUCTS – Not Applicable.

PART 3 - EXECUTION

3.01 GENERAL:

- A. The Contractor shall comply with all Federal, State, County and local laws, ordinances and rules and regulations relating to the performance of the Work.

3.02 PERMITS:

- A. The Contractor shall, at his expense, procure all permits, certificates, and licenses required of him by law for the execution of his Work, including building permits.

\* \* \* END OF SECTION \* \* \*

SECTION 01 4500  
QUALITY CONTROL

PART 1 - GENERAL

1.01 SCOPE:

- A. The GENERAL, SUPPLEMENTAL and other CONDITIONS of the Contract are hereby made part of this Section.
- B. This Section describes the quality control items pertaining to the project.

1.02 QUALITY CONTROL:

- A. Quality-control services include inspection, tests, and related actions including reports, performed by Contractor, by independent agencies, and by governing authorities.
- B. Contractor shall employ and pay a qualified independent testing agency to perform tests and inspections specified in other Sections, and those required by authorities having jurisdiction.
  - 1. Contractor is responsible for scheduling inspections and tests.
- C. Retesting: Contractor shall pay for retesting where results of inspections and tests prove unsatisfactory and indicate noncompliance with requirements.
- D. Auxiliary Services: Cooperate with agencies performing inspections and tests. Provide auxiliary serves as requested. Notify agency in advance of operations requiring tests or inspections, to permit assignment of personnel. Auxiliary services include the following:
  - 1. Access to the Work.
  - 2. Incidental labor and facilities to assist inspections and tests.
  - 3. Adequate quantities of samples of materials that require testing and assisting in taking samples.
  - 4. Facilities for storage and curing of test samples.
- E. Duties of Testing Agency: Testing agency shall cooperate with Engineer and Contractor in performing its duties. Agency shall provide qualified personnel to perform inspections and tests.
  - 1. Agency shall notify Engineer and Contractor of irregularities or deficiencies observed in the Work during performance of its services.

## SECTION 01 4500

2. Agency shall not release, revoke, alter, or enlarge requirements of the Contract Documents or approve or accept any portion of the Work.
  3. Agency shall not perform duties of Contractor.
- F. Submittals: Testing agency shall submit a certified written report of each inspection and test to the following:
1. Owner.
  2. Engineer.
  3. Contractor.
  4. Structural Engineer.
  5. Authorities having jurisdiction, when authorities so direct.
- G. Report Data: Reports of each inspection, test, or similar service shall include at least the following:
1. Date of issue.
  2. Project title and number.
  3. Name, address, and telephone number of testing agency.
  4. Dates and locations of samples and tests or inspections.
  5. Names of individuals making the inspection or test.
  6. Designation of the Work and test method.
  7. Identification of product.
  8. Complete inspection or test data.
  9. Test results and an interpretation of test results.
  10. Ambient conditions at the time of sample taking and testing.
  11. Comments or professional opinion on whether inspected or tested Work complies with requirements.
  12. Name and signature of laboratory inspector.
  13. Recommendations on retesting or re-inspection.

## SECTION 01 4500

- H. Qualifications for Service Agencies: Engage inspection and testing service agencies that are prequalified as complying with the American Council of Independent Laboratories' "Quality Assurance Manual" and that specialize in the types of inspections and tests to be performed.
1. Each agency shall be authorized by authorities having jurisdiction to operate in the state where the Project is located.

PART 2 - PRODUCTS – Not Applicable.

PART 3 - EXECUTION – Not Applicable.

\* \* \* END OF SECTION \* \* \*



SECTION 01 5000  
TEMPORARY FACILITIES AND CONTROLS

PART 1 - GENERAL

1.01 SCOPE:

- A. The GENERAL, SUPPLEMENTAL and other CONDITIONS of the Contract are hereby made part of this Section.
- B. This Section describes the temporary facilities and controls the Contractor needs to adhere to for the project.

1.02 PAYMENT:

- A. The requirements of this Section are considered incidental Work with no separate measurement and payment to be made.

PART 2 - PRODUCTS

2.01 MATERIALS AND EQUIPMENT:

- A. Provide new materials and equipment for construction of temporary facilities and controls.

PART 3 - EXECUTION

3.01 TEMPORARY UTILITIES:

- A. Provide temporary heat for curing or drying of work, and for protection of new construction from adverse effects of low temperatures. Proper safety controls and devices shall be on all temporary heating and ventilation equipment used. Use of gasoline-burning heaters and open-flame heaters is not permitted.
- B. Provide temporary sanitary facilities. Comply with regulations and health codes for type, number, location, and maintenance of facilities. Temporary toilet facilities shall be removed from the site when no longer necessary.

3.02 TEMPORARY CONSTRUCTION FACILITIES:

- A. Provide and maintain field offices, storage trailers, and other support facilities near the project site.
  - 1. Temporary facilities located within the construction area or within 30 feet (9 m) of building lines shall be of noncombustible construction.

## SECTION 01 5000

- B. Provide temporary enclosures for protection of construction and workers from exposure and inclement weather and for containment of heat.
- C. Install project identification and other signs in locations approved by Owner to inform the public and persons seeking entrance to Project.
- D. Collect waste daily and dispose of waste off-site according with local ordinances, when containers are full.
  - 1. Handle hazardous, dangerous, or unsanitary waste materials separately from other waste by containerizing properly. Dispose of material according to applicable laws and regulations.
- E. Material Storage:
  - 1. Contractor shall be fully responsible and provide adequate storage for materials that must be housed against weather exposure during entire construction. Materials which may suffer any type of deterioration or damage due to weather exposure shall be covered and or housed. Housing and protection shall be approved by the Engineer. The responsible Contractor shall pay for and/or replace any damaged materials caused by his negligence or failure to provide proper protection.
  - 2. Contractor to coordinate and make all arrangements with the Owner to provide needed exterior storage.

### 3.03 TEMPORARY CONTROLS:

- A. Provide temporary barricades, warning signs, and lights to protect the public and construction personnel from construction hazards.
  - 1. Enclose construction area(s) with fence(s) with lockable entrance gates, to prevent unauthorized access.
  - 2. Contractor shall build and maintain all such provisions to fully comply with all state and local safety requirements and fully protect the public and all workmen throughout the entire construction. Walkways are to be kept well-maintained, well-lit, free from ice and snow, and reasonably clean at all times.
  - 3. Furnish, install, and maintain for the duration of construction all required scaffolds, tarpaulins, barricades, canopies, warning signs, steps, bridges, platforms, and other temporary construction necessary for proper completion of the work in compliance with all pertinent safety and other regulations.

## SECTION 01 5000

- B. Provide temporary environmental controls as required by authorities having jurisdiction including, but not limited to, erosion and sediment control, dust control, noise control, and pollution control.

### 3.04 SITE COMMUNICATIONS:

- A. The construction foreman shall be equipped with a cellular phone permitting on-site communications during all times of the construction activity.

### 3.05 TRAFFIC CONTROL:

- A. The Contractor shall provide, erect and maintain at all times, during the execution of the work and until completion and final acceptance thereof, suitable and requisite barricades, signs and other types of traffic control devices as may be necessary to ensure the safety of the public as well as those engaged in the work. Where performing work near County, State, or railroad right-of-way, the Contractor shall conform to that particular entity's traffic control and other requirements.

All barricades shall be protected at night from sunset to sunrise by type "A" low intensity flashing yellow warning lights. All lights shall meet the standards of Section 6E-5 of the "Manual on Uniform Traffic Control Devices (MUTCD)".

### 3.06 BARRICADES AND LIGHTS:

- A. All open trenches and other excavations shall be protected with suitable barriers, signs and lights to the extent that adequate protection is provided to the public against accident by reason of such open construction. Obstructions such as material piles and equipment shall be provided with similar warning signs and lights.
- B. All barricades and obstructions shall be illuminated by means of acceptable warning lights at night and all lights used for this purpose shall be kept on from sunset to sunrise. Materials stored upon or alongside public streets, roads and highways shall be so placed that the work at all times shall be so conducted as to cause the minimum obstruction and inconvenience to the traveling public.
- C. All barricades, signs, warning lights and other protective devices shall be installed and maintained in conformance with applicable statutory requirements and where within right of ways as required by the authority having jurisdiction thereover.

\* \* \* END OF SECTION \* \* \*

SECTION 01 6000  
PRODUCT REQUIREMENTS

PART 1 - GENERAL

1.01 SCOPE:

- A. The GENERAL, SUPPLEMENTAL and other CONDITIONS of the Contract are hereby made part of this Section.
- B. This Section describes the product requirements for the project.

1.02 SECTION REQUIREMENTS:

- A. To fullest extent possible, provide products, materials, and equipment of same kind from a single source.
- B. Equipment manufactured within the continental limits of the United States shall be encouraged.
- C. Deliver, store, and handle products, materials, and equipment according to manufacturer's written instructions, using all means and methods that will prevent damage, deterioration, and loss, including theft.
  - 1. Schedule delivery to minimize long-term storage and to prevent overcrowding construction spaces.
  - 2. Deliver in manufacturer's original sealed packaging with labels and written instructions for handling, storing, protecting, and installing.
  - 3. Inspect to ensure compliance with the Contract Documents and to ensure items are undamaged and properly protected.
  - 4. Store heavy items in a manner that will not endanger supporting construction.
  - 5. Store items subject to damage aboveground, under cover in a weather tight enclosure, with ventilation adequate to prevent condensation. Maintain temperature and humidity within range required.

PART 2 - PRODUCTS

2.01 PRODUCT OPTIONS:

- A. Provide items that comply with the Contract Documents, are undamaged, and are new at the time of installation.

## SECTION 01 6000

1. Provide products and equipment complete with accessories, trim, finish, and other devices and components needed for a complete installation and the intended use and effect.
- B. Do not attach manufacturer's labels or trademarks, except for required nameplates, on surfaces exposed to view in occupied spaces or on the exterior.
- C. Select products, materials, and equipment as follows:
  1. Where these Specifications name only a single product, equipment, or manufacturer, provide the item indicated. No substitutions will be permitted.
  2. Where these Specifications name 2 or more products, equipment or manufacturers, provide 1 of the items indicated. No substitutions will be permitted.
  3. Where products or equipment are specified by name, accompanied by the term "or equal," comply with provisions concerning "substitutions" to obtain approval for use of an unnamed product or equipment.
  4. Where these Specifications describe a product, material, or equipment, listing characteristics required, provide an item that provides the characteristics and complies with requirements.
  5. Where these Specifications require compliance with performance requirements, provide products, materials, or equipment that comply and are recommended in writing by the manufacturer for the application.
- D. Unless otherwise indicated, Engineer will select color, pattern, and texture of any product, material, or equipment from manufacturer's full range of options.

### 2.02 PRODUCT SUBSTITUTIONS:

- A. Submit four copies of each request for product substitution. Identify product to be replaced, provide complete documentation showing compliance of proposed substitution with all specified requirements, and include the following:
  1. A full comparison with the specified product.
  2. A list of changes to other Work required to accommodate the substitution.
  3. Any proposed changes in the Contract Sum or Contract Time should the substitution be accepted.
- B. Engineer will review the proposed substitution and notify Contractor of its acceptance or rejection.

SECTION 01 6000

PART 3 - EXECUTION: – Not Applicable.

\* \* \* END OF SECTION \* \* \*

SECTION 01 6500  
PRODUCT DELIVERY REQUIREMENTS

PART 1 - GENERAL

1.01 SCOPE:

- A. The GENERAL, SUPPLEMENTAL and other CONDITIONS of the Contract are hereby made part of this Section.
- B. This Section describes the requirements that the Contractor shall follow for all products that will be delivered to the project site.

1.02 DELIVERY, STORAGE, AND HANDLING:

- A. Contractor shall make arrangements to receive, unload, and store project materials.
- B. Materials shall be addressed and delivered to the Contractor's project facilities.
- C. The Owner will not receive, unload, or store the Contractor's materials.

PART 2 - PRODUCTS – Not Applicable.

PART 3 - EXECUTION – Not Applicable.

\* \* \* END OF SECTION \* \* \*

SECTION 01 7100  
EXAMINATION AND PREPARATION

PART 1 - GENERAL

1.01 SCOPE:

- A. The GENERAL, SUPPLEMENTAL, and other CONDITIONS of the Contract are hereby made part of this Section.
- B. This Section describes the examination and preparation requirements the Contractor shall conform to during construction.

1.02 PAYMENT:

- A. The requirements of this Section are considered incidental Work with no separate measurement and payment to be made.

PART 2 - PRODUCTS – Not Applicable.

PART 3 - EXECUTION

3.01 EXAMINATION:

- A. Examine substrates and conditions for compliance with manufacturer's written requirements including, but not limited to, surfaces that are sound, level, and plumb; substrates within installation tolerances; surfaces that are smooth, clean, and free of deleterious substances; and application conditions within environmental limits. Do not proceed with installation until unsatisfactory conditions have been corrected.

3.02 PROTECTION OF OTHER UTILITIES:

- A. Have all foreign utilities located by contacting Gopher State One-Call at 1-800-252-1166.
- B. Give foreign utility management 48-hour notice prior to excavating in a questioned area. After exposing the foreign utility, notification shall again be given the foreign utility management to allow for on-site inspection before the backfilling operation shall begin. The Contractor, from time to time, shall assist the foreign utility in exposing parallel or intersecting lines to ensure that no damage will be done.
- C. Do all things necessary or expedient to properly protect all parallel, converging and intersection lines, joint trenches, highways, pipelines, and all property of others from damage. Make minor trench location adjustments, if necessary.



## SECTION 01 7100

- D. In the event that such parallel, converging and intersection lines, joint lines, poles, highways or other property are damaged during construction of the project, the Contractor shall at his/her own expense restore any or all of such damaged property immediately to as good a state as before such damage occurred.

### 3.03 PREPARATION

- A. Prepare substrates and adjoining surfaces according to manufacturer's written instructions, including, but not limited to, the application of fillers and primers.

\* \* \* END OF SECTION \* \* \*

SECTION 01 7300  
EXECUTION REQUIREMENTS

PART 1 - GENERAL

1.01 SCOPE:

- A. The GENERAL, SUPPLEMENTAL, and other CONDITIONS of the Contract are hereby made part of this Section.
- B. This Section describes the execution requirements that the Contractor shall follow during construction.

1.02 PAYMENT:

- A. The requirements of this Section are considered incidental Work with no separate measurement and payment to be made.

PART 2 - PRODUCTS – Not Applicable.

PART 3 - EXECUTION

3.01 CUTTING AND PATCHING:

- A. Do not cut structural members without prior written approval of Engineer.
- B. For patching, provide materials whose installed performance will equal or surpass that of existing materials. For exposed surfaces, provide or finish materials to visually match existing adjacent surfaces to the fullest extent possible.
- C. All cutting is by the Contractor responsible for the work. All patching is by the general Contractor.

3.02 EXCAVATIONS:

- A. When working in trenches or excavations, Contractor shall incorporate required shoring of sidewalls, including trench boxes, braces, or other means of shoring to ensure the safety of all personnel.
- B. Contractor is responsible for all open excavations associated with the Contract. Guard open or unattended trenches, foundations, or pole holes 4 inches or more in width with one of the following methods:
  - 1. 1/2 inch plywood that is weighted to prevent movement during windy conditions.

## SECTION 01 7300

2. Continuous snow fence and appropriate flashing warning lights.

### 3.03 INSTALLATION:

- A. Comply with manufacturer's written instructions for installation. Anchor each product securely in place, accurately located and aligned. Clean exposed surfaces and protect from damage. If applicable, prepare surfaces for field finishing.

### 3.04 SPECIAL PRECAUTIONS FOR WORK IN MANHOLES:

- A. Follow all confined space safety procedures when working in manholes.
- B. Before entering any existing or completed manholes, provide fresh air to the manhole by using adequate mechanical ventilating equipment.
- C. Care shall be taken to avoid fire or explosion in manholes. No smoking, fire, or open lights are allowed in any manhole.

### 3.05 PROPERTY DAMAGES:

- A. The Contractor shall limit the movement of its crews and equipment so as to cause as little damage as possible to lawns, gardens, crops, orchards, or property and shall endeavor to avoid marring the lands. All fences that are damaged shall be replaced in as good condition as they were found and precautions shall be taken to prevent the escape of livestock. The Contractor shall be responsible for all loss of or damage to the above property whether on or off the right-of-way caused by his crews during the construction of the project and shall restore them to their original condition.
- B. The Contractor shall be responsible for all damage to any existing city, state, county, township, or private streets, roads, parks, railroads, or other property by reason of its operation, or those of its subcontractors. The Contractor shall take all necessary precautions to avoid damages to all roads and comply with all load limits. The Contractor shall repair all roads damaged by their crews in a timely fashion.

\* \* \* END OF SECTION \* \* \*

SECTION 01 7400  
CLEANING AND DISPOSAL MANAGEMENT

PART 1 - GENERAL

1.01 SCOPE:

- A. The GENERAL, SUPPLEMENTAL, and other CONDITIONS of the Contract are hereby made part of this Section.
- B. This Section describes the cleaning and disposal management that the Contractor shall conform to during construction.

1.02 PAYMENT:

- A. The requirements of this Section are considered incidental Work with no separate measurement and payment to be made.

PART 2 - PRODUCTS – Not Applicable.

PART 3 - EXECUTION

3.01 DISPOSAL OF SALVAGE MATERIALS:

- A. Unless otherwise specified below, all salvage materials are property of the Contractor.
- B. Properly dispose all non-salvageable materials at Contractor's expense.

3.02 PROTECTION AND CLEANING OF SITE:

- A. Protect all structures within the construction limits.
- B. At all times maintain premises free from accumulations of waste material and rubbish.
  - 1. Upon completion of Work remove all rubbish, tools, and surplus materials from premises.
  - 2. Leave all work in "broom clean" condition, unless more exactly specified elsewhere.
- C. Where sodded areas were disturbed, restore surface to original elevation, replacing final 6 inches with topsoil, rake smoothly, and reseed.

## SECTION 01 7400

1. Drainageways disturbed by trenching operations shall be restored as nearly as possible to their original grade and cross section.
- D. At the end of each day's work leave construction area in such a condition so to permit unencumbered access to all private properties in vicinity of Project.
- E. At completion of Work, remove waste materials, rubbish, tools, equipment, machinery and surplus materials and clean all sight-exposed surfaces; leave project clean and ready for occupancy.
- F. Hazards Control:
  1. Store volatile wastes in covered metal containers and remove from premises daily.
  2. Prevent accumulation of wastes which create hazardous conditions.
- G. Conduct cleaning and disposal operations to comply with local ordinances and anti-pollution laws.
  1. Do not burn or bury rubbish and waste materials on project site.
  2. Do not dispose of volatile wastes such as mineral spirits, oil, or paint thinner in storm or sanitary drains.
  3. Do not dispose of wastes into streams or waterways.
- H. Wet down dry materials and rubbish to lay dust and prevent blowing dust.
- I. At reasonable intervals during progress of work, clean site and public properties, and dispose of waste materials, debris and rubbish. Legally dispose of at public or private dumping areas off Owner's property.
- J. Provide on-site containers for collection of waste materials, debris, and rubbish.
- K. Handle materials in a controlled manner with as few handlings as possible; do not drop or throw materials from heights.
- L. Employ experienced workmen, or professional cleaners, for final cleaning.
- M. In preparation for substantial completion or occupancy, conduct final inspection of project site.
- N. Maintain cleaning until project, or portion thereof, is occupied by Owner.

## SECTION 01 7400

### 3.03 FINAL CLEANING:

- A. Clean each surface or item as follows before requesting inspection for certification of Substantial Completion:
1. Remove labels that are not permanent.
  2. Clean transparent materials, including mirrors. Remove excess glazing compounds. Replace chipped or broken glass.
  3. Clean exposed finishes to a dust-free condition, free of stains, films, and foreign substances. Leave concrete floors broom clean.
  4. Wipe surfaces of mechanical and electrical equipment. Remove excess lubrication. Clean light fixtures and lamps.
  5. Clean the site. Sweep paved areas; remove stains, spills, and foreign deposits. Rake grounds to a smooth, even-textured surface.

\* \* \* END OF SECTION \* \* \*

SECTION 01 7513  
CHECKOUT PROCEDURES

PART 1 - GENERAL

1.01 SCOPE:

- A. The GENERAL, SUPPLEMENTAL, and other CONDITIONS of the Contract are hereby made part of this Section.
- B. This Section describes the checkout procedures that the Contractor shall conform to during final construction.

1.02 PAYMENT:

- A. The requirements of this Section are considered incidental Work with no separate measurement and payment to be made.

1.03 PERFORMANCE AND FUNCTIONAL TESTING:

- A. The Owner may contract with a third party to perform tests if any of the work appears to be deficient.
- B. The Contractor shall correct work that is found to be nonconforming with the plans and specifications.

PART 2 - PRODUCTS – Not Applicable.

PART 3 - EXECUTION – Not Applicable.

\* \* \* END OF SECTION \* \* \*

SECTION 01 7800  
CLOSEOUT SUBMITTALS

PART 1 - GENERAL

1.01 SCOPE:

- A. The GENERAL, SUPPLEMENTAL, and other CONDITIONS of the Contract are hereby made part of this Section.
- B. This Section describes the execution requirements that the Contractor shall follow during construction.

1.02 SUBMITTALS:

- A. Record Drawings: Maintain one (1) set of Contract Drawings as Record Drawings. Mark to show installation that varies from the Work originally shown.
- B. Record Specifications: Maintain one (1) copy of the Project Manual, including addenda, as Record Specifications. Mark to show variations in Work performed in comparison with the text of the Specifications and modifications.
- C. Operation and Maintenance Data:
  - 1. The Contractor shall prepare and furnish four (4) manuals of all equipment specified.
  - 2. The Manual shall cover the installation, operation, and maintenance of all equipment and material including:
    - a. Complete catalog data.
    - b. Manufacturer's literature.
    - c. Parts list.
    - d. Maintenance instructions.
    - e. Approved shop drawings.
    - f. Supplier's name, address and telephone number.
  - 3. All such literature shall be bound under hard cover and submitted to the Engineer for review and transmittal to the Owner.



## SECTION 01 7800

- a. Should modification be required, the bound literature will be returned to the Contractor for modification and resubmittal to the Engineer.

### 1.03 PAYMENT:

- A. The requirements of this Section are considered incidental Work with no separate measurement and payment to be made.

### PART 2 - PRODUCTS – Not Applicable.

### PART 3 - EXECUTION

#### 3.01 CLOSEOUT PROCEDURES:

- A. Request Substantial Completion inspection once the following are complete:
  1. Advise Owner of pending insurance changeover requirements.
  2. Submit Record Drawings and Specifications, maintenance manuals, warranties, and similar record information.
  3. Deliver spare parts, extra stock, and similar items.
  4. Remove temporary facilities and controls.
  5. Complete final cleanup.
  6. Touch up, repair, and restore marred, exposed finishes.
  7. Obtain final inspections from authorities having jurisdiction.
  8. Obtain certificate of occupancy.
- B. Upon notification from the Contractor, the Engineer will proceed with inspection or advise Contractor of unfilled requirements. Engineer will prepare the Certificate of Substantial Completion after inspection or advise Contractor of items that must be completed or corrected before the certificate will be issued.
- C. Arrange for each installer of equipment that requires operation and maintenance to provide instruction to Owner's personnel. Include a detailed review of the following:
  1. Maintenance manuals.

SECTION 01 7800

2. Spare parts, tools, and materials.
3. Lubricants and fuels.
4. Identification systems.
5. Control sequences.
6. Hazards.
7. Warranties and bonds.

D. Final Completion procedures include supplying the following documentation:

1. Waiver and Release of Lien forms from the Contractor and all associated subcontractors and suppliers. No partial or conditional lien waivers will be accepted.
2. Certificate of Contractor and Indemnity Agreement.
3. Contractor's statement of taxes paid.
4. Other final documents required by the Contract.

\* \* \* END OF SECTION \* \* \*

SECTION 01 7836

WARRANTIES

PART 1 - GENERAL

1.01 SCOPE:

- A. The GENERAL, SUPPLEMENTAL, and other CONDITIONS of the Contract are hereby made part of this Section.
- B. This Section describes the warranty clause that the Contractor shall conform to for the project.

1.02 WARRANTIES:

- A. See Supplemental Conditions section.

PART 2 - PRODUCTS – Not Applicable.

PART 3 - EXECUTION – Not Applicable.

\* \* \* END OF SECTION \* \* \*

**DIVISION 31 - EARTHWORK**

SECTION 31 0113  
SUBSURFACE INFORMATION

PART 1 - GENERAL

1.01 GENERAL:

- A. The GENERAL, SUPPLEMENTAL and other CONDITIONS of the Contract and the GENERAL REQUIREMENTS are hereby made part of this Section.
- B. Soil borings have been performed for this project and are included in the Appendix of this project manual.
- C. Additional Investigation:
  - 1. Contractor should visit site and acquaint himself with site conditions.
  - 2. Prior to bidding, Contractor may make subsurface investigations to satisfy himself with site and subsurface conditions.

1.02 QUALITY ASSURANCE:

- A. Readjust work performed that does not meet technical or design requirements.
- B. Make no deviations from the Contract Documents without specific and written approval of Owner.

\* \* \* END OF SECTION \* \* \*

## SECTION 31 0116

### EXISTING UTILITIES, UNDERGROUND OBSTRUCTIONS, AND SUBSURFACE CONDITIONS

#### PART 1 - GENERAL

##### 1.01 SCOPE:

- A. The GENERAL, SUPPLEMENTAL and other CONDITIONS of the Contract and the GENERAL REQUIREMENTS (Division 1) are hereby made part of this Section.
- B. This Section describes, but is not limited to, the contact to be made with existing utilities and the Work associated with location, adjustment and repair of underground utilities and obstructions.
- C. Information or data presented herein relative to existing subsurface utilities are not a part of the Contract Documents and shall not be used by the Contractor for reference during construction of the work.

##### 1.02 PAYMENT:

- A. Repair by the Contractor of any utilities, sewer service lines and main, field and drain tiles and other underground obstructions damaged by the Contractor's activities is considered incidental Work with no separate measurement and payment to be made.

#### PART 2 - PRODUCTS – Not Applicable.

#### PART 3 - EXECUTION

##### 3.01 GENERAL:

- A. The Contractor shall take all necessary precautions to locate, protect and repair existing utilities, underground obstructions and structures.
- B. The Contractor shall be responsible for all damage to field tiles, streets, roads, highways, ditches, shoulders, embankments, culverts, bridges or other public or private property or facility, regardless of location or character, which may be caused by moving, hauling, or otherwise transporting equipment, materials or men to or from the work or any site thereof, whether by him or his subcontractor(s).

## SECTION 31 0116

- C. The Contractor shall protect, shore, brace, support and maintain all underground pipes, conduits, drains and other underground construction uncovered or otherwise affected by the construction work performed by him. All pavements, surfacing, driveways, curbs, walks, buildings, utility poles, guy wires and other surface structures affected by construction operations in connection with the performance of the contract, together with all shrubs in yards and parking crossed by or adjacent to the pipeline shall be maintained, and if removed or otherwise damaged, shall be restored to the original condition thereof as determined and approved by the Resident Project Representative. All replacements of such underground construction and surface structures or replacements of such underground construction and surface structures or parts thereof shall be made with new materials conforming to the requirements of these specifications or, if not specified, as approved by the Engineer.
- D. Information and data shown or indicated on drawings of the site with respect to existing underground facilities or utilities are based on information and data furnished to the Owner or Engineer by owners of such underground facilities or by others.
- E. The Owner and Engineer are not responsible for the accuracy, completeness or precision of any such information, data or drawings. In general, it is not the intent of the Owner or Engineer to provide complete information relative to existing utilities on the Drawings.
- F. The Contractor shall have full responsibility for reviewing and checking all such information and data, for locating all existing underground facilities including water drainage projects affected by construction, for contact with owners of affected underground facilities, and for such other requirements as may be included in the specifications, the cost of all of which will be considered as incidental to the Contract Price.
- G. Information, data or drawings describing existing underground facilities or utilities are not a part of the Contract Documents.
- H. If, during any land disturbance related to the project, any bones, artifacts, foundations, or other indications of past human occupation of the area are uncovered, work at this location shall be temporarily stopped and the Engineer shall be notified at once to ensure notification of appropriate state authorities.

### 3.02 SUBSURFACE CONDITIONS:

- A. In the preparation of Drawings and Specifications, the Engineer may have obtained, reviewed or been informed of subsurface information not specifically collected for design or construction of this project. Such information was of a general nature and available from sources normally open to the general public.

## SECTION 31 0116

- B. Printed information available to the Engineer during project design, including reports referenced above, are available at the office of the Engineer for examination during regular business hours.
- C. Subsurface information or data referenced herein are not a part of the Contract Documents.

### 3.03 UTILITY CONTACT:

- A. Prior to any Work, a preconstruction conference may be scheduled by the Engineer to include involvement by affected utilities. Failure of any utility to be represented at the preconstruction conference, for any reason, shall not relieve the Contractor of any responsibility described herein.
- B. Prior to Work in a specific area affecting underground utilities, all utilities shall be notified by the Contractor.

### 3.04 UTILITY REPAIR:

- A. When a utility line or cable is exposed or damaged, the Contractor shall comply with the repair requirements of the affected utility.
- B. When a utility cable is exposed, the Contractor shall compact the backfill beneath the exposed cable before completion of the backfill operation.
- C. The Contractor shall make, without delay, satisfactory and acceptable arrangement with the owner(s) of or the agency or authority having jurisdiction over damaged property, surface, structure, or facility concerning its repair or replacement or payment of costs incurred about said damage.

### 3.05 OTHER OBSTRUCTION CONTACT AND REPAIR:

- A. Where field and drain tiles are suspected, property owners shall be contacted by the Contractor.
  - 1. To locate and prevent damage to known tile, the Contractor shall not be required to excavate beyond twenty-five (25) feet either side of the reported centerline without additional compensation.
  - 2. Should additional excavation be required and compensation is desired, a Field Order shall be prepared as documentation prior to commencing the Work.
- B. Where county tile have been damaged, these shall be repaired according to county specifications and requirements.



## SECTION 31 0116

- C. The Contractor shall notify the Owner when field tile has been damaged and provide drawings showing the location of repaired field tile.
- D. Field and Drain Tile Repair:
  - 1. Butt-joint Method:
    - a. Expose and remove damaged sections of tile so that sound, undisturbed tile lies on both sides of trench.
    - b. Connect the two sides using PVC pipe butted against both sides of the existing tile.
    - c. Seal and secure joint with concrete. One bag "Sacrete" mixed with water will be considered adequate for all tile 16 inches and smaller.
    - d. Replace and hand tamp the soil in twelve (12) inch lifts up to the bottom of the repaired section of tile.
    - e. Continue with trench backfill as per normal procedure.
    - f. All tile shall be repaired within 24 hours of the time it was damaged or disturbed.

\* \* \* END OF SECTION \* \* \*

SECTION 31 1100  
MAINTENANCE OF CLEARING

PART 1 - GENERAL

1.01 CONDITIONS OF THE CONTRACT:

- A. The GENERAL, SUPPLEMENTAL and other CONDITIONS of the Contract and the GENERAL REQUIREMENTS are hereby made part of this Section.
- B. The articles contained in this Section may amend, modify, supersede, void or supplement the articles of the General Conditions, and shall take precedence over the provisions of the General Conditions. Where any part of an article of the General Conditions is amended, modified, superseded or voided by a provision of this Section, provisions of such article not so specifically amended, modified, superseded or voided shall remain in effect. Where any article of the General Conditions is supplemented by this Section, all provisions of such article shall remain in effect, and the supplementary provisions of this Section shall be considered as added thereto.

1.02 SCOPE:

- A. Related requirements specified elsewhere:
  - 1. Summary of Work: Section 011100.
  - 2. Cleaning for Specific Products or Work: Project Manual section for that Work.
- B. Maintain premises and public properties free from accumulations of waste, debris, and rubbish, caused by operations.
- C. At completion of Work, remove waste materials, rubbish, tools, equipment, machinery and surplus materials and clean all sight-exposed surfaces; leave project clean and ready for occupancy.

1.03 SAFETY REQUIREMENTS:

- A. Standards: Maintain project in accordance with safety and insurance standards.
- B. Hazards Control:
  - 1. Store volatile wastes in covered metal containers and remove from premises daily.
  - 2. Prevent accumulation of wastes which create hazardous conditions.

## SECTION 31 1100

- C. Conduct cleaning and disposal operations to comply with local ordinances and anti-pollution laws.
  - 1. Do not burn or bury rubbish and waste materials on project site.
  - 2. Do not dispose of volatile wastes such as mineral spirits, oil, or paint thinner in storm or sanitary drains.
  - 3. Do not dispose of wastes into streams or waterways.

### PART 2 - PRODUCTS

#### 2.01 MATERIALS:

- A. Use only cleaning materials recommended by manufacturer of surface to be cleaned.
- B. Use cleaning materials only on surfaces recommended by cleaning material manufacturer.

### PART 3 - EXECUTION

#### 3.01 DURING CONSTRUCTION:

- A. Execute cleaning to ensure that building, grounds, and public properties are maintained free from accumulations of waste materials and rubbish.
- B. Wet down dry materials and rubbish to lay dust and prevent blowing dust.
- C. At reasonable intervals during progress of work, clean site and public properties, and dispose of waste materials, debris and rubbish.
- D. Provide on-site containers for collection of waste materials, debris and rubbish.
- E. Remove waste materials, debris and rubbish from site and legally dispose of at public or private dumping areas off Owner's property.
- F. Handle materials in a controlled manner with as few handlings as possible; do not drop or throw materials from heights.
- G. Schedule cleaning operations so that dust and other contaminants resulting from cleaning process will not fall on wet, newly painted surfaces.
- H. Protect all structures within the construction limits.

## SECTION 31 1100

- I. The Contractor shall manage his activities and implement protective measures as necessary to minimize soil erosion during the construction process.
- J. At the end of each day's work leave construction area in such a condition so to permit unencumbered access to all private properties in vicinity of Project.

### 3.02 FINAL CLEANING:

- A. Employ experienced workmen, or professional cleaners, for final cleaning.
- B. In preparation for substantial completion or occupancy, conduct final inspection of project site.
- C. Broom clean paved surfaces; rake clean other surfaces of grounds.
- D. Maintain cleaning until project, or portion thereof, is occupied by Owner.
- E. For disturbed areas on the shoulders/terraces, replace final 6 inches with topsoil and finish grade suitable for seeding.

\* \* \* END OF SECTION \* \* \*

SECTION 31 1200  
STORM SEWERS/DRAIN TILE

PART 1 - GENERAL

1.01 SCOPE:

- A. The CONSTRUCTION AGREEMENT and other CONDITIONS of the Contract and the GENERAL REQUIREMENTS (Division 1) are hereby made part of this Section.
- B. Related requirements specified elsewhere: none.
- C. Furnish all labor, material, and equipment necessary to complete the installation of the storm sewer.
- D. Excavate all substances encountered to depths indicated on the drawings or as herein specified.
- E. Place excavated materials suitable for backfilling in orderly manner sufficiently away from banks of trench to avoid overloading and prevent slides or cave-ins.
- F. Remove and dispose of excess or unsuitable backfill materials as directed by the Engineer.
- G. Perform site grading as required to prevent surface water from entering trenches.
- H. Perform dewatering operations and/or form water diversion ditches as required to keep base for laying pipe in trench free of water.
- I. Assure that all shoring and sheeting required complies with applicable local, state and federal safety requirements.
- J. All trenching shall be open cut except where indicated otherwise on drawings.

1.02 QUALITY ASSURANCE:

- A. Provide manufacturer's certificate that materials meet or exceed minimum requirements as specified.

1.03 PRODUCT DELIVERY, STORAGE AND HANDLING:

- A. During loading, transporting, and unloading, exercise care to prevent damage to materials.
- B. Do not drop pipe or fittings.

## SECTION 31 1200

### PART 2 - PRODUCTS

#### 2.01 MATERIALS: See plan sheets for pipe material.

##### A. Reinforced Concrete Pipe:

1. Reinforced Concrete Pipe (RCP): ASTM C76, Class 2000 D, Wall B tongue and groove, machined ends, 6 ft. minimum laying length; provide reinforcement as set forth in Table III of ASTM C76; label each piece by class and show date of manufacturer.
2. Commercial joint sealing gaskets or mastic material shall be used in all joints.
3. Bends may be prefabricated or fabricated in the field by sawing pipe and installing a concrete collar around field joint.
4. Joints shall be watertight bell and spigot.

##### B. High Density Polyethylene (HDPE): Perforated drain tile/subdrain.

1. Pipe shall conform to Minnesota DOT Standard Specifications Section 2502.
2. Use manufacturer's recommended fittings and couplings (incidental to pipe).

##### C. Corrugated Culverts.

1. Pipe and aprons shall conform to Minnesota DOT Standard Specifications 2417.
2. Use manufacturer's recommended fittings and couplings (incidental to pipe).

##### D. Castings: Shall conform to standard drawings. Standard castings differing in non-essential details will be acceptable, if approved by the Engineer.

#### 2.02 JOINT LUBRICANT:

##### A. As recommended by pipe manufacturer.

### PART 3 - EXECUTION

#### 3.01 TRENCH EXCAVATION:

##### A. General Requirements:

## SECTION 31 1200

1. Keep trench minimum width necessary for proper laying of pipe and to prevent movement of existing utilities.
2. Keep banks as nearly vertical as practicable while complying with safety requirements.
3. Reinforced concrete pipe shall lay on undisturbed suitable soil or bedding at every point along its length.
4. Accurately grade bedding to provide uniform bearing and support for each pipe section.
5. Unstable trench conditions may require special rock bedding in lieu of granular bedding on the trench bottom. Where authorized by the Engineer, remove unsuitable material below the sewer invert elevation and replace with special rock bedding to the sewer invert elevation.
6. Ledge rock, boulders and large stones encountered in the excavation shall be removed to provide a minimum clearance of 12 inches below and on each side of all pipe.
7. Each pipe will be carefully inspected before it is laid and defective pipe will be rejected.
8. The pipe shall be laid upgrade beginning at the lower end of the line and shall be laid true to the grades shown on the plans. Any pipe which has its grade disturbed after laying shall be taken up and relaid. No pipe shall be laid, when in the opinion of the Engineer, weather or trench conditions will not permit a satisfactory installation.
9. Laying of pipe to true line and grade shall be accomplished by the laser beam method.
10. When pipe connects with other structures, the end shall be placed or cut off flush with the face of the structure.

### 3.02 EXCAVATION FOR APPURTENANCES:

#### A. General Requirements:

1. Excavate to leave minimum 12-inch space between outer surface of appurtenance and side of trench.
2. Fill unauthorized overdepths with compacted granular material.

## SECTION 31 1200

### 3.03 BACKFILLING AND COMPACTING:

#### A. General Requirements:

1. Trenches shall not be backfilled until the pipe is checked for alignment and grade and any required tests are performed.
2. When granular backfill is specified or authorized by the Engineer, the granular backfill shall be placed from 0.5 feet below the bottom of the pipe to 0.5 feet above the top of the pipe.
3. The earth or granular backfill shall be mechanically tamped under the "spring line" and around the pipe in 6 inch layers until the pipe has not less than 12 inches of compacted cover over the top of the pipe.
4. Trenches shall then be carefully backfilled with suitable earth or gravel free from boulders, large roots, sod, and vegetation. (Site excavated materials must be evaluated and utilized as based on the soil, report no. P-0029606)
5. Backfill remainder of trench in lifts not to exceed 1 foot in loose thickness. Compact using some type of mechanical devices or equipment and moisten or aerate as required to assure consolidation.
6. Each layer shall be compacted to Standard Proctor Density as determined by ASTM D698 per the following:
  - a. Unpaved areas 93 percent, with moisture -3 to +2 percent of optimum
  - b. Cohesive soils under surfaced areas 95 percent, with moisture -3 to +2 percent of optimum
  - c. Granular backfill under surfaced areas 100 percent with moisture -3 to +2 percent of optimum
7. Standard soil density tests may be run in locations designated by the Engineer.
8. All standard soil density tests that initially meet the specifications shall be paid for by the Contractor. All tests that fail to meet the specifications and all subsequent retesting costs including additional engineering costs shall be paid for by the Contractor. Contractor shall be responsible for scheduling the work, notifying the testing laboratory and Engineer, and allowing adequate time for all tests.



## SECTION 31 1200

9. Do not disturb joint alignment or grade of pipe during backfill operation.
10. Conduct backfill operations so that no more than 100 feet of trench will be left open at any one time.

### 3.04 INLETS, MANHOLES AND JUNCTION BOXES:

#### A. Storm Drain Inlets and Junction Boxes:

1. Shall be constructed of concrete, precast concrete sections, or as shown in the standard details.
2. The concrete cover over steel reinforcing shall not be less than 2 inches.
3. All inlet, manhole and junction box bases shall be poured in place concrete unless otherwise approved by the Engineer. Groundwater shall be kept below bottom of concrete base for 24 hours after pouring.
4. Hand form smooth inverts in bottom of inlets, manholes and junction boxes to permit water to flow freely.
5. Reinforced concrete lids may be precast; however, they shall be reinforced as shown on the plans and of the size required for each specific inlet or junction box.
6. Inlets, manholes and junction boxes shall be of such size and construction as shown on the detail drawings. However, in special cases the contractor shall modify dimensions as necessary to accommodate multiple pipes at the same structure.
7. Contractor shall construct intake with a fuel resistant boot providing for a watertight connection where indicated in the standard details.

### 3.05 DRAIN TILE:

- A. Drain tile shall be perforated and placed as shown on the plans. Encase subdrain with 3/8" drainage aggregate with a minimum of 12" of cover. Aggregate incidental to drain tile.

### 3.06 EROSION AND SEDIMENT CONTROL:

- A. Protect against erosion of soils and sediment from leaving the site.
- B. Provide inlet protection once the new intake is installed. Place silt fence and rock around the inlet to prevent sediment from entering the storm sewer. Maintain silt fence and remove sediment deposits.

## SECTION 31 1200

- C. Minimize the amount of native vegetation disturbed beyond the construction site. Vegetation will help prevent sediment from leaving the site. Install silt fence as shown on the plans and as needed to prevent sediment from running off the site. Maintain silt fence and remove sediment deposits when it reaches 1/3 the height of the silt fence.
- D. Contractor shall be careful to not track mud from trucks leaving the site. Contractor shall clean mud from trucks and clean adjacent streets and pavement immediately if tracking of soil occurs.

\* \* \* END OF SECTION \* \* \*

SECTION 31 2350  
SITE EARTHWORK

PART 1 - GENERAL

1.01 SCOPE:

- A. The work covered by this section of the Project Manual shall include furnishing of all labor, material and equipment necessary to complete the removal and replacements items, topsoil stripping, excavation, embankment, subgrade preparation and terrace grading necessary for construction of the project.
- B. It will be the Contractor's responsibility to protect all existing utilities. Any existing utilities damaged by the Contractor will be replaced or repaired at the Contractor's expense. The Contractor is cautioned to seek the help of the appropriate utility office in locating existing lines.
- C. No excavation or stripping shall be started until the area has been cleared and grubbed and the Contractor has staked the proposed work.

1.02 RELATED WORK SPECIFIED ELSEWHERE:

- A. Soil Testing: Section 312326.
- B. Storm Sewers/Draintile: Section 311200.

PART 2 - PRODUCTS – Not Applicable.

PART 3 - EXECUTION

3.01 REMOVAL, ADJUSTMENT AND REPLACEMENT ITEMS:

- A. Concrete Pavement or Asphalt Pavement:
  - 1. Concrete pavement or asphalt pavement shall be removed as shown on the plans or directed by the Engineer.
  - 2. The juncture between the existing pavement or the surfacing to remain and that to be removed shall be made by sawing or milling and carefully removing the portion required in such a manner that the remaining pavement will not be damaged.
  - 3. Street excavation material removed by the Contractor shall be used as fill in widening areas of access road. The Contractor shall place the material as specified in Paragraphs 3.02-C and D.

## SECTION 31 2350

4. Concrete or asphalt pavement removed shall remain the property of the Contractor. The Contractor shall dispose of pavement at a location arranged by the Contractor.
5. Replacement shall be as shown on the plans or directed by the Engineer.

### B. Concrete Curb and Gutter:

1. Concrete curb and gutter shall be as shown on the plans or as marked/directed by the Engineer.
2. The juncture between the existing curb and gutter to remain and that to be removed shall be made by sawing and carefully removing the portion required in such a manner that the remaining curb and gutter will not be damaged.
3. New curb shall be tied to existing curb by drilling two No. 4 rebar 18 inches long with 9 inches inserted into the existing curb.
4. Replacement shall be as shown on the plans or as directed by the Engineer.
5. Any curb and gutter damaged or removed which has not been marked or approved by the Engineer shall be replaced at the Contractor's expense.
6. Expansion material/board ( $\frac{1}{2}$ -inch min.) shall be installed and the cost incidental, when new pavement is to abut the back of curb.

### C. Sidewalks and Private Driveways:

1. The authorized removal and replacement of these items to be paid for by the Owner shall be marked in the field.
2. The outer most line of removal shall be made by neatly sawing parallel to the curb line and removing the approved portion without damaging the remaining driveway and/or sidewalk.
3. Replacement shall be from the approved line of removal to the back of curb line. Replacement thickness to be 7 inches of PCC for driveways, 5 inches of PCC for sidewalk.
4. Immediately after placement, concrete shall be properly finished. The sequence of operations shall be as follows: machine or hand finishing, longitudinal floating, straightedge finishing, belting, broom finishing and the edging of joints. The machine method of finishing shall be employed, except that on odd widths or shapes of slab sidewalks, or where approved by the Engineer, hand methods will be permitted. All finishing equipment

## SECTION 31 2350

and tools shall be maintained clean, free from hardened concrete or grout, and in a condition satisfactory to the Engineer.

5. The Contractor shall protect fresh concrete surfaces that may be damaged from pedestrians, bicycles, malicious mischief and similar occurrences, until the surface has hardened. Any surfaces which are damaged shall be removed and replaced or repaired.

### D. Manhole or Valve Box Adjustments:

1. The Contractor shall adjust existing manholes, inlets and valve boxes to ¼-inch below finished grade.
2. A smooth neat transition from the casting to adjacent finished surface is required.
3. All necessary materials including rings, if used, shall be furnished by the Contractor.
  - a. High density polyethylene (HDPE) rings shall be used when adjustments are made under the casting frame. Polybutene caulking compound shall be used to seal and insure watertight joints on both sides of adjustment rings.

--- or ---

- b. This includes the installation of a metal riser as manufactured by U.M.A.R., Inc., Pella, Iowa, or approved equal for manhole casting adjustments. The Contractor will be required to anchor the risers to the existing castings with spot welds. The riser shall be ½-inch below the adjacent finished street surface. Each metal riser must be custom made for each casting.
4. Any backfill disturbed during adjustment shall be carefully and thoroughly tamped to 95% Standard Proctor Density.
5. Remove Precast manhole sections as needed to provide proper height. Cost incidental to the Manhole Adjustment bid item.
6. Adapters of proper height may be used on valve boxes.

## 3.02 EXCAVATION, EMBANKMENT AND GRADING:

### A. General:

1. The entire subgrade shall be graded to the elevation required prior to surfacing placement.

## SECTION 31 2350

2. Terraces shall be graded per the plans, or as otherwise directed by the Engineer.
3. Utility appurtenances shall be located and clearly marked to avoid damage to same. Any items so damaged shall be repaired or replaced at the Contractor's expense.
4. Waste: Excavated material not needed or unsuitable for use on site shall be disposed of by the Contractor in locations designated by the Contractor or as legally directed.
5. A sufficient quantity of native topsoil, free from gravel and other foreign material and suitable for growing grass, shall be retained from the general excavation so that all terraces will have a surface at least 6 inches thick of this material.
6. Earthwork shall be suspended any time satisfactory results cannot be obtained because of weather conditions or inadequate equipment.
7. Suitable excavation from the site shall be used as embankment material prior to hauling embankment material from another source.

### B. Excavation:

1. The Contractor shall perform all excavation, embankment and grading required for the site, including the requirements for moisture and density control as specified.
2. All suitable excavated materials shall be used on site to the extent necessary to raise the subgrade to the required elevation and to grade terraces. Topsoil with vegetation or sod shall not be used for embankment or have embankment placed thereon.
3. Site excavated materials must be evaluated and utilized as based in the soils report, see appendix.

### C. Street and Terrace Embankment and Grading:

1. Embankment (fill) material required for purposes of constructing the site subgrade to the required elevation and fill for terraces shall be furnished by the Contractor from site excavation.
2. Immediately prior to the placing of fill materials, the entire area upon which embankment is to be placed, except where limited by rock, shall be scarified by means of a disc harrow (or other approved equipment) to a depth of 6 inches. Scarifying shall be done approximately parallel to the axis of the fill. A thin layer (3 inches plus or minus) of fill material shall

## SECTION 31 2350

be spread over the scarified area and compacted as required in these specifications.

3. The upper 6 inches of the embankment shall be free from all rocks, wood, and other foreign material.
4. Site embankment material derived from excavation on the site shall not be measured for separate payment, the cost thereof shall be included in the unit price bid for excavation and embankment.
5. Upon completion of the site work, the Contractor shall excavate or fill to grade the terraces as described in Paragraph 3.02-A.2. or as directed by the Engineer.
6. The size and type of equipment utilized on this portion of the work shall be commensurate with the work to be accomplished.
7. Care shall be taken in working around existing utilities, trees, shrubs, and private sidewalks to avoid any damage to same.
8. The Contractor shall grade the gravel/rock driveways at a uniform slope as shown on the plans or as directed by the Engineer. All equipment, labor and granular material, if required; shall be incidental to the cost of Gravel Surfacing.
9. Embankment Fill material shall consist of an engineered fill according to E.1.d of the soils report. Compaction requirements shall meet or exceed 31 1200-3.03-A.6.

### D. Compaction:

1. The following procedure shall apply in the compaction process to the point of finished base under the pavement and shall be paid for as subgrade preparation:
  - a. This item includes all work associated with scarifying, drying material, applying water, discing, blading, and controlling moisture as necessary to compact 12 inches of subgrade below the proposed aggregate/recycled milling base to 98% of Standard Proctor density with -3 to +2% of optimum moisture. The Contractor shall be responsible for maintaining the subgrade (shape and density) in good condition prior to special backfill or paving. All work necessary to set string line, trim the subgrade, and prepare and maintain the subgrade prior to paving shall be included in this item and paid for in bid item Subgrade Preparation (not applicable to this contract).

## SECTION 31 2350

- b. Remove all sod, roots, and vegetation from the area in which the embankment is required and from the embankment material.
- c. The embankment shall be built of suitable material available from the project, in successive horizontal layers not exceeding 6 inches in compacted thickness.
- d. Add water or air-dry material as required for adequate compaction.
- e. The Contractor shall completely remove the upper 6" of material prior to scarifying and compacting the lower 6". At such time the lower 6" is at the specified density, the Contractor may proceed with building of embankment and compaction for the upper 6". Any method of subgrade preparation other than the complete removal of the top 6" of material will not be acceptable.

- 2. Any area not accessible to large equipment shall be compacted by hand or with smaller equipment.

### E. Subgrade Preparation and Protection:

- 1. After the rough grading work has been completed, the entire graded area shall be smoothed and shaped to produce a finished subgrade in accordance with the elevations shown in the drawings or established by the Engineer.
- 2. The Contractor shall be responsible for maintaining the finished subgrade or base under the pavement in top condition until subsequent operations are performed.
- 3. The required moisture content of the subgrade base shall be maintained by light sprinkling immediately prior to surfacing. However, at no time shall enough water be added to soften the surface of the subgrade.
- 4. Areas in the subgrade, which are soft or otherwise contain unsuitable material shall be excavated and replaced with material approved by the Engineer. The replacement material will, if so directed by the Engineer, be a lean clay material capable of being compacted to 98% of Standard Proctor Density and paid for as Embankment Borrow.

### F. Topsoil:

- 1. Topsoil shall be stripped, stockpiled and later spread over designated areas. When the topsoil cannot conveniently be stockpiled within the right-of-way, it shall be the Contractor's obligation to arrange for stockpile sites at his own expense. The stockpiles shall be shaped and smoothed to facilitate draining and to keep the area as neat as possible.



## SECTION 31 2350

2. Topsoil stripping and stockpiling and finish grading shall be included in the lump sum price for "Topsoil".
3. Upon completion of the pavement work outside the roadway pavement limits, 6 inches of topsoil free from gravel, sticks and other foreign material shall be placed on all newly disturbed areas behind the curb or beyond the completed surfacing. The topsoil shall be finished graded ready for seeding. All costs associated with topsoil spreading and finishing grading shall be included in Excavation and Embankment.
4. Excess excavation and topsoil, if any, shall be stockpiled at the site, by this Contractor. Coordinate with the Owner the placement of the pile. Cost shall be incidental to Excavation and Embankment.
5. The final surface finish shall be one equal to a light harrowing so that the terraces will be suitable for seeding.
6. Finish grading of topsoil shall be included in the lump sum price for Excavation and Embankment.
7. Contractor shall furnish and install all topsoil borrow necessary for grading.

\* \* \* END OF SECTION \* \* \*

## SECTION 31 2326

### SOIL TESTING

#### PART 1 - GENERAL

##### 1.01 SCOPE:

- A. The CONSTRUCTION AGREEMENT and other CONDITIONS of the Contract and the GENERAL REQUIREMENTS (Division 1) are hereby made part of this Section.
- B. The **Contractor** shall employ a testing laboratory for performing soil testing throughout the project.
- C. In-place density tests will be taken as directed below.
- D. The **Contractor** shall pay for the cost of all in-place density tests.

##### 1.02 RELATED WORK SPECIFIED ELSEWHERE:

- A. Site Earthwork: Section 312350.

#### PART 2 - PRODUCTS – Not Applicable.

#### PART 3 - EXECUTION

##### 3.01 LOCATION OF TESTS:

- A. The in-place densities shall be taken in the finished subgrade prior to the placement of surfacing in a 50' grid, in one foot layers in the site embankment or trench backfill for sanitary sewer mains, water mains, storm sewers and electrical conduit.
- B. The in-place densities shall be performed by the independent testing firm certified by the State and locations shall be randomly selected. Test data shall be submitted to the Engineer throughout construction and will be required prior to project finalization.

\* \* \* END OF SECTION \* \* \*

# **CATEGORY IV**

## **Appendix**

- **Project Drawings**
- **Storm Water Management Plan**

## **APPENDIX**

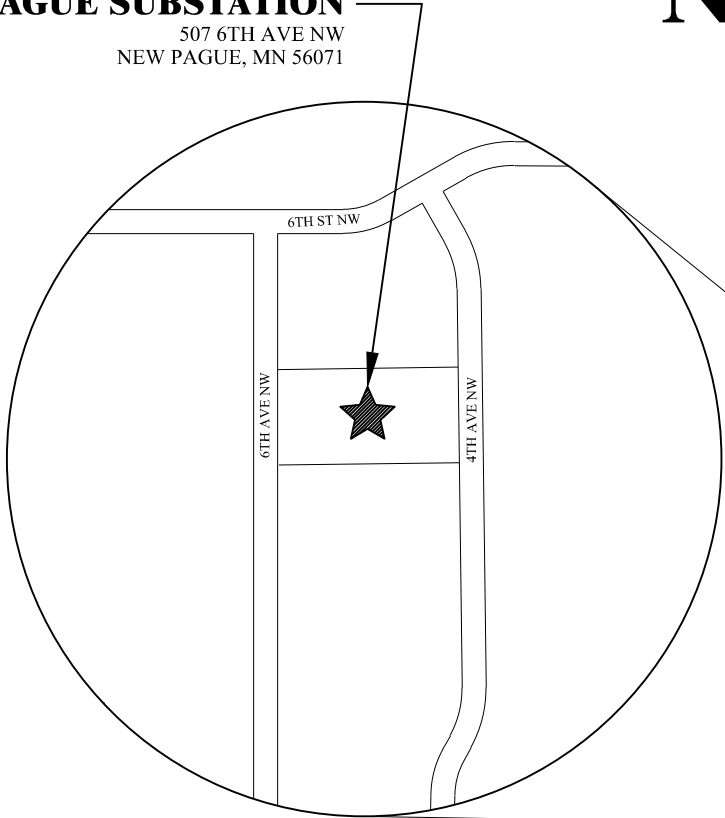
1. Project Drawings:

|        |                               |
|--------|-------------------------------|
| WES-C1 | Generation Topographic Survey |
| WES-C2 | Generation Site Plan          |
| WES-C3 | Generation Site Details       |
| WES-C4 | Generation Site Details       |
| WES-C5 | Generation Site Details       |
  
2. Storm Water Management and Pollution Prevention Plan (SWPPP) for Site Grading

## **DRAWINGS**

# SITE GRADING FOR NEW PRAGUE SUBSTATION NEW PRAGUE UTILITIES COMMISSION NEW PRAGUE, MINNESOTA

**NEW PRAGUE SUBSTATION**  
507 6TH AVE NW  
NEW PRAGUE, MN 56071



## LIST OF DRAWINGS

|        |                                 |
|--------|---------------------------------|
| NPG-C1 | TOPOGRAPHIC SURVEY/REMOVAL PLAN |
| NPG-C2 | SITE PLAN                       |
| NPG-C3 | SITE DETAILS                    |
| NPG-C4 | SITE DETAILS                    |
| NPG-C5 | SITE DETAILS                    |

DGR PROJECT NUMBERS: 417209

**ISSUED FOR  
GRADING PROPOSALS  
07-24-2025**



ROCK RAPIDS, IOWA  
(712) 472-2531

I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION OR REPORT WAS PREPARED BY ME,  
OR UNDER MY DIRECT SUPERVISION, AND THAT I AM A DULY LICENSED PROFESSIONAL  
ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.

DANIEL L. VAN SCHEPEN, P.E.

DATE: 7-24-2025

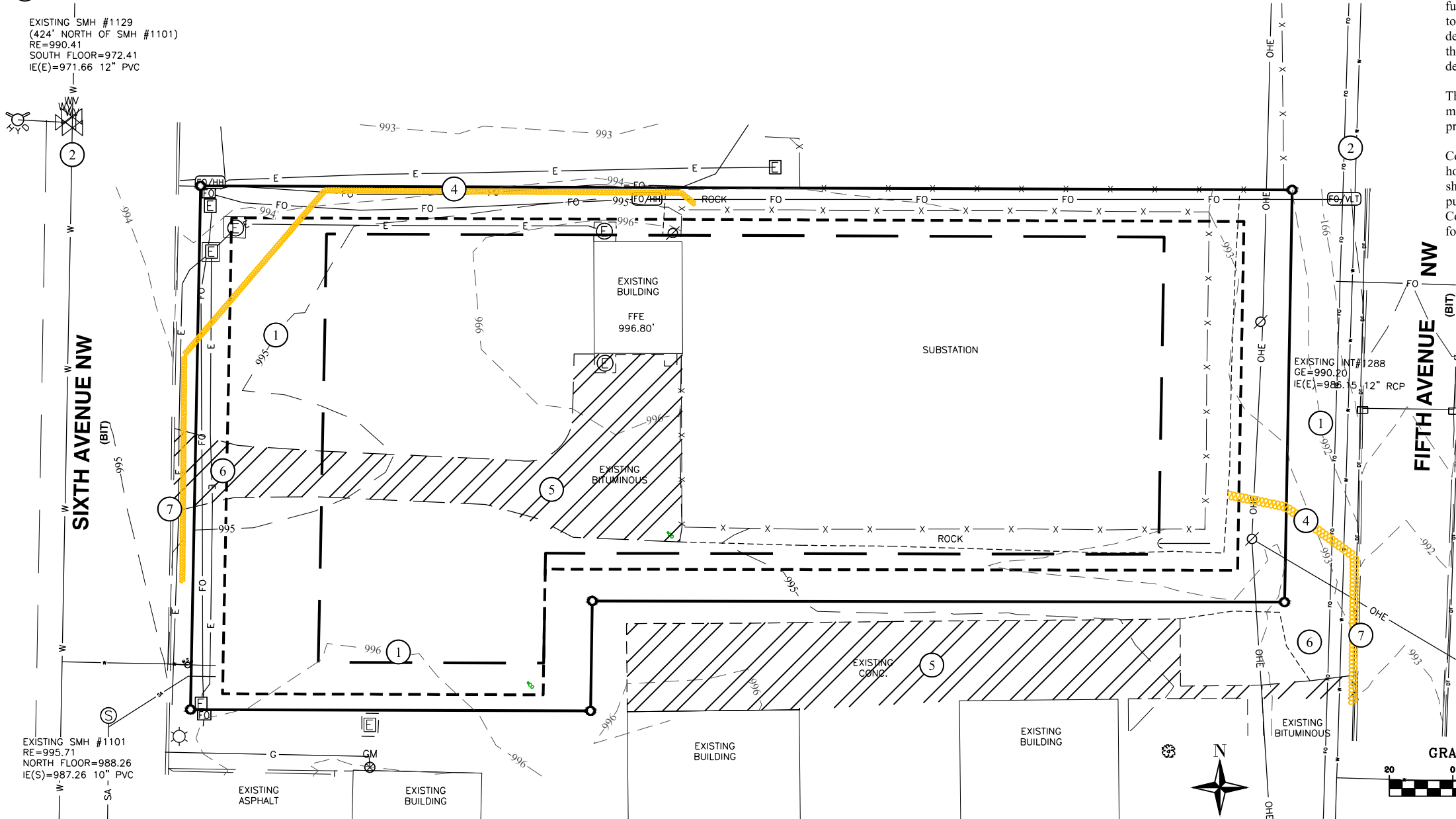
REG. NO.

45596

CONSTRUCTION NOTES:

- 1
- Existing contours of the existing surface as necessary to meet contours/slopes shown.
- 2
- Utilities and other potential obstacles (underground facilities) have been shown only to the extent that they were observed at the surface or were known by Others. The Owner and Engineer shall not be responsible for the accuracy or completeness of any such information or data. The Contractor shall have full responsibility for reviewing and checking all such information and data, locating all such facilities, coordination of the work with the owners of such underground facilities during construction, and the safety and protection of all such underground facilities. Gopher one call: 811, 800-252-1166, www.gopherstateonecall.org
- 3
- Contractor shall be responsible to submit the NPDES permit and control erosion of the site during construction. NPDES General Permit No. 2 is not necessary for this project (0.8 acres disturbed). Contractor shall use general Best Management practices while performing work to avoid soil erosion from the site. Contractor shall inspect erosion control devices weekly or after all precipitation and repair any deficient areas. The Contractor shall review and follow the recommendations provided in the SWPPP in the appendix of the specifications. Should site conditions warrant; the SWPPP shall be amended in order to remain current.
- 4
- Erosion Control items to be installed, maintained and removed as needed through construction to maintain NPDES permit requirements.
- 5
- Contractor to remove pavement and signs as depicted and/or necessary for proposed improvements at a neat, vertical saw-cut edge and maintain until the new paving is complete. Contractor shall replace all adjacent pavement deteriorated by construction traffic.  
Estimated pavement removal = 1,010 sy
- 6
- Install and maintain stabilized construction entrance.
- 7
- (By Others) Grind curb for new driveway.

EXISTING SMH #1129  
(424' NORTH OF SMH #1101)  
RE=990.41  
SOUTH FLOOR=972.41  
IE(E)=971.66 12" PVC



CONSTRUCTION NOTES

- 1
- All work and products shall conform to the MnDOT specifications for construction (2020).
- 2
- Provide, compact and grade imported borrow (~285 C.Y. for comparison to existing, 780 C.Y. below-grade for building soils mitigation, compacted volume) as necessary to meet contours/slopes shown. Proposed contours are to final top of pavement/topsoil; account for surfacing/topsoil depth as shown in the detail. Contractor is responsible for finish grading needed to prepare for finished surface to drain away from the new building foundation. All disturbed areas shall be prepared as shown on the details, described in the specifications or soils report.
- The Contractor is responsible for excavating, shoring of the existing building/foundation, hauling, and disposing of material not used in the site preparation as well as completing soils mitigation under the building as directed by the soils report.
- Excavate existing fill (~780 C.Y., compacted volume) and import engineered fill (~1,250 C.Y., compacted volume) as recommended in the foundation plan and soil report.
- 3
- For every foot of utility embankment material installed, the Contractor shall provide the Engineer with nuclear density tests in a 75" grid per foot verifying the compaction specified. Failure to provide these test results will result in re-work necessary to provide the base and compaction test results as specified.
- 4
- Contractor shall strip and stockpile topsoil from all areas to be excavated or to receive fill. The material shall be stockpiled and spread after excavation and embankment work is complete on all disturbed areas that are not to receive rock surfacing or pavement. Cost incidental to the project, no separate measurement or payment to be made for stripping, stockpiling, spreading and disposing of excess topsoil (estimated at 715 cu. yd.).
- 5
- Utilities and other potential obstacles (underground facilities) have been shown only to the extent that they were observed at the surface or were known by Others. The Owner and Engineer shall not be responsible for the accuracy or completeness of any such information or data. The Contractor shall have full responsibility for reviewing and checking all such information and data, locating all such facilities, coordination of the work with the owners of such underground facilities during construction, and the safety and protection of all such underground facilities.
- 6
- For rock and gravel surfacing, refer to the details for preparation and material requirements. Prior to surfacing apply 'SpraKil SK-26' as specified to prevent plant growth.

- 7
- Contractor shall be responsible to control erosion of the site during construction. An NPDES General Permit No. 2 is not necessary for this project (0.8 acres disturbed). Contractor shall use general Best Management practices while performing work to avoid soil erosion from the site. Contractor shall inspect erosion control devices weekly or after all precipitation and repair any deficient areas. The Contractor shall review and follow the recommendations provided in the SWPPP in the appendix of the specifications. Should site conditions warrant; the SWPPP shall be amended in order to remain current.
- 8
- Contractor shall review the soils report, 24480.24MNR, as completed by Chosen Valley Testing for the boring logs. All disturbed areas shall be prepared as shown on the details. Project estimated quantities are based on report recommendations.
- 9
- Contractor will be responsible for all staking for this project. Contact the Engineer for electronic cad files to complete staking. All costs incidental to the project. Contractor is responsible to verify the benchmark has not been disturbed.
- 10
- Contractor shall fine grade topsoil respread in a seed ready condition. By Others: All disturbed areas that are not to be surfaced shall be seeded, fertilized, and mulched. Seeded areas shall utilize MnDOT 25-151, Residential Turfgrass.
- 11
- By Others: Provide and install PCC landing to match building finished floor draining away from the building, see structural details. Grades for sidewalk shall meet ADA slope requirements.
- 12
- By Others: Provide and install bollards as detailed (8).
- 13
- Bioswale with underdrain: Filter material thickness of 12" (60 sq.yd.) plus the backfill for the illustrated draintile, see NPG-C5.

Work shall not commence until all other construction completed, including rock surfacing, subdrain and seeding, see detail for additional construction requirements.

14 Stormwater Runoff Rate Management:

Bioswale water quality: 3,527 cf., 945 cf required

|                                 | Existing | Proposed |
|---------------------------------|----------|----------|
| Impervious Area (ac.)           | 0.60     | 0.86     |
| Runoff Discharge- 2 yr (cfs.)   | 2.60     | 1.71     |
| Runoff Discharge- 10 yr (cfs.)  | 5.09     | 3.15     |
| Runoff Discharge- 100 yr (cfs.) | 10.58    | 9.75     |

- 15
- By Others: Bituminous pavement to allow utility installation. See pavement section on NPG-C3
- 16
- By Others: PCC access pavement, see pavement section NPG-C3. Pavement joint pattern illustrated, match joints to pavement penetrations and maximum spacing requirements.
- 17
- 2' tall, 15' wide onsite topsoil berm. Utilize onsite topsoil and shape to drain to the bioswale, grade, provide & install turf reinforcement mat (North American Green, P550) and seed as specified.

BY OTHERS: S-1 195 LF OF 4" SDR-26 PVC SANITARY SEWER @ 2.0% W/ TRACER WIRE, BENDS AND CLEANOUT. (CONNECTION TO EXISTING ~988.3, CONNECTION AT THE BUILDING ~ 991.5, VERIFY WITH MECHANICAL PLAN)

BY OTHERS: W-1 185 LF OF 1" SIDR 7 IPS 250# POLY W/ TRACER WIRE AND FITTINGS. COORDINATE WITH PLUMBER AND NPU IN THE FIELD TO REDUCE JOINTS NECESSARY. (7' BURY)

D-1 125 LF OF 4" PERFORATED HDPE @ 0.5%. OUTLET TO INT#1 W/ A RODENT GUARD.

D-2 90 LF OF 8" PERFORATED HDPE @ 2.0%. OUTLET EX. INT W/ A RODENT GUARD.

P-1 100 LF OF 8" SDR-26 PVC W/ CLEANOUT, TRACER WIRE AND FITTINGS @ 3' BURY DEPTH

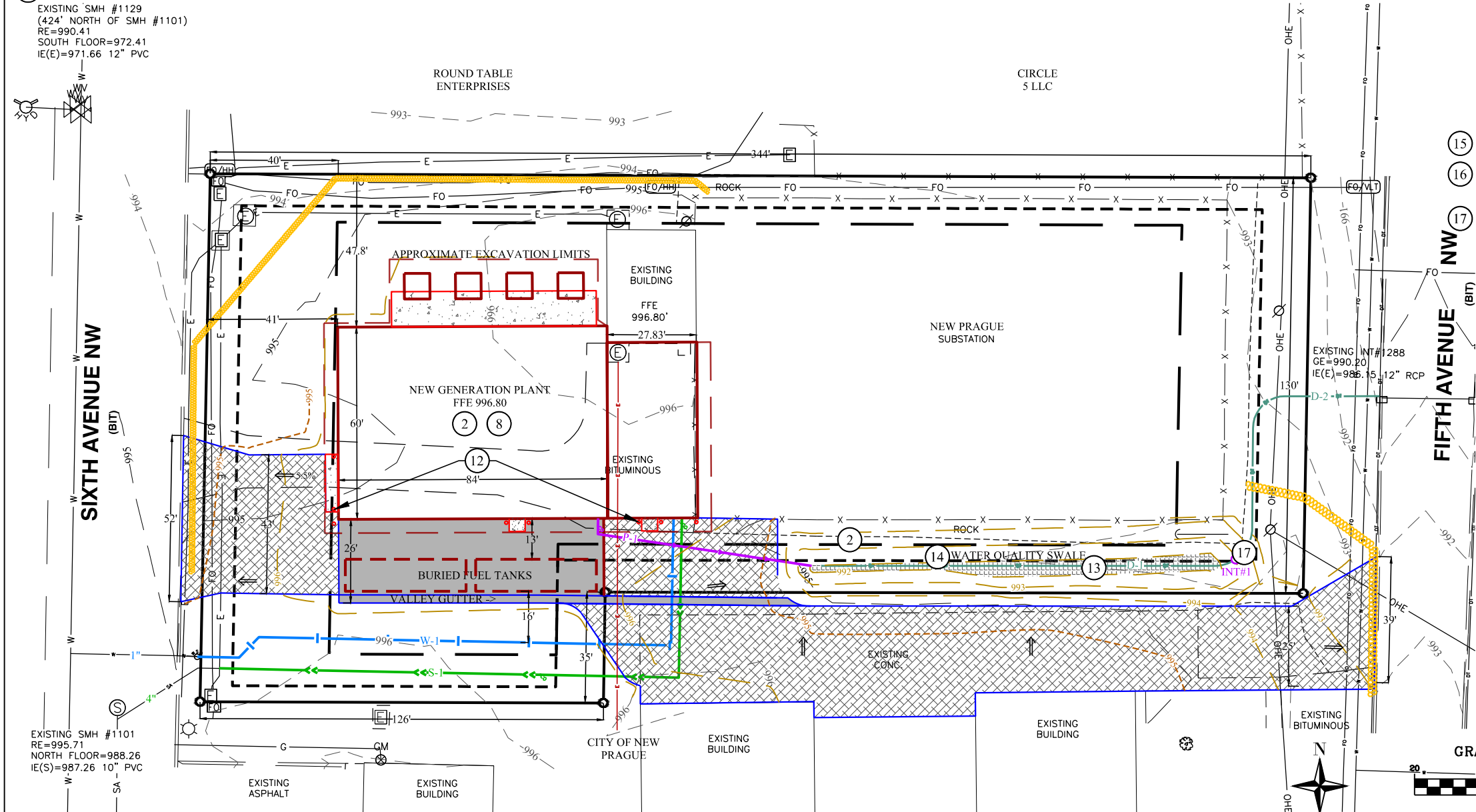
LEGEND

|  |                                   |  |                   |
|--|-----------------------------------|--|-------------------|
|  | BY OTHERS: CONCRETE CURB/VALLEY   |  | SANITARY SERVICE  |
|  | BY OTHERS: BITUMINOUS PAVING      |  | STORM SEWER       |
|  | BY OTHERS: 7" PCC STOOP           |  | WATER SERVICE     |
|  | BY OTHERS: LANDSCAPING ROCK       |  | SILT FENCE/WATTLE |
|  | DRAINAGE DIRECTION                |  |                   |
|  | GUTTER OR FINISHED PAVEMENT GRADE |  |                   |

PROVIDE AND INSTALL INT #1 AREA INTAKE (SEE DETAIL)  
GE=993.0  
IE(N)= 989.25 4" HDPE  
IE(OUT)= 989.0 8" HDPE

I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION OR REPORT WAS PREPARED BY ME, OR UNDER MY DIRECT SUPERVISION, AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.

DANIEL L. VAN SCHEPEN, P.E.  
DATE: 7-24-2025 REG. NO. 45596



| REV | DATE      | DESCRIPTION          |
|-----|-----------|----------------------|
| 0   | 7-24-2025 | ISSUED FOR PROPOSALS |
|     |           |                      |
|     |           |                      |
|     |           |                      |



Project Manager: TLZ  
Designer: DLV  
Project Number: 417209  
Phone: (712) 472-2531

NEW PRAGUE UTILITIES  
COMMISSION  
NEW PRAGUE, MINNESOTA

SITE PLAN  
WEST ENERGY STATION

WES-C2



Plot Date: 7/23/2025 10:38:19 AM

QUANTITIES ARE LISTED FOR REFERENCE ONLY, THE CONTRACTOR WILL BE RESPONSIBLE FOR QUANTITY TAKEOFFS FOR THE PURPOSES OF BIDDING.

GENERAL PAVING NOTES:

CONTRACTOR SHALL PROVIDE TOPSOIL FREE OF DEBRIS FOR FILL MATERIAL. TOPSOIL SHALL BE SALVAGED AND STOCKPILED ONSITE PRIOR TO EXCAVATION FOR NEW BUILDING AND PAVEMENT.

SEE SECTIONS ON THE DETAILS PAGES FOR PAVEMENT PREPARATION DETAILS. CONTRACTOR SHALL REMOVE AND RE-COMPACT 12" OF SOIL BENEATH THE AREAS TO BE PAVED AND FOLLOW ALL OTHER RECOMMENDATIONS RECOMMENDED IN THE GEOTECHNICAL REPORT.

CONTRACTOR SHALL PROVIDE A SMOOTH DRUM ROLLER TO COMPLETE FINAL PAVEMENT PREPARATION WORK/UNIFORM THICKNESS.

PCC SIDEWALK PAVEMENT GRADES AND JOINTS SHALL BE CONSTRUCTED ACCORDING TO MNDOT STANDARD SPECIFICATIONS.

CONTRACTOR SHALL PROVIDE JOINTING PLAN AT THE PRECONSTRUCTION CONFERENCE FOR APPROVAL, SEE MAXIMUM JOINTING GUIDELINES BELOW

PCC SAW JOINT PATTERN SHALL BE FINALIZED DURING CONSTRUCTION BASED ON THE CONTRACTOR'S PAVING METHOD. MAXIMUM SAW JOINT SPACING SHALL BE AS FOLLOWS:

7" PCC - 10' MAX.

JOINTING SHALL BE AS CLOSE TO SQUARE AS POSSIBLE WHERE NO ONE DIRECTION IS MORE THAN 25% LONGER. EXTEND JOINTS FROM OBSTRUCTIONS AT ALL OPPORTUNIES (IE: EXTENDED FROM THE CENTER OF COLUMNS, BOLLARDS OR VALVE BOXES.

DRIVEWAY SAW JOINTS SHALL BE TYPE C CONTRACTION JOINTS (NO REINFORCEMENT). THE DRIVING LANES SHALL HAVE A NO. 4 EPOXY COATED BAR @ 30" SPACING FOR LONGITUDINAL CENTERLINE JOINT. JOINTS BETWEEN POURS (COLD JOINTS) SHALL BE TIED TO ADJACENT PCC WITH NO 4 EPOXY COATED BARS ON 24" CENTERS

ALL SAW JOINT DEPTH SHALL BE T/3 AND ALL JOINTS SHALL BE SEALED.

ALL SAW JOINTS SHALL BE SEALED WITH A GRAY COLORED SEALANT, SONNEBORN SL-1 OR EQUAL.

ALL EXPANSION JOINT MATERIAL SHALL BE PRE-FORMED. CONTRACTOR SHALL INSTALL EXPANSION JOINT MATERIAL WHEN ABUTTING PAVEMENT TO FIXED OBJECTS (IE: SIDEWALK AGAINST BACK OF CURB, ABUTTING THE BUILDING, ABUTTING FOUNDATIONS).

INSTALL EXPANSION JOINT MATERIAL AROUND OBSTRUCTIONS IN PAVEMENT (IE: COLUMNS, POWER POLE, WATER VALVE, ETC.).

ISOLATION JOINTS IN SIDEWALK SHALL HAVE 1/2" (MIN) EXPANSION JOINT MATERIAL (AT CONNECTION TO EXISTING POINTS).

BOX-OUT AND ADJUST TO FINAL GRADE ALL CASTINGS LOCATED IN THE PARKING LOT PAVEMENT.

CURE CONCRETE ACCORDING TO THE SPECIFICATIONS. SANDBLAST CURE FROM PCC AREAS TO BE PAINTED PRIOR TO MARKING WORK.

CONTRACTOR SHALL FURNISH AND INSTALL LEAN CLAY MATERIAL TO BUILD SITE TO THE FINISHED GRADES AS ILLUSTRATED. MATERIAL SHALL BE APPROVED BY THE OWNER'S MATERIALS ENGINEER PRIOR TO BEING DELIVERED TO THE SITE AND COMPACTED TO 95% S.P.D.

ALL AREAS DISTURBED BY CONSTRUCTION NOT TO BE SURFACED WILL BE SEEDED, FERTILIZED AND MULCHED. THIS INCLUDES CONTRACTOR STAGING AREAS AND ANCILLARY CONSTRUCTION ACTIVITIES NOT SHOWN ON THIS PLAN, THESE AREAS ARE THE RESPONSIBILITY OF THE CONTRACTOR TO RESTORE TO ITS ORIGINAL CONDITION.

GENERAL UTILITY NOTES:

TRAFFIC SHOULD BE KEPT BACK OF AN IMAGINARY 2:1 LINE DRAWN UP AND OUTWARD FROM THE BOTTOM OF ANY SUB-CUT OR TRENCH EXCAVATION.

CONTRACTOR SHALL PROVIDE TOPSOIL FREE OF DEBRIS FOR FILL MATERIAL. TOPSOIL SHALL BE SALVAGED AND STOCKPILED ONSITE PRIOR TO EXCAVATION FOR NEW BUILDING AND PAVEMENT.

CONTRACTOR TO VERIFY LOCATION, ELEVATION AND SIZE OF EXISTING UTILITIES (WATER MAIN, SANITARY SEWER, STORM SEWER) AT ALL CONNECTION POINTS WITH PROPOSED UTILITIES. ADJUSTMENT OF PROPOSED UTILITIES, AS NEEDED, ARE TO BE MADE DURING CONSTRUCTION AS AUTHORIZED BY THE ENGINEER. ADJUSTMENTS IN FITTINGS AND SIZE TO CONNECT TO EXISTING PIPES SHALL BE INCLUDED IN THE PROPOSED PIPE COST.

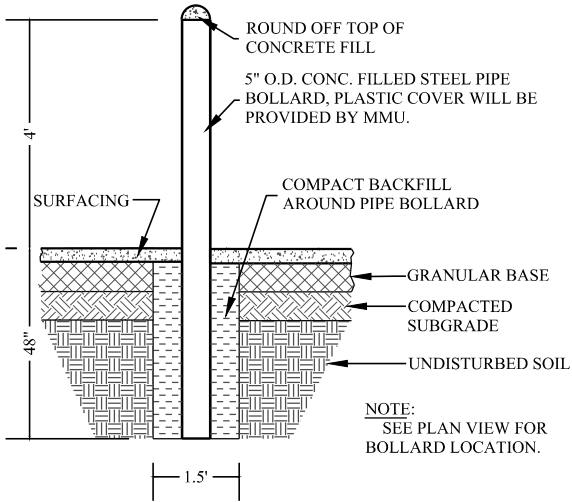
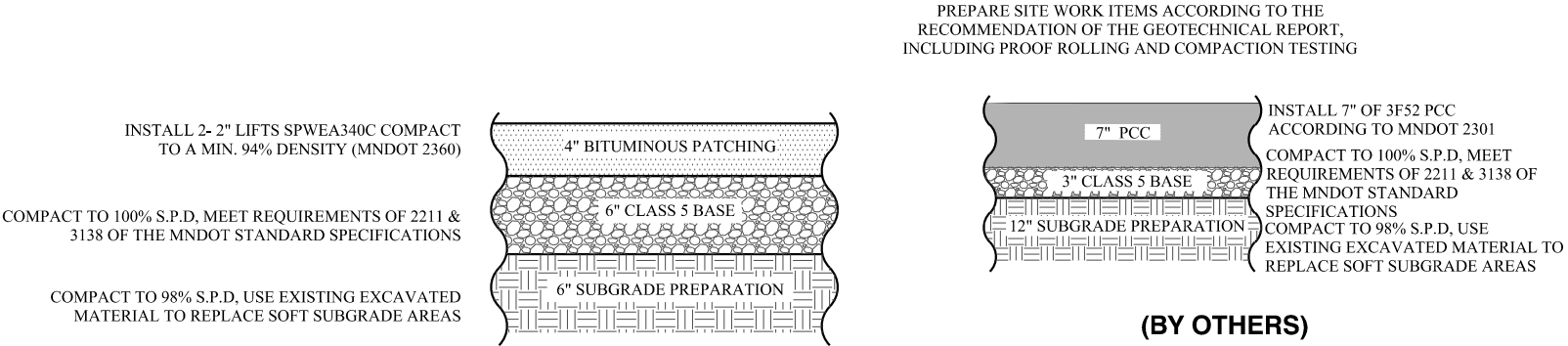
WATER MAIN SHALL BE INSTALLED TO PROVIDE MORE THAN 7.0' OF COVER FROM THE FINISHED GRADE, AS WELL AS 1.5' OF SEPARATION FROM ALL OTHER UTILITIES/STRUCTURES.

COORDINATE CONNECTIONS TO EXISTING WITH THE CITY UTILITIES IN ORDER TO PREVENT DISRUPTIONS IN SERVICE AT INOPPORTUNE TIMES. COORDINATION AND DELAYS DUE TO OTHER ENTITIES OR CONTRACTORS ARE INCIDENTAL TO THE PROJECT. CONTRACTOR SHALL PROVIDE ALL MATERIALS AND LABOR NECESSARY TO CONNECT TO THE EXISTING UTILITY AS SPECIFIED.

INSTALL MECHANICAL FITTINGS, JOINT WRAP AND TRACER WIRE ON ALL WATER MAIN AS SPECIFIED.

STORM SEWER CONNECTIONS SHALL BE WATER-TIGHT. RCP PIPE JOINTS SHALL BE WRAPPED IN ENGINEERING FABRIC OVER THE TOP HALF OF THE PIPE AND BACKFILLED WITH GRANULAR BACKFILL TO THE SPRINGLINE OF THE PIPE. PVC STORM PIPE SHALL BE BACKFILL TO THE CROWN OF THE PIPE WITH GRANULAR MATERIAL.

BACK FILL FOR THE UTILITY TRENCHES SHALL BE THE SAME IN PLACE MATERIAL REMOVED FROM OF THE TRENCHES ABOVE THE SPRINGLINE. COMPACTION AND MOISTURE CONTENT OF THE UTILITY TRENCHES SHALL BE AS SPECIFIED.



(BY OTHERS)

**CONCRETE FILLED PIPE BOLLARD**

NOT TO SCALE

I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION OR REPORT WAS PREPARED BY ME, OR UNDER MY DIRECT SUPERVISION, AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.

DANIEL L. VAN SCHEPEN, P.E.  
DATE: 7-24-2025 REG. NO. 45596

| REV | DATE      | DESCRIPTION          |
|-----|-----------|----------------------|
| 0   | 7-24-2025 | ISSUED FOR PROPOSALS |
|     |           |                      |
|     |           |                      |
|     |           |                      |



Project Manager: TLZ  
Designer: DLV  
Project Number: 417209  
Phone: (712) 472-2531

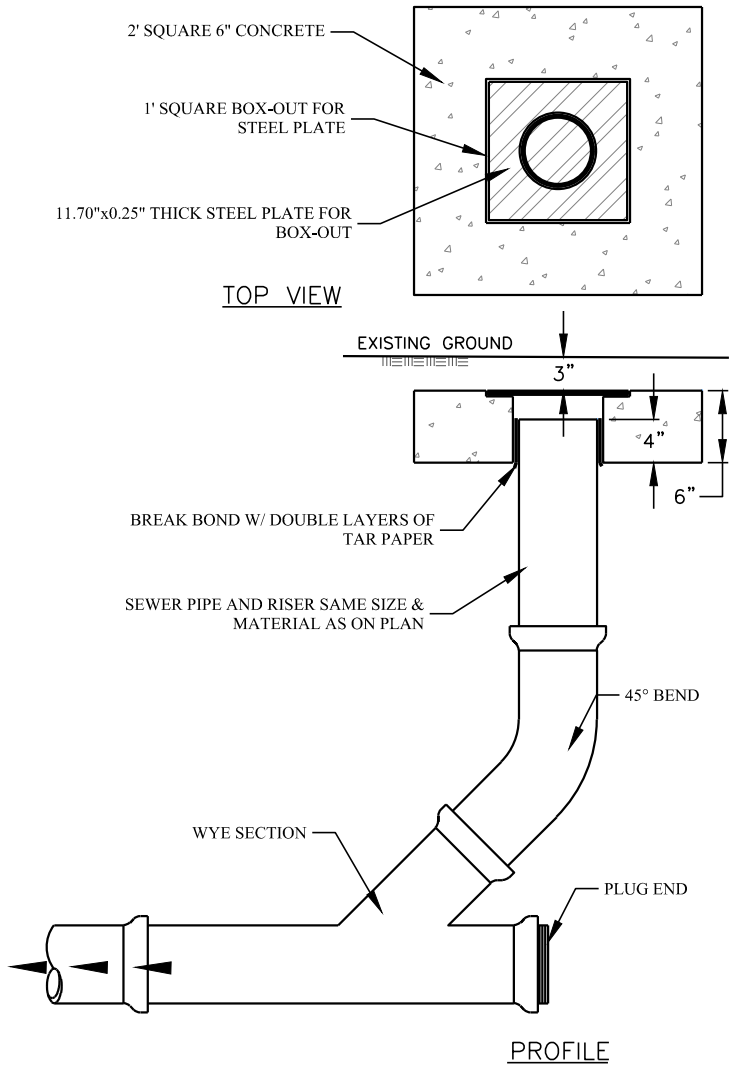
NEW PRAGUE UTILITIES  
COMMISSION  
NEW PRAGUE, MINNESOTA

SITE DETAILS  
WEST ENERGY STATION

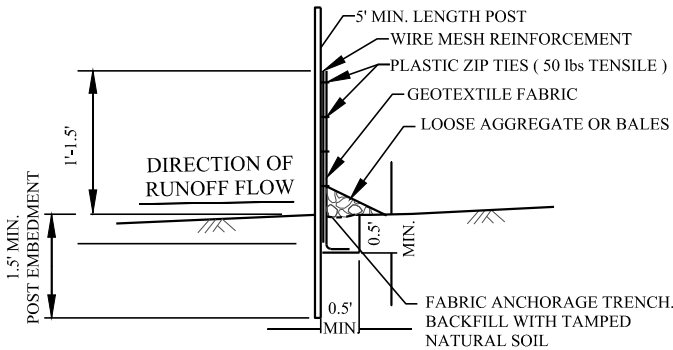
S  
H  
E  
E  
T  
  
WES-C3

Plot Date: 7/23/2025 10:38:35 AM

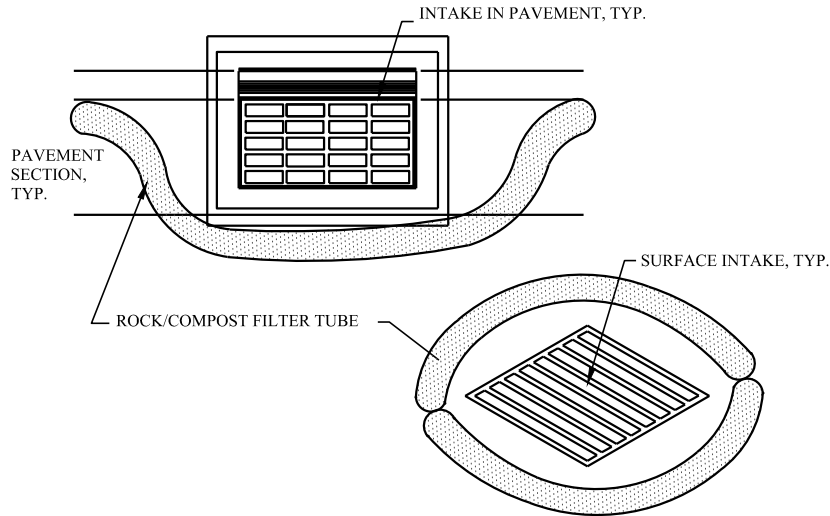
P:\04172\09\417209\CIVIL\DWG\417209 CIVIL DESIGN.DWG



(BY OTHERS)  
CLEAN-OUT WYE  
NOT TO SCALE



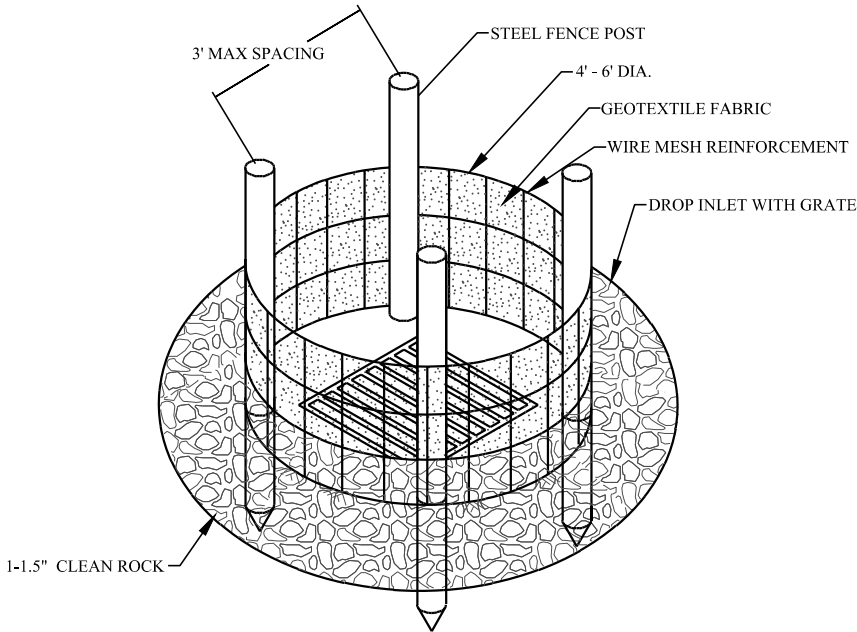
INLET PROTECTION - SILT FENCE  
NOT TO SCALE



TYPE FF (MONO-MONO FABRIC/SILT FENCE), SEWN INTO A SOCK AND FILLED WITH 1.5" CLEAN ROCK OR COMPOST.

CLEAN SURFACING AND INSTALL 6"-8" FILTER TUBE ACROSS GUTTERS DOWN GRADE OF EXCAVATION. CLEAN AND MAINTAIN UNTIL PAVING IN THE DRAINAGE AREA IS COMPLETE AND PERMANENT VEGETATIVE COVER IS ESTABLISHED. COST OF MOVING AND MAINTAINING THE FILTER TUBE SHALL BE INCIDENTAL TO THE INLET PROTECTION BID ITEM. THE FILTER TUBE SHALL BE REMOVED WITHIN A WEEK AFTER PERMANENT STABILIZATION IS COMPLETED.

INLET PROTECTION - FILTER LOG  
NOT TO SCALE



INLET PROTECTION - SILT FENCE  
NOT TO SCALE

I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION OR REPORT WAS PREPARED BY ME, OR UNDER MY DIRECT SUPERVISION, AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.

DANIEL L. VAN SCHEPEN, P.E.

DATE: 7-24-2025

REG. NO. 45596

| REV | DATE      | DESCRIPTION          |
|-----|-----------|----------------------|
| 0   | 7-24-2025 | ISSUED FOR PROPOSALS |
|     |           |                      |
|     |           |                      |
|     |           |                      |

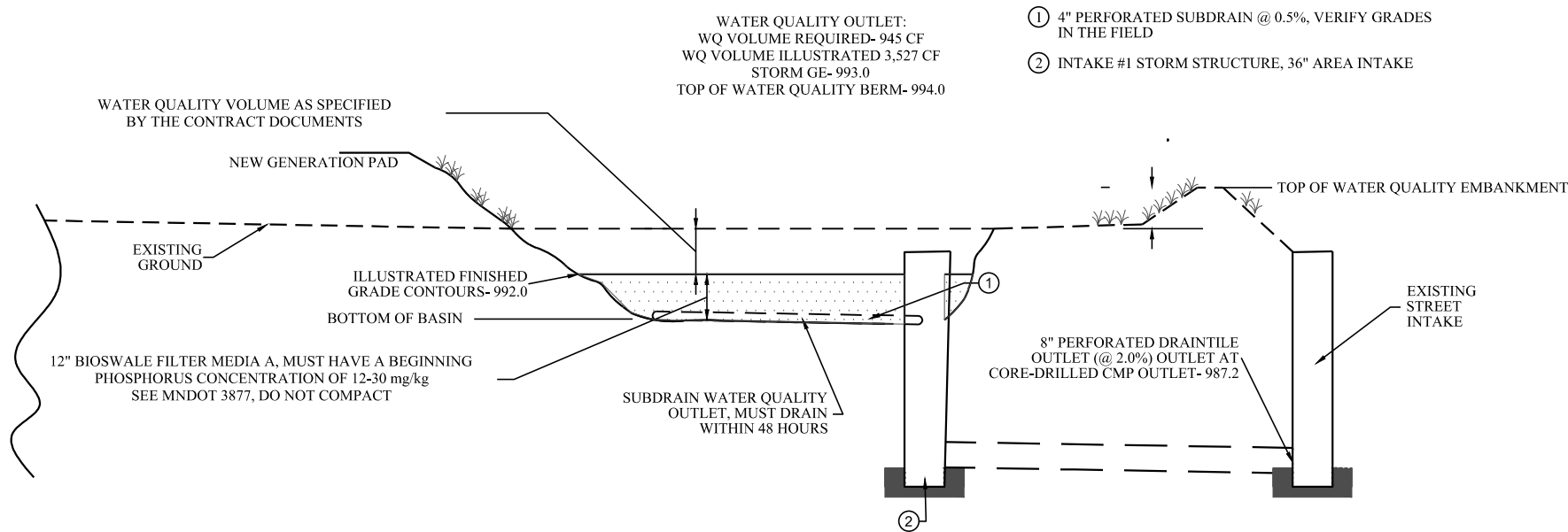


Project Manager: TLZ  
Designer: DLV  
Project Number: 417209  
Phone: (712) 472-2531

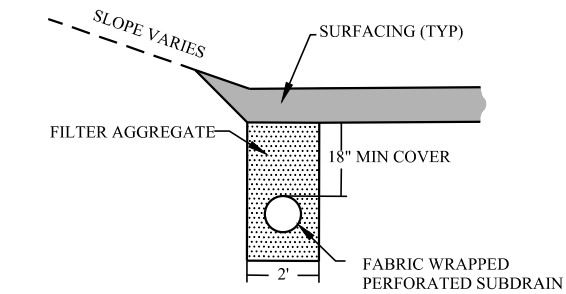
NEW PRAGUE UTILITIES  
COMMISSION  
NEW PRAGUE, MINNESOTA

SITE DETAILS  
WEST ENERGY STATION

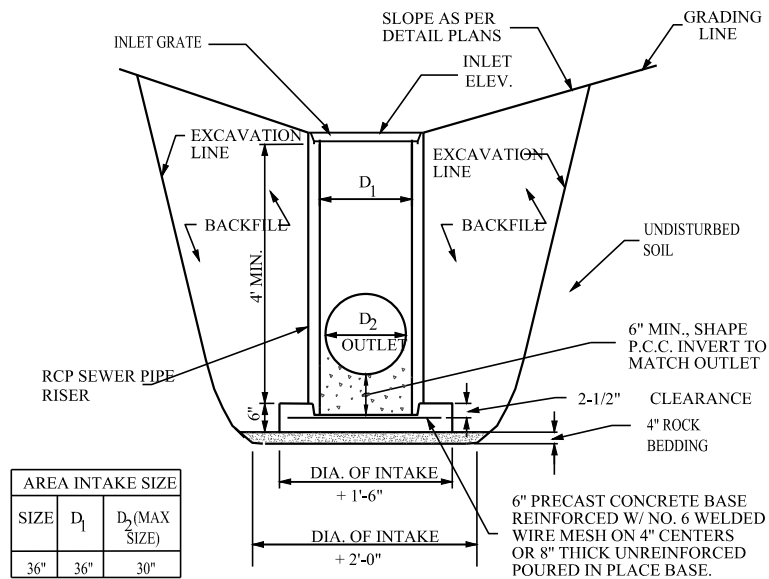
S  
H  
E  
E  
T  
WES-C4



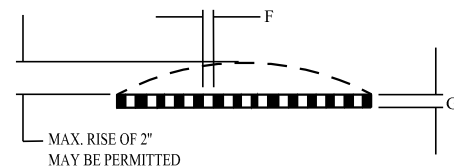
**WATER QUALITY BIO-SWALE DETAILS**  
NOT TO SCALE



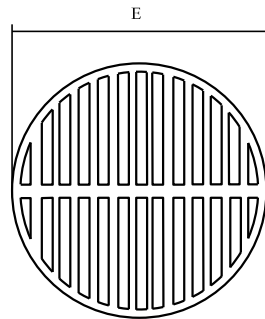
**① BIOSWALE PERFORATED DRAINTILE**  
NOT TO SCALE



**AREA INTAKE ②**  
NOT TO SCALE



| TYPE | D   | E            | F       | G       |
|------|-----|--------------|---------|---------|
| 4D   | 36" | 38 1/4"±1/4" | 1" MIN. | 2" MIN. |



**② AREA INTAKE GRATE**  
NOT TO SCALE

I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION OR REPORT WAS PREPARED BY ME, OR UNDER MY DIRECT SUPERVISION, AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.

DANIEL L. VAN SCHEPEN, P.E.  
DATE: 7-24-2025 REG. NO. 45596

| REV | DATE      | DESCRIPTION          |
|-----|-----------|----------------------|
| 0   | 7-24-2025 | ISSUED FOR PROPOSALS |
|     |           |                      |
|     |           |                      |
|     |           |                      |



Project Manager: TLZ  
Designer: DLV  
Project Number: 417209  
Phone: (712) 472-2531

NEW PRAGUE UTILITIES  
COMMISSION  
NEW PRAGUE, MINNESOTA

SITE DETAILS  
WEST ENERGY STATION

S  
H  
E  
E  
T  
WES-C5

**STORM WATER MANAGEMENT AND POLLUTION PREVENTION PLAN**  
**FOR**  
**West Energy Station (WES)**

New Prague, MN  
Project No. 417209

May 2025

Prepared by:  
DGR Engineering  
1302 South Union Street  
P.O. Box 511  
Rock Rapids, IA 51246  
(712) 472-2531

Table of Contents

|            |                                                                        |
|------------|------------------------------------------------------------------------|
| Part 1     | Site Description/Location Map                                          |
| Part 2     | Controls                                                               |
| Part 3     | Construction / Implementation                                          |
| Part 4     | Final Stabilization / Discontinuation                                  |
| Part 5     | Certification                                                          |
| Part 6     | Standard Permit Conditions                                             |
| Part 7     | Reopener Clause                                                        |
| Part 8     | Definitions                                                            |
| Appendix A | Application for General Stormwater Permit<br>for Construction Activity |
| Appendix B | Inspection Reports                                                     |
| Appendix C | Notice of Termination                                                  |

## **PART 1: SITE DESCRIPTION/LOCATION MAP**

|                                                                                                                                 |                                                                                                                                                                                                                                                          |
|---------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Project Name                                                                                                                    | West Energy Station (WES)                                                                                                                                                                                                                                |
| Project Type                                                                                                                    | Generation Plant Construction                                                                                                                                                                                                                            |
| Project Location<br>(address, Section, TWP, R)                                                                                  | West Energy Station<br>SE1/4 Sec. 33 T113N R23W<br>Scott County, MN                                                                                                                                                                                      |
| Owner                                                                                                                           | New Prague Utilities Commission                                                                                                                                                                                                                          |
| Representative                                                                                                                  | Bruce Reimers - General Manager                                                                                                                                                                                                                          |
| Owner Address/Phone                                                                                                             | New Prague Utilities Commission<br>118 Central Avenue N.<br>New Prague, MN 56071<br>(952) 758-4401                                                                                                                                                       |
| Design Engineer                                                                                                                 | DGR Engineering<br>1302 South Union Street<br>Rock Rapids, Iowa 51246                                                                                                                                                                                    |
| Site Topographical Survey Prepared by                                                                                           | DGR Engineering<br>1302 South Union Street<br>Rock Rapids, Iowa 51246                                                                                                                                                                                    |
| Site Area                                                                                                                       | 1.3 Acres                                                                                                                                                                                                                                                |
| Disturbed Area                                                                                                                  | 0.75 Acres                                                                                                                                                                                                                                               |
| Final Runoff Curve Number                                                                                                       | Existing: 80    Proposed 86                                                                                                                                                                                                                              |
| Soil type                                                                                                                       | Topsoil, silty sand, rock                                                                                                                                                                                                                                |
| Receiving Waters                                                                                                                | East Branch Raven Stream                                                                                                                                                                                                                                 |
| Description of Proposed Activity                                                                                                | Site development for a generation plant                                                                                                                                                                                                                  |
| Expected Sequence of Major Construction Activity<br>(Subject to change: any deviations to the plan shall be noted on this plan) | A.    Temporary Erosion & Sediment Controls<br>B.    Site Grading & utilities<br>C.    Site Surfacing<br>D.    Final Stabilization<br>E.    Building Foundation<br>F.    Building Walls and Interior<br>G.    Remove Temporary Sediment Control Measures |

### **LOCATION MAP:**

The enclosed project plans shall be a part of this document.

## **PART 2: CONTROLS**

### **CONTROL MEASURE MASTER INDEX**

Use this index to track the status of all erosion & sediment control BMP's on your site as they relate to current construction phase. Note the corresponding number of the BMP on the erosion control plan (ie B3) and record installation and removal dates in the table. BMP's will not necessarily be removed during the same phase as their installation. Site conditions should dictate installation and removal.

| NUMBER | CONTROL | DATE INSTALLED | DATE REMOVED |
|--------|---------|----------------|--------------|
|--------|---------|----------------|--------------|

|                                     |                                  |  |  |
|-------------------------------------|----------------------------------|--|--|
| PHASE A - INITIAL SEDIMENT CONTROLS |                                  |  |  |
| A1                                  | Stabilized Construction Entrance |  |  |
| A2                                  | Silt Fence                       |  |  |
| A3                                  |                                  |  |  |
| A4                                  |                                  |  |  |
| A5                                  |                                  |  |  |
| A6                                  |                                  |  |  |
| A7                                  |                                  |  |  |

|                                    |                                       |  |  |
|------------------------------------|---------------------------------------|--|--|
| PHASE B – SITE GRADING & UTILITIES |                                       |  |  |
| B1                                 | Inlet Protection - Rock/compost tubes |  |  |
| B2                                 |                                       |  |  |
| B3                                 |                                       |  |  |
| B4                                 |                                       |  |  |
| B5                                 |                                       |  |  |

|                               |                         |  |  |
|-------------------------------|-------------------------|--|--|
| PHASE C - FINAL STABILIZATION |                         |  |  |
| C1                            | Site Surfacing & Paving |  |  |
| C2                            | Seeding & Mulching      |  |  |
| C3                            |                         |  |  |
| C4                            |                         |  |  |
| C5                            |                         |  |  |
| C6                            |                         |  |  |

## Erosion and Sediment Controls

Measures to be used for controlling erosion and sediment throughout the construction project include stabilization measures for limiting soil erosion from disturbed areas and structural controls to divert runoff and remove sediment. Contractor/subcontractor is responsible for the implementation and management of control measures specific to this site. As work progresses, field investigation may indicate additional erosion control measures may be required as determined by the Contractor, Owner, Engineer, City or other governmentally regulated agencies.

### 1. Stabilization

- a. Preserve existing vegetation in areas not disturbed during construction.
- b. Undisturbed areas will utilize existing vegetation as a natural buffer zone to increase infiltration and sediment deposition by reducing runoff velocity.
- c. The total area of soil disturbed by construction operations at any time shall be held to a minimum.
- d. Soil Compaction - compaction of soils in area to be seeded or sodded will be kept to a minimum to increase infiltration of storm water runoff into the groundwater, reducing the amount of runoff.
- e. Temporary stabilization - areas where construction activity is not planned to occur for at least 14 days will be stabilized within 14 days of ceasing construction activities in that area by one or more of the following temporary erosion control methods:
  1. Topsoil stockpiles and disturbed portions of the site will be stabilized with temporary seed and mulch.
  2. Areas of the site to be paved will be temporarily stabilized with geotextile and stone sub-base until pavement can be installed.
  3. Frequent watering during construction in dry weather shall minimize wind erosion from exposed soil.
- f. Permanent Stabilization - areas where construction activity has permanently ended will be stabilized within 14 days of ceasing construction activities in that area by one or more of the following permanent erosion control measures:
  1. Sodding or permanent seeding/mulch and mulch in unpaved areas where final grading is complete.
- g. Dust Control - Mulch or surface watering will be utilized to control wind erosion of susceptible soils during and/or immediately after mass site grading operations.

### 2. Structural Controls

- a. At all areas where runoff can move offsite, silt fence, filter sock or approved equal will be installed along the perimeter of the project downstream of soil disturbing activities and storm water discharge points prior to site clearing and grading operations as required and/or shown on the plans.
- b. Provide silt fence, filter sock, or equivalent measures for all sideslopes and downstream boundaries of the disturbed area as required and/or shown on the plans.

- c. Inlet protection devices will be installed in all storm water intakes to protect storm sewers from sediment immediately after construction of the inlet.
- d. Additional erosion control measures may be required on embankments, stockpiles, and other areas to ensure runoff control.

## B. Storm Water Management

Post construction storm water drainage will be facilitated by roof drains drainage swales for the developed areas. Runoff will be directed to onsite storm water management controls.

Measures implemented to control pollution of storm water after construction is complete include the following:

- 1. Undeveloped areas of the site will be graded at the slopes indicated and have permanent seeding and/or landscaping designed to reduce runoff velocities and increase infiltration.
- 2. Portions of the site will remain undisturbed and in its original vegetative state, limiting the amount of exposed soil and providing a vegetative buffer zone that will reduce runoff velocities and increase infiltration.
- 3. The creation of impervious area will be handled by a permanent filtration feature bound by driveway and controlled by the temporary erosion control and eventually permanent turf reinforcement mats.

## C. Other Controls

Measures for controlling other sources of potential pollution that may exist on the construction site. During the course of construction, it is possible that situations may arise where unknown material will be encountered. When such situations occur, they will be handled according to all applicable federal, state, and local regulations in effect at the time.

### 1. Waste Materials

Disposal of unused construction materials and construction material wastes shall comply with applicable state and local waste disposal, sanitary sewer, or septic system regulations. In the event of a conflict with other governmental laws, rules and regulations, the more restrictive laws, rules, or regulations shall apply.

### 2. Hazardous Waste.

- a. Hazardous waste materials will be disposed of in accordance with applicable local, State and/or Federal regulations.
- b. Equipment refueling and maintenance operations will be carried out in such a manner so as to prevent any spills and contamination to the soil and ground water.
- c. Potentially hazardous materials will be used with great care to prevent spillage in any volume.



### 3. Vehicle Tracking

- a. Stabilized construction entrances and/or vehicle washing racks will be installed at all site access points to reduce vehicle tracking of sediment offsite.
- b. Paved streets adjacent to the site will be inspected daily and cleaned as necessary to remove any excess mud, dirt, or rock tracked from the site.
- c. Dump trucks hauling material from the site will be properly covered with a tarpaulin.
- d. Dust control measures will be used as necessary.

### 4. Sanitary Waste

A portable restroom facility may be located onsite at the contractor's discretion. Wastes will be collected and disposed of in complete compliance with local, State and Federal regulations. This facility will be located in an area where contact with storm water discharge is minimized.

## D. Non-storm Water Discharges

1. Expected sources of non-storm water discharges from the site during construction may include:
  - a. Potable water sources, including water line flushing, irrigations drainage and firefighting activities.
  - b. Pavement/building wash waters where no spills or leaks of toxic or hazardous materials have occurred and excluding detergents.
  - c. Uncontaminated groundwater from de-watering excavations.
  - d. Natural springs, wetland, water sources.
  - e. Foundation or footing drains where flows have not been exposed to solvents.
2. Non-storm water flows will be discharged to a stabilized area or directed to a sediment retention device or other appropriate control measure prior to discharging off-site.

## E. State and Local Requirements

1. The storm water pollution prevention plan reflects the State of Minnesota requirements for storm water management and erosion and sediment control as established in Code of Minnesota, MPCA Requirements pertaining to Erosion Control Plans.
2. Code Compliance: The contractor shall comply with the soil erosion control requirements of the Minnesota Code, the MPCA permit, and all local ordinances.

## F. Sequence of Installation

1. Install perimeter silt fence, silt berms, & inlet protection where possible.
2. Grading & Installation of utilities
3. Construction of surfacing & paving

4. Complete topsoil, fine grading, permanent stabilization by seed/mulch, sod, or landscaping of all disturbed areas.
5. Building construction
6. Remove temporary sediment control measures after permanent seeding & landscaping is 70% established.

### **PART 3: CONSTRUCTION & IMPLEMENTATION**

#### **PROJECTED CONSTRUCTION SCHEDULE / CONSTRUCTION PROGRESS**

|                                     |  |  |
|-------------------------------------|--|--|
| Phase A - Initial Sediment Controls |  |  |
|-------------------------------------|--|--|

|                                                                                        |  |                      |  |
|----------------------------------------------------------------------------------------|--|----------------------|--|
| Initial control measure installation<br>(Construction entrances, perimeter silt fence) |  |                      |  |
| Anticipated Start Date                                                                 |  | Anticipated End Date |  |
| Actual Start Date                                                                      |  | Actual End Date      |  |

|                               |  |                      |  |
|-------------------------------|--|----------------------|--|
| Phase B – Grading & Utilities |  |                      |  |
| Anticipated Start Date        |  | Anticipated End Date |  |
| Actual Start Date             |  | Actual End Date      |  |

|                        |  |                      |  |
|------------------------|--|----------------------|--|
| Phase C - Paving       |  |                      |  |
| Anticipated Start Date |  | Anticipated End Date |  |
| Actual Start Date      |  | Actual End Date      |  |

|                               |  |  |
|-------------------------------|--|--|
| Phase D - Final Stabilization |  |  |
|-------------------------------|--|--|

|                        |  |                      |  |
|------------------------|--|----------------------|--|
| Final Stabilization    |  |                      |  |
| Anticipated Start Date |  | Anticipated End Date |  |
| Actual Start Date      |  | Actual End Date      |  |

## A. Maintenance

1. All documents related to the storm water discharge permit shall be kept on site at all times and must be presented to the MPCA or EPA upon request. This includes but is not limited to the Storm Water Pollution Prevention Plan, Notice of Intent, Proof of Publication, and project inspection diary.
2. This pollution prevention plan shall be revised as construction progresses to reflect current ownership, responsibilities, operations, and findings.
  - a. The plan will be revised due to any deficiencies in the plan or changes in conditions noted during an inspection, and the contractor will implement any and all revisions as soon as practical but no later than seven days after the inspection.
  - b. Maintain record of major construction operations start and ending dates and operators responsible for the various phases.
  - c. The plan will be modified within 14 calendar days of a hazardous condition describing the release, the date of release, and the circumstances leading to the release. Steps to prevent the reoccurrence of such releases will be identified in a plan revision and implemented.
3. Maintain all temporary and permanent erosion control measures in good working order by cleaning, repairing, replacement and sediment removal throughout the permit period. Any necessary repairs will be initiated within 24 hours of report.
  - a. Built up sediment will be removed from sediment barrier (silt fence or filter sock) or the silt barrier replaced when it has reached 1/2 the height of the barrier.
  - b. Accumulation of earth, silt or debris on adjoining properties or streets will be minimized. Remove any accumulation of earth, silt or debris immediately and take remedial actions for prevention.
  - c. Minor spill of potentially hazardous materials will be cleaned up by removing and disposing of contaminated soils properly. Major spills shall be reported in accordance with the code of Minnesota with clean-up procedures dependant on the severity of the spill.

## B. Inspections

1. The contractor will be responsible for selecting a “qualified” inspector to conduct the inspections. “Qualified” is defined as a person knowledgeable in the principles and practices of erosion and sediment controls who possesses the skills to assess conditions at the construction site that could impact storm water quality and to assess the effectiveness of any sediment and erosion control measures selected to control the quality of storm water discharges from the construction activity.
2. The project area and control devices will be inspected by the personnel assigned by the contractor every 7 calendar days and within 24 hours after each rain event of 1/2" or greater or heavy snow melt. The findings and any actions taken as a result of this inspection shall be recorded in the project diary with a copy submitted weekly to the owner or owner’s representative during the project.
  - a. Inspect silt fence for depth of sediment, tears, fabric securely attached to posts, posts firmly in the ground, fabric firmly in the ground, and signs of undermining.

- b. Inspect filter socks for depth of sediment, tears, posts firmly in ground, firm contact between sock and ground, and signs of flow under the sock.
- c. Inspect inlet protection devices for level of sediment, bypassing of flows, and ensure that overflow device is not plugged.
- d. Inspect storm outlets for signs of sediment from the site and erosion at the outlet.
- e. Inspect adjoining property for signs of sediment from site.
- f. Inspect construction entrance for sediment accumulation.
- g. Inspect street for track-out.
- h. Inspect seeding for bare spots, washouts and healthy growth.
- i. Inspect concrete washout area for depth of accumulated material, evidence of flows leaving the area and diversion of surface runoff away from the washout area.

#### C. Material Management

Site sources of pollution generated as a result of this work related to silts and sediment which may be transported as a result of a storm event are included as part of this SWPPP. However, this SWPPP provides conveyances for other (non-project related) operations. These other operations have storm water runoff, the regulation of which is beyond the control of this SWPPP.

##### 1. Materials or substances expected to be present onsite during construction:

- a. Concrete
- b. Detergents
- c. Paint
- d. Tar
- e. Soil stabilization additives
- f. Fertilizers
- g. Petroleum based additives
- h. Cleaning solvents
- i. Wood
- j. Solids and construction wastes
- k. Pesticides
- l. Fuel
- m. Curing compounds

(Contractor shall list additional materials not shown)

- o.
- p.
- q.
- r.

##### 2. Material Management Practices - the following is a list of practices that will be used onsite to minimize the risk of spills or other accidental exposure of materials and substances to storm water runoff.

- a. Good Housekeeping

- i. An effort will be made to store onsite only enough products required to complete the job.
  - ii. All materials stored onsite will be kept in a neat, orderly manner and in their appropriate containers. If possible, products shall be kept under a roof or other enclosure.
  - iii. Materials will be kept in their original containers with the original manufacturer's label.
  - iv. Substances will not be mixed with one another unless recommended by the manufacturer.
  - v. Whenever possible, all of a product will be used up before disposing of the container.
  - vi. Manufacturer's recommendations for proper use and disposal will be followed.
  - vii. The job site superintendent will be responsible for daily inspections to ensure proper use and disposal of materials.
- b. Hazardous Products
- i. Products will be kept in their original containers with the original manufacturer's label.
  - ii. The original labels and material safety data will be kept for each of the materials as they contain important product information.
  - iii. Disposal of any excess product will be done in a manner that follows all manufacturers', federal, local and state recommended methods for proper disposal.

(Contractor shall list additional practices, as appropriate, used to prevent hazardous material discharge).

- iv.
- v.
- vi.
- vii.
- viii.
- ix.
- x.

Product Specific Practices - the following is a list of potential sources of pollution and specific practices to reduce pollutant discharges from materials or sources expected to be present during construction.

- c. Petroleum Storage Tanks
  - i. All onsite vehicles shall be inspected and monitored for leaks and receive preventative maintenance to reduce the chance of leakage.
  - ii. Steps will be taken by the contractor to eliminate contamination from storage tanks from entering the soil. Any petroleum storage tanks kept onsite will be located with an impervious surface between the tank and the ground.
- d. Fertilizers - shall be applied in minimal amounts as recommended by the manufacturer. It shall be worked into the soil as to minimize the contact with storm water discharge.
- e. Paints, paint solvents and cleaning solvents - Excess paints and solvents shall not be discharged into the storm sewer system. The contractor shall refer to the

manufacturer's instructions and federal regulations on the proper disposal techniques.

- f. Concrete wastes
  - i. Concrete trucks will be allowed to washout or discharge excess concrete only in specifically designated areas which have been prepared to minimize contact between the concrete and storm water discharge from the site.
  - ii. The hardened product from the concrete washout areas will be disposed of as other non-hazardous waste materials or may be broken up and used on the site for other appropriate uses.
- g. Solid and construction wastes - All trash and construction debris shall be deposited into a dumpster that will be emptied as necessary. No construction waste materials will be buried on site. The dumpsters must be put in a location where contact with storm water discharge is minimized.

(Contractor shall list additional potential sources of pollution and practices to reduce pollutant discharge.)

- h.
- i.
- j.
- k.
- l.

### 3. Hazardous Substance Spill Prevention and Response

- a. The contractor is responsible for training all personnel in the proper handling and cleanup of spilled materials. No spilled hazardous materials or wastes will be allowed to come into contact with storm water discharges. If contact does occur, the storm water discharge will be contained on site until appropriate measures in compliance with all Federal, state, and local regulations are followed to dispose of the hazardous substance.
- b. In addition to Good Housekeeping and material management practices, the following practices shall be done to minimize the potential for hazardous materials spills and to reduce the risk of the spill coming in contact with storm water.
  - i. Manufacturer's recommended methods for spill cleanup will be clearly posted and site personnel will be trained regarding these procedures and the location of the information and cleanup supplies.
  - ii. Material and equipment necessary for spill control, containment and cleanup will be provided onsite in a material storage area. Equipment and materials will include but not be limited to brooms, dust pans, mops, rags, gloves, goggles, kitty litter, sand, sawdust and plastic and meal trash containers.
- c. In the event of a spill, the following procedures will be followed:
  - i. All spills will be cleaned up immediately following discovery.
  - ii. The spill area will be kept well ventilated and personnel will wear appropriate protective clothing to prevent injury from contact with the hazardous substance.
  - iii. Spill of toxic or hazardous material will be reported to the appropriate state or local government agency and to the project manager and engineer, regardless of the size of the spill.

- d. In the event the construction site has a release of a hazardous substance of oil in an amount which exceeds a reportable quantity (RQ) as defined at 40 CFR Part 110, 40 CFR Part 117, or 40 CFR Part 302, then the permittee shall:
  - i. Person in charge of the site at the time of the spill shall call the EPA National Response Center to report the spill (800-424-8802, or 202-426-2675).
  - ii. Modify the Pollution Prevention Plan accordingly within 14 days of the spill, including the items mentioned below.
  - iii. Within 14 days of the release, submit a written description of the release including: a description of the release, type of material, estimated amount of spill, date of release, explanation of why the spill happened, and a description of the steps taken to prevent and control future releases.

## **PART 4: FINAL STABILIZATION/DISCONTINUATION**

### **A. Final Stabilization/Discontinuation**

1. The storm water discharge from a construction activity is no longer considered to be a discharge subject to the storm water permit requirements when final stabilization has been reached and temporary erosion and sediment controls have been or will be removed. A permittee must submit a Notice of Termination (NOT) to inform the MPCA that storm water discharge for the site will no longer need to be covered by the general permit.
2. “Final Stabilization” - the point at which all soil disturbing activities are complete, and a uniform perennial vegetative cover with a density of 70% of the cover for unpaved areas and areas not covered by permanent structures has been established or equivalent permanent stabilization measures have been employed.
3. Notice of Discontinuation should be mailed to the following address:  
  
Minnesota Pollution Control Agency  
520 Lafayette Road North  
St. Paul, MN 55155-4194
4. All plans, inspection reports and other related documents must be retained for a period of three years after project completion. The contractor shall retain a record copy and provide the original documents to the owner upon issuance of the NOT.



## **PART 5: CERTIFICATION**

### **A. Storm Water Pollution Prevention Plan Certification**

1. This project is subject to section 402(b) of the Clean Water Act and Minnesota Statute chapters 115 & 116, as amended and Minn. R. chs 7001, 7050, 7060 and 7090 (projects disturbing one or more total acres) and requires inclusion in the National Pollutant Discharge Elimination System (NPDES) General Permit No. 2 of individual NPDES Permit for storm water discharge associated with industrial activity for construction activities.
2. The Owner and prime contractor must sign the following certification statements. By doing so, the prime contractor becomes co-permittee with the owner and other co-permittee contractors. The prime contractor must identify which contracting entity will be responsible for each portion of the pollution prevention plan and maintain the site in compliance with the plan and NPDES Permit. The certification must be signed in accordance with the signatory requirements found in the general permit: i.e., principal executive officer, vice president , general partner, proprietor, elected official, and will be incorporated into the pollution prevention plan.
3. All subcontractors, including short-term contractors and subcontractors must sign the appropriate certification statement before conducting any work at the site. The Certification must be signed in accordance with the signatory requirements found in the general permit: i.e., principal executive officer, vice president , general partner, proprietor, elected official, and will be incorporated into the pollution prevention plan.
4. Upon signing the certification, the contractor or subcontractor becomes a co-permittee with the owner and other co-permittee contractors. In signing the plan, the authorizing representative certifies that the information is true and assumes liability for the plan and its implementation. Note that Section 309 of the Clean Water Act provides for significant penalties where information is false or the permittee violates, either knowingly or negligently, the permit requirements.

## Owner's Certification

for

NPDES General Permit No. 2 "Storm Water Discharge  
Associated with Industrial Activity for Construction Activities"

Project: West Energy Station

Location 507 6<sup>th</sup> Avenue NW  
Scott County, MN

I certify under penalty of law that I understand the terms and conditions of the general National Pollutant Discharge Elimination System (NPDES) permit that authorizes the storm water discharges associated with industrial activity from the construction site as part of this certification. Further, by my signature, I understand that I am becoming a co-permittee, along with the owner(s) and other contractors and subcontractors signing such certifications, to the Minnesota Pollution Control Agency NPDES General Permit No. 2 for "Storm Water Discharge Associated with Industrial Activity for Construction Activities" at the identified site. As a co-permittee, I understand that I, and my company, are legally required under the Clean Water Act and the Code of Minnesota, to ensure compliance with the terms and conditions of the storm water pollution prevention plan developed under this NPDES permit and the terms of this NPDES permit.

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Signature \_\_\_\_\_

Printed Name Bruce Reimers

Title General Manager

Company New Prague Utilities Commission

Address 118 Central Avenue N.

New Prague, MN 56071

Telephone (952) 758-4401

Date of Certification \_\_\_\_\_

## **Contractor's Certification**

for

NPDES General Permit No. 2 "Storm Water Discharge  
Associated with Industrial Activity for Construction Activities"

Project: West Energy Station

Location 507 6<sup>th</sup> Avenue NW  
Scott County, MN

I certify under penalty of law that I understand the terms and conditions of the general National Pollutant Discharge Elimination System (NPDES) permit that authorizes the storm water discharges associated with industrial activity from the construction site as part of this certification. Further, by my signature, I understand that I am becoming a co-permittee, along with the owner(s) and other contractors and subcontractors signing such certifications, to the Minnesota Pollution Control Agency NPDES General Permit No. 2 for "Storm Water Discharge Associated with Industrial Activity for Construction Activities" at the identified site. As a co-permittee, I understand that I, and my company, are legally required under the Clean Water Act and the Code of Minnesota, to ensure compliance with the terms and conditions of the storm water pollution prevention plan developed under this NPDES permit and the terms of this NPDES permit.

Signature

Printed Name

Title

Company

Address

Telephone

Date of Certification

## **PART 6: STANDARD PERMIT CONDITIONS**

### **A. Duty to Comply**

1. The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Code of Minnesota and the Clean Water Act and is grounds for enforcement action; for termination of coverage under this general permit; or, for denial of a request for coverage under a reissued general permit.
2. Toxic Pollutants. The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the Clean Water Act (CWA) for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if this permit has not yet been modified to incorporate the requirement.

### **B. Continuation of the Expired General Permit. This permit expires on August 1, 2018. An expired general permit continues in force until replaced by adoption of a new general permit.**

### **C. Need to Halt or Reduce Activity Not a Defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.**

### **D. Duty to Mitigate. The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.**

### **E. Duty to Provide Information. The permittee shall furnish to the Department, within three hours, any information which the Department may request to determine compliance with this permit. The permittee shall also furnish to the Department upon request copies of records required to be kept by this permit.**

### **F. Other Information. When the permittee becomes aware that he or she failed to submit any relevant facts or submitted incorrect information in the Notice of Intent or in any other report to the Department, he or she shall promptly submit such facts or information.**

### **G. Signatory Requirements. All Notices of Intent, storm water pollution prevention plans, reports, certifications or information either submitted to the Department or the operator of a municipal separate storm sewer system, or that this permit requires be maintained by the permittee, shall be signed in accordance with the Minnesota Administrative Code as follows:**

64.3(8) *Identity of signatories of operation permit applications.* The person who signs the application for an operation permit shall be:

- a. *Corporations.* In the case of corporations, a principal executive officer of at least the level of vice-president.
- b. *Partnerships.* In the case of a partnership, a general partner.
- c. *Sole proprietorships.* In the case of a sole proprietorship, the proprietor.

- d. *Public facilities.* In the case of a municipal, state, or other public facility, by either the principal executive officer, or the ranking elected official.
- e. *Storm water discharge associated with industrial activity from construction activity.* In the case of a storm water discharge associated with industrial activity from construction as identified in 40 CFR 122.26(b)(14)(x), either the owner of the site or the general contractor.

The person who signs NPDES reports shall be the same, except that in the case of a corporation or a public body, monitoring reports required under the terms of the permit may be submitted by the person who is responsible for the overall operation of the facility from which the discharge originated.

- H. **Certification.** Any person signing documents under paragraph VI.G. shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

- I. **Oil and Hazardous Substance Liability.** Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under section 311 of the Clean Water Act.
- J. **Property Rights.** The issuance of this permit does not convey any property rights of any sort, nor any exclusive privileges, nor does it authorize any injury to private property nor any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations.
- K. **Severability.** The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit shall not be affected thereby.
- L. **Transfers.** This permit is not transferable to any person except after notice to the Department. The Department may require the discharger to apply for and obtain an individual NPDES permit as stated in Part II.C.
- M. **Proper Operation and Maintenance.** The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit and with the requirements of storm water pollution prevention plans. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. Proper operation and maintenance requires the operation of backup or auxiliary

facilities or similar systems, installed by a permittee only when necessary to achieve compliance with the conditions of this permit.

- N. **Inspection and Entry.** The permittee shall allow the Department or an authorized representative of EPA, the State, or, in the case of a facility which discharges through a municipal separate storm sewer, an authorized representative of the municipal operator or the separate storm sewer receiving the discharge, upon the presentation of credentials and other documents as may be required by law, to:
1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted or where records must be kept under the conditions of this permit;
  2. Have access to and copy at reasonable times, any records that must be kept under the conditions of this permit; and,
  3. Inspect at reasonable times any facilities or equipment (including monitoring and control equipment).
- O. **Permit Actions.** Coverage under this permit may be terminated for cause. The filing of a request by the permittee for a permit discontinuance, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.
- P. **Environmental Laws.** No condition of this permit shall release the permittee from any responsibility or requirements under other environmental statutes or regulations.

#### **PART 7: REOPENER CLAUSE**

If there is evidence indicating potential or realized impacts or water quality due to any storm water discharge associated with industrial activity for construction activities covered by this permit, the owner or operator of such discharge may be required to obtain individual permit in accordance with Part II.C of this permit.

#### **PART 8: DEFINITIONS**

**"Best Management Practices"** ("BMPs") means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

**"Construction site"** means a site or common plan of development or sale on which construction activity, including clearing, grading and excavating, results in soil disturbance. A construction site is considered one site if all areas of the site are contiguous with one another and one entity owns all areas of the site.

**"CWA"** or **"Clean Water Act"** means the Federal Water Pollution Control Act.

**"Dedicated portable asphalt plant"** means a portable asphalt plant that is located on or contiguous to a construction site and that provides asphalt only to the construction site that the plant is located on or adjacent to.

**"Dedicated portable concrete plant"** means a portable concrete plant that is located on or contiguous to a construction site and that provides concrete only to the construction site that the plant is located on or adjacent to.

**"Dedicated sand or gravel operation"** means an operation that produces sand and/or gravel for a single construction project.

**"Department"** means the Minnesota Pollution Control Agency.

**"Final Stabilization"** means that all soil disturbing activities at the site have been completed, and that a uniform perennial vegetative cover with a density of 70% for the area has been established or equivalent stabilization measures have been employed or which has been returned to agricultural production.

**"Hazardous condition"** means any situation involving the actual, imminent, or probable spillage, leakage, or release of a hazardous substance on to the land, into a water of the state, or into the atmosphere, which creates an immediate or potential danger to the public health or safety or to the environment. Code of Minnesota

**"Hazardous substance"** means any substance or mixture of substances that presents a danger to the public health or safety and includes, but is not limited to, a substance that is toxic, corrosive, or flammable, or that is an irritant or that, in confinement, generates pressure through decomposition, heat, or other means. The following are examples of substances which, in sufficient quantity may be hazardous: acids; alkalis; explosives; fertilizers; heavy metals such as chromium, arsenic, mercury, lead and cadmium; industrial chemicals; paint thinners; paints; pesticides; petroleum products; poisons, radioactive materials; sludges; and organic solvents. "Hazardous substances" may include any hazardous waste identified or listed by the administrator of the United State Environmental Protection Agency under the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976, or any toxic pollutant listed under section 307 of the federal Water Pollution Control Act as amended to January 1, 1977, or any hazardous substance designated under section 311 of the federal Water Pollution Control Act as amended to January 1, 1977, or any hazardous material designated by the secretary of transportation under the Hazardous Materials Transportation Act (49 CFR 172.101). Code of Minnesota

**"Municipality"** means a city, town, borough, county, parish, district, association, or other public body created by or under State law.

**"NOI"** means Notice of Intent to be covered by this permit (see Part II of this permit.)

**"Outstanding Minnesota Waters"** means those waters which constitute an outstanding state resource such as waters of exceptional recreational or ecological significance. These waters are identified in Appendix B of the Minnesota Antidegradation Implementation Procedure manual.

**"Outstanding National Resource Waters"** means those waters which constitute an outstanding national resource such as waters of national and state parks and wildlife refuges and also waters of

exceptional recreational or ecological significance. These waters are identified in Appendix B of the Minnesota Antidegradation Implementation Procedure manual.

**"Permittee"** means the owner of the facility or site.

**"Qualified personnel"** means those individuals capable enough and knowledgeable enough to perform the required functions adequately well to ensure compliance with the relevant permit conditions and requirements of the Minnesota Administrative Code.

**"Runoff coefficient"** means the fraction of total rainfall that will appear at the conveyance as runoff.

**"Storm Water"** means storm water runoff, snow melt runoff, and surface runoff and drainage.

**"Storm water discharge associated with industrial activity"** means the discharge from any conveyance which is used for collecting and conveying storm water and which is directly related to manufacturing, processing or raw materials storage areas at an industrial plant. The term does not include discharges from facilities or activities excluded from the NPDES program under 40 CFR part 122. For the categories of industries identified in paragraphs (i) through (x) of this definition, the term includes, but is not limited to, storm water discharges from industrial plant yards; immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by the facility; material handling sites; refuse sites; sites used for the application or disposal of process waste waters (as defined at 40 CFR part 401); sites used for the storage and maintenance of material handling equipment; sites used for residual treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; storage areas (including tank farms) for raw materials, and intermediate and finished products; and areas where industrial activity has taken place in the past and significant materials remain and are exposed to storm water.

For the categories of industries identified in paragraph (xi) of this definition, the term includes only storm water discharges from all the areas (except access roads and rail lines) that are listed in the previous sentence where material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, or industrial machinery are exposed to storm water. For the purposes of this paragraph, material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, finished product, by-product, or waste product. The term excludes areas located on plant lands separate from the plant's industrial activities, such as office buildings and accompanying parking lots as long as the drainage from the excluded areas is not mixed with storm water drained from the above described areas. Industrial facilities (including industrial facilities that are Federally, State, or municipally owned or operated that meet the description of the facilities listed in these paragraphs (i)-(xi) of the definition) include those facilities designated under 40 CFR 122.26(a)(1)(v). The following categories of facilities are considered to be engaging in "industrial activity" for purposes of this definition;

- i. Facilities subject to storm water effluent limitations guidelines, new source performance standards, or toxic pollutant effluent standards under 40 CFR Subchapter N (except facilities with toxic pollutant effluent standards which are exempted under category (xi) of this definition);



- ii. Facilities classified as Standard Industrial Classifications 24 (except 2434), 26 (except 265 and 267), 28 (except 283 and 285), 29, 311, 32 (except 323), 33, 3441, 373;
- iii. Facilities classified as Standard Industrial Classifications 10 through 14 (mineral industry) including active or inactive mining operations (except for areas of coal mining operations no longer meeting the definition of a reclamation area under 40 CFR 434.11(1) because the performance bond issued to the facility by the appropriate SMCRA authority has been released, or except for areas of non-coal mining operations which have been released from applicable State or Federal reclamation requirements after December 17, 1990) and oil and gas exploration, production, processing, or treatment operations, or transmission facilities that discharge storm water contaminated by contact with or that has come into contact with, any overburden, raw material, intermediate products, finished products, byproducts or waste products located on the site of such operations; (inactive mining operations are mining sites that are not being actively mined, but which have an identifiable owner/operator; inactive mining sites do not include sites where mining claims are being maintained prior to disturbances associated with the extraction, beneficiation, or processing of mined materials, nor sites where minimal activities are undertaken for the sole purpose of maintaining a mining claim);
- iv. Hazardous waste treatment, storage, or disposal facilities, including those that are operating under interim status or a permit under Subtitle C of RCRA;
- v. Landfills, land application sites, and open dumps that receive or have received any industrial wastes (waste that is received from any of the facilities described under this subsection) including those that are subject to regulation under Subtitle D of RCRA;
- vi. facilities involved in the recycling of materials, including metal scrap yards, battery reclaimers, salvage yards, and automobile junkyards, including but limited to those classified as Standard Industrial Classification 5015 and 5093;
- vii. Steam electric power generating facilities, including coal handling sites;
- viii. Transportation facilities classified as Standard Industrial Classifications 40, 41, 42 (except 4221-4225), 43, 44, 45 and 5171 which have vehicle maintenance shops, equipment cleaning operations, or airport deicing operations. Only those portions of the facility that are either involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning operations, airport deicing operations, or which are otherwise identified under paragraphs (i)-(vii) or (ix)-(xi) of this definition are associated with industrial activity;
- ix. Treatment works treating domestic sewage or any other sewage sludge or wastewater treatment device or system, used in the storage treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated to the disposal of sewage sludge that are located within the confines of the facility, with a design flow of 1.0 mgd or more, or required to have an approved pretreatment program under 40 CFR 403. Not included are farm lands, domestic gardens or lands used for sludge

- management where sludge is beneficially reused and which are not physically located in the confines of the facility, or areas that are in compliance with 40 CFR 503;
- x. Construction activity including clearing, grading and excavation activities except: operations that result in the disturbance of less than one acre of total land area which are not part of a larger common plan of development or sale;
  - xi. Facilities under Standard Industrial Classifications 20, 21, 22, 23, 2434, 25, 265, 267, 27, 283, 285, 30, 31 (except 311), 323, 34 (except 3441), 35, 36, 37 (except 373), 38, 39, 4221-4225, (and which are not otherwise included within categories (ii)-(x));

***"Storm water discharge associated with industrial activity for construction activities"*** means activities that fall under subparagraph (x) in the definition of storm water discharge associated with industrial activity.

***"Topsoil"*** means the fertile, uppermost part of the soil containing significant organic matter largely devoid of debris and rocks and often disturbed in cultivation.

***"Uncontaminated groundwater"*** means water that is potable for humans, meets the narrative water quality standards the Minnesota Administrative Code, contains no more than half the listed concentration of any pollutants in the MnAC, has a pH of 6.5-9.0 and is located in soil or rock strata.

**APPENDIX A**

**APPLICATION FOR GENERAL STORMWATER PERMIT  
FOR CONSTRUCTION ACTIVITY**

**To be added by the Contractor**

**APPENDIX B**  
**INSPECTION REPORTS**

**To be completed and added by the Contractor**

## EROSION CONTROL SITE INSPECTION REPORT

**PROJECT:** West Energy Station **DATE:** \_\_\_\_\_

**FILE NO:** 417209 **TIME:** \_\_\_\_\_

**CONTRACTOR:** \_\_\_\_\_ **OWNER:** New Prague Utilities Commission

**LOCATION:** \_\_\_\_\_

**WEATHER:** \_\_\_\_\_

**INSPECTION TYPE:** Scheduled / After Weather Event / Follow-Up / Complaint / Other \_\_\_\_\_

**DAYS SINCE LAST RAINFALL** \_\_\_\_\_ **Amount of Last Rainfall** \_\_\_\_\_

| No. |                                                                                                      | Yes | No | Not<br>Applicable |
|-----|------------------------------------------------------------------------------------------------------|-----|----|-------------------|
| 1.  | Erosion control practices in place and functioning?<br>(mulch, seeding, blankets)                    |     |    |                   |
| 2.  | Sediment traps, barriers and basins clean and functioning properly?                                  |     |    |                   |
| 3.  | Sediment controls in place at site perimeter and storm drain inlets?                                 |     |    |                   |
| 4.  | Discharge points free of any noticeable pollutant discharges?                                        |     |    |                   |
| 5.  | Sediment, mud and debris being cleaned from public roads?                                            |     |    |                   |
| 6.  | Are there adequate provisions to prevent mud tracking off site?                                      |     |    |                   |
| 7.  | Is there evidence that sediment is leaving the site and onto adjacent properties?                    |     |    |                   |
| 8.  | Are utility trenches being backfilled properly, tamped and seeded immediately?                       |     |    |                   |
| 9.  | All exposed slopes protected from erosion through acceptable soil stabilization practices?           |     |    |                   |
| 10. | Temporary stockpiles or construction materials located in approved areas and protected from erosion? |     |    |                   |
| 11. | Is the site seeded and mulched or blanketed?                                                         |     |    |                   |
| 12. | Do any seeded areas require maintenance, fertilization, reseeding or weed control?                   |     |    |                   |
| 13. | Are dust control measures appropriately implemented?                                                 |     |    |                   |

| No. |                                                                                                                | Yes | No | Not<br>Applicable |
|-----|----------------------------------------------------------------------------------------------------------------|-----|----|-------------------|
| 14. | Material handling and storage, and equipment storage and maintenance areas clean and free of spills and leaks? |     |    |                   |
| 15. | On-site traffic routes, parking and storage restricted to designated areas?                                    |     |    |                   |
| 16. | Do any structural measures require repair or clean-out to maintain adequate function?                          |     |    |                   |
| 17. | Are ALL erosion control devices in place and functioning in accordance with the site's erosion control plan?   |     |    |                   |

**PROBLEMS IDENTIFIED/ACTION TAKEN:**

---

---

---

---

---

---

---

**OBSERVATIONS/COMMENTS:**

---

---

---

---

---

---

---

**Inspection Report Certification Statement**

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

**INSPECTOR'S NAME:** \_\_\_\_\_

**COMPANY:** \_\_\_\_\_

**COPIES TO:**

## **APPENDIX C**

### **NOTICE OF TERMINATION**



**Minnesota Pollution  
Control Agency**

520 Lafayette Road North  
St. Paul, MN 55155-4194

# CSW Notice of Termination/ Permit Modification Form

## NPDES Construction Stormwater (CSW) Permit Program

*Doc Type: Notice of Termination/Permit Modification*

**Purpose:** Transfer or terminate your National Pollutant Discharge Elimination System (NPDES) Construction Stormwater Permit. Allowable changes are permit termination and permit transfer for all or a portion of the site.

**Questions:** If you have questions about the administrative details of the permit process go to:  
<http://www.pca.state.mn.us/publications/wq-strm2-60i.pdf> or call the Stormwater Hotline at **651-757-2119** or **800-657-3804** (non-metro only).

**Form will be invalid and returned to sender unless the checkbox associated with the applicable actions is checked and the corresponding signature is provided in section A-1, A-2, A-3, and/or A-4.**

**Submittals:** You may either e-mail a signed and scanned PDF copy to [csw.pca@state.mn.us](mailto:csw.pca@state.mn.us), or you may mail a hard copy to:

**Construction Stormwater Permit Program**  
Minnesota Pollution Control Agency  
520 Lafayette Road North  
St. Paul, Minnesota 55155-4194

### Existing Permit Identification

a. Current permit ID: C000 \_ \_ \_ \_ \_ or SUB00 \_ \_ \_ \_ \_

b. Project name: \_\_\_\_\_

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

*Briefly describe where the construction activity occurs (for example: Intersection of 45th St. and Irving Ave.). Include address if available.*

### Select Option 1, 2, or 3

☐ **1. Notice of Termination (NOT) for entire site by existing owner**

Select this option when a project has achieved Final Stabilization (according to Part IV.G of the Permit) with the existing owner/contractor and no part of the site is being transferred to a new owner and all construction activity is complete.

Owner and contractor currently authorized under the permit must sign under the "Current" Owner (A-1) and "Current" Contractor (A-2) sections respectively.

☐ **2. Transfer of entire site to new owner or contractor (Transfer/Modification)**

Select this option if the **entire** site (represented by the ID above) has either a new owner and/or new general contractor. "Current" Owner must authorize and sign for any and all changes. The "Current" Contractor needs to sign only if there is a "New" Contractor for the site. After the "Current" parties have signed their sections respectively, proceed to fill out the "New" Parties information in Section A-3 and/or A-4.

☐ **3. Transfer of a portion of a site to a new owner or contractor (Subdivision)**

Select this option if a **portion** of a site (permitted under the ID above) has either a new owner and/or new general contractor. "Current" Owner must authorize and sign for any and all changes. The "Current" Contractor needs to sign only if there is a "New" Contractor for the site. After the "Current" parties have signed their sections respectively, proceed to fill out the "New" Parties information in Section A-3 and/or A-4.

Describe the portion of the site being transferred: Lot: \_\_\_\_\_ Block: \_\_\_\_\_

Project location/address: \_\_\_\_\_

City, State, and Zip: \_\_\_\_\_

*Example: SW quadrant of 45th Street and Irving Avenue or Lots 1-17 of block 20. Include list of addresses if available or include a map*



## New Owner/Contractor Information

### "New" Owner (A-3)

Business/Firm name: \_\_\_\_\_  
Last name: \_\_\_\_\_ First name: \_\_\_\_\_ Title: \_\_\_\_\_  
E-mail address: \_\_\_\_\_ Telephone: ( ) \_\_\_\_\_ Ext. \_\_\_\_\_  
Mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip code: \_\_\_\_\_

#### Alternate contact:

Last name: \_\_\_\_\_ First name: \_\_\_\_\_ Title: \_\_\_\_\_  
E-mail address: \_\_\_\_\_ Telephone: ( ) \_\_\_\_\_ Ext. \_\_\_\_\_

### "New" Contractor (A-4)

Business/Firm name: \_\_\_\_\_  
Last name: \_\_\_\_\_ First name: \_\_\_\_\_ Title: \_\_\_\_\_  
E-mail address: \_\_\_\_\_ Telephone: ( ) \_\_\_\_\_ Ext. \_\_\_\_\_  
Mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip code: \_\_\_\_\_

#### Alternate contact:

Last name: \_\_\_\_\_ First name: \_\_\_\_\_ Title: \_\_\_\_\_  
E-mail address: \_\_\_\_\_ Telephone: ( ) \_\_\_\_\_ Ext. \_\_\_\_\_

## Certification - All Parties Involved

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage this system, or the persons directly responsible for gathering the information, the information is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

I also certify under penalty of law that I have read, understood, and accepted all terms and conditions of the National Pollutant Discharge Elimination System (NPDES)/State Disposal System (SDS) General Stormwater Permit Construction Activity (MN R100001) that authorizes stormwater discharges associated with the construction site identified on this form.

*This Application must be signed by: **Corporation:** a principal executive officer of at least the level of vice-president or the duly authorized representative or agent of the executive officer if the representative or agent is responsible for the overall operation of the facility that is the subject of the permit application. **Partnership or Sole Proprietorship:** a general partner or the proprietor. **Municipality, State, Federal or Other Public Agency:** principal executive officer or ranking elected official.*

### Current Owner Authorized Representative (A-1)

*By signing here, I certify the above statements to be true.*

Print name: \_\_\_\_\_  
Company: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Date (mm/dd/yyyy): \_\_\_\_\_

### Current Contractor Authorized Representative (A-2)

*By signing here, I certify the above statements to be true.*

Print name: \_\_\_\_\_  
Company: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Date (mm/dd/yyyy): \_\_\_\_\_

### New Owner Authorized Representative (A-3)

*By signing here, I certify the above statements to be true.*

Print name: \_\_\_\_\_  
Company: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Date (mm/dd/yyyy): \_\_\_\_\_

### New Contractor Authorized Representative (A-4)

*By signing here, I certify the above statements to be true.*

Print name: \_\_\_\_\_  
Company: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Date (mm/dd/yyyy): \_\_\_\_\_

# **CATEGORY V**

## **Technical Data**

- **Geotechnical Report by Chosen Valley Testing**

**(This data is presented for informational purposes only and is not part of the Contract Documents)**



## Design Phase Geotechnical Evaluation:

Proposed West Energy Station Addition  
507 6th Avenue NW  
New Prague, Minnesota

## Prepared for:

Mr. Bruce Reimers  
New Prague Utilities

January 20, 2025  
24480.24.MNR

## Certification:

|                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                     |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| A circular professional seal for Devin M. Ehler, a Licensed Professional Engineer in the State of Minnesota. The seal contains the text 'DEVIN M. EHLE', 'LICENSED PROFESSIONAL ENGINEER', and '52649'. | <p>I hereby certify that this report was prepared by me or under my direct supervision, and that I am a duly Licensed Professional Engineer under the laws of the State of Minnesota.</p> <p><i>Devin M. Ehler</i></p> <p>Devin M. Ehler, PE<br/>Geotechnical Engineer<br/>Registration Number 52649<br/>Date: January 20, 2025</p> |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

# Chosen Valley Testing, Inc.

Geotechnical Engineering and Testing, 1410 7<sup>th</sup> Street NW, Rochester, Minnesota 55901 (507) 281-0968 fax (507) 289-2523

Mr. Bruce Reimers  
New Prague Utilities  
118 Central Ave N  
New Prague, MN 56071  
[breimers@ci.new-prague.mn.us](mailto:breimers@ci.new-prague.mn.us)

January 20, 2025

**Re: Design Phase Geotechnical Evaluation  
Proposed West Energy Station Addition  
507 6th Avenue NW  
New Prague, Minnesota  
CVT Project Number: 24480.24.MNR**

Dear Mr. Reimers,

As authorized, we have completed the geotechnical evaluation for the proposed new West Energy Station Addition in New Prague, Minnesota. This letter briefly summarizes our findings and recommendations in the attached report.

## **Summary of Boring Results**

At the surface, the borings generally encountered about 2 feet of topsoil. This was followed by clayey fill material to a depth of approximately 4 feet in the northeast boring (B-1).

Beneath the topsoil and fill, the northern building borings (B-1 and B-2) met alternating layers of glacial clays, silty sand, clayey sand, and silt in the upper 14 feet over glacial sandy clay. The southern building borings (B-3 and B-4) dominantly met glacial sandy clay with a layer of sand interbedded around 20 feet in one of these borings. The underground fuel tank boring (B-5) came across silty sand following the topsoil to about 9 feet over relatively clean sand to approximately 14 feet over clayey sand to roughly 17 ½ feet over glacial sandy clay. All of the borings terminated in glacial sandy clay at planned termination depths around 26 feet below the surface.

Water was observed in the northern two borings (B-1 and B-2) and southern most boring (B-5) around 3 to 7 ½ feet below the surface during our exploration. The depths correspond near elevations 91 to 97 feet on the datum used to survey the borings. Due to the fine grained nature of the majority of the soils on site, long term monitoring with wells or piezometers would be required to better understand groundwater levels on site. Groundwater is expected to fluctuate seasonally with local weather patterns and similar to water levels in the nearby pond and stream.

The Scott County Soil Survey indicates that the Le Sueur-Lester complex is the dominant soil type at the site. The seasonally high water table for this soil is indicated to be around 1 ½ feet below the surface.

## **Analysis and Recommendations**

As previously mentioned, the site is generally characterized by topsoil and some clayey fill in the northeast portion of the site over glacial clays, silty sand, clayey sand, and relatively clean sand. The topsoil and fill

materials are unsuitable support and should be completely removed from below slabs and foundations, along with any existing utilities, pavements, debris, or otherwise deleterious materials that may be discovered during construction. The topsoil was about 2 feet thick and the fill was found to an apparent depth of approximately 4 feet at the locations explored.

It is recommended that personnel from Chosen Valley Testing be retained to evaluate the soils at footing and slab subgrades. Especially regarding the soil correction excavations. Subject to evaluations, additional soil corrections or changes to our recommendations may be deemed warranted but are not anticipated.

Based on the boring data, assumed foundation loads, assumed floor/footing elevations, and implementation of the earthwork recommendations, we are of the opinion that foundations may be designed for an allowable bearing capacity up to 3,000 pounds per square foot (psf). Total settlement of footings is then expected to be on the order of 1 inch or less and differential settlement between similarly loaded footings is anticipated to be on the order of ½ inch or less.

**Remarks**

CVT appreciates the opportunity to provide geotechnical services for this project. The attached report provides further details of our analysis and recommendations. If you have any questions about our report, please feel free to contact us at (507) 281-0968.

Sincerely,  
**Chosen Valley Testing, Inc.**



Devin M. Ehler, PE  
Geotechnical Engineer

## TABLE OF CONTENTS

|                                                                        |           |
|------------------------------------------------------------------------|-----------|
| <b>A. INTRODUCTION .....</b>                                           | <b>2</b>  |
| A.1. PURPOSE .....                                                     | 2         |
| A.2. SCOPE.....                                                        | 2         |
| A.3. BORING LOCATIONS AND ELEVATIONS.....                              | 2         |
| A.4. GEOLOGIC BACKGROUND .....                                         | 2         |
| <b>B. SUBSURFACE DATA .....</b>                                        | <b>3</b>  |
| B.1. STRATIFICATION .....                                              | 3         |
| B.2. PENETRATION TEST AND LABORATORY TEST RESULTS .....                | 4         |
| B.3. GROUNDWATER DATA .....                                            | 4         |
| <b>C. DESIGN DATA .....</b>                                            | <b>4</b>  |
| <b>D. ANALYSIS .....</b>                                               | <b>5</b>  |
| <b>E. RECOMMENDATIONS - EXCAVATION/BACKFILL SOIL CORRECTIONS .....</b> | <b>5</b>  |
| E.1. EARTHWORK RECOMMENDATIONS .....                                   | 5         |
| E.2. BUILDING DESIGN.....                                              | 6         |
| <b>F. CONSTRUCTION TESTING AND DOCUMENTATION .....</b>                 | <b>8</b>  |
| F.1. EXCAVATION.....                                                   | 8         |
| F.2. GROUNDWATER/DE-WATERING .....                                     | 8         |
| F.3. SIDESLOPES .....                                                  | 8         |
| F.4. FILLING AND COMPACTING .....                                      | 9         |
| F.5. COLD WEATHER CONSTRUCTION .....                                   | 9         |
| F.6. CONSTRUCTION TESTING AND DOCUMENTATION.....                       | 9         |
| <b>G. LEVEL OF CARE.....</b>                                           | <b>9</b>  |
| <b>APPENDIX .....</b>                                                  | <b>10</b> |

BORING LOCATION SKETCH  
LOG OF BORING 1-5  
LEGEND TO SOIL DESCRIPTION

**Design Phase Geotechnical Evaluation  
Proposed West Energy Station Addition  
507 6<sup>th</sup> Avenue NW  
New Prague, Minnesota**

CVT Project Number: 24480.24.MNR  
Date: January 20, 2025

## **A. Introduction**

**The intent of this report is to present our findings to the client in the same logical sequence that led us to arrive at the opinions and recommendations expressed. Since our services often must be completed before the design is finished, assumptions are often needed to prepare a proper scope and to analyze the data. A complete and thorough review of the entire document, including its assumptions and its appendices, should be undertaken immediately upon receipt.**

### **A.1. Purpose**

This geotechnical report was prepared to aid in the design and construction of the proposed new West Energy Station Addition in New Prague, Minnesota. Our services were authorized by Mr. Bruce Reimers, General Manager of New Prague Utilities.

### **A.2. Scope**

To provide data for analysis, a total of 5 penetration test borings were authorized. The borings were drilled to depths of about 25 feet. Our engineering work scope consisted of providing analysis and recommendations for the building, exhaust stacks, and underground tanks.

### **A.3. Boring Locations and Elevations**

The desired boring locations were indicated to Chosen Valley Testing (CVT) on a site plan, provided by the DGR Engineering. Borings B-1 and B-4 had to be offset slightly due to existing underground utilities. The Boring Location Sketch in the Appendix shows the approximate locations as drilled according to GPS coordinates recorded in the field from a handheld device.

Ground surface elevations at the borings were estimated using a laser level. The finished floor of the existing control building was used as a benchmark and was assigned an elevation of 100 feet.

### **A.4. Geologic Background**

**A geotechnical report is based on subsurface data collected for the specific structure or problem. Available geologic data from the region can help interpretation of the data and is briefly summarized in this section.**

Geologic maps and nearby well logs suggest that the natural upper soils in the area are primarily glacial deposited clay, silt, and sand mixtures. Bedrock is indicated to be greater than 200 feet below the surface.

## B. Subsurface Data

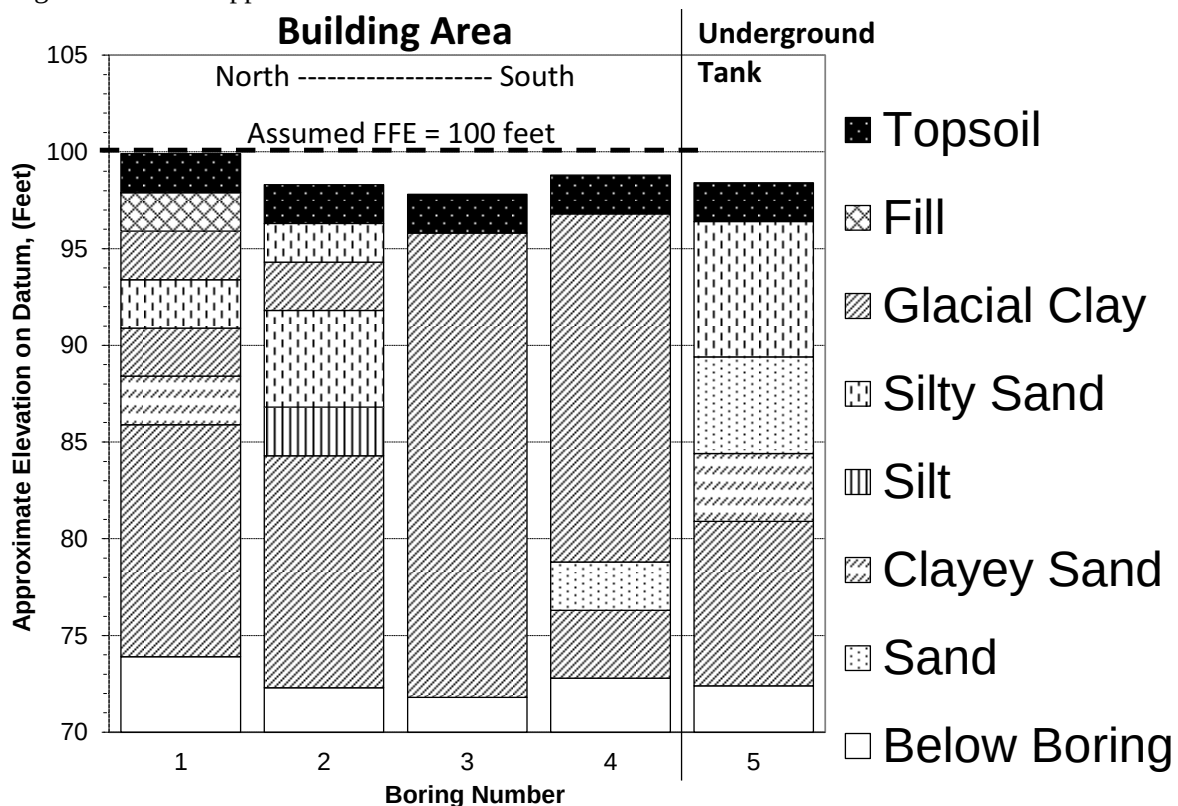
**Procedures:** The borings were performed using penetration test procedures (Method of Test D1586 of the American Society for Testing and Materials). This procedure allows for the extraction of intact soil specimen from deep in the ground. With this method, a hollow-stem auger is drilled to the desired sampling depth. A 2-inch OD sampling tube is then screwed onto the end of a sampling rod, inserted through the hole in the auger's tip, and then driven into the soil with a 140-pound hammer dropped repeatedly from a height of 30 inches above the sampling rod. The sampler is driven 18 inches into the soil, unless the material is too hard. The samples are generally taken at 2½ to 5-foot intervals. The core of soil obtained was classified and logged by the driller on site and a representative portion was then sealed and delivered to the geotechnical engineer for further review.

### B.1. Stratification

At the surface, the borings generally encountered about 2 feet of topsoil. This was followed by clayey fill material to a depth of approximately 4 feet in the northeast boring (B-1).

Beneath the topsoil and fill, the northern building borings (B-1 and B-2) met alternating layers of glacial clays, silty sand, clayey sand, and silt in the upper 14 feet over glacial sandy clay. The southern building borings (B-3 and B-4) dominantly met glacial sandy clay with a layer of sand interbedded around 20 feet in one of these borings. The underground fuel tank boring (B-5) came across silty sand following the topsoil to about 9 feet over relatively clean sand to approximately 14 feet over clayey sand to roughly 17 ½ feet over glacial sandy clay. All of the borings terminated in glacial sandy clay at planned termination depths around 26 feet below the surface.

The boring data has been summarized in the following cross-section. Please refer to the individual Log of Boring sheets in the Appendix for more detailed information.





## **B.2. Penetration Test and Laboratory Test Results**

**The number of blows needed for the hammer to advance the penetration test sampler is an indicator of soil characteristics. The results tend to be more meaningful for natural mineral soils, than for fill soils. In fill soils, compaction tests are more meaningful.**

Penetration resistance values ("N" Values) ranging from 5 to 14 Blows Per Foot (BPF) were recorded in the glacial clays and silt, indicating they were rather soft to rather stiff, but were mostly medium to rather stiff. The silty sand, clayey sand, and relatively clean sand returned values of 4 to 17 BPF, indicating they were loose to medium dense, but for the most part they were loose.

A key to descriptors used to qualify the relative density of soil (such as *soft*, *stiff*, *loose*, and *dense*) can be found on the Legend to Soil Description in the Appendix.

Pocket penetrometer tests were performed to help in estimating the compressive strength of the cohesive soils. The glacial clay and silt samples returned a value of ½ to 3 ¼ tons per square foot (tsf).

## **B.3. Groundwater Data**

**During drilling, the drillers may note the presence of moisture on the sampler, in the cuttings, or in the borehole itself. These findings are reported on the boring logs. Because water levels vary with weather, time of year, and other factors, the presence or lack of water during exploration is subject to interpretation and is not always conclusive.**

Water was observed in the northern two borings (B-1 and B-2) and southern most boring (B-5) around 3 to 7 ½ feet below the surface during our exploration. The depths correspond near elevations 91 to 97 feet on the datum used to survey the borings. Due to the fine grained nature of the majority of the soils on site, long term monitoring with wells or piezometers would be required to better understand groundwater levels on site. Groundwater is expected to fluctuate seasonally with local weather patterns and similar to water levels in the nearby pond and stream.

The Scott County Soil Survey indicates that the Le Sueur-Lester complex is the dominant soil type at the site. The seasonally high water table for this soil is indicated to be around 1 ½ feet below the surface.

## **C. Design Data**

**Because each structure has a different loading configuration and intensity, different grades, and different structural or performance tolerances, the results of a geotechnical exploration will mean different things for different facilities. If the facility changes, Chosen Valley Testing should be contacted to discuss possible implications of the changes. Without a chance to review such changes, the recommendations of the soils engineer may no longer be valid or appropriate.**

The project is understood to consist of constructing a new generation building with exhaust stacks and underground fuel storage tanks. The building is assumed to be a single story, slab-on-grade structure primarily consisting of concrete or masonry walls and metal roofing. The building is assumed to house 50,000 pound diesel generators sitting on 1-foot thick monolithic concrete foundations. Exhaust stacks for the generators are expected to have overall heights of approximately 20 feet. Structural loads were not provided. To facilitate analysis, we assumed maximum wall loads will be on the order of 6,500 pounds per

lineal foot or less and maximum column loads will be on the order of 135,000 pounds or less. The floor of the new generation building is assumed to match that of the existing control building, which is estimated to be near 100 feet on the boring datum.

Underground 12,000 gallon fuel storage tanks are understood to be planned on the south end of the site. The tanks are assumed to be 10 to 12 feet below the surface.

## **D. Analysis**

As previously mentioned, the site is generally characterized by topsoil and some clayey fill in the northeast portion of the site over glacial clays, silty sand, clayey sand, and relatively clean sand. The topsoil and fill materials are unsuitable support and should be completely removed from below slabs and foundations, along with any existing utilities, pavements, debris, or otherwise deleterious materials that may be discovered during construction. The topsoil was about 2 feet thick and the fill was found to an apparent depth of approximately 4 feet at the locations explored.

It is recommended that personnel from Chosen Valley Testing be retained to evaluate the soils at footing and slab subgrades. Especially regarding the soil correction excavations. Subject to evaluations, additional soil corrections or changes to our recommendations may be deemed warranted but are not anticipated.

Based on the boring data, assumed foundation loads, assumed floor/footing elevations, and implementation of the earthwork recommendations, we are of the opinion that foundations may be designed for an allowable bearing capacity up to 3,000 pounds per square foot (psf). Total settlement of footings is then expected to be on the order of 1 inch or less and differential settlement between similarly loaded footings is anticipated to be on the order of ½ inch or less.

The remainder of this report provides further details of our recommendations.

## **E. Recommendations - Excavation/Backfill Soil Corrections**

### **E.1. Earthwork Recommendations**

**E.1.a. Removals:** As previously mentioned, topsoil and fill materials are unsuitable support and should be completely removed from below slabs and foundations, along with any existing utilities, pavements, debris, or otherwise deleterious materials that may be discovered during construction. The topsoil was about 2 feet thick and the fill was found to an apparent depth of approximately 4 feet at the locations explored.

The following table on the next page presents the apparent depths and bottom elevations of the unsuitable topsoil and fill materials at the locations explored. The values in the tables below have been rounded to the nearest ½-foot.

| Boring Number | Approx. Ground Elevation (Feet) | Approx. Depth of Topsoil & Glacio-Fluvial Sandy Clay (Feet) | Approx. Bottom Elevation of Topsoil & Glacio-Fluvial Sandy Clay (Feet) |
|---------------|---------------------------------|-------------------------------------------------------------|------------------------------------------------------------------------|
| B-1           | 100                             | 4                                                           | 96                                                                     |
| B-2           | 98                              | 2                                                           | 96                                                                     |
| B-3           | 97 ½                            | 2                                                           | 95 ½                                                                   |
| B-4           | 98 ½                            | 2                                                           | 96 ½                                                                   |
| B-5           | 98 ½                            | 2                                                           | 96 ½                                                                   |

**E.1.b. Geotechnical Evaluation and Testing:** It is recommended that personnel from Chosen Valley Testing be retained to evaluate the soils at footing and slab subgrades. Especially regarding the soil correction excavations. Subject to evaluations, additional soil corrections or changes to our recommendations may be deemed warranted but are not anticipated.

**E.1.c. Oversizing:** Soil correction excavations should be oversized at least 1-foot horizontally beyond the edge of foundations for each foot of fill needed below footing grade. This over-sizing can be reduced by up to 50% if rather precise staking is present during grading, and the excavation limits can be rather precisely confirmed relative to the foundations. However, allowing some extra width provides a nominal safety factor against stakes getting moved or knocked down during grading. Extra oversizing also provides some protection for the owner, if the building position changes slightly from the originally intended location.

**E.1.d. Filling and Compaction:** For ease of construction, we recommend importing clean sand or gravel having less 12% particles passing a number 200 sieve as engineered fill. Other granular materials could be considered for use upon geotechnical evaluation, but alternative materials would likely require more stringent moisture control and effort to attain proper compaction.

It is recommended that at least 4 to 6 inches of cleaner free draining sand having less than 5% particles passing a number 200 sieve be placed below slabs. This is intended to create a capillary break.

All fill below building and oversizing areas should be compacted to a minimum of 95% of its maximum standard Proctor density (ASTM D 698).

## **E.2. Building Design**

**E.2.a. Foundation Depth:** We recommend that exterior foundations for heated structures bear on soils at least 42 inches below the exposed ground surface. Interior footings for heated structures can be placed directly below slabs. Footings for unheated structures should be placed at least 60 inches below the surface.

**E.2.b. Bearing Capacity and Settlement:** With the boring data, understood foundation loads, assumed floor elevation, and implementation of the earthwork recommendations, we are of the opinion that

foundations may be designed to exert bearing pressures up to 3,000 pounds per square foot (psf). This allowable bearing capacity includes a safety factor of at least 3 against shear failure.

Based on the recommended bearing pressure and earlier stated design data, total settlement of footings is expected to be on the order of 1 inch or less. Differential settlement between similarly loaded footings is anticipated to be on the order of ½ inch or less.

**E.2.c. Vapor Barrier and Drainage:** If the slab will receive coverings that are less permeable than concrete, a vapor barrier should be placed below the slab. Some contractors prefer to place this barrier below a sand layer to limit the potential for curling.

**E.2.d. Slab Design:** The completed slab subgrade is expected to consist of at least 4 to 6 inches of clean granular fill over native glacial lean clays and silty sand. We recommend using a modulus of subgrade reaction of no more than 100 psi/inch for this stratification. This is a plate load test value that has not been modified for foundation size and shape for mat foundation design purposes.

**E.2.e. Lateral Earth Parameters:** Lateral support values are provided for design of below-grade walls and structures. Backfill should be compacted to at least 95% of its maximum standard Proctor density (ASTM D 698). Lateral resistance will depend on the materials used. We recommend using clean sands having less than 10% particles passing a #200 sieve as fill against below-grade retaining walls. A drintile is recommended at the base of the wall to prevent the collection of water. The table below presents lateral earth parameters for the recommended clean sand fill. These values do not include a safety factor.

| <b>Poorly Graded Sands (SP) 95% standard Proctor density</b> |          |
|--------------------------------------------------------------|----------|
| Internal Friction Angle (degrees)                            | 34       |
| Cohesion (psf)                                               | 0        |
| Coefficient of Friction between Concrete and Soil            | 0.40     |
| Moist Unit Weight (pcf)                                      | 120      |
| Saturated Unit Weight (pcf)                                  | 130      |
| Buoyant Effective Unit Weight (pcf)                          | 57       |
| Backslope Behind Top of Wall (degrees)                       | 0 (Flat) |
| At-Rest Coefficient (Ko)                                     | 0.44     |
| Active Coefficient (Ka)                                      | 0.28     |
| Passive Coefficient (Kp)                                     | 3.54     |

The actual loads exerted on the structure will depend on the movement or flexure of the structure. For sand fill, horizontal movement or flexure of about 0.2% of the height of soil retained may be sufficient to mobilize frictional forces from the at-rest state to the active state.

**E.2.e. Pile/Pier Lateral Earth Parameters:** Estimated soil parameters are provided for the native soils in the following table as requested to aid with lateral analysis of pile/pier foundations.

| Soil Type    | Total Unit Weight (pcf) | Average "N" Value (BPF) | Estimated Friction Angle (Degrees) | Cohesion, C (psf) | Lateral Subgrade Modulus, k (pci) | Soil Strain, $\varepsilon_{50}$ | Ultimate Passive Fluid Earth Pressure (psf/ft) |
|--------------|-------------------------|-------------------------|------------------------------------|-------------------|-----------------------------------|---------------------------------|------------------------------------------------|
| Glacial Clay | 125                     | 9                       | --                                 | 500               | 30                                | 0.02                            | 400                                            |
| Silty Sand   | 120                     | 7                       | 28                                 | --                | 20                                | --                              | 330                                            |
| Clayey Sand  | 125                     | 10                      | 30                                 | --                | 20                                | --                              | 375                                            |
| Sandy Silt   | 120                     | 8                       | 28                                 | --                | 20                                | --                              | 330                                            |
| PG Sands     | 115                     | 11                      | 30                                 | --                | 20                                | --                              | 345                                            |

## F. Construction Testing and Documentation

### F.1. Excavation

Earthwork can likely be performed with a variety of equipment, provided clayey/silty subgrades are not overly wet or saturated and sandy subgrades are not overly dry and loose. If such conditions prevail at the time of construction, tracked equipment would likely be required. A backhoe with a smooth-lipped bucket is recommended for completing excavations to limit the disturbance of the supporting soil being left in place below footings and slabs.

### F.2. Groundwater/De-watering

Again, water was observed in the borings around 3 to 7 ½ feet below the surface or near elevations 91 to 97 feet on the boring datum during our exploration. Sump pumps and pits are expected to be capable of removing seepage and precipitation that ponds in excavations. Excavations that extend into the water table are anticipated to require well-points, dewatering wells, or other aggressive water removal techniques to keep excavations dry. Contractors should be familiar with groundwater conditions in the area.

### F.3. Sideslopes

The contractor will be required to slope or shore the excavations as needed to meet OSHA requirements for safety and to limit disturbance to surrounding structures. The clays on site are expected classify as Type B/C soils as defined by OSHA, depending upon moisture contents. Sands, silts, and any saturated clays are anticipated to classify as Type C. Sheet piling/shoring, trench boxes, or other stabilization methods may be necessary when excavating close to property limits or existing structures.

#### **F.4. Filling and Compacting**

Fill should be placed in lifts adjusted to the compactor being used and the material being compacted. We recommend limiting lifts to no more than 1-foot – assuming large, self-propelled or tow behind compactors are used. Thinner lifts would be required for lighter compaction equipment.

#### **F.5. Cold Weather Construction**

If earthwork occurs during freezing temperatures, good winter construction practices should be used. No frozen fill should be used nor should filling take place on frozen ground. Slab areas should be completely thawed prior to placement of any concrete.

#### **F.6. Construction Testing and Documentation**

Grading and excavating should be evaluated and documented by geotechnical personnel, after the unsuitable materials are removed and before the placement of any fill or concrete. Fill placed below building and structure areas should be evaluated for conformance to the project gradation recommendations before its use and should be tested for compaction during construction. If the filling proceeds during periods of freezing weather, full-time testing should be considered to help confirm that imported fill is thawed prior to and during compaction, and that all snow has been removed before placement of the fill.

Although our firm offers testing services relating to civil and structural components of the building (such as concrete testing, reinforcement observations, etc.) specification of such services is beyond our work scope and the designer should be consulted as to such requirements.

### **G. Level of Care**

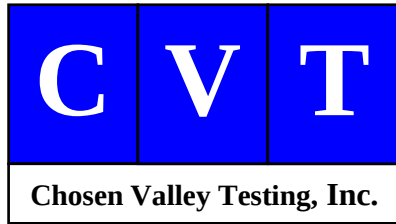
The services provided for this project have been conducted in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing in this area, under similar budget and time constraints. This is our professional responsibility. No other warranty, expressed or implied, is made.

## **Appendix**

**Boring Location Sketch**

**Log of Boring 1-5**

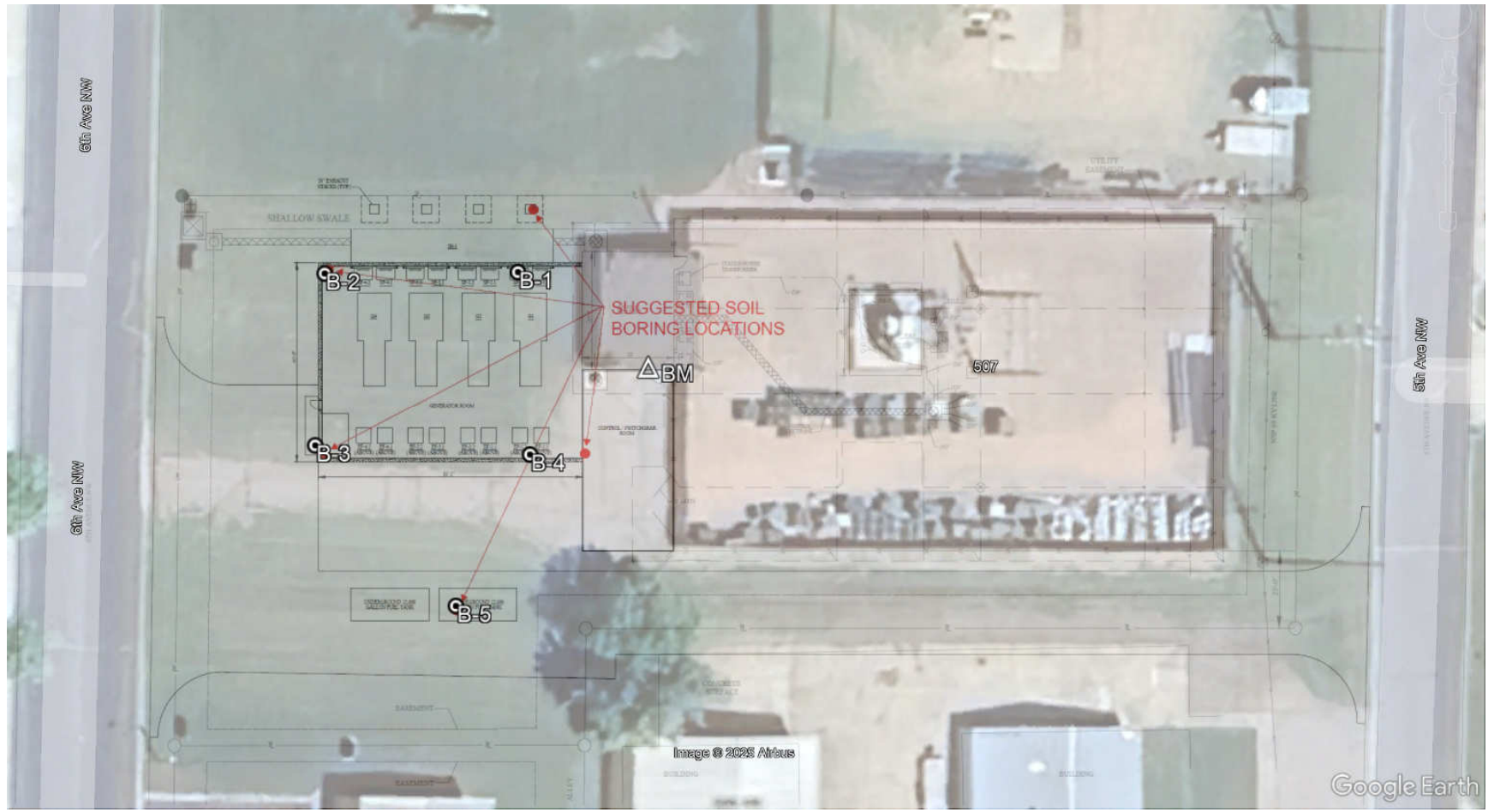
**Legend to Soil Description**



- Legend
- ⊙ Boring Locations
  - △ Benchmark



**Boring Location Sketch**  
Proposed West Energy Station Addition  
507 6<sup>th</sup> Avenue NW  
New Prague, Minnesota  
24480.24.MNR





# LOG OF BORING

CHOSEN VALLEY TESTING

CVT

PROJECT: 24480.24.MNR  
Design Phase Geotechnical Evaluation  
Proposed West Energy Station Addition  
507 6th Ave NW  
New Prague, Minnesota

BORING: **B-1**

LOCATION:  
See attached sketch

DATE: 11/11/2024

SCALE: 1" = 4'

| Elev.<br>99.9 | Depth<br>0.0 | USCS<br>Symbol | Description of Materials<br>(ASTM D 2487/2488)                                                    | BPF | WL | Tests and Notes                                                                            |
|---------------|--------------|----------------|---------------------------------------------------------------------------------------------------|-----|----|--------------------------------------------------------------------------------------------|
|               |              | CL<br>OL       | <u>Slightly Organic LEAN CLAY</u> black.<br>(topsoil)                                             |     |    | Benchmark: Finished floor<br>of existing control building,<br>assigned elevation 100 feet. |
| 97.9          | 2.0          | CL             | <u>FILL</u> , sandy lean clay, trace gravel, dark brown<br>and black, wet, rather stiff.          | 9   | ▽  | PP = 1.0 tsf                                                                               |
| 95.9          | 4.0          | CL             | <u>SANDY LEAN CLAY</u> dark gray, wet, rather stiff.<br>(Glacial Till)                            | 12  |    | PP = 3.25 tsf, MC = 16.1%                                                                  |
| 93.4          | 6.5          | SM             | <u>SILTY SAND</u> fine grained, gray, water bearing,<br>loose.<br>(Glacial Outwash)               | 8   |    |                                                                                            |
| 90.9          | 9.0          | CL             | <u>SANDY LEAN CLAY</u> trace gravel, gray, wet,<br>medium.<br>(Glacial Till)                      | 6   |    | PP = 0.5 tsf, MC = 33.5%                                                                   |
| 88.4          | 11.5         | SC             | <u>CLAYEY SAND</u> fine grained, brown, moist,<br>loose.<br>(Glacial Till)                        | 4   |    |                                                                                            |
| 85.9          | 14.0         | CL             | <u>SANDY LEAN CLAY</u> trace gravel, dark gray,<br>wet, medium to rather stiff.<br>(Glacial Till) | 10  |    | PP = 1.5 tsf                                                                               |
|               |              |                |                                                                                                   | 10  |    | PP = 1.25 tsf, MC = 21.3%                                                                  |
| 73.9          | 26.0         |                |                                                                                                   | 7   |    | PP = 1.5 tsf                                                                               |
|               |              |                | End of boring.<br>Water encountered during drilling around 3'.<br>Boring sealed upon completion.  |     |    |                                                                                            |

CVT STANDARD 24480.24.MNR (NEW PRAGUE WEST ENERGY STATION ADDITION).GPJ LOG A GNN06.GDT 1/18/25

# LOG OF BORING

CHOSEN VALLEY TESTING

CVT

PROJECT: 24480.24.MNR  
Design Phase Geotechnical Evaluation  
Proposed West Energy Station Addition  
507 6th Ave NW  
New Prague, Minnesota

BORING: **B-2**

LOCATION:  
See attached sketch

DATE: 11/11/2024

SCALE: 1" = 4'

| Elev.<br>98.3 | Depth<br>0.0 | USCS<br>Symbol | Description of Materials<br>(ASTM D 2487/2488)                                                                        | BPF | WL | Tests and Notes                                                                            |
|---------------|--------------|----------------|-----------------------------------------------------------------------------------------------------------------------|-----|----|--------------------------------------------------------------------------------------------|
|               |              | CL<br>OL       | <u>Slightly Organic LEAN CLAY</u> black.<br>(Topsoil)                                                                 |     |    | Benchmark: Finished floor<br>of existing control building,<br>assigned elevation 100 feet. |
| 96.3          | 2.0          | SM             | <u>SILTY SAND</u> fine grained, brown, moist, loose.<br>(Glacio Fluvium)                                              | 7   |    |                                                                                            |
| 94.3          | 4.0          | CL             | <u>LEAN CLAY</u> trace sand, gray, wet, medium.<br>(Glacio Fluvium)                                                   | 8   |    | MC = 31.3%                                                                                 |
| 91.8          | 6.5          | SM             | <u>SILTY SAND</u> fine grained, brown, wet to water<br>bearing, loose.<br>(Glacio Fluvium)<br>Water bearing below 7'. | 6   | ▽  |                                                                                            |
|               |              |                |                                                                                                                       | 9   |    |                                                                                            |
| 86.8          | 11.5         | ML             | <u>SANDY SILT</u> brown, wet, medium.<br>(Glacio Fluvium)                                                             | 8   |    | PP = 1.0 tsf, MC = 27.6%                                                                   |
| 84.3          | 14.0         | CL             | <u>SANDY LEAN CLAY</u> trace gravel, gray, wet,<br>rather stiff.<br>(Glacio Fluvium)                                  | 10  |    | PP = 1.75 tsf                                                                              |
|               |              |                |                                                                                                                       | 9   |    | PP = 1.75 tsf                                                                              |
| 72.3          | 26.0         |                |                                                                                                                       | 11  |    | PP = 1.25 tsf, MC = 19.2%                                                                  |
|               |              |                | End of boring.<br>Water observed during drilling around 7'.<br>Boring sealed upon completion.                         |     |    |                                                                                            |

CVT STANDARD 24480.24.MNR (NEW PRAGUE WEST ENERGY STATION ADDITION).GPJ LOG A GNN06.GDT 1/18/25

# LOG OF BORING

CHOSEN VALLEY TESTING

# CVT

| <b>PROJECT:</b> 24480.24.MNR<br>Design Phase Geotechnical Evaluation<br>Proposed West Energy Station Addition<br>507 6th Ave NW<br>New Prague, Minnesota |              |                |                                                                                                       | <b>BORING:</b> <b>B-3</b>               |                       |                                                                                            |
|----------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|----------------|-------------------------------------------------------------------------------------------------------|-----------------------------------------|-----------------------|--------------------------------------------------------------------------------------------|
|                                                                                                                                                          |              |                |                                                                                                       | <b>LOCATION:</b><br>See attached sketch |                       |                                                                                            |
|                                                                                                                                                          |              |                |                                                                                                       | <b>DATE:</b> 11/11/2024                 | <b>SCALE:</b> 1" = 4' |                                                                                            |
| Elev.<br>97.8                                                                                                                                            | Depth<br>0.0 | USCS<br>Symbol | Description of Materials<br>(ASTM D 2487/2488)                                                        | BPF                                     | WL                    | Tests and Notes                                                                            |
|                                                                                                                                                          |              | CL<br>OL       | <u>Slightly Organic LEAN CLAY</u> black.<br>(Topsoil)                                                 |                                         |                       | Benchmark: Finished floor<br>of existing control building,<br>assigned elevation 100 feet. |
| 95.8                                                                                                                                                     | 2.0          | CL             | <u>LEAN CLAY with SAND</u> trace gravel, gray, wet,<br>rather soft to rather stiff.<br>(Glacial Till) | 5                                       |                       | PP = 1.0 tsf, MC = 26.5%                                                                   |
|                                                                                                                                                          |              |                |                                                                                                       | 8                                       |                       | PP = 0.75 tsf                                                                              |
|                                                                                                                                                          |              |                |                                                                                                       | 9                                       |                       | PP = 1.25 tsf                                                                              |
|                                                                                                                                                          |              |                |                                                                                                       | 9                                       |                       | PP = 2.5 tsf                                                                               |
|                                                                                                                                                          |              |                | Dark gray below 11.5'.                                                                                | 11                                      |                       | PP = 1.5 tsf, MC = 24.7%                                                                   |
|                                                                                                                                                          |              |                |                                                                                                       | 11                                      |                       | PP = 1.5 tsf                                                                               |
|                                                                                                                                                          |              |                |                                                                                                       | 12                                      |                       | PP = 1.75 tsf, MC = 23.3%                                                                  |
| 71.8                                                                                                                                                     | 26.0         |                |                                                                                                       | 12                                      |                       | PP = 2.0 tsf                                                                               |
|                                                                                                                                                          |              |                | End of boring.<br>Boring sealed upon completion.                                                      |                                         |                       |                                                                                            |

CVT STANDARD 24480.24.MNR (NEW PRAGUE WEST ENERGY STATION ADDITION).GPJ LOG A GNNIN06.GDT 1/18/25

# LOG OF BORING

CHOSEN VALLEY TESTING

CVT

PROJECT: 24480.24.MNR  
Design Phase Geotechnical Evaluation  
Proposed West Energy Station Addition  
507 6th Ave NW  
New Prague, Minnesota

BORING: **B-4**

LOCATION:  
See attached sketch

DATE: 11/11/2024

SCALE: 1" = 4'

| Elev.<br>98.8 | Depth<br>0.0 | USCS<br>Symbol | Description of Materials<br>(ASTM D 2487/2488)                                                       | BPF | WL | Tests and Notes                                                                            |
|---------------|--------------|----------------|------------------------------------------------------------------------------------------------------|-----|----|--------------------------------------------------------------------------------------------|
|               |              | CL<br>OL       | <u>Slightly Organic LEAN CLAY</u> black.<br>(Topsoil)                                                |     |    | Benchmark: Finished floor<br>of existing control building,<br>assigned elevation 100 feet. |
| 96.8          | 2.0          | CL             | <u>SANDY LEAN CLAY</u> trace gravel, brown, wet,<br>medium to rather stiff.<br>(Glacial Till)        | 6   |    | PP = 2.0 tsf                                                                               |
|               |              |                | Gray below 4'.                                                                                       | 6   |    | PP = 0.75 tsf, MC = 28.7%                                                                  |
|               |              |                |                                                                                                      | 6   |    | PP = 1.75 tsf                                                                              |
|               |              |                |                                                                                                      | 9   |    | PP = 2.0 tsf                                                                               |
|               |              |                | Dark gray below 11.5'.                                                                               | 11  |    | PP = 3.0 tsf, MC = 20.8%                                                                   |
|               |              |                |                                                                                                      | 9   |    | PP = 2.75 tsf                                                                              |
| 78.8          | 20.0         | SP             | <u>POORLY GRADED SAND</u> fine to medium<br>grained, gray, moist, medium dense.<br>(Glacial Outwash) | 13  |    | PP = 2.5 tsf                                                                               |
| 76.3          | 22.5         | CL             | <u>SANDY LEAN CLAY</u> trace gravel, dark gray,<br>wet, rather stiff.<br>(Glacial Till)              |     |    |                                                                                            |
| 72.8          | 26.0         |                |                                                                                                      | 12  |    | PP = 1.5 tsf, MC = 19.5%                                                                   |
|               |              |                | End of boring.<br>Boring sealed upon completion.                                                     |     |    |                                                                                            |

CVT STANDARD 24480.24.MNR (NEW PRAGUE WEST ENERGY STATION ADDITION).GPJ LOG A GNN06.GDT 1/18/25

# LOG OF BORING

CHOSEN VALLEY TESTING

CVT

PROJECT: 24480.24.MNR  
Design Phase Geotechnical Evaluation  
Proposed West Energy Station Addition  
507 6th Ave NW  
New Prague, Minnesota

BORING: **B-5**

LOCATION:  
See attached sketch

DATE: 11/11/2024

SCALE: 1" = 4'

| Elev.<br>98.4 | Depth<br>0.0 | USCS<br>Symbol | Description of Materials<br>(ASTM D 2487/2488)                                                                        | BPF | WL | Tests and Notes                                                                            |
|---------------|--------------|----------------|-----------------------------------------------------------------------------------------------------------------------|-----|----|--------------------------------------------------------------------------------------------|
| 96.4          | 2.0          | CL<br>OL       | <b>Slightly Organic LEAN CLAY</b> black.<br>(Topsoil)                                                                 |     |    | Benchmark: Finished floor<br>of existing control building,<br>assigned elevation 100 feet. |
|               |              | SM             | <b>SILTY SAND</b> fine grained, brown, moist to water<br>bearing, loose.<br>(Glacio Fluvium)                          | 6   |    |                                                                                            |
| 89.4          | 9.0          |                | Water bearing below 7.5'.                                                                                             | 6   | ▽  |                                                                                            |
| 84.4          | 14.0         | SP<br>SM       | <b>POORLY GRADED SAND with SILT</b> fine<br>grained, gray, water bearing, loose to medium dense.<br>(Glacial Outwash) | 7   |    | PP = 0.75 tsf, MC = 21.6%                                                                  |
|               |              |                | Seams of lean clay around 12.5'.                                                                                      | 13  |    |                                                                                            |
| 80.9          | 17.5         | SC             | <b>CLAYEY SAND</b> fine grained, brown, moist,<br>medium dense.<br>(Glacial Till)                                     | 17  |    |                                                                                            |
| 72.4          | 26.0         | CL             | <b>SANDY LEAN CLAY</b> trace gravel, dark gray,<br>wet, rather stiff to stiff.<br>(Glacial Till)                      | 9   |    | PP = 1.25 tsf                                                                              |
|               |              |                | End of boring.<br>Water observed during drilling around 7.5'.<br>Boring sealed upon completion.                       | 14  |    |                                                                                            |

CVT STANDARD 24480.24.MNR (NEW PRAGUE WEST ENERGY STATION ADDITION).GPJ LOG A GNN06.GDT 1/18/25

# UNIFIED SOIL CLASSIFICATION (ASTM D-2487/2488)

| MATERIAL TYPES                                         | CRITERIA FOR ASSIGNING SOIL GROUP NAMES                        |                                                           |                                     | GROUP SYMBOL | SOIL GROUP NAMES & LEGEND |  |
|--------------------------------------------------------|----------------------------------------------------------------|-----------------------------------------------------------|-------------------------------------|--------------|---------------------------|--|
| COARSE-GRAINED SOILS<br>>50% RETAINED ON NO. 200 SIEVE | GRAVELS<br><br>>50% OF COARSE FRACTION RETAINED ON NO 4. SIEVE | CLEAN GRAVELS<br><5% FINES                                | Cu>4 AND 1<Cc<3                     | GW           | WELL-GRADED GRAVEL        |  |
|                                                        |                                                                |                                                           | Cu>4 AND 1>Cc>3                     | GP           | POORLY-GRADED GRAVEL      |  |
|                                                        |                                                                | GRAVELS WITH FINES<br>>12% FINES                          | FINES CLASSIFY AS ML OR CL          | GM           | SILTY GRAVEL              |  |
|                                                        |                                                                |                                                           | FINES CLASSIFY AS CL OR CH          | GC           | CLAYEY GRAVEL             |  |
|                                                        | SANDS<br><br>>50% OF COARSE FRACTION PASSES ON NO 4. SIEVE     | CLEAN SANDS<br><5% FINES                                  | Cu>6 AND 1<Cc<3                     | SW           | WELL-GRADED SAND          |  |
|                                                        |                                                                |                                                           | Cu>6 AND 1>Cc>3                     | SP           | POORLY-GRADED SAND        |  |
|                                                        |                                                                | SANDS AND FINES<br>>12% FINES                             | FINES CLASSIFY AS ML OR CL          | SM           | SILTY SAND                |  |
|                                                        |                                                                |                                                           | FINES CLASSIFY AS CL OR CH          | SC           | CLAYEY SAND               |  |
| FINE-GRAINED SOILS<br>>50% PASSES NO. 200 SIEVE        | SILTS AND CLAYS<br><br>LIQUID LIMIT<50                         | INORGANIC                                                 | PI>7 AND PLOTS>"A" LINE             | CL           | LEAN CLAY                 |  |
|                                                        |                                                                |                                                           | PI>4 AND PLOTS<"A" LINE             | ML           | SILT                      |  |
|                                                        |                                                                | ORGANIC                                                   | LL (oven dried)/LL (not dried)<0.75 | OL           | ORGANIC CLAY OR SILT      |  |
|                                                        | SILTS AND CLAYS<br><br>LIQUID LIMIT>50                         | INORGANIC                                                 | PI PLOTS >"A" LINE                  | CH           | FAT CLAY                  |  |
|                                                        |                                                                |                                                           | PI PLOTS <"A" LINE                  | MH           | ELASTIC SILT              |  |
|                                                        |                                                                | ORGANIC                                                   | LL (oven dried)/LL (not dried)<0.75 | OH           | ORGANIC CLAY OR SILT      |  |
| HIGHLY ORGANIC SOILS                                   |                                                                | PRIMARILY ORGANIC MATTER, DARK IN COLOR, AND ORGANIC ODOR |                                     | PT           | PEAT                      |  |

| Relative Proportions of Sand and Gravel |                        |
|-----------------------------------------|------------------------|
| TERM                                    | PERCENT                |
| Trace                                   | < 15                   |
| With                                    | 15 - 29                |
| Modifier                                | > 30                   |
| Relative Proportions of Fines           |                        |
| TERM                                    | PERCENT                |
| Trace                                   | < 5                    |
| With                                    | 5 - 12                 |
| Modifier                                | > 12                   |
| Grain Size Terminology                  |                        |
| TERM                                    | SIZE                   |
| Boulder                                 | > 12 in.               |
| Cobble                                  | 3 in. - 12 in.         |
| Gravel                                  | #4 sieve to 3 in.      |
| Sand                                    | #200 sieve to #4 sieve |
| Silt or Clay                            | Passing #200 sieve     |

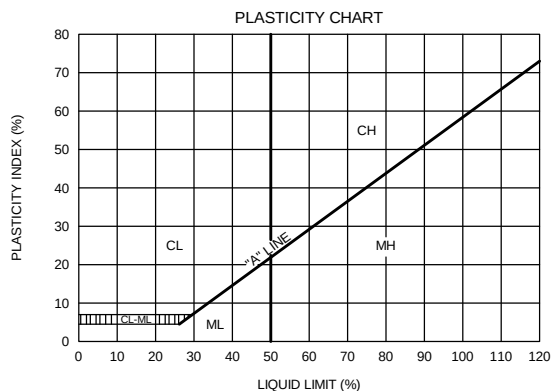
## SAMPLE TYPES

- Hollow Stem  
 Standard Penetration Test

## TEST SYMBOLS

- |                             |                                        |
|-----------------------------|----------------------------------------|
| MC - MOISTURE CONTENT       | LL - LIQUID LIMIT                      |
| OC - ORGANIC CONTENT        | PI - PLASTISITY INDEX                  |
| CN - CONSOLIDATION          | SW - SWELL TEST                        |
| DD - DRY DENSITY            | UU - Unconsolidated Undrained triaxial |
| PP - POCKET PENETROMETER    |                                        |
| RV - R-VALUE                |                                        |
| SA - SIEVE ANALYSIS         |                                        |
| P200 - % PASSING #200 SIEVE |                                        |

- WATER LEVEL (WITH TIME OF MEASUREMENT)



| PENETRATION RESISTANCE<br>(RECORDED AS BLOWS / 0.5 FT) |             |              |             |                            |
|--------------------------------------------------------|-------------|--------------|-------------|----------------------------|
| SAND & GRAVEL                                          |             | SILT & CLAY  |             |                            |
| RELATIVE DENSITY                                       | BLOWS/FOOT* | CONSISTENCY  | BLOWS/FOOT* | COMPRESSIVE STRENGTH (TSF) |
| VERY LOOSE                                             | 0 - 4       | VERY SOFT    | 0 - 1       | 0 - 0.25                   |
| LOOSE                                                  | 4 - 10      | SOFT         | 2 - 3       | 0.25 - 0.50                |
| MEDIUM DENSE                                           | 10 - 30     | RATHER SOFT  | 4 - 5       | 0.50 - 1.0                 |
| DENSE                                                  | 30 - 50     | MEDIUM       | 6 - 8       |                            |
| VERY DENSE                                             | OVER 50     | RATHER STIFF | 9 - 12      | 1.0 - 2.0                  |
|                                                        |             | STIFF        | 13 - 16     | 2.0 - 4.0                  |
|                                                        |             | VERY STIFF   | 17 - 30     | OVER 4.0                   |
|                                                        |             | HARD         | OVER 30     |                            |

\* NUMBER OF BLOWS OF 140 LB HAMMER FALLING 30 INCHES TO DRIVE A 2 INCH O.D. (1-3/8 INCH I.D.) SPLIT-BARREL SAMPLER THE LAST 12 INCHES OF AN 18-INCH DRIVE (ASTM-1586 STANDARD PENETRATION TEST).

**Chosen Valley Testing**

Job No. 24480.24.MNR

**LEGEND TO SOIL DESCRIPTIONS**

**CVT**