

# COB - BOSAIR FORM

10/29/2025 4:06 PM (MST)

Submitted by Karrie.Hixon@pima.gov



## BOARD OF SUPERVISORS AGENDA ITEM REPORT (BOSAIR)

**\*All fields are required. Enter N/A if not applicable. For number fields, enter 0 if not applicable.\***

Record Number: SC CLR SC2500000598

Award Type: Contract

Is a Board Meeting Date Requested? Yes

Requested Board Meeting Date: 12/02/2025

Signature Only:

NO

Procurement Director Award / Delegated Award: • N/A

Supplier / Customer / Grantor / Subrecipient: B-J Drilling Company, Inc. (Headquarters: Benson, AZ) and Weber Water Resources, LLC (Headquarters: Mesa, AZ)

Project Title / Description: Job Order Contract: Well Installation, Development and Repair

Purpose: Award: Supplier Contract No. SC2500000598. This award of supplier contract is recommended to the highest ranking qualified contractors in an annual shared amount of \$500,00.00 for an initial 1 year contract term from 01/05/26 to 01/04/27 which may be extended for up to 4 additional one-year terms. Administering Department: Conservation, Lands and Resources.

This is an indefinite delivery/indefinite quantity job order contract. Funding sources will be determined at time of project job order. For projects estimated less than \$10,000.00, the department may select a contractor based on availability, specialty or other such basis as the department may determine in its sole discretion. For projects estimated at \$10,000.00 or more, all contractors will be given the opportunity to compete on the basis of cost or cost and schedule through a request for quotation. No individual job order may exceed \$150,000.00, including any change orders.

Procurement Method: Other

Insert additional Procurement Method info, if applicable: Request for Qualifications No. RFQu-2500018899 was conducted in accordance with A.R.S. § 34-604 and Pima County Board of Supervisors Policy D 29.1. Two responsive statements of qualifications were received and evaluated by a 4 member committee using qualifications and experience-based selection criteria. Based upon the evaluation of the respondents' written representations of their qualifications and necessary due diligence, the final list of the 2 highest ranking qualified contractors are recommended for award.

To: COB 11-14-25<sup>(1)</sup>

Vers: 0

Pgs: 106

Attachments: Notice of Recommendation for Award and Supplier Contract.

NOV14'25AM0749 PD

<b>Program Goals/Predicted Outcomes:</b>	Create more sustainable water for ranches and wildlife, increasing reliable year-round water sources on Pima County property. This will create better opportunities for wildlife population growth and better use of pastures for livestock management.
<b>Public Benefit and Impact:</b>	Provides public lands sustainable water sources, increasing wildlife populations and increased quality in livestock that will be a benefit to the public on Ranches and Open Space lands across Pima County.
<b>Budget Pillar</b>	<ul style="list-style-type: none"> <li>Core functions &amp; excellent service</li> </ul>
<b>Support of Prosperity Initiative:</b>	<ul style="list-style-type: none"> <li>N/A</li> </ul>
<b>Provide information that explains how this activity supports the selected Prosperity Initiatives</b>	N/A
<b>Metrics Available to Measure Performance:</b>	Performance will be measured using the contractor evaluation process as outlined in BOS Policy D 29.1(E).
<b>Retroactive:</b>	NO

### Contract / Award Information

Record Number: SC CLR SC2500000598

<b>Document Type:</b>	SC
<b>Department Code:</b>	CLR
<b>Contract Number:</b>	SC2500000598
<b>Commencement Date:</b>	01/05/2026
<b>Termination Date:</b>	01/04/2027
<b>Total Expense Amount:</b>	
	\$500,000.00
<b>Total Revenue Amount:</b>	
	\$0.00
<b>Funding Source Name(s) Required:</b>	Conservation Lands & Resources and Various Pima County Department Funds
<b>Funding from General Fund?</b>	NO
<b>Contract is fully or partially funded with Federal Funds?</b>	NO
<b>Were insurance or indemnity clauses modified?</b>	NO

Vendor is using a Social Security Number?

NO

Department: Procurement

Name: Karrie Hixon

Telephone: 520-724-3542

Add Procurement Department Signatures

Yes


Add GMI Department Signatures


No

Division Manager/Procurement Officer Signature: Scott Loomis Digitally signed by Scott Loomis  
Date: 2025.10.29 16:54:50 -07'00' Date: \_\_\_\_\_

Procurement Director Signature: Bruce D Collins Digitally signed by Bruce D Collins  
Date: 2025.10.30 11:54:27 -07'00' Date: \_\_\_\_\_

Department Director Signature: Kris Gade Digitally signed by Kris Gade  
DN: cn=Kris Gade, o=Pima County, ou=Conservation  
Lands and Resources, email=kris.gade@pima.gov, c=US  
Date: 2025.10.30 15:56:55 -07'00' Date: \_\_\_\_\_

Deputy County Administrator Signature:  Date: 11/5/2025

County Administrator Signature:  Date: 11/5/2025





## **NOTICE OF RECOMMENDATION FOR AWARD**

Date of Issue: October 30, 2025

The Procurement Department hereby issues formal notice to respondents to **Solicitation No. RFQu-2500018899 Job Order Contract: Well Installation, Development and Repair** that the following listed respondents will be recommended for award of a shared Supplier Contract in the annual award amount of \$500,000.00. The award action is scheduled to be performed by the Board of Supervisors on or after December 2, 2025.

Award is recommended to the most qualified Respondents (listed alphabetically).

### **AWARDEE NAMES**

B-J Drilling Co Inc.

Weber Water Resources, LLC

***NOTE:*** Pursuant to A.R.S. §34-604(H), only the names of the firms on the final list may be disclosed.

Issued by: Karrie Hixon, Procurement Officer

Telephone Number: (520) 724-3542

This notice is in compliance with Pima County Procurement Code §11.12.010(C) and §11.20.010(C).

Copy to: Pima County SBE via e-mail at [SBE@pima.gov](mailto:SBE@pima.gov).

## **PIMA COUNTY CONSERVATION LANDS AND RESOURCES**

**PROJECT:** Job Order Contract: Well Installation, Development and Repair

**CONTRACTORS:** B-J Drilling Company, Inc.  
2094 N. Hwy 90  
Huachuca City, AZ 85616

Weber Water Resources, LLC  
7551 S. Atwood  
Mesa, AZ 85212

**CONTRACT NO.:** SC2500000598

**AMOUNT:** \$500,000.00

**FUNDING:** Conservation Lands & Resources and Various Pima County Department Funds

### **JOB ORDER CONTRACT**

#### **1. Parties, Background and Purpose.**

- 1.1. Parties. This Agreement is entered into between Pima County, a body politic and corporate of the State of Arizona, hereinafter called County, and B-J Drilling Company, Inc. and Weber Water Resources, LLC, hereinafter called Contractor in the singular, Contractors in the plural, and collectively referred to as the Parties.
- 1.2. Authority. County has a need to establish an Agreement with up to 2 Job Order Contractors for Well Installation, Development and Repair.
- 1.3. Qualifications Based Solicitation. County conducted a competitive qualifications-based procurement pursuant to A.R.S. §34-604, for Job Order Contractors under RFQu-2500018899. Based on an evaluation of the respondents' representations of their qualifications and necessary due diligence, County selected the 2 highest qualified Contractors as Job Order Contractors. The Job Order Contractors have agreed to be bound by and adhere to the requirements of this Agreement.

#### **2. Basic Terms, Renewals, Extensions and Revisions.**

- 2.1. Initial Term. This Contract (Agreement), as approved by the Board of Supervisors, commences on January 5, 2026 and terminates on January 4, 2027, unless sooner terminated or further extended pursuant to the provisions of this Agreement. This Agreement establishes the terms under which the Job Order Contractors will be assigned and perform tasks and projects under this Agreement.
- 2.2. Extension Options. County, at its sole discretion, may extend up to 4 additional 1-year terms or add funding to this Agreement at any time with the acknowledgment of the Contractors and the Board of Supervisors' or the Procurement Director's approval pursuant to Board of Supervisor Policy D29.4. Contract extensions, renewals, or revisions will occur through the issuance by County to Contractor of a revised Agreement document setting forth the requested changes. Failure by Contractor to object in writing to the proposed revisions, terms, conditions, scope modifications and/or specifications within 10 calendar days of issuance by County will signify acceptance of all such changes by Contractor and the revision will be binding upon the Parties.
- 2.3. Individual Job Orders. Individual job orders will be implemented by issuing a Purchase Order (PO) to the selected Job Order Contractor to perform the work. Each PO will be an independent contract that will

incorporate and be subject to the terms of this Agreement. The terms "PO", "Delivery Order (DO)", "Job Order", and "Contract" are used interchangeably in this Agreement.

2.3.1. Competition Thresholds.

2.3.1.1. For projects less than \$10,000.00, and during emergency situations, County may select a Contractor based on availability, specialty, or such other basis as County may determine in its sole discretion. During emergency situations requiring immediate attention by County (i.e., Flooding or other disaster prevention) County reserves the right to select a Job Order Contractor on a non-competitive basis for the work. In addition, the requirement that a Job Order Contract be in place prior to the initiation of work is waived during such an event. During such an emergency, a Contractor may be contacted and given instructions by a County Project Manager to perform the work immediately without an approved Job Order. It is understood that County will prepare a Job Order as soon as practicable following said instructions.

2.3.1.2. For projects of \$10,000.00 or more, all Contractors will compete on the basis of cost or cost and schedule through a request for quotation. Price may be either a fixed cost or a guaranteed maximum price.

2.3.1.3. All federally funded Job Orders will be competitively bid among all Contractors.

2.3.1.4. No individual Job Order may exceed \$150,000.00, including change orders.

2.3.2. Small Business Enterprise. These services are subject to the Pima County Code, Title 20, and Chapter 20.04, pertaining to participation of subcontractors. The Pima County SBE Program is a race and gender neutral program established to encourage contracting with all small businesses. Due to limited subcontracting opportunities, No Goal has been set for participation by Small Business Enterprises (SBE). The current list of certified SBE firms can be located on the City of Tucson's Procurement Website, [City of Tucson Business Enterprise Program Certification & Compliance System](#).

2.3.3. Construction Completion Time: Work performed under this Agreement will be as stated in Individual Job Orders issued under this Agreement. County will assess Liquidated damages against Contractor based upon the construction completion time, if so specified in a Job Order.

2.3.4. Subcontractors: Subcontractors will be selected in accordance with Contractor's Subcontractor Selection Plan, incorporated herein by reference.

3. **Scope of Services.** Contractor will provide County all labor, materials and equipment necessary to complete the project as described in Exhibit A – Scope of Services (1 Page), incorporated into this Agreement. All work will be done per specifications called for in the bid documents as contained in Pima County Solicitation Number RFQu-2500018899, Exhibit B - General Conditions (11 Pages), Exhibit C - Special Conditions – Multiple Award Job Order Contract (12 Pages), Exhibit D – Supplemental Provisions For Federal-Aid Contracts (3 Pages) and other documents incorporated into this Agreement.

4. **Compensation and Payment.**

4.1. Compensation. County will pay Contractor as specified.

4.1.1. Invoices. Contractor will provide detailed documentation in support of requested payment. The Contractor must cite the Purchase Order number on all invoices. Payments will be made in accordance with ARS § 34-609.

- 4.1.1.1. For the period of record retention required under Section 25, County reserves the right to question any payment made under this Section and to require reimbursement by setoff or otherwise for payments determined to be improper or contrary to the Agreement or law.
5. **Federal Funding.** County and Contractor understand the Job Orders under this Agreement may be funded partially or entirely through a federal grant or other source of federal funding.
  - 5.1. Federal Labor Standards. Federal Labor Standards are applicable for Job Orders identified as being federally funded.
  - 5.2. Additional Requirements. Federal forms will be attached to the Job Order, and Contractor agrees to be bound by all requirements.
    - 5.2.1. Exhibit D – Supplemental Provisions for Federal-Aid Construction Contracts.
    - 5.2.2. Davis Bacon (AZ. Wage Decision). Minimum wage rate, withholding, payroll, apprentice, subcontracting, and termination provisions, and the Work Hour and Safety Standards Act related to overtime pay and safety.
  - 5.3. Subcontracting. Contractor will not subcontract on any federally funded Job Order with any firm or person listed in the Federal Government's [System for Award Management \(SAM\) system](#) with an active exclusion.
6. **Insurance.** The Insurance Requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract.
  - 6.1. Ratings. Contractor's insurance shall be placed with companies licensed in the State of Arizona and the insureds shall have an "A.M. Best" rating of not less than A- VII. County in no way warrants that the minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.
  - 6.2. Insurance Coverages and Limits.
    - 6.2.1. Minimum Scope and Limits of Insurance: Contractor will procure and maintain at its own expense insurance policies (the "Required Insurance") satisfying the below requirements (the "Insurance Requirements") until all of its obligations under this Agreement have been met. The below Insurance Requirements are minimum requirements for this Agreement and in no way limit Contractor's indemnity obligations under this Agreement. County in no way warrants that the required insurance is sufficient to protect the Contractor for liabilities that may arise from or relate to this Agreement. If necessary, Contractor may obtain commercial umbrella or excess insurance to satisfy the Insurance Requirements.
      - 6.2.1.1. Commercial General Liability (CGL) – Occurrence Form with limits of \$2,000,000 Each Occurrence and \$2,000,000 General Aggregate. Policy will include bodily injury, property damage, and broad form contractual liability coverage, personal and advertising injury and products – completed operations.
      - 6.2.1.2. Business Automobile Liability – Bodily Injury and Property Damage for any owned, hired, and/or non-owned automobiles used in the performance of this Agreement with a Combined Single Limit (CSL) of \$1,000,000 each accident.
      - 6.2.1.3. Workers' Compensation and Employers' Liability - Statutory requirements and benefits for Workers' Compensation. In Arizona, WC coverage is compulsory for employers of 1 or more employees. Employer's Liability coverage- \$1,000,000 each accident and each person - disease.

6.2.1.4. Builder's Risk Insurance – Insurance applies to this Agreement, but need not be provided unless required for a particular job order. If Builders Risk Insurance applies to a particular job order, then Contractor is required to maintain throughout the course of construction Builder's Risk Insurance in a dollar amount equal to the full insurable value under the job order, which shall include "All Risk" coverage. Pima County shall be named as a "Loss Payee". Contractor is responsible for equipment, materials, and supplies until completion of the project and acceptance by County.

6.2.1.5. Claims-Made Coverage. Claim-Made Insurance Coverage - If any part of the Required Insurance is written on a claims-made basis, any policy retroactive date must precede the effective date of this Agreement, and Contractor must maintain such coverage for a period of not less than 3 years following Agreement expiration, termination or cancellation.

6.3. Additional Insurance Requirements:

The policies will include, or be endorsed to include, as required by this written agreement, the following provisions:

6.3.1. Additional Insured: The General Liability and Business Automobile Liability Policies shall each be endorsed to include Pima County, its departments, districts, boards, commissions, officers, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by or on behalf of Contractor.

6.3.2. Subrogation: The General Liability, Business Automobile Liability and Workers' Compensation Policies shall each contain a waiver of subrogation endorsement in favor of County, its departments, districts, boards, commissions, officers, officials, agents, and employees for losses arising from work performed by or on behalf of Contractor.

6.3.3. Primary Insurance: The Contractor's policies shall stipulate that the insurance afforded the Contractor shall be primary and that any insurance carried by County, its agents, officials, or employees shall be excess and not contributory insurance.

6.3.4. Insurance provided by Contractor shall not limit Contractor's liability assumed under the indemnification provisions of this Contract.

6.4. Notice of Cancellation:

Each Required Insurance policy must provide, and certificates specify, County will receive not less than 30 days advance written notice of any policy cancellation, except 10-days prior notice is sufficient when the cancellation is for non-payment of a premium. Notice shall include the County project or Agreement number and project description.

6.5. Verification of Coverage:

Contractor will furnish County with certificates of insurance as required by this Contract. An authorized representative of the insurer will sign the certificates.

6.5.1. All certificates and endorsements, as required by this Agreement, are to be received and approved by County before work commences. Each insurance policy required by this Agreement must be in effect at, or prior to, commencement of work under this Agreement. Failure to maintain the insurance coverages or policies as required by this Agreement, or to provide evidence of renewal, is a material breach of Agreement.

6.5.2. All certificates required by this Agreement shall be sent directly to the appropriate County Department. The Certificate of Insurance shall include County project or contract number and



project description on the certificate. County reserves the right to require complete copies of all insurance policies required by this Contract at any time.

6.6. Approval and Modifications:

The Pima County Risk Manager may modify the Insurance Requirements at any point during the Term of this Contract. This can be done administratively, with written notice from the Risk Manager and does not require a formal Contract amendment. Neither the County's failure to obtain a required insurance certificate or endorsement, the County's failure to object to a non-complying insurance certificate or endorsement, nor the County's receipt of any other information from the Contractor, its insurance broker(s) and/or insurer(s), constitutes a waiver of any of the Insurance Requirements.

**7. Indemnification.**

7.1. To the fullest extent permitted by law, Contractor will defend, indemnify, and hold harmless Pima County and any related taxing district, and the officials and employees of each of them (collectively, "Indemnatee") from and against any and all claims, actions, liabilities, losses, and expenses (including reasonable attorney fees) (collectively, "Claims") arising out of actual or alleged injury of any person (including death) or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by any act or omission of Contractor or any of Contractor's directors, officers, agents, employees, volunteers, or subcontractor. This indemnity includes any claim or amount arising or recovered under the Workers' Compensation Law or arising out of the failure of Contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. The Indemnatee will, in all instances, except for Claims arising solely from the acts or omissions of the Indemnatee, be indemnified by Contractor from and against any and all Claims. Contractor is responsible for primary loss investigation, defense and judgment costs for any Claim to which this indemnity applies. This indemnity will survive the expiration or termination of this Contract.

7.2. All warranty and indemnification obligations under this Agreement shall survive expiration or termination of the Contract, unless expressly provided otherwise. The Parties agree that any indemnification provision inconsistent with A.R.S. § 34-226 is, in all cases, not void, but will be interpreted and applied as if it were consistent with A.R.S. § 34-226.

7.3. Upon request, Contractor may fully indemnify and hold harmless any private property owner granting a right of entry to Contractor for the purpose of completing the project.

**8. Bonding Requirements.** Contractor will file payment and performance bonds with County, as required by A.R.S. §§ 34-610 and 34-611, no later than the time of agreement on the price (or Guaranteed Maximum Price) for any construction under this Agreement.

8.1. Bonds will be submitted on an annual basis for the full value of all construction reasonably anticipated during the Agreement year or may be provided on a Job-Order by Job-Order basis; in the latter case, Contractor will anticipate additional Job Orders and provide bonds in reasonable increments.

8.1.1. If bonds are secured on a Job-Order by Job-Order basis, the Contracting Department will obtain the appropriate bonds from Contractor upon issuance of a Job Order and prior to release of the Purchase Order.

8.2. At no time will the cumulative value of the bonds be less than the total value of the construction performed by Contractor under this Agreement, including Job Orders awarded to Contractor but not yet completed.

**9. Laws and Regulations.**

9.1. Compliance with Laws. Contractor will comply with all federal, state, and local laws, rules, regulations, standards and Executive Orders, without limitation to those designated within this Agreement.

- 9.2. Choice of Law; Venue. The laws and regulations of the State of Arizona govern the rights and obligations of the parties under this Contract. Any action relating to this Contract must be filed and maintained in Superior Court in Pima County.
- 9.3. Licensing. Contractor warrants that it is appropriately licensed to provide the services under this Contract licensed.
10. **Status of Independent Contractor.** Contractor is an independent Contractor. Neither Contractor, nor any of Contractor's officers, agents or employees will be considered an employee of Pima County for any purpose or be entitled to receive any employment-related benefits, or assert any protections, under the Pima County Merit System. Contractor is responsible for paying all federal, state and local taxes on the compensation received by Contractor under this Contract and will indemnify and hold County harmless from any and all liability that County may incur because of Contractor's failure to pay such taxes.
11. **Contractor/Subcontractor Performance.**
- 11.1. Performance. Contractor will perform the work with the degree of care and skill which a licensed contractor in Arizona would exercise under similar conditions. Contractor will employ suitably trained and skilled personnel to perform all required services under this Agreement. Prior to changing any key personnel, especially those key personnel County relied upon in making this Agreement, Contractor will obtain County's approval.
- 11.2. Responsibility. Contractor is responsible for the professional quality, technical accuracy, timely completion, and the coordination of all its effort and other services furnished by Contractor under this Agreement. Without additional compensation, Contractor will correct or revise any errors, omissions, or other deficiencies in all products of its efforts and other services provided. This includes resolving any deficiencies arising out of the acts or omissions of Contractor found during or after the course of the services performed by or for Contractor under this Agreement, regardless of County having knowledge of or condoning or accepting the products or the services. Correction of such deficiencies will be at no cost to County.
- 11.3. Subcontractor License. Contractor will ensure that all Subcontractors have the appropriate and current license issued by the Arizona Registrar of Contractors for work they perform under this Agreement. Contractor will not permit any Subcontractor to perform work that does not fall within the scope of the Subcontractor's license, except as may be permitted under the rules of the Registrar of Contractors.
- 11.4. Subcontractor Acts and Omissions. Contractor will be fully responsible for all acts and omissions of its Subcontractor(s) and of persons directly or indirectly employed by Subcontractor and of persons for whose acts any of them may be liable to the same extent that Contractor is responsible for the acts and omissions of persons directly employed by it. Nothing in this Agreement creates any obligation on the part of County to pay any Subcontractor, except as may be required by law.
- 11.5. Subcontractor List. Contractor must use the Subcontractor's named on Contractor's Subcontractor List submitted with the bid. No Subcontractor may be added or changed without the prior written approval of County subsequent to review and approval by the Administering Department Director and Procurement Director. Substitution of non-SBE Subcontractors may be approved at the discretion of County for reasons including but not limited to, availability, insolvency or any other reason deemed to be in the best interest of County. Approval for substitution of SBE Subcontractors that are listed on the Bidders Statement of Proposed SBE Utilization submitted with the bid will only be granted if the provisions of Section 20.28.050 of the Pima County Code have been met.
12. **Assignment.** Contractor will not assign its rights or obligations under this Agreement in whole or in part, without County's prior written approval. County may withhold approval at its sole discretion.
13. **Non-Discrimination.** Contractor will comply with all provisions and requirements of Arizona Executive Order 2009-09, which is hereby incorporated into this contract, including flow-down of all provisions and requirements to any Subcontractors. During the performance of this Agreement, Contractor will not discriminate against any

employee, client or any other individual in any way because of that person's age, race, creed, color, religion, sex, disability or national origin.

14. **Americans with Disabilities Act.** Contractor will comply with Title II of the Americans with Disabilities Act (Public Law 110-325, 42 U.S.C. §§ 12101-12213) and the federal regulations for Title II (28 CFR Part 35).
15. **Authority to Contract.** Contractor warrants its right and power to enter into this Agreement. If any court or administrative agency determines that County does not have authority to enter into this Agreement, County will not be liable to Contractor or any third party by reason of such determination or by reason of this Agreement.
16. **Non-Waiver.** The failure of County to insist in any 1 or more instances upon full and complete compliance with any of the terms and provisions of this Agreement or to take any action permitted as a result thereof is not a waiver or relinquishment of the right to insist upon full and complete performance of the same or any other covenant or condition either in the past or in the future. The acceptance by either party of sums less than may be due and owing it at any time is not an accord and satisfaction.
17. **Cancellation for Conflict of Interest.** This Agreement is subject to cancellation for conflict of interest pursuant to A.R.S. § 38-511, the pertinent provisions of which are incorporated into this Contract by reference.
18. **Termination of Contract for Default.**
  - 18.1. Upon a failure by Contractor to cure a default under this Agreement within 10 days of receipt of notice from County of the default, County may, in its sole discretion, terminate this Agreement for default by written notice to Contractor. In this event, County may take over the work and complete it by Contract or otherwise. Contractor and its sureties, if any, will be liable for any damage to County resulting from Contractor's default, including any increased costs incurred by County in completing the work.
  - 18.2. Default Events. The following constitutes an event of default:
    - 18.2.1. Abandonment of or refusal or failure to prosecute the work or any separable part thereof with the diligence that will insure completion within the time specified in this Agreement, including any extension, or a failure to complete the work (or the separable part of the work) within the specified time;
    - 18.2.2. Persistent or repeated refusal or failure to supply enough properly skilled workers or materials to perform the work on schedule;
    - 18.2.3. Failure to provide competent supervision at the site;
    - 18.2.4. Failure to take down, rebuild, repair, alter or amend any defective or deficient work, or to remove any defective or deficient material;
    - 18.2.5. Failure to make prompt payment to Subcontractors or suppliers for material or labor;
    - 18.2.6. Loss of Contractor's business or other required license or authority, or any curtailment or cessation for any reason of business or business operations that would substantially impair or preclude Contractor's performance of this Agreement;
    - 18.2.7. Disregard of laws, ordinances, or the instructions of County or its representatives, or any otherwise substantial violation of any provision of the Agreement; or
    - 18.2.8. If a voluntary or involuntary action for bankruptcy is commenced with respect to Contractor, or Contractor becomes insolvent, makes a general assignment for the benefit of creditors, or has a receiver or liquidator appointed in respect of its assets.
  - 18.3. Termination. In the event of a termination for default:

- 18.3.1. All finished and unfinished as-builts, shop drawings, documents, data, studies, surveys, drawings, photographs, reports and other information in whatever form, including electronic, acquired or prepared by Contractor for this project become County's property and will be delivered to County not later than 5 business days after the effective date of the termination;
  - 18.3.2. County may withhold payments to Contractor arising under this or any other Contract for the purpose of set-off until such time as the exact amount of damage due County from Contractor is determined; and
  - 18.3.3. Subject to the immediately preceding subparagraph 18.3.2, County's liability to Contractor will not exceed the reasonable value of work satisfactorily performed prior to the date of termination for which payment has not been previously made.
- 18.4. Non-Termination. County will not terminate the Agreement nor any Job Order issued under this Agreement for default or charge Contractor with damages under this Section if:
- 18.4.1. Except for subparagraph 18.2.8 in subsection 18.2 above, the event of default or delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of Contractor. Examples of such causes include:
    - 18.4.1.1. Acts of God or of the public enemy,
    - 18.4.1.2. Acts of County in either its sovereign or contractual capacity,
    - 18.4.1.3. Acts of another Contractor in the performance of a contract with County,
    - 18.4.1.4. Fires,
    - 18.4.1.5. Floods,
    - 18.4.1.6. Epidemics,
    - 18.4.1.7. Quarantine restrictions,
    - 18.4.1.8. Strikes,
    - 18.4.1.9. Freight embargoes,
    - 18.4.1.10. Unusually severe weather, or
    - 18.4.1.11. Delays of Subcontractors or suppliers at any tier arising from unforeseeable causes beyond the control and without the fault or negligence of both Contractor and the Subcontractor(s) or suppliers; and
  - 18.4.2. Contractor, within 3 days from the beginning of any event of default or delay (unless extended by County), notifies County in writing of the cause(s) therefor. In this circumstance, County will ascertain the facts and the extent of the resulting delay. If, in the judgment of County the findings warrant such action, the time for completing the work may be extended.
- 18.5. Receipt of Notice. For the purposes of subsection 18.1 above, "receipt of notice" includes receipt by hand by Contractor's onsite project manager, by facsimile transmission, or under the Notices clause of this Agreement.
- 18.6. Excusable. If, after termination of the Agreement for default, County determines that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if County had terminated the Contract for convenience as set forth in Section 17.

18.7. Rights and Remedies. The rights and remedies of County in this Section are cumulative and in addition to any other rights and remedies provided by law or under this Agreement.

19. **Termination for Convenience of County.** County may terminate this Agreement at any time by giving written notice to Contractor of such termination and specifying the effective date thereof, at least 15 days before the effective date of such termination. In that event, all finished or unfinished documents and other materials will, at the option of County, become its property. If County terminates the Agreement as provided herein, County will pay Contractor an amount based on the time and expenses incurred by Contractor prior to the termination date. However, County will make no payment for anticipated profit on unperformed services.
20. **Non-Appropriation of Funds.** Notwithstanding any other provision in this Agreement, County may terminate this Agreement if for any reason the Pima County Board of Supervisors does not appropriate sufficient monies for the purpose of maintaining this Agreement. In the event of such termination, County has no further obligation to Contractor, other than payment for services rendered prior to termination.
21. **Notices.** Any notice required or permitted to be given under this Agreement must be in writing and be served by delivery or by certified mail upon the other party as follows:

County:

Kris Gade, Director  
Pima County Conservation Lands and Resources  
201 N. Stone Ave  
Tucson, AZ 85701  
Tel: (520) 724-6451

Any Notice required or permitted to be given by County may be served by personal delivery or certified mail to Contractor's contact name in Contractor's electronic vendor record.

22. **Non-Exclusive Agreement.** Contractor understands that this Contract is Non-Exclusive and is for the sole convenience of County. County reserves the right to obtain like services from other sources for any reason.

23. **Agreement Documents.**

23.1. Incorporation of Documents: Contractor and County in entering into this Agreement have relied upon information provided in Solicitation No. RFQu-2500018899 – Well Installation, Development and Repair, Exhibit A – Scope of Services, Bonds (Bid, Payment, and Performance Bonds), Exhibit B – General Conditions, Exhibit C - Special Conditions – Multiple Award Job Order Contract, Exhibit D - Special Provisions, Technical Specifications and Plans, Construction Documents, Drawings and Specifications, Amendments, and on information provided in Contractor's response to this Solicitation. These documents are hereby incorporated into and made a part of this Agreement by reference as if set forth in full herein.

23.2. Order of Precedence: In the event of a conflict or inconsistency between or among the Agreement documents, the documents shall take precedence in the following order:

23.2.1. This Agreement

23.2.2. Exhibit B – General Conditions

23.2.3. Exhibit C - Special Conditions – Multiple Award Job Order Contract

23.2.4. Exhibit D – Supplemental Provisions For Federal-Aid Contracts

23.2.5. Special Provisions, Technical Specifications, and Plans

23.2.6. Contractor Response to the Solicitation

23.2.7. Instructions to Bidders

23.2.8. Invitation to Bid

23.3. Deviation: The parties may, by written mutual agreement, deviate from this order of precedence in resolving inconsistencies between or among contract documents. Any such agreement interpreting the documents shall be incorporated into the Agreement by amendment.



23.4. Conflict: In the event of any conflict between any provision in the Special Conditions, and any provision of the General Conditions, or any other incorporated document, the provision in the Special Conditions shall take precedence.

24. **Ownership of Documents**. Ownership of all original drawings, boring logs, field data, estimates, field notes, plans, specifications, documents, reports, calculations, maps and models, and other information developed by Contractor under this Agreement vests in and become the property of the County and will be delivered to County upon completion or termination of the services, but Contractor may retain record copies thereof.

**25. Books and Records.**

25.1. Maintenance. Contractor will keep and maintain proper and complete books, records and accounts, which will be open at all reasonable times for inspection and audit by duly authorized representatives of County.

25.2. Retention. Contractor will retain all records relating to this Agreement at least 5 years after its termination or cancellation or until any related pending proceeding or litigation has been closed, if later. Alternatively, Contractor may, at its option, deliver such records to County for retention.

26. **Remedies**. Either party may pursue any remedies provided by law for the breach of this Agreement, provided, however, that the procedures in Section 29 are first exhausted. No right or remedy is intended to be exclusive of any other right or remedy and each is cumulative and in addition to any other right or remedy existing at law or at equity or by virtue of this Agreement.

27. **Severability**. Each provision of this Agreement stands alone, and any provision of this Agreement found to be prohibited by law is ineffective to the extent of such prohibition without invalidating the remainder of this Agreement.

28. **Delays**. Neither party will be considered in default in the performance of its obligations to the extent that the performance of any such obligation is prevented or delayed by any cause, existing or future, which is beyond the reasonable control of such party.

**29. Disputes.**

29.1. Resolving Dispute. In the event of a dispute between County and Contractor regarding any part of this Agreement or the Parties' obligations or performance hereunder, either party may request a special meeting between their respective representatives to resolve the dispute. If the dispute remains unresolved, then either Party may request escalation of the issue to a meeting between the Director of the Pima County Department administering this Agreement and Contractor's counterpart official, such meeting to be held within 1 week of the request, unless otherwise agreed. If the dispute is still not resolved after that meeting, then either party may pursue such remedy or remedies as may be available to them under the laws of the State of Arizona.

29.2. Performance. The Parties will continue performance of their respective obligations under this Agreement notwithstanding the existence of any dispute.

**30. Public Records.**

30.1. Disclosure. Pursuant to A.R.S. § 39-121 et seq., and A.R.S. §§ 34-603(H), 604(H), in the case of Construction or Architectural and Engineering services procured under A.R.S. Title 34, Chapter 6, all information submitted by Contractor in any way related to this Agreement, including, but not limited to, pricing, product specifications, work plans, and any supporting data becomes public information and upon request, is subject to release and/or review by the general public including competitors.

### 30.2. Records Marked Confidential.

- 30.2.1. Any information submitted related to this Agreement that Contractor believes constitutes proprietary, trade secret or otherwise confidential information must be appropriately and prominently marked as confidential prior to submittal to County and be accompanied by an index specifically identifying and describing the general contents of each page so marked. The index is a Public Record and must not include any information considered confidential.
- 30.2.2. Notwithstanding the above provisions, in the event records marked confidential are requested for public release pursuant to A.R.S. § 39-121 et seq., County will release records marked confidential 10 business days after the date of notice to the Contractor of the request for release, unless Contractor has, within the 10-day period, secured a protective order, injunctive relief or other appropriate order from a court of competent jurisdiction in Arizona, enjoining the release of the records. For the purposes of this paragraph, the day of the request for release is not counted in the time calculation. Contractor will be notified of any request for such release on the same day of the request for public release or as soon thereafter as practicable. County shall not, under any circumstances, be responsible for securing a protective order or other relief enjoining the release of records marked confidential, nor shall County be in any way financially responsible for any costs associated with securing such an order.

### 31. **Legal Arizona Workers Act Compliance.**

- 31.1. Compliance with Immigration Laws. Contractor warrants that it will at all times during the term of this Agreement comply with all federal immigration laws applicable to Contractor's employment of its employees, and with the requirements of A.R.S. § 23-214 (A) (together the "State and Federal Immigration Laws"). Contractor will further ensure that each Subcontractor who performs any work for Contractor under this Agreement likewise complies with the State and Federal Immigration Laws.
- 31.2. Books & Records. County has the right at any time to inspect the books and records of Contractor and any Subcontractor in order to verify such party's compliance with the State and Federal Immigration Laws.
- 31.3. Remedies for Breach of Warranty. Any breach of Contractor's or any Subcontractor's warranty of compliance with the State and Federal Immigration Laws, or of any other provision of this section, is a material breach of this Agreement subjecting Contractor to penalties up to and including suspension or termination of this Agreement. If the breach is by a Subcontractor, and the subcontract is suspended or terminated as a result, Contractor will take such steps as may be necessary to either self-perform the services that would have been provided under the subcontract or to retain a replacement Subcontractor (subject to County approval if SBE or DBE preferences apply), as soon as possible so as not to delay project completion.
- 31.4. Subcontractors. Contractor will advise each Subcontractor of County's rights, and the Subcontractor's obligations, under this Section by including a provision in each subcontract substantially in the following form:
- "Subcontractor hereby warrants that it will at all times during the term of this contract comply with all federal immigration laws applicable to Subcontractor's employees, and with the requirements of A.R.S. § 23-214 (A). Subcontractor further agrees that County may inspect the Subcontractor's books and records to ensure that Contractor is in compliance with these requirements. Any breach of this paragraph by Subcontractor is a material breach of this contract subjecting Subcontractor to penalties up to and including suspension or termination of this contract."
- 31.5. Costs. Any additional costs attributable directly or indirectly to remedial action under this Section are the responsibility of Contractor. In the event that remedial action under this Section results in delay to 1 or more tasks on the critical path of Contractor's approved construction or critical milestones schedule, such period of delay will be excusable delay for which Contractor is entitled to an extension of time but not costs.

32. **Israel Boycott Certification.** Pursuant to A.R.S. § 35-393.01, if Contractor engages in for-profit activity and has 10 or more employees, and if this Agreement has a value of \$100,000.00 or more, Contractor certifies it is not currently engaged in and agrees for the duration of this Contract to not engage in, a boycott of goods or services from Israel. This certification does not apply to a boycott prohibited by 50 U.S.C. § 4842 or a regulation issued pursuant to 50 U.S.C. § 4842.
33. **Forced Labor of Ethnic Uyghurs.** Pursuant to A.R.S. § 35-394, if Contractor engages in for-profit activity and has 10 or more employees, Contractor certifies it is not currently using, and agrees for the duration of this Contract to not use (1) the forced labor of ethnic Uyghurs in the People's Republic of China; (2) any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China; and (3) any contractors, subcontractors or suppliers that use the forced labor or any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China. If Contractor becomes aware during the term of the Contract that the Company is not in compliance with A.R.S. § 35-394, Contractor must notify the County within 5 business days and provide a written certification to County regarding compliance within one hundred eighty days.
34. **Heat Injury and Illness Prevention and Safety Plan** Pursuant to Pima County Procurement Code 11.40.030, Contractor hereby warrants that if Contractor's employees perform work in an outdoor environment under this Contract, Contractor will keep on file a written Heat Injury and Illness Prevention and Safety Plan. At County's request, Contractor will provide a copy of this plan and documentation of heat safety and mitigation efforts implemented by Contractor to prevent heat-related illnesses and injuries in the workplace. Contractor will post a copy of the Heat Injury and Illness Prevention and Safety Plan where it is accessible to employees. Contractor will further ensure that each subcontractor who performs any work for Contractor under this Contract complies with this provision.
35. **Cooperative Use of Resulting Agreement.** Reserved.
36. **Counterparts.** This Agreement may be executed in 1 or more counterparts, each of which will be deemed an original and all of which together will constitute one and the same instrument. Facsimile or other electronically delivered copies of signature pages to this Agreement shall be treated between the Parties as original signatures for all purposes.
37. **Amendment.** Except for the amendment provision above in Section 2, this Contract may be modified, amended, altered or extended only by a written amendment signed by the Parties.
38. **Entire Agreement.** This document constitutes the entire agreement between the Parties and all prior or contemporaneous agreements and understandings, oral or written, are hereby superseded and merged herein.

***(Remainder of This Page Intentionally Left Blank)***

39. **Effectiveness and Date.** This Agreement will become effective when all Parties have signed it. The date of this Agreement will be the date the Agreement is signed by the last Party to sign it (as indicated by the date associated with that Party's signature).

Each Party is signing this Contract on the date below that Party's signature.

PIMA COUNTY:

CONTRACTOR:

\_\_\_\_\_  
Chair, Board of Supervisors

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name and Title (Please Print)

\_\_\_\_\_  
Date

ATTEST:

\_\_\_\_\_  
Clerk of the Board

\_\_\_\_\_  
Date

This contract template has been approved as to form by the Pima County Attorney's Office.

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Each Party is signing this Contract on the date below that Party's signature.

PIMA COUNTY:

\_\_\_\_\_  
Chair, Board of Supervisors

\_\_\_\_\_  
Date

CONTRACTOR:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name and Title (Please Print)

\_\_\_\_\_  
Date

ATTEST:

\_\_\_\_\_  
Clerk of the Board

\_\_\_\_\_  
Date

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Each Party is signing this Contract on the date below that Party's signature.

PIMA COUNTY:

\_\_\_\_\_  
Chair, Board of Supervisors

\_\_\_\_\_  
Date

CONTRACTOR:

  
\_\_\_\_\_  
Signature

BRYAN WEBER VP SALES  
\_\_\_\_\_  
Name and Title (Please Print)

11/7/2025  
\_\_\_\_\_  
Date

ATTEST:

\_\_\_\_\_  
Clerk of the Board

\_\_\_\_\_  
Date

This contract template has been approved as to form by the Pima County Attorney's Office.

## **EXHIBIT A - SCOPE OF SERVICES (1 page)**

This is an indefinite quantity job order contract under which the Contractor will provide all labor materials, management, supervision, services and coordination required to provide a full range of well construction, abandonment, repair and/or maintenance services, all such work to be requested by the County from time to time by issuance of an individual job order for each individual project. This Agreement is not intended to be used for design, engineering or analytical purposes. These functions will be performed as needed by appropriate Pima County personnel or consultant on the Qualified Consultant List (QCL).

The County will provide Project Plans for each Job Order. Generally, the Contractor will be required to analyze the plans, perform take-offs to determine the required items and quantities required to construct each Job Order complete and in-place, submit a detailed LUMP SUM Complete and In Place Price, or a guaranteed maximum price quote to the County for all labor, materials, equipment and services required to satisfy the Job Order and negotiate acceptance by the County prior to the commencement of work on each Job Order.

The Project schedule for each job ordered in accordance with this Agreement shall be as agreed to in the individual Job Order quote by the Contractor and County. All Job Orders shall be issued and completed within the term defined by the Delivery Order.

All work under this contract shall be performed in accordance with the following Specifications as modified by the Contract:

- Project Plans
- Standard Specifications and Details for Public Improvements, 2015 Edition with Amendments, Pima Association of Governments (PAG)
- Conservation Lands & Resources - Parks & Recreation Park Development Standards, Specifications and Details
- The executed Contract, including the General and Special Conditions and the Supplemental Provisions of the Job Order Contract.

Contractor awarded JOC must be able to provide, but not limited to the following Services:

- Contractor must have in place the ability to respond to an emergency phone request for assistance 24/7, returning the call within two (2) hours or less and then the ability to respond to the well site within four hours of phone response to begin repairs.
- Contractor must have staff certified in well service and maintenance and must follow all ADEQ and ADWR guidelines and regulations for compliance.
- Contractor must have staff or a qualified subcontractor able to abandon or modify existing wells; and plan, drill, and develop new wells.
- Contractor or qualified subcontractor must be ADWR licensed and also licensed by the State of Arizona Registrar of Contractors for well drilling and abandonment.
- Contractor fleet vehicles must be capable of reaching off road and remote rugged locations.
- Contractor must be able to perform maintenance and repair on existing wells (i.e., video logging, removal, inspection, testing and replacement of well pumps and motors; and cleaning well casings and screens.
- Additional field and shop work shall include electrical controls testing, welding, pipe and valve fabrication, installation of various equipment including flow meters, booster pumps, check valves, etc.
- Contractor shall have the capability to pump-test wells for performance and to document data.
- Occasionally water sampling may be requested for coliform bacteria, new source water testing and testing for other constituents.

**Although most Job Orders will require water well work, some may require repair and maintenance of landfill Leachate Wells, soil gas monitoring probes and landfill soil vapor extraction wells.**

**END EXHIBIT A – SCOPE OF SERVICES**

## **EXHIBIT B - GENERAL CONDITIONS (11 pages)**

### **ARTICLE 1 – DEFINITIONS**

Whenever in these Specifications, or in any document of instructions where these Specifications govern, the following terms or pronouns in place of them are used, the intent and meaning will be interpreted as follows:

Bid: The offer of the Bidder for the work when properly made out on forms containing the Bid for Lump Sum Construction supplied by County and properly submitted, signed and guaranteed.

Bid Documents: All Drawings, Technical Specifications, Supplementary General and/or General Conditions, Bid Schedule, Construction Contract and Bonds, and Contract Documents.

Bidder: Any individual, firm or corporation, qualified as herein provided, legally submitting a Bid for the work contemplated, acting directly or through an authorized representative.

Board: The Board of Supervisors, Pima County, Arizona, acting under authority of the laws of Arizona.

Building Code: The directions, provisions, and requirements contained in the current edition of the Building Codes, with Amendments, as adopted by Pima County, supplemented by such special provisions as may be necessary, pertaining to the method and manner of performing the work, quality and quantity of material to be furnished and measurement for payment of same.

Contract: The written Agreement between County and Contractor covering the performance of the work and the furnishing of labor, equipment, and materials in the construction of the work.

Contract Bond: The approved form of security furnished by Contractor and its Surety as a guarantee on the part of Contractor to execute the work in accordance with the terms of the Contract.

Contractor: The party who undertakes to execute the work, acting directly or through an authorized lawful agent or employee.

Pima County: Pima County, Arizona, a body politic and corporate, the owner of the work.

Department: The Pima County Conservation Lands and Resources

Director: The Pima County Department Director, an assistant or other representative duly authorized by a Department Director to act on their behalf.

Extra Work: Work, including materials, for which no price agreement is contained in the Contract and which is deemed necessary for the proper completion of the work.

Item: A detail of work for which separate payment is made.

Laboratory: The established laboratory of the Department or other laboratories authorized by County to test materials and work involved in the Contract.

Plans: The Contract drawings or exact representations thereof, which show the location, character, dimensions, and details of the work.

Project Manager, Engineer, or Architect: The person designated by County to oversee the project on its behalf.

Standard Specifications: The directions, provisions, and requirements contained in the current edition of the Pima Association of Governments Standard Specifications for Public Improvements, 2015 Edition with Amendments, as

adopted by Pima County, supplemented by such special provisions as may be necessary, pertaining to the method and manner of performing the work, quality and quantity of material to be furnished and measurement of payment of same.

Supplementary Agreement: A written agreement executed by Contractor and County covering alterations to the project. A change order or a force account work request prepared on the approved form of the Department is a supplementary agreement.

Supplementary General Conditions or Special Conditions: The Supplementary General Conditions or Special Conditions are additional to the General Conditions, which are conditions or requirements peculiar to the project under consideration.

Surety: The corporate body which is bound with and for Contractor, who is primarily liable, and which (agrees) to be responsible for its payment of all debts pertaining to and for its acceptable performance of the work for which it has contracted.

The Work: All of the work specified in the Contract.

## **ARTICLE 2 – RESPONSIBILITY REGARDING EXISTING UTILITIES AND STRUCTURES**

The existence and locations of underground utilities indicated on the plans are not guaranteed and will be investigated and verified in the field by Contractor before starting work. Excavations in the vicinity of existing structures and utilities will be carefully done by hand. Contractor will be held responsible for any damage to, and for maintenance and protection of existing utilities and structures.

County does not guarantee the existence and locations of underground utilities indicated on the plans and Contractor will investigate and verify the location of underground utilities in the field before starting work. Contractor will carefully perform excavations in the vicinity of existing structures and utilities. Contractor is responsible for any damage to, and for maintenance and protection of, existing utilities and structures. At least 2 full working days prior to commencing excavation, contractor must call blue Stake Center, 1-800-STAKE-IT, between the hours of 7:00 a.m. and 4:30 p.m., Monday through Friday for information relative to the location of buried utilities.

Contractor is fully responsible for costs incurred due to damage to utilities as a result of grading or excavation operations. Utility locations shown on the Plans are approximate, and not all utilities may be shown. The possibility of conflicts with existing utilities –in-place exists. If conflicting utilities interfere with Contractor's normal progress toward completion of this project, County may, at its option, authorize Contractor to relocate said conflicting utilities by Force Account.

It is the responsibility of Contractor to contact the utility companies in order for them to determine if there is a need for any bracing or shoring of power to telephone poles during the construction of this project. If bracing or shoring is necessary, Contractor will affect this work to the satisfaction of the utility company. County will make no measurement or direct payment for bracing or shoring.

## **ARTICLE 3 – LEGAL RELATIONS AND RESPONSIBILITY TO THE PUBLIC**

- A. Laws to be Observed -- Contractor is presumed to be familiar with and at all times will observe and comply with all Federal and State laws and local ordinances, worker's compensation, occupational disease, and unemployment compensation laws together with the payment of all premiums and taxes therefor, also all laws, ordinances, and regulations in any manner affecting the conduct of the work and will indemnify and hold harmless County and its representatives against any claim arising from the violations of such laws, bylaws, ordinances or regulations, whether by Contractor or by Contractor's employees.
- B. Permits and Licenses -- County will procure all County building permits, and sewer connection fees. Contractor will post required permits on site and give all notices necessary and incidental to the due and lawful prosecution

of the work. Contractor will procure and pay for all other permits, fees, and applications for water, gas, electric and other utilities.

- C. Sanitary Provisions -- Contractor will provide and maintain in a neat and sanitary condition such accommodations for the use of its employees as may be necessary to comply with the requirements and regulations of the Arizona Department of Health Services or other authorities having jurisdiction therein.
- D. Public Convenience and Safety -- Contractor will have due regard for the public health and will conduct the work in such a manner as to provide and insure the safety and convenience of the public.

When special conditions prevail and extraordinary measures are necessary, the details will be set forth in the Technical Specifications or Special Provisions.

- E. Barricades, Danger, Warning, and Detour Signs -- Contractor will at its expense and without further order provide, erect, and maintain at all times during the progress or temporary suspension of the work such barricades, fences, warning lights, danger signals, reflectors, signs, or other protective devices as are required to ensure the safety of the public, those engaged in connection with the work and the work itself.

Unless otherwise expressly stated in the Contract, no measurement or direct payment for this work will be made, but the cost of providing, erecting, and maintaining such protection devices, including guards, watchmen and/or flagmen as required will be considered as included and paid for in the contract prices for the work.

- F. Use of Explosives -- Prohibited
- G. Preservation and Restoration of Property -- Contractor will be responsible for the preservation of all public and private property on the surface or underground, along and adjacent to the work and will conduct its operations so as to insure the prevention of injury or damage thereto. No land monuments or property will be disturbed or moved until an authorized agent has witnessed or otherwise referenced their locations.

When or where any direct or indirect damage or injury is done to public or private property by or on account of any act, omission, neglect, or misconduct in the execution of the work, or in consequence or the non-execution thereof on the part of Contractor, Contractor will restore such property at its own expense to a condition similar or equal to that existing before such damage or injury was done, by repairing, rebuilding, or otherwise restoring same, or it will make good such damage or injury in an acceptable manner.

- H. Contractor's Responsibility for Work -- Until written final acceptance of the work by County, Contractor will have the charge and care thereof and will take every precaution against injury or damage to any part thereof by action of elements, or from any other cause, whether arising from the execution or non-execution of the work. Contractor will rebuild, repair, restore, and make good all injuries or damages of any portion of the work occasioned by any of the above causes before final acceptance and will bear the expense thereof.

In case of the suspension of work for any cause whatever, Contractor will be responsible for all work and materials and will take proper care of the work, storing all materials if necessary, and will provide suitable drainage of the work and erect necessary temporary structures.

- I. Waiver of Legal Rights -- County will not be precluded or be estopped, by any measurement, estimate, or certificate made either before or after the completion and acceptance of the work and payment therefor, from showing the true amount and character of the work performed and materials furnished by Contractor, or from showing that any such measurement, estimate, or certificate is untrue or incorrectly made, or that the work or materials do not conform in fact to the Contract. Neither the acceptance by County or by any representative of County nor any payment, nor acceptance of the whole or any part of the work, nor any extension of time, nor any possession taken by County will operate as a waiver of any portion of the Contract or of any power herein reserved, or any right to damage herein provided. A waiver of any breach of the Contract is not a waiver of any other subsequent breach.



#### **ARTICLE 4 – ACCIDENTS**

Contractor will provide, at the site, such equipment and medical facilities as are necessary to supply first-aid service to anyone who may be injured in connection with the work.

Contractor must promptly report in writing to County all accidents whatsoever arising out of, or in connection with the performance of the work, whether on or adjacent to the site, which caused death, personal injury, or property damage, giving full details and statements of witnesses. In addition, if death or serious injuries or serious damages are caused, Contractor will report the accident immediately by telephone or messenger to both County and the Board.

If any claim is made by anyone against Contractor or any subcontractor on account of any accident, Contractor will promptly report the facts in writing to County, giving full details of the claim.

#### **ARTICLE 5 – RESERVED**

#### **ARTICLE 6 – DELAY**

If the number of calendar days in Contractor's schedule plus the grace period specified in the above paragraph equals or exceeds the number of calendar days for completion stated in the solicitation, then the completion period will be as stated in the solicitation and there will be no grace period.

County and Contractor have agreed upon the Project scope, total price, and schedule for the performance of the work. The agreed schedule represents a firm commitment by Contractor and County to complete the work within the schedule identified in this Contract, as it may be adjusted from time to time.

County and Contractor understand that events may occur that delay or disrupt the schedule or require a change in the level of resources or effort. Therefore, the Contract may be adjusted as follows for Delays:

1. A delay in the work attributable to County is an excusable delay for which an adjustment may be made to the schedule. In any such case the schedule of the affected task or activity may be extended 1 day for each day of County-caused delay; provided, however, that if the County-caused delay overlaps a period of delay attributable to any other cause, the extension for County-caused delay is limited to the number of non-overlapped days of County-caused delay.
2. There is no adjustment for any Contractor-caused delay in the work, including time to repair or replace defective work. In the event of a significant Contractor-caused delay exceeding 2 workdays, Contractor will provide a recovery plan to County within 5 days of County's request.
3. A delay in the work attributable to any other cause, including strikes, lockouts, fire, unusual delay in transportation, unavoidable casualties or any causes beyond the control of County or Contractor and that arises without the fault or negligence of either, is an excusable delay for which County and Contractor agree to negotiate an appropriate schedule adjustment. If the period of delay attributable to any cause under this paragraph overlaps a period of delay attributable to any other cause, the adjustment under this paragraph will be made first and the delay attributed to such other cause will be limited to that occurring outside of the overlap.
4. If any of the causes of delay in Paragraphs 1 or 3 above affects a task or activity on the critical path, then the schedule adjustment may include adjustment to the completion date. If the cause does not affect a task or activity on the critical path, then the adjustment will be made from Float and the completion date shall not be changed.
5. If any of the causes of delay in Paragraphs 1 or 3 above results in material provable additional costs to the affected task or tasks as a result of disruption of the schedule, then the parties will negotiate an equitable adjustment therefor.

6. County and Contractor will negotiate an equitable adjustment of cost for any task or tasks for which there is any significant change in the level of effort arising from additional or changed work requested or directed in writing by County that materially deviates from or adds to the work.

Contractor must submit claims for extension of time in writing to County for review and approval no later than 7 days after the initiation of that delay. In the case of a continuing cause of delay, only 1 claim is necessary.

County will grant approval of time extension for delays only based on the verification of a daily log maintained by the superintendent at the job site. The daily log must segregate and document each individual delay occurrence, and then separately track the job costs attributable to changes in the work noted in Article 21. Contractor's failure to maintain the daily logs in the manner described above will result in County's denial of the claim for time extension.

If Contractor has requested detail drawings and instructions as noted in Article 9, County will not approve a request for delay on account of County's failure to furnish drawings until 2 weeks after demand for such drawings.

#### **ARTICLE 7 – EXECUTION, CORRELATION, AND INTENT OF DOCUMENTS**

The Contract documents are complementary, and what is called for by anyone will be as binding as if called for by all, and the most stringent requirement will apply. The intention of the documents is to include all labor and materials, equipment, and transportation necessary for the proper execution of the work. It is not intended, however, that materials or work not covered by or properly inferable from any heading, branch, class, or trade of the specifications will be supplied unless distinctly so noted on the drawings. Materials or work described in words that so applied have a well-known technical or trade meaning will be held to refer to such recognized standards.

#### **ARTICLE 8 – DETAIL DRAWINGS AND INSTRUCTIONS**

County will furnish with reasonable promptness, additional instructions, by means of drawings or otherwise, necessary for the proper execution of the work. All such drawings and instructions will be consistent with the Bid documents, true developments thereof, and reasonably inferable therefrom.

#### **ARTICLE 9 – COPIES OF DRAWINGS FURNISHED**

County will provide, at no cost to Contractor, 2 complete sets of code approved construction documents in non-reproducible form.

County will provide, at no cost to Contractor, 5 non-reproducible sets of construction documents used during the course of bidding the work (Bid Sets) for execution on the work. It will be Contractor's responsibility to ensure that any modifications called for as a result of the permit process are transferred to the bid sets.

Contractor may purchase additional sets of code-approved sets or bid sets construction documents, at its expense.

#### **ARTICLE 10 – ORDER OF COMPLETION**

Contractor will submit at such times as may be requested by County, schedules which will show the order in which Contractor proposes to carry on the work with dates at which Contractor will start the several parts of the work and estimated dates of completion of the several parts.

#### **ARTICLE 11 – CONSTRUCTION DOCUMENTS ON THE JOB SITE**

Contractor will keep 1 copy of code approved construction documents on the job site, in good order, available to County and to County's representatives. This set of documents will be kept current as to pending and approved changes in the work.

## **ARTICLE 12 – OWNERSHIP OF DRAWINGS**

All drawings, specifications, and copies thereof furnished by County are the property of County. They are not to be used on other work and with the exception of the signed Contract set, and are to be returned to County on request, at the completion of the work. All models are the property of County.

## **ARTICLE 13 – CONTRACTOR'S UNDERSTANDING**

Contractor has, by careful examination, satisfied itself as to the nature and location of the work, the conformation of the ground, the character of equipment and facilities needed preliminary to and during the prosecution of the work, the general and local conditions, and all other matters which can in any way affect the work under this Contract. No verbal agreement or conversations with any officer, agent or employee of County, either before or after the execution of this Contract, will affect or modify any of the terms or obligations herein contained.

## **ARTICLE 14 – MATERIALS, APPLIANCES, EMPLOYEES**

Unless otherwise agreed, Contractor will provide and pay for all materials, labor, water, tools, equipment, light, power, transportation, and other facilities necessary for the execution and completion of the work.

Unless otherwise agreed, all materials will be new, and both workmanship and materials will be of good quality. Contractor will, if required, furnish satisfactory evidence as to the kind and quality of materials.

Contractor will at all times enforce strict discipline and good order among its employees and will not employ on the work any unfit person or anyone not skilled in the work that Contractor assigns to that person.

## **ARTICLE 15 – ROYALTIES AND PATENTS**

Contractor will pay all royalties and license fees. Contractor will defend all suits or claims for infringement of any patent rights and will hold County harmless from loss on account thereof, except that County will be responsible for all such loss when a particular process or the product of a particular manufacturer or manufacturers is specified, but if Contractor has information that the process or article specified is an infringement of a patent it will be responsible for such loss unless it promptly gives such information to County.

## **ARTICLE 16 – SURVEYS, PERMITS, AND REGULATIONS**

County will furnish all property surveys unless otherwise specified. Contractor will secure and pay for permits and licenses of a temporary nature necessary for the prosecution of the work except as noted in Article 3.b. County will secure and pay for easements for permanent structures or permanent changes in existing facilities unless otherwise agreed.

Contractor will give all notices and comply with all laws, ordinances, rules, and regulations bearing on the conduct of the work as drawn and specified. If Contractor observes that the drawings and specifications are at variance therewith, it will promptly notify County in writing, and any necessary changes will be adjusted as provided in the Contract for changes in the work. If Contractor performs any work knowing it to be contrary to such laws, ordinances, rules, and regulations, and without such notice to County, it will bear all costs arising therefrom.

## **ARTICLE 17 – PROTECTION OF WORK AND PROPERTY**

Contractor will continuously maintain adequate protection of all its work from damage and will protect County's property from injury or loss arising in connection with this Contract. It will make good any such damage, injury, or loss, except such as may be directly due to errors in the bid documents or caused by agents or employees of County. It will adequately protect adjacent property as provided by law and the bid documents. It will provide and maintain all passageways, guard fences, lights, and other facilities for protection required by public authority or local conditions.

If an emergency should occur affecting the safety of life or the work or of adjoining property, Contractor, without special instruction or authorization from County, is hereby permitted to act at his discretion, to prevent such threatened loss or injury, and Contractor will so act, without appeal, if so instructed or authorized. Any compensation claimed by Contractor on account of emergency work will be determined by County.

Contractor is responsible for equipment, materials, and supplies until completion of the project and acceptance by County.

#### **ARTICLE 18 – INSPECTION OF WORK**

County representatives will at all times have access to the work wherever it is in preparation or progress and Contractor will provide proper facilities for such access and for inspection.

If the specifications, County's instructions, laws, ordinances, or any public authority, require any work to be specially tested or approved, Contractor will give County timely notice of its readiness for inspection and if the inspection is by an authority other than County, of the date fixed for such inspection. Inspections by County will be promptly made, and where practicable at the source of supply. If any work should be covered up without approval or consent of County, it must, if required by County, be uncovered for examination at Contractor's expense.

Re-examination of questioned work may be ordered by County and if so ordered the work must be uncovered by Contractor. If such work is found to be in accordance with the bid documents, County will pay the cost of re-examination and replacement. If such work is found not to be in accordance with the bid documents, Contractor will pay such cost.

#### **ARTICLE 19 – SUPERINTENDENCE - SUPERVISION**

Contractor will keep on its work site during its progress a competent Superintendent and any necessary assistants, all satisfactory to County. The Superintendent will not be changed except with the consent of County, unless the Superintendent proves to be unsatisfactory to Contractor and ceases to be in its employ. The Superintendent will represent Contractor in its absence and all directions given to it will be as binding as if given to Contractor. Contractor will give efficient supervision to the work using its best skill and attention.

If Contractor, in the course of the work, finds any discrepancy between the construction documents and the physical conditions of the locality, or any errors or omissions in the construction documents or in the layout as given by points and instructions, it will be its duty to immediately inform County, in writing, and County will promptly verify the same. Any work done after such discovery, until authorized, will be done at Contractor's risk.

Neither County nor Contractor, will employ an employee of the other without consent.

#### **ARTICLE 20 – CHANGES IN THE WORK**

In giving instructions, County will have authority to make minor changes in the work, not involving extra cost, and not inconsistent with the purposes of the work, but otherwise, except in an emergency endangering life or property, no extra work or change will be made unless in pursuance of a written order by County and no claim for an addition to the Contract sum will be valid unless so ordered.

The value of any such extra work or change will be determined in 1 or more of the following ways:

1. By mutual acceptance of a lump sum, itemized and detailed with sufficient substantiating data, as requested by County, to permit evaluation.
2. By unit prices named in the Contract or subsequently agreed upon.
3. By cost and fixed fee.

If none of the above methods is agreed upon, Contractor, provided it receives an order as above, will proceed with the work. In such case and also under case (c), it will keep and present in such form as County may direct, a correct

account of the net cost of labor and materials, together with vouchers. In any case, County will certify to the amount, including allowance for overhead and profit, due to Contractor. Pending final determination of cost, payments on account of changes will be made on County's estimate.

The amount of Contractor's overhead and profit allowed for any change order, whether increase or decrease, will not exceed the following limits for work by Contractor:

Overhead Limit: 10% of direct cost;  
Profit Limit: 5% of the sum of direct cost and overhead cost.

For any portion of the work for a change order that is performed by a Subcontractor or a Sub Subcontractor, Contractor's combined overhead and profit limits allowed will not exceed 5% of the actual direct cost of the work.

Contractor's cost for additional work or changes requested by County which result in an approved extension of time to the contract will be limited to the cost of the extra work determined in 1 or more of the 3 ways described previously in this Article, and the actual wage or salary paid for the on-site job superintendent in direct employ of Contractor in performance of the work. This amount will be prorated to the actual amount of extra time approved and will only include the direct amount paid to the superintendent plus actual cost of all overhead items applicable to payroll for that position, such as insurance, taxes, FICA, worker's compensation, and unemployment taxes and benefits.

#### **ARTICLE 21 – CLAIMS FOR EXTRA COST FOR ADDITIONAL WORK**

If Contractor claims that any additional instructions by drawings or otherwise involve extra cost under this Contract, it will give County written notice thereof within a reasonable time after the receipt of such instructions, and in any event before proceeding to execute the work, except in an emergency endangering life or property. The procedure will then be as provided for in Article 20 "Changes in the Work". No such claim will be valid unless so made.

#### **ARTICLE 22 – DEDUCTIONS FOR UNCORRECTED WORK**

If County deems it not expedient to correct work injured or done not in accordance with the Contract, an equitable deduction from the Contract price will be made therefor.

Contractor will promptly remove from the premises all materials condemned by County as failing to conform to the Contract, whether incorporated in the work or not, and Contractor will promptly replace and re-execute its own work in accordance with the Contract and without expense to County and will bear the expense of making good all work of other Contractors destroyed or damaged by such removal or replacement. If Contractor does not remove such condemned work and materials within a reasonable time, fixed by written notice, County may remove them and may store the material at the expense of Contractor. If Contractor does not pay the expense of such removal within ten days' time thereafter, County may, upon ten day's written notice, sell such materials at auction or at private sale and will account for the net proceeds thereof, after deducting all the costs and expenses that should have been borne by Contractor.

#### **ARTICLE 23 – SUSPENSION OF WORK**

County may at any time suspend the work, or any part thereof by giving 3 days' notice to Contractor in writing. When the reason for such suspension involves safety, health or welfare issues, the 3day written notice requirement may be waived at the decision of the County Management. Contractor will resume the work within 10 days after the date fixed in the written notice from County to Contractor to do so.

#### **ARTICLE 24 –COUNTY'S RIGHT TO DO WORK**

If Contractor neglects to prosecute the work properly or fails to perform any provision of this Contract, County may, after 3 days written notice to the Contractor, without prejudice to any other remedy it may have, make good such deficiencies and may deduct the cost thereof from the payment then or thereafter due Contractor.

## **ARTICLE 25 –COUNTY'S RIGHT TO TERMINATE CONTRACT**

If Contractor persistently or repeatedly refuses or fails, except in cases for which extension of time is provided, to supply enough properly skilled workers or proper materials, or if it fails to make prompt payment to subcontractors for material or labor, or persistently disregards laws, ordinances, or the instructions of County, or otherwise is guilty of a substantial violation of any provision of the contract, then County may, without prejudice to any other right or remedy and after giving Contractor 10 days written notice, terminate the employment of Contractor and take possession of the premises and of all materials, tools, and appliances thereon and finish the work by whatever method County may deem expedient. In such case Contractor will not be entitled to receive any further payment until the work is finished. If the unpaid balance of the Contract price will exceed the expense of finishing the work, including compensation for additional managerial and administrative service, such excess will be paid to Contractor. If such expense exceeds such unpaid balance, Contractor will pay the difference to County. County will certify the expense incurred by County as herein provided, and the damage incurred through the Contractor's default.

## **ARTICLE 26 – REMOVAL OF EQUIPMENT**

In any case of annulment or termination of this Contract before completion from any cause whatever, Contractor, if notified to do so by County, will promptly remove any part or all of its equipment and supplies from the property of County, failing which County will have the right to remove such equipment and supplies at the expense of Contractor.

## **ARTICLE 27 – USE OF COMPLETED PORTIONS**

County has the right to take possession of and use any completed or partially completed portions of the work, notwithstanding the time for completing the entire work or such portions may not have expired, but such taking possession and use is not an acceptance of any work not completed in accordance with the Bid documents. If such prior use increases the cost of or delays the work, Contractor will be entitled to such extra compensation, or extension of time, or both, as County may determine.

## **ARTICLE 28 – PAYMENTS WITHHELD**

County may decline to certify payment or, because of discovered evidence or observations, may nullify the whole or any part of any certificate for payment previously issued, to such extent as may be necessary in its opinion to protect County from loss because of:

1. Defective work not remedied.
2. Third party claims filed or reasonable evidence indicating probable filing of such claims.
3. Failure of Contractor to make payments properly to Subcontractors or for labor, materials, or equipment.
4. Reasonable evidence that the work cannot be completed for the unpaid balance of the Contract sum.
5. Damage to another Contractor.

When the above grounds are removed, payment will be made for amounts withheld because of them.

## **ARTICLE 29 – WARRANTY**

Contractor will provide a written guarantee covering all costs for repair or replacement of defective work for a period of 2 years (or longer if noted elsewhere in the construction documents) from substantial completion. Contractor will complete repair, or respond to County in writing with repair solution, within 72 hours of notification by County. County may make emergency repairs to ensure life safety or to prevent property loss, without invalidating the warranty.

## **ARTICLE 30 – LIENS**

Neither the final payment nor any part of the retained percentage will become due until Contractor delivers to County a complete release of all liens arising out of this Contract, or receipts in full or in lieu thereof, and if required in either case, an affidavit that so far as it has knowledge or information, the release and receipts include all the labor for which a lien could be filed; but Contractor may, if any subcontractor refuses to furnish a release or receipt in full, furnish a bond satisfactory to County, to indemnify County against any lien. If any lien remains unsatisfied after all payments

are made, Contractor will pay to County all monies that County may be compelled to pay in discharging such a lien, including all costs and a reasonable attorney's fee.

#### **ARTICLE 31 – RIGHTS OF VARIOUS INTERESTS**

Wherever work being done by County's forces or other contractors is contiguous to work covered by this Contract the respective rights of the various interests involved will be established by the County to secure the completion of the various portions of the work in general harmony.

#### **ARTICLE 32 – SEPARATE CONTRACTS**

County reserves the right to let other contracts in connection with this work. Contractor will afford other contractors reasonable opportunity for the introduction and storage of their materials and the execution of their work, and will properly connect and coordinate its work with theirs.

If any part of Contractor's work depends upon proper execution or results of the work of any other Contractor, Contractor will inspect and its report will constitute an acceptance of the other contractor's work after the execution of its work.

To ensure the proper execution of its subsequent work, Contractor will measure work already in place and will at once report to County any discrepancy between the executed work and the drawings.

#### **ARTICLE 33 – COUNTY'S STATUS**

The County has general review of the work and has the authority to reject all work and materials that do not conform to the Contract.

#### **ARTICLE 34 – CLAIMS AND DISPUTES**

All claims, demands, disputes, controversies, and differences that arise between the parties hereto as result of or in connection with this Contract will be referred to County in writing with a request for review and response in accordance with this paragraph, which County will render in writing within a reasonable time.

Contractor will deliver written notice of each such claim, demand, dispute, controversy, or difference to County within 15 days of the occurrence of the event giving rise thereto and written supporting data will be submitted to County within 45 days of such occurrence unless County specifies a different period of time in writing to Contractor. The submission to County with respect to any such claim, demand, dispute, controversy, or difference will be a condition precedent to any exercise by Contractor of such rights or remedies as Contractor may otherwise have under the Bid documents or at law in respect of any such claim, demand, dispute, controversy, or difference.

If either County or Contractor is dissatisfied with any decision of County and both parties agree in writing, then the dispute may be settled by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrator(s) will be entered in any court having jurisdiction thereof. All arbitration hearings must be held in Tucson, Arizona.

#### **ARTICLE 35 – CLEANING UP**

Contractor will, as directed by County, remove from County's property and from all public and private property, at its own expense, all temporary structures, rubbish, and waste materials resulting from its operation.

#### **ARTICLE 36 – RESERVED**

#### **ARTICLE 37 – ARCHAEOLOGICAL FEATURES**

Construction for this project may occur in an archaeological sensitive area. The County Department of Conservation Lands and Resources will determine prior to construction (other than emergencies) any special site monitoring

requirements. Human burials, including human skeletal remains, cremations, and funerary objects are protected under A.R.S. section 41-844 on state, County, and municipal lands, and under A.R.S. section 41-865 on private lands. Should archaeological features and/or artifacts or human remains, including human skeletal or cremation remains be discovered, work at that location will cease immediately, and the area will be taped off and avoided until archaeological investigations are completed. Construction is subject to delay in that location pursuant to applicable State law, while consultation with the Arizona State Museum and appropriate documentation and data recovery takes place. To the extent permitted by law, all archaeological artifacts and other materials will belong to County. No monetary compensation will be made to Contractor for any claims due to delays in the work schedule. Only the Contract construction time will be extended to permit the original scheduled number of days for completion of the project.

#### **ARTICLE 38 – RESERVED**

#### **ARTICLE 39 – RESERVED**

#### **ARTICLE 40 – HAZARDOUS MATERIALS/ HAZARDOUS WASTES / HAZARDOUS SUBSTANCES ABATEMENT**

Should Contractor uncover, or otherwise become aware of the presence of any Hazardous Materials, Hazardous Wastes or Hazardous Substances during the construction of this project, notice will be served immediately to the County Project Manager, and all work surrounding said materials or substances will be ceased until directed to proceed. Construction delays due to Hazardous Materials, Hazardous Wastes or Hazardous Substances abatement may occur.

If this contract does not otherwise require the services of a Hazardous Materials Contractor, abatement of such materials will be provided by County, at its expense and independent of this contract.

If this Contract already employs the services of a Hazardous Materials Contractor, the cost to abate any such additional materials will be added to the contract as Additional Services, in accordance with the provisions of Article 21 "Claims for Cost of Additional Work", and time extensions granted in accordance with the provisions of Article 6 "Delays".

#### **ARTICLE 41 – WASTE DISPOSAL FACILITIES**

Contractor will legally dispose of all construction debris in appropriate County operated waste disposal facilities and pay any applicable fees. In the case of conflicts with the provisions of the Contract Specifications, this provision applies.

#### **ARTICLE 42 – AS-BUILT DRAWINGS**

Contractor will keep an accurate record of all changes and deviations from the Project Plans and Specifications and submit to County 1 set of "As-Built" drawings including dimension, location of underground utilities, etc., upon completion of the work. As-Built drawings will be drawn and submitted in such a format as prescribed by County.

#### **ARTICLE 43 – RESERVED**

### **END EXHIBIT B - GENERAL CONDITIONS**



## EXHIBIT C - SPECIAL CONDITIONS – MULTIPLE AWARD JOB ORDER CONTRACT (12 pages)

### ARTICLE 1 – OVERVIEW AND DEFINITIONS

- A. Overview of Job Order Contracting Arrangement – This Agreement establishes a Multiple-Award, indefinite quantity, job order contracting Arrangement for such construction services within the scope of this Agreement as County may request from time to time by issuance of an individual Job Order Contract for each Project.

The Contract Price for each Job Order shall not exceed \$150,000.00, including any Change Orders.

There is no limit on the number of Job Orders County may issue to any Contractor during any twelve (12) month term of this Contract or during the entire period this Contract is in effect.

Generally, a Contractor may not refuse to quote any Job Order under this Agreement properly issued by County, unless Contractor can legitimately claim the scope of work is poorly defined, hazardous to health or safety, outside the bounds of the intended use of this Agreement, or the Contractor does not have the capacity to accept the Job Order and begin work in a timely manner.

County shall have the right to perform work of the types included in this Agreement itself or to have other contractors perform such work.

- B. Definitions – The following terms will have the following meanings when used in the Agreement. Other terms may be defined elsewhere in the Documents. Terms not defined in the Agreement shall have their ordinary meaning within the usage of the trade. The presence or absence of initial capitals does not indicate a change in meaning.

**“Alternatives Analysis”** means assessment of alternatives for design, means and methods or other scope considerations that are evaluated using value engineering principles and have the potential to reduce construction costs while still delivering a quality and functional Project that meets County requirements.

**“Contract Price”** means the price to be paid for the Work (and for Pre-Construction Services, if any) as specified in the Job Order. The Contract Price shall be a fixed, lump sum price, or a Not-to-Exceed Guaranteed Maximum Price, based on the Contractor’s accepted quotation.

**“Contract Time”** means the time for performance of the Work under a Job Order as specified in the Job Order commencing with the Start Date and ending with Final Completion Date set forth in the Job Order, as modified.

**“Critical Path Method (CPM)”** is a scheduling technique which identifies the logical sequence of the activities occurring in a construction project, the anticipated time required to complete each activity in the project, and the activities that must be completed on schedule to finish the project within the anticipated time. Typically, activities are arrayed in a network that shows both activities and their dependencies. CPM is also used as a management technique which enables contracting parties to predict when activities may occur so that resources can be effectively used and limitations can be identified.

**“Critical Path”** means that sequence of dependent activities in a project that will take the longest time to complete. Any delay in the completion of any of these activities may extend the Substantial Completion date.

**“Day”** means calendar day unless specifically provided otherwise or required by law.

**“Design Professional (DP)”** means, as to a Job Order, the person, if any, who will perform Design Services relating to the Work under the Job Order and who is designated as the Design Professional in the Job Order.

**“Drawings and Specifications”** means, as to a Job Order, the drawings and specifications, if any, attached to the Job Order and specifications included in the Job Order Contract Documents. The Drawings and Specifications set forth the requirements for construction of the Project. Where there are no drawings and specifications for the Work prepared by a Design Professional, County will deliver to the Contractor line drawings and/or a written description of the Work and, in each such case, the line drawings and/or the written description shall be deemed the drawings for the Work for that Job Order for all purposes.

**“Final Completion Date”** means, as to a Job Order, the date by which Contractor shall have completed all Work under a Job Order, including, without limitation, all deficiency, correction and incomplete items (Punch List).

**“Job Order”** means the Contract for a Project executed by County under this Agreement, as it may be modified by Change Orders, if any, relating to the Project under the Job Order.

**“Minor Change”** means a change in the Work having no impact on cost or time or the County's approved design intent, as determined by County.

**“Notice to Proceed”** means written notice given by County to the Contractor fixing the date on which the Contractor will start to perform the Work under that Job Order. The start date will be the Start Date stated in the Job Order.

**“Plans and Specifications”** means the plans and specifications upon which the Job Order's price proposal is based.

**“Pre-Construction Services”** means the performance under a Job Order requiring such services of alternatives analysis, cost or schedule estimating, value engineering, constructability or other design reviews or consultation in the review of a County or third-party design prepared by a County-provided design professional.

**“Project”** means each project of County as to which some or all of the work is to be performed under a Job Order.

**“Qualifications/Proposals Documents”** means the Solicitation for Qualifications issued by County for this Job Order Contract, all Addenda thereto, and all information and documents submitted by Contractor relating thereto including, without limitation, Contractor's submission of formal sealed qualifications, and also including, without limitation, the subcontractor management plan submitted by the Contractor. It also includes all other qualifications/proposals documents: that is all documents and materials delivered by County to Contractor in connection with Contractor's submission of qualifications and submission of a proposal for the contract.

**“Sales Taxes”** - Sales taxes are deemed to include all sales, use, excise, consumer, franchise, and other taxes which are legally enacted when negotiations of a Job Order Contract Price are concluded, whether or not yet effective or merely scheduled to go into effect. Taxes are actual costs and are a not-to-exceed reimbursable amount.

**“Schedule of Values (SOV)”** A spreadsheet with estimated costs organized by subcontract categories, allowances, bid contingency, general conditions costs, taxes, bonds, insurances, and the Contractor's construction phase fee. The supporting document for the spreadsheet must be provided in an organized manner that correlates with the schedule of values. The backup information shall consist of the request for bids, bids received, and clarification assumptions used for the particular bid item listed on the schedule of values, if applicable. The SOV may be output from the Project Schedule if the Project Schedule is cost-loaded.

**“Start Date”** means, as to a Job Order, the date specified in the Notice to Proceed for that Job Order for Contractor to begin the Work.

**“Subcontractor”** means a subcontractor of the Contractor for any of the Work included in a Job Order or any subcontractor at any tier of such a subcontractor.

**“Substantial Completion”** means when the Work, or an agreed upon portion of the Work, is sufficiently complete so that County can occupy and use the Project or a portion thereof for its intended purposes. The conditions of Substantial Completion that apply to a specific Job Order will be listed in the Notice to Proceed Letter for that Job Order.

**“Supplier”** means a person providing materials, supplies or equipment to be included in the Work to Contractor or any Subcontractor.

**“Technical Specifications”** means the general provisions and the detailed specifications prescribed by County describing the materials and performance required for each individual Job Order.

**“Work”** and **“Work (Construction)”** mean all labor, materials, supplies, tools, equipment, transportation, site cleanup, storage and disposal of construction debris, supervision, management, overhead and profit, bonds, insurance, licenses and permits, taxes, intellectual property royalty and license fees, all other activities and items required to perform the Work under a Job Order as described in the Scope of Work in the Job Order. Work does not include Pre-Construction Services in connection with a Job Order.

## **ARTICLE 2 – JOB ORDER DEVELOPMENT**

The steps for development of a Job Order and Quotation will generally be the following:

1. For Projects estimated under \$10,000.00, and during emergency situations County will notify the selected Contractor of a new Project and may or may not schedule a site visit to explain and discuss the project. Design documents, if any, will be provided to the Contractor by the time of the site visit. Once the parties agree on the scope of the project, County will memorialize the agreement in a Job Order and deliver it to Contractor who shall have 5 working days, unless a shorter period is specified in the Job Order, to commence construction. Unless otherwise specified by County, issuance of the Job Order shall constitute Notice to Proceed. In the event of an emergency, the requirement that a Job Order Contract be in place prior to the initiation of work is waived. During such an emergency, a Contractor may be contacted and given instructions by a County Project Manager to perform the work immediately without an approved Job Order. It is understood that the County will prepare a Job Order as soon as practicable following said instructions.
2. For Projects estimated at \$10,000.00 or greater, the County will notify all Job Order Contractors under contract to County. The request shall advise all Contractors of the nature of the Work to be done and include the selection criteria and methodologies County will use to make the "best value" decision. Criteria could include lowest bid, lowest bid meeting schedule, best cost alternative(s), etc. The request letter may also include an estimate of the total dollars the County has budgeted for the Job. Contractor shall be provided an opportunity to ask questions, seek clarification and/or inspect the site, if requested. Alternatively, the County may identify in the request the date and time for a meeting or site visit to explain and discuss the Work and further refine the scope of the project. Design documents, if any, may be provided in advance or at the meeting or site visit.
3. Upon establishment of the scope of the needed Project, each Contractor interested in performing the Job Order shall prepare its proposal for accomplishment of the Project utilizing the Contractor's best estimating practices to develop a fixed, lump sum or not-to-exceed Guaranteed Maximum Contract Price to complete the Work, including any additional Pre-Construction Services (if necessary). See Article 3 for a description of required proposal items. Quotes will be in letter format including an attached table listing major construction components (i.e., Mobilization, grade control structures, soil cement bank protection, excavation, clearing/grubbing, subgrade prep., etc.) with quantities, unit cost, total cost as columns in the table. The time for submittal of proposals for individual Projects shall not exceed 7 working days unless approved by the County.
4. County shall review each Contractor's proposal and may either accept the proposals or negotiate modifications to the proposals until such time the County is satisfied with each of the proposals. Such negotiations shall be limited to value alternatives of costs less than 20% of the original quotation price. Scope modifications or value alternatives that are equal to or greater than 20% shall require County to modify the original request and rebid to the benefit of all interested Contractors under this Contract.

5. The Job Order will then be issued by County to the Job Order Contractor that submitted the best quotation (including schedule and/or value engineering alternatives), as measured by the criteria in the request for quotation. Past performance on earlier Job Orders, including past performance on cost or price control, may be used to determine award of future Job Orders. Quotations must be reasonably prepared, accurately describing the work including the types of materials used, quantities and other cost elements. In the instance the quotation is deemed to be unreasonable or inaccurate, the Project Manager can exercise the option to reject the bid (even if it is the lower bid) or request a revised quotation. An alternative Contractor will be chosen for the work.
6. Upon issuance of each Job Order by County, the Job Order Contract will be binding upon the Contractor and County. A Job Order is considered "issued" when delivered to the Contractor or sent by facsimile copy, in which case the Job Order will be "issued" when sent to Contractor's fax number and County's fax machine prints an acknowledgement of receipt or County.

### **ARTICLE 3 – JOB ORDER PROPOSAL CONTENT**

Although specific Job Orders will vary, the content of Job Order proposals provided by each Contractor under this contract will generally include the following:

1. The description of the Scope of the Work;
2. The duration of the work, including CPM schedule (if required);
3. The Contract Price for Work (Construction), including prices for various proposed alternatives;
4. The Contract Price of Pre-Construction Services by Contractor (if any);
5. The name of the Contractor Representative for the Project;
6. The Drawings and Specifications (if any) used to prepare the quotation;
7. Any assumptions or exclusions that qualify the Contractor's price, including how many days the proposal is valid for;
8. A risk analysis of the project that identifies potential risks to the cost or schedule, or other items which the Owner may need to be informed of that will impact a successful outcome;
9. If any Shop Drawings, Product Data and/or Samples are required for the Job Order, the date for delivery of each required item;
10. A statement of which, if any, of the following are required: Preconstruction Conference, Weekly Progress Meetings, Field Office, Storage Enclosure, Materials and Equipment Handling Facility, Submittals, Shop Drawings, Product Data, Equipment List, Samples, Project Manual, Schedule of Values, Construction Progress Schedule, Narrative Reports, Progress Report, Progress Charts, Progress Photographs, Materials Status Report, Construction Diagram, Construction Status Report, Operation and Maintenance Data, Operating Maintenance Instructions and Parts List, and As-Built Drawings.

Each Job Order will be interpreted to include all items reasonably necessary to complete the Project as described in the Scope of the Work of the Job Order. All Work shall be performed in a professional manner and all materials used shall be new, of the highest quality and of the type best adapted to their purpose, unless otherwise specified.

### **ARTICLE 4 – JOB ORDER NEGOTIATION**

- A. Job Order Pricing – The Contract Price shall include all costs, including overhead, pre-construction, mobilization, indirect costs, etc., incidental to performing the work and completing the job order and with the exception of any changes in the scope of work as directed by the Owner as defined by **Article 6**, no additional payments will be made.

- B. Pre-Construction Services (if any) – If Contractor is providing Pre-Construction Services, the proposal must be supported by documentation to establish that adequate involvement by Contractor in the planning, engineering and design work will be performed to satisfy the requirements of the project. Required services may include (but are not limited to) constructability reviews, materials recommendations, alternatives analysis, development of cost and schedule estimates and tradeoffs, and similar services.

## **ARTICLE 5 – JOB ORDER MANAGEMENT**

- A. Planning, Scheduling, Monitoring – Planning, scheduling and progress monitoring are essential functions of Contractor. If required by the Job Order, after the issuance of the Job Order Contractor shall prepare and submit to County a Schedule of Values allocating the Contract Price among the various portions of the Work for purposes of progress payments. The format of the Schedule of Values shall be as specified by County. In addition, if required by the Job Order, Contractor shall submit a CPM-based Construction Schedule that shall be maintained and updated for the duration of the project.

1. Project Management

Contractor shall employ and supply a sufficient force of workers, material and equipment, and shall prosecute the Work under each Job Order with such diligence as to maintain a steady rate of progress or, if there is a Construction Progress Schedule, the rate of progress indicated on the Construction Progress Schedule, to prevent work stoppage, and to ensure completion of the Project under each Job Order within the Contract Time.

2. Daily Log

Contractor shall maintain a Daily Log of construction activities using a form approved by County. Contractor shall include in the log all significant issues or problems affecting progress and completion of any Job Order.

If required in a Job Order, Contractor shall provide copies of the entries in the Daily Log to County no later than the morning of the next business day. The Daily Log does not constitute written notice to the County when such notice is required by the Contract.

3. Progress Schedule and Float

If Contractor submits an original or updated schedule which shows the Work under a Job Order and/or individual milestone(s) completing earlier than required by the adjusted Final Completion Date in the Job Order, the differences between the forecasted early completion and the required Final Completion Date shall be considered Project-owned float available for use by both County and Contractor.

B. Reporting

1. Monthly Reporting

If required by the Job Order, on the last business day of each calendar month, Contractor will deliver to the County a Monthly Narrative Report. The Report shall include a description of all current, issued, and in process Job Orders, the status of each and anticipated problem areas, delaying factors and their impact, and an explanation of corrective action(s) taken or proposed.

The Report shall include for each job order the Start Date, the Final Completion Date, and, for Job Orders with more than 60 days between such dates, either (A) the current Progress Schedule for the Project, or (B) the date by which Contractor is to submit a proposed Progress Schedule for approval by County.

If the Project under any Job Order is behind schedule in any month, Contractor's Narrative Report shall indicate precisely what measures it will take in the next thirty days to put the Work back on schedule.

If requested by County, Contractor shall meet with County to review the monthly Update Report and to discuss any issues.

## 2. Contractor Responsibility

To the extent required in the Job Order for the Project, Contractor shall be responsible to prepare, submit and maintain the daily log, CPM schedules and Narrative Reports indicated above; failure to do so may be considered a material breach of this Contract. Any additional or unanticipated cost or expense required to maintain logs, schedules reports shall be solely Contractor's responsibility and shall not be charged to County.

## **ARTICLE 6 – CHANGES AND CHANGED CONDITIONS**

- A. Owner Directed Changes in the Scope of Work – By written directive at any time, County may make any changes within the general scope of the Work under a Job Order or issue additional instructions, require additional or modified Work or direct deletion of Work. Contractor shall not proceed with any change involving an increase or decrease in cost or time without prior written authorization from the County in the form of a completed and executed Change Order. If Contractor proceeds with any change involving an increase or decrease in cost or time without written authorization as required by this article, Contractor waives all rights or claims Contractor may have as a result of the change. The County's right to make changes shall not invalidate the Agreement or Job Order Contract Documents or relieve Contractor of any liability. Any requirement of notice of change to the Surety shall be the responsibility of Contractor.

## **ARTICLE 7 – DELAYS AND TIME EXTENSIONS**

- A. Demonstration of Delay – It is agreed that no time extensions shall be granted nor delay damages paid by County unless the delay can be clearly demonstrated by Contractor on the basis of the updated Critical Path Schedule, cannot be mitigated, offset, or eliminated through such actions as revising the intended sequence of the Work or other reasonable means.
- B. Application of Float – Since float time within the schedule is jointly owned, no time extensions will be granted nor delay damages paid until a delay occurs which extends the work beyond the adjusted Final Completion Date. Since float time within the construction schedule is jointly owned, it is acknowledged that County-caused delays on the Project may be offset by County-caused time savings (i.e., critical path submittals returned in less time than allowed by the Contract, approval of substitution requests which result in a savings of time to the Contractor, etc.).
- C. In such an event, Contractor shall not be entitled to receive a time extension or delay damages until all County-caused time savings are exceeded and the Final Completion Date or milestone date is also exceeded.

## **ARTICLE 8 – PERFORMANCE MEASUREMENT**

- A. Performance Assessment – Promptly after final completion of the Work under each Job Order, County will complete a written evaluation of Contractor's performance of the Work. The evaluation shall consist of completion by County of the Performance Quality Evaluation Form attached as **Attachment 1** to these **SPECIAL CONDITIONS**.
- B. Feedback – The completed Performance Evaluation will be shared with Contractor as a means of providing feedback regarding Contractor's cost, schedule and quality performance. Contractor may submit additional information, comment, recommendations or rebuttal for association with the Performance Evaluation.

- C. Comparative Assessment – Contractor's cost, schedule and quality performance of Job Orders under this Contract will be compared periodically to the performance of other like-situated Contractors. The results of these comparisons will be provided to Contractor.

Contractor understands that these assessments will necessarily involve significant subjectivity. Contractor agrees to this process and agrees further that the application of subjectivity in these assessments shall not form the basis for any claim or cause of action of any form whatsoever.

- D. Consideration of Renewal – Contractor's record of cost, schedule and quality performance and comparative assessments shall be significant considerations in the County's determination whether to renew Contractor's participation in the Agreement. Contractor agrees that any determination by County not to renew its participation based on performance will be at the sole discretion of County.

## **ARTICLE 9 – SUBCONTRACTORS**

- A. Subcontractor Selection – Contractor will select Subcontractors in accordance with the Subcontractor Selection Plan incorporated into this Contract by reference.

B. Subcontracts

1. Contractor agrees to deliver to each Subcontractor and to cause each Subcontractor to deliver to each sub-subcontractor a copy of this Agreement and the Job Order Contract Documents relating to the Work of the Subcontractor or sub-subcontractor. Contractor agrees to include in its contract with each Subcontractor all provisions of the Agreement and Job Order documents required to be included in those contracts and to cause its Subcontractors to include the same provisions in their contracts with their sub-subcontractors at all tiers.
2. Each Subcontract, or other Agreement, with any subcontractor for any job order shall include the address or location of the work.

- C. Assignment Upon Termination – Contractor hereby assigns to County (and its assigns) all its interest in any subcontracts and purchase orders now existing or hereinafter entered into by Contractor for performance of any part of the Work under each Job Order, which assignment will be effective upon termination of the Contract by the County and only as to those subcontracts and purchase orders which the County assumes in writing. All subcontracts and purchase orders shall provide that they are freely assignable by Contractor to the County and its assigns. Such assignment is part of the consideration to County for entering into the Contract with Contractor and may not be withdrawn prior to final completion of the Work under each Job Order.

## **ARTICLE 10 – TERMINATION FOR CAUSE**

Anything in the Contract Documents to the contrary notwithstanding, any termination of this Agreement shall automatically terminate all Job Orders as to which the Work is not complete, except that upon any termination of this Contract, County may elect by written notification to Contractor to continue in effect any or all then uncompleted Job Orders in which event this Agreement shall continue in effect as to each continued Job Order and shall terminate upon completion of the last such Job Order.

Anything in the Agreement to the contrary notwithstanding, (i) all indemnification provisions, reimbursement provisions and payment provisions shall survive termination of this Agreement under this Article and shall continue in effect indefinitely without termination, and (ii) all guarantee and warranty provisions and all provisions in the Agreement Documents requiring Contractor to correct any Work not in accordance with the relevant Job Order Documents shall not terminate upon termination of this Agreement and shall continue in effect thereafter in accordance with the terms of each such provision.

- A. Cause for Termination – In addition to the termination rights of the County in **ARTICLE 18 – TERMINATION OF CONTRACT FOR DEFAULT** of the Agreement between County and Contractor, the County may terminate any

or all Job Orders and/or the overall Job Order Agreement at the election of County, upon the occurrence of any 1 or more of the following events:

1. If Contractor refuses or fails to prosecute the Work under any Job Order with such diligence as will ensure its completion within the Contract Time for that Job Order; or if the Contractor fails to complete the Work under any Job Order within the Contract Time for that Job Order;
  2. If Contractor or any of its key Subcontractors under any Job Order is adjudged a bankrupt or insolvent or makes a general assignment for the benefit of creditors, or if Contractor or any of its key Subcontractors under any Job Order or a third party files a petition to take advantage of any debtor's act or to reorganize under the bankruptcy or similar laws concerning Contractor or any of its key Subcontractors under any Job Order, or if a trustee or receiver is appointed for Contractor or any of its key Subcontractors under any Job Order or for any of Contractor's property on account of Contractor or a key Subcontractor under any Job Order, and, in each case, Contractor or its successor in interest or its respective key Subcontractor under any Job Order does not provide reasonably adequate assurance of future performance in accordance with the Contract Documents within 10 days after receipt of a request for assurance from the County;
  3. If Contractor persistently fails to supply sufficient skilled workmen or suitable materials or equipment for the Work under any Job Order;
  4. If, as to any Job Order, Contractor fails to make prompt payments to Subcontractors or Suppliers at any tier, or for labor, materials or equipment;
  5. If Contractor fails to comply with laws, ordinances, rules, codes, regulations, orders or similar requirements of any public entity having jurisdiction;
  6. If, as to any Job Order, Contractor fails to follow any reasonable instructions by the County, which are consistent with the Construction Documents;
  7. If, as to any Job Order, Contractor performs Work which deviates from the Job Order Documents and neglects or refuses to correct rejected Work; or
  8. If, as to any Job Order, Contractor otherwise violates in any material way any provisions or requirements of this Agreement or any Job Order Contract Documents.
- B. Notice and Cure Period – If County determines that 1 or more events of default described in **Article 10(A)** has occurred, the County may elect to terminate any or all Job Orders and/or terminate Contractor's participation in the overall Agreement. To do this, the County must first give Contractor and its Surety written notice of the events of default ("**Notice of Default**") and allow Contractor and its Surety 10 calendar days to cure the events of default. If the events of default are not cured within the 10 calendar days, County may terminate any or all Job Orders and/or terminate Contractor's participation in the overall Agreement by written notice to Contractor and its Surety.
- C. Completion of Terminated Work
1. If any Job Order or participation in the Agreement is terminated, County may take over the Work under terminated Job Orders and prosecute them to completion, by contract or otherwise, and may exclude Contractor from the sites. The County may take possession of the Work under the terminated Job Orders and of all of Contractor's tools, appliances, construction equipment, machinery, supplies and plant which may be on the site of the Work for each terminated Job Order, and use the same to the full extent they could be used by Contractor, all without liability to Contractor.

In exercising the County's right to prosecute the completion of the Work, the County may also take possession of all materials and equipment stored at the site or for which the County has paid Contractor but which are stored elsewhere. The County may use the foregoing items to finish the Work as the County deems expedient. In such case, the Contractor shall not be entitled to receive any further payment until the Work is finished.



2. If any Job Order is terminated, the County may demand that Contractor's surety take over and complete the Work under the Job Order. The County may require that in so doing, the Contractor's surety not utilize Contractor in performing the Work. Upon the failure or refusal of Contractor's surety to take over and begin completion of the Work within 20 days after the demand, the County may take over the Work and prosecute it to completion as provided above.
3. As to any terminated Job Order, County shall have the option of requiring any, all or none of the Subcontractors and Sub-subcontractors to perform according to their subcontracts and may assign any or all of the subcontracts to a general contractor selected to complete the Work.
4. If County takes over the Work under any terminated Job Order, unexecuted orders entered into by Contractor for performance of any part of the Work will be effective upon acceptance by County in writing and only as to those subcontracts and purchase orders which the County designates in writing.

**D. Payment for Terminated Work**

1. If, as to any terminated Job Order, the unpaid balance of the Contract Price exceeds the direct and indirect costs and expenses of completing the Work and all County damages including, without limitation, liquidated damages and compensation for additional professional and Contractor services ("**County's Termination Costs**"), such excess shall be used to pay Contractor for the Work it performed and for which Contractor has not been paid previously and the amount shall be determined using the Tasks, Unit Prices, Coefficients, and Other Tasks and Other Prices included in the Job Order. If, as to any terminated Job Order, the County's Termination Costs exceed the unpaid balance of the Contract Price, Contractor shall immediately upon demand pay the difference to the County or the County may set off the amount against any other amounts owing to Contractor for any cause whatsoever, whether current or future.
2. In exercising the County's right to prosecute the completion of the Work under any terminated Job Order, the County shall have the right to exercise its sole discretion as to the manner, methods, and reasonableness of the costs to be incurred in completing the Work, and the County shall not be required to obtain the lowest figure for Work performed in completing the Project. If the County holds a competitive procurement for remedial Work or completion of the Work under a terminated Job Order, Contractor shall not be eligible for the award of such contracts.
3. Contractor shall be liable for any damage to the County resulting from the termination or from Contractor's refusal or failure to complete the Work under any terminated Job Order and for all costs necessary for repair and completion of the Project under each terminated Job Order over and beyond the Contract Price. Contractor shall be liable for all legal fees and costs required to enforce the provisions of the Agreement and/or Job Order Documents.

E. Nonexclusive Remedies – In the event any Job Order or Contractor's participation in the Agreement is terminated, the termination shall not affect any other rights of the County against Contractor. The rights and remedies of County under this **Article 10** are in addition to any other rights and remedies provided by law or under the Agreement or Job Order Contract Documents. Any retention or payment of monies to Contractor by County will not release Contractor from liability.

F. Erroneous Termination for Cause – If any Job Order or participation in the overall Agreement is terminated under this **Article 10**, and it is determined for any reason that there was no default under **Article 10**, the termination shall be deemed a Termination for Convenience of the County.

**ARTICLE 11 – TERMINATION FOR CONVENIENCE OF THE COUNTY**

The County, by written notice to Contractor, may terminate any Job Order or the overall Agreement in whole or in part if sufficient appropriated or other funds are not available or the County determines, in the sole discretion of the County, that such termination is in the County's best interest. In such case, Contractor shall be paid for all Work under each

Job Order for which Contractor has not been paid previously. Contractor shall also be paid reasonable termination expenses. In no event shall such payments as to any Job Order, exclusive of termination expenses, exceed the total Contract Price for the Job Order as reduced by payments previously made to Contractor and as further reduced by the value of the Work as yet not completed. Since profit and overhead are built into the Contract Price for each Job Order, Contractor shall not be entitled any additional profit or overhead on Work performed and in addition, Contractor shall not be entitled to any profit or overhead on Work not performed.

***(Remainder of Page Intentionally Left Blank)***

# ATTACHMENT 1 TO EXHIBIT C - PERFORMANCE EVALUATION FORM (2 pages)

FOR OFFICIAL USE ONLY (WHEN COMPLETED)				
<b>PERFORMANCE EVALUATION (CONSTRUCTION)</b>			1. CONTRACT NUMBER	
			2. CEC NUMBER	
<b>IMPORTANT:</b> Be sure to complete Part III - Evaluation of Performance Elements on reverse.				
<b>PART I - GENERAL CONTRACT DATA</b>				
3. TYPE OF EVALUATION (X one) <input type="checkbox"/> INTERIM (List percentage _____%) <input type="checkbox"/> FINAL <input type="checkbox"/> AMENDED			4. TERMINATED FOR DEFAULT <input type="checkbox"/>	
5. CONTRACTOR (Name, Address, and ZIP Code)			6.a. PROCUREMENT METHOD (X one) <input type="checkbox"/> SEALED BID <input type="checkbox"/> NEGOTIATED b. TYPE OF CONTRACT (X one) <input type="checkbox"/> FIRM FIXED PRICE <input type="checkbox"/> COST REIMBURSEMENT <input type="checkbox"/> OTHER (Specify)	
7. DESCRIPTION AND LOCATION OF WORK				
8. TYPE AND PERCENT OF SUBCONTRACTING				
9. FISCAL DATA    ▶	a. AMOUNT OF BASIC CONTRACT \$	b. TOTAL AMOUNT OF MODIFICATIONS \$	c. LIQUIDATED DAMAGES ASSESSED \$	d. NET AMOUNT PAID CONTRACTOR \$
10. SIGNIFICANT DATES    ▶	a. DATE OF AWARD	b. ORIGINAL CONTRACT COMPLETION DATE	c. REVISED CONTRACT COMPLETION DATE	d. DATE WORK ACCEPTED
<b>PART II - PERFORMANCE EVALUATION OF CONTRACTOR</b>				
11. OVERALL RATING (X appropriate block) <input type="checkbox"/> OUTSTANDING <input type="checkbox"/> ABOVE AVERAGE <input type="checkbox"/> SATISFACTORY <input type="checkbox"/> MARGINAL <input type="checkbox"/> UNSATISFACTORY (Explain in Item 20 on reverse)				
12. EVALUATED BY				
a. ORGANIZATION (Name and Address (Include ZIP Code))			b. TELEPHONE NUMBER (include Area Code)	
c. NAME AND TITLE		d. SIGNATURE		e. DATE
13. EVALUATION REVIEWED BY				
a. ORGANIZATION (Name and Address (Include ZIP Code))			b. TELEPHONE NUMBER (include Area Code)	
c. NAME AND TITLE		d. SIGNATURE		e. DATE
14. AGENCY USE (Distribution, etc.)				

DD FORM 2626, JUN 94

EXCEPTION TO SF 1420 APPROVED BY GSA/IRMS 6-94  
Adobe Professional 7.0

**FOR OFFICIAL USE ONLY (WHEN COMPLETED)**

<b>PART III - EVALUATION OF PERFORMANCE ELEMENTS</b>													
N/A = NOT APPLICABLE O = OUTSTANDING A = ABOVE AVERAGE S = SATISFACTORY M = MARGINAL U = UNSATISFACTORY													
<b>15. QUALITY CONTROL</b>	N/A	O	A	S	M	U	<b>16. EFFECTIVENESS OF MANAGEMENT</b>	N/A	O	A	S	M	U
a. QUALITY OF WORKMANSHIP							a. COOPERATION AND RESPONSIVENESS						
b. ADEQUACY OF THE CQC PLAN							b. MANAGEMENT OF RESOURCES/ PERSONNEL						
c. IMPLEMENTATION OF THE CQC PLAN							c. COORDINATION AND CONTROL OF SUBCONTRACTOR(S)						
d. QUALITY OF QC DOCUMENTATION							d. ADEQUACY OF SITE CLEAN-UP						
e. STORAGE OF MATERIALS							e. EFFECTIVENESS OF JOB-SITE SUPERVISION						
f. ADEQUACY OF MATERIALS							f. COMPLIANCE WITH LAWS AND REGULATIONS						
g. ADEQUACY OF SUBMITTALS							g. PROFESSIONAL CONDUCT						
h. ADEQUACY OF QC TESTING							h. REVIEW/RESOLUTION OF SUBCONTRACTOR'S ISSUES						
i. ADEQUACY OF AS-BUILTS							i. IMPLEMENTATION OF SUBCONTRACTING PLAN						
j. USE OF SPECIFIED MATERIALS													
k. IDENTIFICATION/CORRECTION OF DEFICIENT WORK IN A TIMELY MANNER													
<b>17. TIMELY PERFORMANCE</b>							<b>18. COMPLIANCE WITH LABOR STANDARDS</b>						
a. ADEQUACY OF INITIAL PROGRESS SCHEDULE							a. CORRECTION OF NOTED DEFICIENCIES						
b. ADHERENCE TO APPROVED SCHEDULE							b. PAYROLLS PROPERLY COMPLETED AND SUBMITTED						
c. RESOLUTION OF DELAYS							c. COMPLIANCE WITH LABOR LAWS AND REGULATIONS WITH SPECIFIC ATTENTION TO THE DAVIS-BACON ACT AND EEO REQUIREMENTS						
d. SUBMISSION OF REQUIRED DOCUMENTATION													
e. COMPLETION OF PUNCHLIST ITEMS							<b>19. COMPLIANCE WITH SAFETY STANDARDS</b>						
f. SUBMISSION OF UPDATED AND REVISED PROGRESS SCHEDULES							a. ADEQUACY OF SAFETY PLAN						
g. WARRANTY RESPONSE							b. IMPLEMENTATION OF SAFETY PLAN						
							c. CORRECTION OF NOTED DEFICIENCIES						
<b>20. REMARKS</b> (Explanation of unsatisfactory evaluation is required. Other comments are optional. Provide facts concerning specific events or actions to justify the evaluation. These data must be in sufficient detail to assist contracting officers in determining the contractor's responsibility. Continue on separate sheet(s), if needed.)													

DD FORM 2626 (BACK), JUN 94

**END ATTACHMENT 1 TO EXHIBIT C – PERFORMANCE EVALUATION FORM**

**END EXHIBIT C – SPECIAL CONDITIONS- MULTIPLE AWARD JOB ORDER CONTRACTS**

## **EXHIBIT D - SUPPLEMENTAL PROVISIONS FOR FEDERAL-AID CONSTRUCTION CONTRACTS (3 pages)**

These provisions apply only to work subject to Federal-Aid. A copy of this Exhibit D and a current Wage Determination shall be attached to the Job Order for any federally funded project. Current wage determinations may be found at <https://sam.gov/wage-determinations>.

### **ARTICLE 1 – DAVIS BACON ACT WAGE DETERMINATION**

Contractor shall pay wages in accordance with the most current Davis Bacon rates in effect in Pima County, Arizona at the time the Job Order is negotiated. Contractor shall provide to County at the time of Job Order negotiation, an adjustment to each of the unit prices for the line items that require payment Davis-Bacon wages. Contractor shall include a copy of the most recent Davis-Bacon Wage Determination in their proposal for incorporation into the Job Order's terms and conditions. The most current Davis-Bacon Act Wage Determinations may be found online at <https://sam.gov/wage-determinations>.

### **ARTICLE 2 – SUBCONTRACTORS**

In addition to the requirements set forth in Article 10 of the Job Order Contract, Contractor shall ensure that no subcontracts are awarded at any tier, to any individual, firm, partnership, joint venture, or any other entity regardless of the form of business organization, listed in the Federal Government's System for Award Management (SAM) system (<https://www.sam.gov/portal/public/SAM>) with an active exclusion.

### **ARTICLE 3 – INDEMNIFICATION**

To the fullest extent permitted by law, Contractor will indemnify and hold harmless County, its officers, employees and agents from and against any and all suits, actions, legal administrative proceedings, claims or demands and costs attendant thereto, including reasonable attorney's fees and court costs, to the extent caused by any negligent, reckless or intentionally wrongful act or omission of Contractor, its agents, employees or anyone acting under its direction or control or on its behalf in connection with performance of this Contract. The obligations under this Article shall not extend to the negligence of County, its officers, employees, agents or indemnitees.

All warranty and indemnification obligations under this contract shall survive expiration or termination of the contract, unless expressly provided otherwise. The Parties agree that any indemnification provision inconsistent with State statute will be interpreted and applied as if it were consistent with State statute.

Upon request, Contractor may fully indemnify and hold harmless any private property owner granting a right of entry to Contractor for the purpose of completing the project. The obligations under this Article do not extend to the negligence of County, their agents, employees or indemnitees.

### **ARTICLE 4 – OWNERSHIP OF DOCUMENTS**

In addition to the requirements set forth in Article 24 of the Job Order Contract, The Granting Agency reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for Federal Government purposes: (a) the copyright in any work developed under this Agreement or any subcontract; and (b) Any rights of copyright to which Contractor or County acquires ownership under this Agreement.

### **ARTICLE 5 – BOOKS AND RECORDS**

In addition to the requirements set forth in Article 25 of the Job Order Contract, Contractor shall also keep and maintain proper and complete books, records and accounts, which shall be open at all reasonable times for inspection and audit by the Granting Agency and the Comptroller General of the United States.

## **ARTICLE 6 – CHANGED CONDITIONS**

### **(1) Differing site conditions.**

- (i) During the progress of the work, if subsurface or latent physical conditions are encountered at the site differing materially from those indicated in the contract or if unknown physical conditions of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in the work provided for in the contract, are encountered at the site, the party discovering such conditions shall promptly notify the other party in writing of the specific differing conditions before the site is disturbed and before the affected work is performed.
- (ii) Upon written notification, County will investigate the conditions, and if it is determined that the conditions materially differ and cause an increase or decrease in the cost or time required for the performance of any work under the Contract, an adjustment, excluding anticipated profits, will be made and the contract modified in writing accordingly. County will notify Contractor of the determination whether or not an adjustment of the contract is warranted.
- (iii) No contract adjustment which results in a benefit to Contractor will be allowed unless Contractor has provided the required written notice.
- (iv) No contract adjustment will be allowed under this clause for any effects caused on unchanged work.

### **(2) Suspensions of work ordered by County.**

- (i) If the performance of all or any portion of the work is suspended or delayed by County in writing for an unreasonable period of time (not originally anticipated, customary, or inherent to the construction industry) and Contractor believes that additional compensation and/or contract time is due as a result of such suspension or delay, Contractor shall submit to County in writing a request for adjustment within 7 calendar days of receipt of the notice to resume work. The request shall set forth the reasons and support for such adjustment.
- (ii) Upon receipt, County will evaluate Contractor's request. If County agrees that the cost and/or time required for the performance of the Contract has increased as a result of such suspension and the suspension was caused by conditions beyond the control of and not the fault of Contractor, its suppliers, or subcontractors at any approved tier, and not caused by weather, County will make an adjustment (excluding profit) and modify the contract in writing accordingly. Contractor will be notified of County's determination whether or not an adjustment of the Contract is warranted.
- (iii) No contract adjustment will be allowed unless Contractor has submitted the request for adjustment within the time prescribed.
- (iv) No contract adjustment will be allowed under this clause to the extent that performance would have been suspended or delayed by any other cause, or for which an adjustment is provided or excluded under any other term or condition of this Contract.

### **(3) Significant changes in the character of work.**

- (i) County reserves the right to make, in writing, at any time during the work, such changes in quantities and such alterations in the work as are necessary to satisfactorily complete the project. Such changes in quantities and alterations shall not invalidate the Contract nor release the surety, and Contractor agrees to perform the work as altered.
- (ii) If the alterations or changes in quantities significantly change the character of the work under the Contract, whether such alterations or changes are in themselves significant changes to the character of the work or by affecting other work cause such other work to become significantly different in character, an adjustment, excluding anticipated profit, will be made to the Contract. The basis for the

adjustment shall be agreed upon prior to the performance of the work. If a basis cannot be agreed upon, then an adjustment will be made either for or against Contractor in such amount as County may determine to be fair and equitable.

- (iii) If the alterations or changes in quantities do not significantly change the character of the work to be performed under the Contract, the altered work will be paid for as provided elsewhere in the Contract.
- (iv) The term "significant change" shall be construed to apply only to the following circumstances:
  - (A) When the character of the work as altered differs materially in kind or nature from that involved or included in the original proposed construction; or
  - (B) When a major item of work, as defined elsewhere in the Contract, is increased in excess of 125 percent or decreased below 75 percent of the original Contract quantity. Any allowance for an increase in quantity shall apply only to that portion in excess of 125 percent of original Contract item quantity, or in case of a decrease below 75 percent, to the actual amount of work performed.

**END OF EXHIBIT D - SUPPLEMENTAL PROVISIONS FOR FEDERAL-AID CONSTRUCTION CONTRACTS**

## CHECKLIST AND TRANSMITTAL


Company Name **BJ Drilling**

Date: 10/30/2025

Project: Job Order Contract: Well Installation, Development and Repair

### Bonds

  X   Performance Bond (in accordance with the terms in the contract)

 By initialing here, Our company will supply bonds on a job-order by job-order basis, and the Contracting Department will obtain the appropriate bonds from Contractor upon issuance of a Job Order and release the Delivery Order.

  X   Payment Bond (in accordance with the terms in the contract)

 By initialing here, our company will supply bonds on a job-order by job-order basis, and the Contracting Department will obtain the appropriate bonds from Contractor upon issuance of a Job Order and release the Delivery Order.

A Certified copy of Power of Attorney of the person signing for the Surety Company must be dated and filed with the bonds. Kindly have resident agent countersign the bonds (other than the "attorney in fact"), as provided for on the bond forms.

### Insurance

Certificate of Commercial General Liability Insurance in the amount as stated in the original contract for Prime Contractor.

  X   **IMPORTANT:** Certificate shall show Pima County as additional insured and added on policy by endorsement for commercial general liability.

Certificate of Comprehensive Automobile Liability Insurance in the amount as stated in the original contract.

  X   **IMPORTANT:** Certificate shall show Pima County as additional insured and added on policy by endorsement for comprehensive automobile liability.

  X   Certificate of Evidence of Workers' Compensation for Prime Contractor in the amount as stated in the original contract.

  N/A   Certificate of Professional Liability Insurance

  N/A   Builder's Risk Insurance as stated in the original contract. The policy should list Pima County as a loss payee.

### Other Requirements

Please remember that Pima County needs to be added as an additional insured to the general liability AND automobile liability policy. Addition of the name "Pima County" at the bottom of the general and auto certificates is NOT sufficient to add Pima County as additional insured. We require either an endorsement adding Pima County as additional insured to each policy (general and auto), a blanket endorsement or completion of the attached additional insured form. Your insurance company should be able to complete this additional insured requirement for you; they can contact me if they have questions.

Jorden Oliver, Procurement Department

Phone: (520) 724-8762 | Email: [Jorden.Oliver@Pima.gov](mailto:Jorden.Oliver@Pima.gov)

Additional Insured for Commercial General Liability and Comprehensive Automobile Liability Endorsement Form attached.





Dear Policyholder,

Thank you for choosing Federated Insurance to handle your insurance and risk management needs. The attached certificate document(s) have been issued or updated.

Please feel free to contact us with any additional changes, additions or deletions that may be needed by contacting the Federated Client Contact Center at:

E-mail: [clientcontactcenter@fedins.com](mailto:clientcontactcenter@fedins.com)

Phone: 1-888-333-4949

Fax: 507-446-4664

Thank you for your business!

Client Contact Center

Enclosed:  
Certificate Document(s)



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
11/04/2025

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER  
FEDERATED MUTUAL INSURANCE COMPANY AND ITS AFFILIATES  
INCLUDING PRIMARY SOURCE INSURANCE AGENCY  
121 E. PARK SQUARE  
OWATONNA, MN 55060

CONTACT  
NAME: CLIENT CONTACT CENTER  
PHONE (A/C, No, Ext): 888-333-4949 FAX (A/C, No): 507-446-4664  
E-MAIL ADDRESS: CLIENTCONTACTCENTER@FEDINS.COM

INSURED  
B-J DRILLING COMPANY, INC.  
2094 N HIGHWAY 90  
HUACHUCA CITY, AZ 85616-8344

INSURERS AFFORDING COVERAGE	NAIC #
INSURER A: FEDERATED MUTUAL INSURANCE COMPANY	13935
INSURER B: MIDWEST EMPLOYERS CASUALTY COMPANY	23612
INSURER C:	
INSURER D:	
INSURER E:	
INSURER F:	

## COVERAGES

CERTIFICATE NUMBER: 34

REVISION NUMBER: 0

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	Y	Y	1916215	01/01/2025	01/01/2026	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$100,000 MED EXP (Any one person) EXCLUDED PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS & COMP/OP ACC \$2,000,000
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY	Y	Y	1916215	01/01/2025	01/01/2026	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per Person) BODILY INJURY (Per Accident) PROPERTY DAMAGE (Per Accident)
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION	Y	Y	1916216	01/01/2025	01/01/2026	EACH OCCURRENCE \$2,000,000 AGGREGATE \$2,000,000
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/ EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N Y	N/A	Y	BNET439462771	01/01/2025	01/01/2026 <input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.I. EACH ACCIDENT \$1,000,000 E.I. DISEASE EA EMPLOYEE \$1,000,000 E.I. DISEASE - POLICY LIMIT \$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

SEE ATTACHED PAGE

## CERTIFICATE HOLDER

PIMA COUNTY  
150 W CONGRESS ST FL 5  
TUCSON, AZ 85701-1317

34 0

## CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE



AGENCY CUSTOMER ID: \_\_\_\_\_

LOC #: \_\_\_\_\_

**ADDITIONAL REMARKS SCHEDULE**Page 1 of 1

AGENCY FEDERATED MUTUAL INSURANCE COMPANY AND ITS AFFILIATES INCLUDING PRIMARY SOURCE INSURANCE AGENCY		NAMED INSURED B-J DRILLING COMPANY, INC. 2094 N HIGHWAY 90 HUACHUCA CITY, AZ 85616-8344	
POLICY NUMBER SEE CERTIFICATE # 34.0			
CARRIER SEE CERTIFICATE # 34.0	NAIC CODE	EFFECTIVE DATE: SEE CERTIFICATE # 34.0	

**ADDITIONAL REMARKS**

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,

FORM NUMBER: 25 FORM TITLE: CERTIFICATE OF LIABILITY INSURANCE

PROJECT #SC2500000598

PROJECT: WELL INSTALLATION, DEVELOPMENT AND REPAIR - PIMA COUNTY, AZ

THE CERTIFICATE HOLDER IS AN ADDITIONAL INSURED SUBJECT TO THE CONDITIONS OF THE ADDITIONAL INSURED - OWNERS, LESSEES OR CONTRACTORS - AUTOMATIC STATUS WHEN REQUIRED IN A WRITTEN CONSTRUCTION AGREEMENT WITH YOU ENDORSEMENT FOR GENERAL LIABILITY.

THE CERTIFICATE HOLDER IS AN ADDITIONAL INSURED ON GENERAL LIABILITY SUBJECT TO THE CONDITIONS OF THE ADDITIONAL INSURED - OWNERS, LESSEES, OR CONTRACTORS - COMPLETED OPERATIONS ENDORSEMENT.

THE CERTIFICATE HOLDER IS AN ADDITIONAL INSURED SUBJECT TO THE CONDITIONS OF THE ADDITIONAL INSURED BY CONTRACT ENDORSEMENT FOR BUSINESS AUTO LIABILITY.

INSURANCE PROVIDED BY THE GENERAL LIABILITY COVERAGE IS PRIMARY AND NONCONTRIBUTORY OVER OTHER INSURANCE SUBJECT TO THE CONDITIONS OF THE PRIMARY AND NONCONTRIBUTORY CLAUSE- OTHER INSURANCE CONDITION.

INSURANCE PROVIDED BY THE BUSINESS AUTO LIABILITY IS PRIMARY AND NONCONTRIBUTORY OVER OTHER INSURANCE SUBJECT TO THE CONDITIONS OF THE PRIMARY AND NONCONTRIBUTORY CLAUSE- OTHER INSURANCE CONDITION.

GENERAL LIABILITY CONTAINS A WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US (WAIVER OF SUBROGATION) - AUTOMATIC ENDORSEMENT

BUSINESS AUTO LIABILITY CONTAINS A WAIVER OF SUBROGATION IN FAVOR OF THE CERTIFICATE HOLDER SUBJECT TO THE CONDITIONS OF THE WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US (WAIVER OF SUBROGATION) - AUTOMATIC WHEN REQUIRED BY WRITTEN CONTRACT ENDORSEMENT.

GENERAL LIABILITY COVERAGE CONTAINS CG 25 03 DESIGNATED CONSTRUCTION GENERAL AGGREGATE LIMIT ENDORSEMENT APPLICABLE TO EACH CONSTRUCTION PROJECT AS REQUIRED BY WRITTEN CONTRACT OR WRITTEN AGREEMENT.

COMMERCIAL UMBRELLA FOLLOWS FORM ACCORDING TO THE TERMS, CONDITIONS, AND ENDORSEMENTS FOUND IN THE COMMERCIAL UMBRELLA POLICY.

FOR REASONS OTHER THAN NON-PAYMENT OF PREMIUM, 45 DAYS NOTICE WILL BE PROVIDED TO THE CERTIFICATE HOLDER IN THE EVENT THAT THE ISSUING COMPANY CANCELS THE POLICY BEFORE THE EXPIRATION DATE OF THE POLICY.

THE WORKERS COMPENSATION COVERAGE CONTAINS A WAIVER OF SUBROGATION IN FAVOR OF THE CERTIFICATE HOLDER SUBJECT TO THE CONDITIONS OF THE WAIVER OF SUBROGATION.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**WAIVER OF TRANSFER OF RIGHTS OF RECOVERY  
AGAINST OTHERS TO US (WAIVER OF SUBROGATION) -  
AUTOMATIC WHEN REQUIRED BY WRITTEN  
CONTRACT OR AGREEMENT**

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM  
BUSINESS AUTO COVERAGE FORM  
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

The **Transfer Of Rights Of Recovery Against Others To Us** Condition does not apply to any person(s) or organization(s) for whom you are required to waive subrogation with respect to the coverage provided under this Coverage Form, but only to the extent that subrogation is waived:

- A.** Under a written contract or agreement with such person(s) or organization(s); and
- B.** Prior to the "accident" or the "loss".

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**PRIMARY AND NONCONTRIBUTORY -  
OTHER INSURANCE CONDITION**

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM  
BUSINESS AUTO COVERAGE FORM  
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

- A.** The following is added to the **Other Insurance Condition** in the Business Auto Coverage Form and the **Other Insurance - Primary And Excess Insurance Provisions** in the Motor Carrier Coverage Form and supersedes any provision to the contrary:
- This Coverage Form's Covered Autos Liability Coverage is primary to and will not seek contribution from any other insurance available to an "insured" under your policy provided that:
1. Such "insured" is a Named Insured under such other insurance; and
  2. You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to such "insured".
- B.** The following is added to the **Other Insurance Condition** in the Auto Dealers Coverage Form and supersedes any provision to the contrary:
- This Coverage Form's Covered Autos Liability Coverage and General Liability Coverages are primary to and will not seek contribution from any other insurance available to an "insured" under your policy provided that:
1. Such "insured" is a Named Insured under such other insurance; and
  2. You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to such "insured".

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **ADDITIONAL INSURED BY CONTRACT ENDORSEMENT**

This endorsement modifies insurance provided under the following:

### **BUSINESS AUTO COVERAGE PART**

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

- A. WHO IS AN INSURED for "bodily injury" and "property damage" liability is amended to include:  
Any person or organization other than a joint venture, for which you have agreed by written contract to procure bodily injury or property damage "auto" liability insurance arising out of operation of a covered "auto" with your permission. However, this additional insurance does not apply to:
- (1) The owner or anyone else from whom you hire or borrow a covered "auto". This exception does not apply if the covered "auto" is a "trailer" connected to a covered "auto" you own.
  - (2) Your "employee" if the covered "auto" is owned by that "employee" or a member of his or her household.
  - (3) Someone using a covered "auto" while he or she is working in a business of selling, servicing, repairing, parking or storing "autos" unless that business is yours.
  - (4) Anyone other than your "employees", partners (if you are a partnership), members (if you are a limited liability company), or a lessee or borrower or any of their "employees", while moving property to or from a covered "auto".
  - (5) A partner (if you are a partnership), or a member (if you are a limited liability company) for a covered "auto" owned by him or her or a member of his or her household.
- B. The coverage extended to any additional insured by this endorsement is limited to, and subject to all terms, conditions, and exclusions of the Coverage Part to which this endorsement is attached.
- In addition, coverage shall not exceed the terms and conditions that are required by the terms of the written agreement to add any insured, or to procure insurance.
- C. The limits of insurance applicable to such insurance shall be the lesser of the limits required by the agreement between the parties, or the limits provided by this policy.
- D. Additional exclusions. The insurance afforded to any person or organization as an insured under this endorsement does not apply:
1. To "loss" which occurs prior to the date of your contract with such person or organization;
  2. To "loss" arising out of the sole negligence of any person or organization that would not be an insured except for this endorsement.
  3. To "loss" for any leased or rented "auto" when the lessor or his or her agent takes possession of the leased or rented "auto" or the policy period ends, whichever occurs first.

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**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**PRIMARY AND NONCONTRIBUTORY -  
OTHER INSURANCE CONDITION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
LIQUOR LIABILITY COVERAGE PART  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

The following is added to the **Other Insurance** Condition and supersedes any provision to the contrary:

**Primary And Noncontributory Insurance**

This insurance is primary to and will not seek contribution from any other insurance available to an additional insured under your policy provided that:

- (1) The additional insured is a Named Insured under such other insurance; and

- (2) You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**ADDITIONAL INSURED - OWNERS, LESSEES OR  
CONTRACTORS - AUTOMATIC STATUS WHEN  
REQUIRED IN A WRITTEN CONSTRUCTION  
AGREEMENT WITH YOU**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

**A. Section II - Who Is An Insured** is amended to include as an additional insured any person or organization for whom you are performing operations when you and such person or organization have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy. Such person or organization is an additional insured only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured.

However, the insurance afforded to such additional insured:

1. Only applies to the extent permitted by law; and
2. Will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

A person's or organization's status as an additional insured under this endorsement ends when your operations for that additional insured are completed.

**B.** With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to:

1. "Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

- a. The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
- b. Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering of or the failure to render any professional architectural, engineering or surveying services.



2. "Bodily injury" or "property damage" occurring after:

- a. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
- b. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

C. With respect to the insurance afforded to these additional insureds, the following is added to **Section III - Limits Of Insurance:**

The most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement you have entered into with the additional insured; or
2. Available under the applicable limits of insurance;

whichever is less.

This endorsement shall not increase the applicable limits of insurance.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**ADDITIONAL INSURED - OWNERS, LESSEES OR  
CONTRACTORS - COMPLETED OPERATIONS**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

**SCHEDULE**

<b>Name Of Additional Insured Person(s) Or Organization(s)</b>	<b>Location And Description Of Completed Operations</b>
Pima County 150 W Congress St Fl 5 Tucson, AZ 85701-1317	Any coverage provided by this endorsement applies only to Project #SC2500000598, Well Installation, Development and Repair - Pima County, AZ.
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

**A. Section II - Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" at the location designated and described in the Schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

**B. With respect to the insurance afforded to these additional insureds, the following is added to Section III - Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable limits of insurance;

whichever is less.

This endorsement shall not increase the applicable limits of insurance.

**Insured:**

B-J Drilling Company, Inc.  
2094 N Highway 90  
Huachuca City, AZ 85616-8344

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**WAIVER OF TRANSFER OF RIGHTS OF RECOVERY  
AGAINST OTHERS TO US (WAIVER OF SUBROGATION) -  
AUTOMATIC**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
ELECTRONIC DATA LIABILITY COVERAGE PART  
LIQUOR LIABILITY COVERAGE PART  
POLLUTION LIABILITY COVERAGE PART DESIGNATED SITES  
POLLUTION LIABILITY LIMITED COVERAGE PART DESIGNATED SITES  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART  
RAILROAD PROTECTIVE LIABILITY COVERAGE PART  
UNDERGROUND STORAGE TANK POLICY DESIGNATED TANKS

The following is added to Paragraph 8. **Transfer Of Rights Of Recovery Against Others To Us** of Section IV - Conditions:

We waive any right of recovery against any person or organization, because of any payment we make under this Coverage Part, to whom the insured has waived its right of recovery in a written contract or agreement. Such waiver by us applies only to the extent that the insured has waived its right of recovery against such person or organization prior to loss.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**DESIGNATED CONSTRUCTION PROJECT(S)  
GENERAL AGGREGATE LIMIT**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

**SCHEDULE**

**Designated Construction Project(s):**

Each construction project as required by written contract or written agreement.

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

- A.** For all sums which the insured becomes legally obligated to pay as damages caused by "occurrences" under Section I - Coverage A, and for all medical expenses caused by accidents under Section I - Coverage C, which can be attributed only to ongoing operations at a single designated construction project shown in the Schedule above:
1. A separate Designated Construction Project General Aggregate Limit applies to each designated construction project, and that limit is equal to the amount of the General Aggregate Limit shown in the Declarations.
  2. The Designated Construction Project General Aggregate Limit is the most we will pay for the sum of all damages under Coverage A, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard", and for medical expenses under Coverage C regardless of the number of:
    - a. Insureds;
    - b. Claims made or "suits" brought; or
    - c. Persons or organizations making claims or bringing "suits".
  3. Any payments made under Coverage A for damages or under Coverage C for medical expenses shall reduce the Designated Construction Project General Aggregate Limit for that designated construction project. Such payments shall not reduce the General Aggregate Limit shown in the Declarations nor shall they reduce any other Designated Construction Project General Aggregate Limit for any other designated construction project shown in the Schedule above.
  4. The limits shown in the Declarations for Each Occurrence, Damage To Premises Rented To You and Medical Expense continue to apply. However, instead of being subject to the General Aggregate Limit shown in the Declarations, such limits will be subject to the applicable Designated Construction Project General Aggregate Limit.

- B.** For all sums which the insured becomes legally obligated to pay as damages caused by "occurrences" under Section I - Coverage A, and for all medical expenses caused by accidents under Section I - Coverage C, which cannot be attributed only to ongoing operations at a single designated construction project shown in the Schedule above:
- 1.** Any payments made under Coverage A for damages or under Coverage C for medical expenses shall reduce the amount available under the General Aggregate Limit or the Products-completed Operations Aggregate Limit, whichever is applicable; and
  - 2.** Such payments shall not reduce any Designated Construction Project General Aggregate Limit.
- C.** When coverage for liability arising out of the "products-completed operations hazard" is provided, any payments for damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard" will reduce the Products-completed Operations Aggregate Limit, and not reduce the General Aggregate Limit nor the Designated Construction Project General Aggregate Limit.
- D.** If the applicable designated construction project has been abandoned, delayed, or abandoned and then restarted, or if the authorized contracting parties deviate from plans, blueprints, designs, specifications or timetables, the project will still be deemed to be the same construction project.
- E.** The provisions of Section III - Limits Of Insurance not otherwise modified by this endorsement shall continue to apply as stipulated.

**WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT**

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

**Schedule**

<b>State</b>	<b>Description</b>
AZ	Any person or organization with whom the insured agrees to waive subrogation in a written contract.

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

**(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)**

Endorsement Effective	09/23/2025	Policy No. BNET439462771	Endorsement No. 2
Insured	B-J Drilling Company, Inc.		Premium \$250
Insurance Company	Midwest Employers Casualty Company		

Countersigned by \_\_\_\_\_

**WC 00 03 13**  
(Ed. 4-84)



PROCUREMENT DEPARTMENT

DESIGN & CONSTRUCTION DIVISION | 150 W. CONGRESS ST., 5<sup>TH</sup> FLOOR | TUCSON, AZ 85701

PHONE: 520-724-8161 | FAX: 520-724-3646

Insurance carrier verifies Pima County is named as Additional Insured to the Comprehensive Commercial General Liability policy AND the Comprehensive Automobile Liability policy referenced below, the County being added by ENDORSEMENT to the policies.

B.J. Drilling company, Inc.

Insured Firm

1916215

Policy Number

Federated Insurance

Insurance Carrier

Emily Briggs

Authorized Carrier Signature

Emily Briggs

Printed Name

11/03/25

Date of Signature

NOTE: This document must be included with Insurance Certificates at time of signing contract or renewing contract.

## CHECKLIST AND TRANSMITTAL

**Weber Water Resources, LLC.**

Date: 10/30/2025

Project: Job Order Contract: Well Installation, Development and Repair

### Bonds

  X   Performance Bond (in accordance with the terms in the contract)

  BW  

By initialing here, Our company will supply bonds on a job-order by job-order basis, and the Contracting Department will obtain the appropriate bonds from Contractor upon issuance of a Job Order and release the Delivery Order.

  X   Payment Bond (in accordance with the terms in the contract)

  BW  

By initialing here, our company will supply bonds on a job-order by job-order basis, and the Contracting Department will obtain the appropriate bonds from Contractor upon issuance of a Job Order and release the Delivery Order.

A Certified copy of Power of Attorney of the person signing for the Surety Company must be dated and filed with the bonds. Kindly have resident agent countersign the bonds (other than the "attorney in fact"), as provided for on the bond forms.

### Insurance

Certificate of Commercial General Liability Insurance in the amount as stated in the original contract for Prime Contractor.

  X  

IMPORTANT: Certificate shall show Pima County as additional insured and added on policy by endorsement for commercial general liability.

Certificate of Comprehensive Automobile Liability Insurance in the amount as stated in the original contract.

  X  

IMPORTANT: Certificate shall show Pima County as additional insured and added on policy by endorsement for comprehensive automobile liability.

Certificate of Evidence of Workers' Compensation for Prime Contractor in the amount as stated in the original contract.

  X  

  N/A   Certificate of Professional Liability Insurance

  N/A   Builder's Risk Insurance as stated in the original contract. The policy should list Pima County as a loss payee.

### Other Requirements

Please remember that Pima County needs to be added as an additional insured to the general liability AND automobile liability policy. Addition of the name "Pima County" at the bottom of the general and auto certificates is NOT sufficient to add Pima County as additional insured. We require either an endorsement adding Pima County as additional insured to each policy (general and auto), a blanket endorsement or completion of the attached additional insured form. Your insurance company should be able to complete this additional insured requirement for you; they can contact me if they have questions.

Jorden Oliver, Procurement Department

Phone: (520) 724-8762 | Email: [Jorden.Oliver@Pima.gov](mailto:Jorden.Oliver@Pima.gov)

Additional Insured for Commercial General Liability and Comprehensive Automobile Liability Endorsement Form attached.





# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

11/13/2025

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION** IS **WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> Lovitt & Touché A Marsh and McLennan Agency, LLC 8605 E. Raintree Drive, Suite 200 Scottsdale AZ 85260	<b>CONTACT</b> <b>NAME:</b> Michelle Dickason <b>PHONE</b> (A/C, No, Ext): 602-956-2250 <b>FAX</b> (A/C, No): <b>E-MAIL</b> <b>ADDRESS:</b> Michelle.Dickason@MarshMMA.com
<b>INSURED</b> Weber Water Resources, LLC 7551 S Atwood Mesa AZ 85212	<b>INSURER(S) AFFORDING COVERAGE</b> <b>INSURER A:</b> Berkley Assurance Company <b>INSURER B:</b> Navigators Specialty Insurance Company <b>INSURER C:</b> Arch Insurance Company <b>INSURER D:</b> SiriusPoint Specialty Insurance Corp. <b>INSURER E:</b> Spinnaker Insurance Company <b>INSURER F:</b>

**COVERAGES****CERTIFICATE NUMBER:** 1307082454**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
C	<input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	Y	Y	ZAGLB1058000	5/1/2025	5/1/2026	EACH OCCURRENCE \$2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$1,000,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$2,000,000 GENERAL AGGREGATE \$4,000,000 PRODUCTS - COMP/OP AGG \$4,000,000 \$
C	<input checked="" type="checkbox"/> <b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	Y	Y	ZACAT9342500	5/1/2025	5/1/2026	COMBINED SINGLE LIMIT (Ea accident) \$2,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
D B	<input checked="" type="checkbox"/> <b>UMBRELLA LIAB</b> <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> <b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$	Y	Y	IPSEX00000014 LA25EXCZ0GVJGIC	5/1/2025 5/1/2025	5/1/2026 5/1/2026	EACH OCCURRENCE \$5,000,000 AGGREGATE \$5,000,000 \$
C	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input type="checkbox"/>	Y N/A	ZAWCH1078000	5/1/2025	5/1/2026	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000
A E	Pollution/ Professional Cyber Liability Installation Floater	Y	Y	PCADB50277730525 FLYCBSC1TN8NYT003	5/1/2025 5/1/2025	5/1/2026 5/1/2026	P&P Occ/Agg \$2,000,000 Cyber Occ/Agg \$1,000,000 Inst Fltr \$1,000,000

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)**

Certificate Holder and owner (if applicable) are additional insureds as respects general liability, automobile liability, pollution liability and excess liability if required in a written contract. Waiver of Subrogation applies to the general liability, auto liability, excess liability and workers compensation if required in a written contract. The general liability, automobile and umbrella is primary and certificate holder's insurance is non-contributory if required by written contract. Certificate Holder will be given 30 days notice of cancellation with the exception of 10 day notice for non-payment of premium.

Pollution limit Occurrence form. Professional Liability Claims Made form; Retro Date 10/27/20 Poll Prof Ded \$25,000

CONTRACT NO.: SC2500000598

The General Liability and Business Automobile Liability Policies shall each be endorsed to include Pima County, its departments, districts, boards, See Attached...

**CERTIFICATE HOLDER****CANCELLATION**

Pima County  
Procurement Department  
150 W. Congress Street, 5TH Floor  
Tucson AZ 85701

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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**ADDITIONAL REMARKS SCHEDULE**Page 1 of 1

AGENCY Lovitt & Touché A Marsh and McLennan Agency, LLC		NAMED INSURED Weber Water Resources, LLC 7551 S Atwood Mesa AZ 85212
POLICY NUMBER		
CARRIER	NAIC CODE	EFFECTIVE DATE:

**ADDITIONAL REMARKS****THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,****FORM NUMBER:** 25 **FORM TITLE:** CERTIFICATE OF LIABILITY INSURANCE

commissions, officers, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by or on behalf of Contractor.

**COMMERCIAL GENERAL LIABILITY  
CG 20 10 07 04**

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**ADDITIONAL INSURED – OWNERS, LESSEES OR  
CONTRACTORS – SCHEDULED PERSON OR  
ORGANIZATION**

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE PART**

**SCHEDULE**

<b>Name Of Additional Insured Person(s) Or Organization(s):</b>	<b>Location(s) Of Covered Operations</b>
ALL PARTIES WHERE REQUIRED BY A WRITTEN CONTRACT OR WRITTEN AGREEMENT THAT REQUIRE THIS EDITION DATE.	ALL LOCATIONS WHERE REQUIRED BY A WRITTEN CONTRACT OR WRITTEN AGREEMENT THAT REQUIRE THIS EDITION DATE.
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

**A. Section II – Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

**B.** With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to "bodily injury" or "property damage" occurring after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

**COMMERCIAL GENERAL LIABILITY  
CG 20 37 07 04**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED – OWNERS, LESSEES OR  
CONTRACTORS – COMPLETED OPERATIONS**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

**SCHEDULE**

<b>Name Of Additional Insured Person(s) Or Organization(s):</b>	<b>Location And Description Of Completed Operations</b>
ALL PARTIES WHERE REQUIRED BY A WRITTEN CONTRACT OR WRITTEN AGREEMENT THAT REQUIRE THIS EDITION DATE.	ALL LOCATIONS WHERE REQUIRED BY A WRITTEN CONTRACT OR WRITTEN AGREEMENT THAT REQUIRE THIS EDITION DATE.
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

**Section II – Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" at the location designated and described in the schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – SCHEDULED PERSON OR ORGANIZATION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

### **SCHEDULE**

<b>Name Of Additional Insured Person(s) Or Organization(s)</b>	<b>Location(s) Of Covered Operations</b>
All parties where required by written agreement that require this edition date.	All locations where required by a written contract or written agreement that require this edition date.
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

- A. Section II – Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for “bodily injury”, “property damage” or “personal and advertising injury” caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such

additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

- B.** With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to “bodily injury” or “property damage” occurring after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
2. That portion of “your work” out of which the injury or damage arises has been put to its intended use by any person or organization other

than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

- C. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance**:

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

All other terms and conditions of this Policy remain unchanged.

1. Required by the contract or agreement; or
2. Available under the applicable Limits of Insurance shown in the Declarations;

whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

Endorsement Number:

This endorsement is effective on the inception date of this policy unless otherwise stated herein.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Policy Number: ZAGLB1058000

Named Insured: Weber Water Resources, LLC

Endorsement Effective Date: 05/01/2025

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – COMPLETED OPERATIONS**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

### **SCHEDULE**

<b>Name Of Additional Insured Person(s) Or Organization(s)</b>	<b>Location And Description Of Completed Operations</b>
All parties where required by written contract or written agreement that require this edition date.	All locations where required by a written contract or written agreement that require this edition date.
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

**A. Section II – Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" at the location designated and described in the Schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

**B. With respect to the insurance afforded to these additional insureds, the following is added to Section III – Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable Limits of Insurance shown in the Declarations;

whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

INSURED: Weber Water Resources, LLC

POLICY #: ZAGLB1058000

POLICY PERIOD: 05/01/2025

TO 05/01/2026

COMMERCIAL GENERAL LIABILITY

CG 20 10 12 19

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## ADDITIONAL INSURED - OWNERS, LESSEES OR CONTRACTORS - SCHEDULED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

### SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s)	Location(s) Of Covered Operations
All parties where required by written contract or written agreement that require this edition date.	All locations where required by a written contract or written agreement that require this edition date.
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. Section II - Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to "bodily injury" or "property damage" occurring after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

C. With respect to the insurance afforded to these additional insureds, the following is added to Section III - Limits Of Insurance:

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
  2. Available under the applicable limits of insurance;
- whichever is less.



INSURED: Weber Water Resources, LLC

POLICY #: ZAGLB1058000

POLICY PERIOD: 05/01/2025

TO 05/01/2026

COMMERCIAL GENERAL LIABILITY

CG 20 37 12 19

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## ADDITIONAL INSURED - OWNERS, LESSEES OR CONTRACTORS - COMPLETED OPERATIONS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

### SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s)	Location And Description Of Completed Operations
All parties where required by written contract or written agreement that require this edition date.	All locations where required by a written contract or written agreement that require this edition date.
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. Section II - Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" at the location designated and described in the Schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following is added to Section III - Limits Of Insurance:

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable limits of insurance;

whichever is less.

This endorsement shall not increase the applicable limits of insurance.

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**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

### **SCHEDULE**

**Name Of Person Or Organization:**

Any person or organization where waiver of our right to recover is permitted by law and is required by written contract provided such contract was executed prior to the loss.

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The following is added to Paragraph **8. Transfer Of Rights Of Recovery Against Others To Us** of **Section IV – Conditions**:

We waive any right of recovery we may have against the person or organization shown in the Schedule above because of payments we make

for injury or damage arising out of your ongoing operations or “your work” done under a contract with that person or organization and included in the “products-completed operations hazard”. This waiver applies only to the person or organization shown in the Schedule above.

All other terms and conditions of this policy remain unchanged.

Endorsement Number:

This endorsement is effective on the inception date of this policy unless otherwise stated herein.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Policy Number: ZAGLB1058000

Named Insured: Weber Water Resources, LLC

Endorsement Effective Date: 05/01/2025

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED – OWNERS, LESSEES OR  
CONTRACTORS – AUTOMATIC STATUS WHEN  
REQUIRED IN CONSTRUCTION AGREEMENT WITH YOU  
TO INCLUDE WAIVER OF SUBROGATION PROVISION  
AND PRIMARY AND NONCONTRIBUTORY PROVISION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

**A. Additional Insured Status – Ongoing Operations**

1. **“Section II-Who is an Insured”** is amended to provide automatic coverage as an Additional Insured in conformity with the terms and conditions of the **CG 20 10 04 13** endorsement, a copy of which is attached hereto and incorporated by reference. Automatic Additional insured coverage provided by this endorsement only applies to the extent permitted by law; and if coverage provided to the additional insured is required by and agreed in writing in a contract or agreement, the insurance afforded such additional insured will not be broader than that which you are required by the contract or agreement, only if such contract agreement is executed by each party prior to the start of your work to provide for such additional insured.

**B. Additional Insured Status – Completed Operations**

1. **“Section II-Who is an Insured”** is amended to provide automatic coverage as an Additional Insured in conformity with the terms and conditions of the **CG 20 37 04 13** endorsement, a copy of which is attached hereto and incorporated by reference. Automatic Additional insured coverage provided by this endorsement only applies to the extent permitted by law; and if coverage provided to the additional insured is required by and agreed in writing in a contract or agreement, the insurance afforded such additional insured will not be broader than that which you are required by the contract or agreement, only if such contract agreement is executed by each party prior to the start of your work to provide for such additional insured.
2. The coverage provided to the additional insured as outlined in paragraph **B. Additional Insured Status – Completed Operations** does not apply to Any "bodily injury", "property damage" or "personal and advertising injury" arising out of, related to, caused by, or associated with, in whole or in part, to operations and "your work", conducted by you or on your behalf, or work or operations conducted by an unrelated party, involving "residential property".

**C. Primary and Noncontributory Provision**

1. Insurance afforded the Additional insured, when required by written contract or agreement, is primary and noncontributory in the event of an "occurrence" caused, in whole or in part, by your acts or omissions, or the acts or omissions of those acting on your behalf that occurs while performing ongoing operations for the additional insured, or in connection with premises owned by or rented to you.

**D. Waiver of Subrogation Provision**

1. **“Section IV-Commercial General Liability Conditions Paragraph 8 The Transfer of Rights Of Recovery Against Others To Us”** is amended to add the following: We waive any right of recovery we may have against those added as Additional Insured by this endorsement because of payments we make for injury or damage arising out of your ongoing operations or “your work” performed under written contract or agreement with them. This waiver applies only when you are solely negligent. This waiver shall not apply to claims, “suits” and/or damages arising in whole or in part out of the acts, omissions and/or negligence of those added as Additional Insured by this endorsement. This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

**E. The following are added to SECTION V – DEFINITIONS:**

“Residential property” means structures intended for use or used for human dwelling, in whole or in part, including but not limited to single family dwellings, multi-family dwellings, townhomes, condominiums, and appurtenant structures.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – SCHEDULED PERSON OR ORGANIZATION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

### **SCHEDULE**

Name Of Additional Insured Person(s) Or Organization(s)	Location(s) Of Covered Operations
<b>See Terms and Conditions of Coverage on page 1 of this endorsement</b>	<b>All</b>
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

**A. Section II – Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

**B.** With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to "bodily injury" or "property damage" occurring after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

**C.** With respect to the insurance afforded to these additional insureds, the following is added to **Section III –Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or

2. Available under the applicable Limits of Insurance shown in the Declarations; whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – COMPLETED OPERATIONS**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

### **SCHEDULE**

<b>Name Of Additional Insured Person(s) Or Organization(s)</b>	<b>Location And Description Of Completed Operations</b>
<b>See Terms and Conditions of Coverage on page 1 of this endorsement</b>	<b>This endorsement does not apply to your work on "residential property"</b>
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

**A. Section II – Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" at the location designated and described in the Schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

**B.** With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable Limits of Insurance shown in the Declarations;

whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**ADDITIONAL INSURED - BLANKET**

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM  
BUSINESS AUTO COVERAGE FORM  
MOTOR CARRIER COVERAGE FORM

Under **Covered Autos Liability Coverage**, the **Who is An Insured** provision is amended to include as an "insured" the person or organization who is required under a written contract to be included as an "insured" under this policy, but only with respect to their legal liability for your acts or omissions or the act or omissions of a person for whom **Covered Autos Liability Coverage** is afforded under this policy.

All other terms and conditions of this policy remain unchanged.

Endorsement Number:

Policy Number: ZACAT9342500

Named Insured: Weber Water Resources, LLC

This endorsement is effective on the inception date of this Policy unless otherwise stated herein:

Endorsement Effective Date: 05/01/2025



POLICY NUMBER: ZACAT9342500

COMMERCIAL AUTO  
CA 04 44 10 13

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**WAIVER OF TRANSFER OF RIGHTS OF RECOVERY  
AGAINST OTHERS TO US (WAIVER OF SUBROGATION)**

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM  
BUSINESS AUTO COVERAGE FORM  
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

**Named Insured:** Weber Water Resources, LLC

**Endorsement Effective Date:** 05/01/2025

**SCHEDULE**

**Name(s) Of Person(s) Or Organization(s):**

Any person or organization where waiver of our right to recover is permitted by law and is required by written contract provided such contract was executed prior to the loss.

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The **Transfer Of Rights Of Recovery Against Others To Us** condition does not apply to the person(s) or organization(s) shown in the Schedule, but only to the extent that subrogation is waived prior to the "accident" or the "loss" under a contract with that person or organization.

© Insurance Services Office, Inc.

INSURED: Weber Water Resources, LLC

POLICY#: ZACAT9342500

POLICY PERIOD: 05/01/2025

TO: 05/01/2026

**COMMERCIAL AUTO  
CA 04 49 11 16**

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **PRIMARY AND NONCONTRIBUTORY – OTHER INSURANCE CONDITION**

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM  
BUSINESS AUTO COVERAGE FORM  
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

- A.** The following is added to the **Other Insurance** Condition in the Business Auto Coverage Form and the **Other Insurance – Primary And Excess Insurance Provisions** in the Motor Carrier Coverage Form and supersedes any provision to the contrary:

This Coverage Form's Covered Autos Liability Coverage is primary to and will not seek contribution from any other insurance available to an "insured" under your policy provided that:

1. Such "insured" is a Named Insured under such other insurance; and
2. You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to such "insured".

- B.** The following is added to the **Other Insurance** Condition in the Auto Dealers Coverage Form and supersedes any provision to the contrary:

This Coverage Form's Covered Autos Liability Coverage and General Liability Coverages are primary to and will not seek contribution from any other insurance available to an "insured" under your policy provided that:

1. Such "insured" is a Named Insured under such other insurance; and
2. You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to such "insured".

**WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT**

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

**Schedule**

Any person or organization where waiver of our right to recover is permitted by law and is required by written contract provided such contract was executed prior to date of loss.

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

**(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)**

Endorsement  
Insured Weber Water Resources, LLC

Effective Policy No.  
ZAWC11078000

Endorsement No.  
Premium \$

Insurance Company

Countersigned by \_\_\_\_\_

**WC 00 03 13**  
(Ed. 4-84)

**WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT –CALIFORNIA**

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

You must maintain payroll records accurately segregating the remuneration of your employees while engaged in the work described in the Schedule.

The additional premium for this endorsement shall be 2 % of the California workers' compensation premium otherwise due on such remuneration.

**Schedule****Person or Organization****Job Description**

Any person or organization where waiver of our right to recover is permitted by law and is required by written contract provided such contract was executed prior to date of loss

**Notes:**

1. This endorsement may be used to waive the company's right of subrogation against named third parties who may be responsible for an injury.
2. The sentence in ( ) is optional with the company. It limits the endorsement to apply only to specific jobs of the insured, and only to the extent that the insured is required to obtain this waiver.

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

**(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)**

Endorsement Effective 05/01/2025  
Insured Weber Water Resources, LLC

Policy No. ZAWC11078000  
Insurance Company

Endorsement No.

Countersigned By \_\_\_\_\_

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**NOTICE OF CANCELLATION – CERTIFICATE HOLDERS  
(SPECIFIED DAYS)**

The person(s) or organization(s) listed or described in the Schedule below have requested that they receive written notice of cancellation when this policy is cancelled by us. We will mail or deliver to the Person(s) or Organization(s) listed or described in the Schedule a copy of the written notice of cancellation that we sent to you. If possible, such copies of the notice will be mailed at least 30 days, except for cancellation for non-payment of premium which will be mailed 10 days, prior to the effective date of the cancellation, to the address or addresses of certificate holders as provided by your broker or agent.

**Schedule**

Person(s) or Organization(s) including mailing address:

(Blanket wording option)

All certificate holders where written notice of the cancellation of this policy is required by written contract, permit or agreement with the Named Insured and whose names and addresses will be provided by the broker or agent listed in the Declarations Page of this policy for the purposes of complying with such request.

This notification of cancellation of the policy is intended as a courtesy only. Our failure to provide such notification to the person(s) or organization(s) shown in the Schedule will not extend any policy cancellation date nor impact or negate any cancellation of the policy. This endorsement does not entitle the person(s) or organization(s) listed or described in the Schedule above to any benefit, rights or protection under this policy.

Any provision of this endorsement that is in conflict with a statute or rule is hereby amended to conform to that statute or rule.

All other terms and conditions of this policy remain unchanged.

Issued By:

Endorsement Number:

This endorsement is effective on the inception date of this Policy unless otherwise stated herein:

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Policy Number: ZAGLB1058000

Named Insured: Weber Water Resources, LLC

Endorsement Effective Date: 05/01/2025

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**NOTICE OF CANCELLATION – CERTIFICATE HOLDERS  
(SPECIFIED DAYS)**

The person(s) or organization(s) listed or described in the Schedule below have requested that they receive written notice of cancellation when this policy is cancelled by us. We will mail or deliver to the Person(s) or Organization(s) listed or described in the Schedule a copy of the written notice of cancellation that we sent to you. If possible, such copies of the notice will be mailed at least 30 days, except for cancellation for non-payment of premium which will be mailed 10 days, prior to the effective date of the cancellation, to the address or addresses of certificate holders as provided by your broker or agent.

**Schedule**

Person(s) or Organization(s) including mailing address:

(Blanket wording option)

All certificate holders where written notice of the cancellation of this policy is required by written contract, permit or agreement with the Named Insured and whose names and addresses will be provided by the broker or agent listed in the Declarations Page of this policy for the purposes of complying with such request.

This notification of cancellation of the policy is intended as a courtesy only. Our failure to provide such notification to the person(s) or organization(s) shown in the Schedule will not extend any policy cancellation date nor impact or negate any cancellation of the policy. This endorsement does not entitle the person(s) or organization(s) listed or described in the Schedule above to any benefit, rights or protection under this policy.

Any provision of this endorsement that is in conflict with a statute or rule is hereby amended to conform to that statute or rule.

All other terms and conditions of this policy remain unchanged.

Issued By:

Endorsement Number:

This endorsement is effective on the inception date of this Policy unless otherwise stated herein:

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Policy Number: ZACAT9342500

Named Insured: Weber Water Resources, LLC

Endorsement Effective Date: 05/01/2025

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**NOTICE OF CANCELLATION – CERTIFICATE HOLDERS  
(SPECIFIED DAYS)**

The person(s) or organization(s) listed or described in the Schedule below have requested that they receive written notice of cancellation when this policy is cancelled by us. We will mail or deliver to the Person(s) or Organization(s) listed or described in the Schedule a copy of the written notice of cancellation that we sent to you. If possible, such copies of the notice will be mailed at least 30 days, except for cancellation for non-payment of premium which will be mailed 10 days, prior to the effective date of the cancellation, to the address or addresses of certificate holders as provided by your broker or agent.

**Schedule**

Person(s) or Organization(s) including mailing address:

(Blanket wording option)

All certificate holders where written notice of the cancellation of this policy is required by written contract, permit or agreement with the Named Insured and whose names and addresses will be provided by the broker or agent listed in the Declarations Page of this policy for the purposes of complying with such request.

This notification of cancellation of the policy is intended as a courtesy only. Our failure to provide such notification to the person(s) or organization(s) shown in the Schedule will not extend any policy cancellation date nor impact or negate any cancellation of the policy. This endorsement does not entitle the person(s) or organization(s) listed or described in the Schedule above to any benefit, rights or protection under this policy.

Any provision of this endorsement that is in conflict with a statute or rule is hereby amended to conform to that statute or rule.

All other terms and conditions of this policy remain unchanged.

Issued By:

Endorsement Number:

This endorsement is effective on the inception date of this Policy unless otherwise stated herein:

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Policy Number: ZAWC11078000

Named Insured: Weber Water Resources, LLC

Endorsement Effective Date: 05/01/2025

# PERFORM

## CONTRACTOR'S PROTECTIVE, PROFESSIONAL, POLLUTION, CYBER, MEDIA AND MITIGATION RESPONSE POLICY

**NOTICE: THIS IS A CLAIMS MADE AND REPORTED POLICY (EXCEPT FOR COVERAGE C). SUBJECT TO ITS PROVISIONS, THIS POLICY (EXCEPT FOR COVERAGE C) APPLIES ONLY TO CLAIMS WHICH ARE FIRST MADE BY OR AGAINST YOU DURING THE POLICY PERIOD OR THE OPTIONAL EXTENDED REPORTING PERIOD, IF APPLICABLE, AND FIRST REPORTED IN WRITING TO US IN THOSE PERIODS OR THE AUTOMATIC EXTENDED REPORTING PERIOD. UNLESS SPECIFICALLY PROVIDED OTHERWISE, CLAIM EXPENSES ARE INCLUDED WITHIN AND REDUCE THE LIMIT OF LIABILITY, AND ARE SUBJECT TO ANY APPLICABLE SELF-INSURED RETENTION.**

### **PLEASE READ THE ENTIRE POLICY CAREFULLY.**

Words and phrases that appear in bold print, excluding caption headings, have special meanings that are defined in the Definitions of this Policy.

The words "we," "us" and "our" mean the Insurer shown in the header of the Declarations of this Policy. The words "you" and "your" mean any person or entity described in the Definition of **Insured**.

In consideration of the payment of the premium, and in reliance upon the statements made in the application, materials, and information provided by you, which are incorporated into this Policy, form a part hereof, and are a representation upon which this Policy has been issued, we agree with you as follows:

#### **I. INSURING AGREEMENT**

##### **A. Protective Indemnity**

We shall indemnify you for **Protective Loss** on a **Protective Claim** as established by final judgment or settlement to which we agree in writing, in excess of collectible **Recoverable Insurance**, provided that:

1. the **Protective Claim** arises out of:
  - a. a negligent act, error or omission in the rendering of or failure to render **Professional Services**; or
  - b. a **Pollution Condition** resulting from the performance of **Contractor Activities**;
 by the **Responsible Entity** that were rendered or performed on or after the **Retroactive Date** and before the end of the **Policy Period**; and
2. the **Protective Claim** for such **Protective Loss** is first made by you during the **Policy Period** or Optional Extended Reporting Period, if applicable, and reported in writing by you to us during one of those periods or the Automatic Extended Reporting Period; and
3. prior to the effective date of the first policy insuring this type of **Protective Claim** issued to you by us, and continuously renewed by us, the **Principal Personnel** had no knowledge of circumstances which could give rise to **Protective Loss**; and
4. you made all reasonable efforts to recover your **Protective Loss** from the **Responsible Entity**.

##### **B. Professional Liability**

We will defend you against any **Professional Claim** (as provided in Section III.A. of this Policy) and pay on your behalf all **Damages** and **Claim Expense** for that **Professional Claim** in excess of any applicable Self-Insured Retention, provided that:

1. the **Professional Claim** arises out of an actual or alleged negligent act, error or omission in the rendering of or failure to render **Professional Services** by you, or by a **Responsible Entity** for whom you are legally responsible, on or after the **Retroactive Date** and before the end of the **Policy Period**; and
2. the **Professional Claim** is first made against you during the **Policy Period** or Optional Extended Reporting Period, if applicable, and reported in writing by you to us during one of those periods or the Automatic



Extended Reporting Period; and

3. prior to the effective date of the first policy insuring this type of **Professional Claim** issued to you by us, and continuously renewed by us, the **Principal Personnel** had no knowledge of circumstances which could give rise to a **Professional Claim**.

### C. Contractor Pollution Liability

We will defend you against any **Pollution Claim** (as provided in Section III.A. of this Policy) and pay on your behalf for all **Pollution Loss** and **Claim Expense** for that **Pollution Claim** in excess of any applicable Self-Insured Retention, provided that:

1. the **Pollution Claim** arises out of an actual or alleged **Pollution Condition** that results from the performance of **Contractor Activities** by you, or by a **Responsible Entity** for whom you are legally responsible; and
2. the **Pollution Claim** is for **Bodily Injury** or **Property Damage** that occurs during the **Policy Period**, or for **Cleanup Costs** for a **Pollution Condition** that occurs during the **Policy Period**, provided that:
  - a. progressive, continuous, intermittent or indivisible **Bodily Injury** or **Property Damage**, or **Pollution Condition(s)** for which **Cleanup Costs** are incurred, shall be deemed to have occurred only on the date of first exposure to the **Pollution Condition**, which is:
    - i. for **Bodily Injury**, the date of first exposure of any person to that **Pollution Condition**; or
    - ii. for **Property Damage** or **Cleanup Costs**, the date the **Pollution Condition** first commenced; and
  - b. if the date of the first exposure cannot be immediately determined to have been within this **Policy Period**, and you have no liability insurance incepting prior to the inception of this Policy that provides pollution liability coverage for the subject **Contractor Activities** (regardless of whether the insurance covers this **Pollution Claim**), and the **Bodily Injury**, **Property Damage** or **Pollution Condition** for which **Cleanup Costs** are incurred continues to exist during the **Policy Period**, the date of the first exposure shall be deemed to have occurred only on the inception date of the first policy we issued insuring you for the subject **Contracting Activities** for this type of **Pollution Claim**. No more than one policy issued by us can be applicable to the **Pollution Claim**; and

prior to the effective date of the first policy insuring this type of **Pollution Claim** issued to you by us, and continuously renewed by us, the **Principal Personnel** had no knowledge of circumstances that could give rise to a **Pollution Claim**.

### D. Cyber Liability

We will defend you against a **Cyber Claim** (as provided in Section III.A. of this Policy) and pay on your behalf all **Damages** and **Claims Expense** for the **Cyber Claim** in excess of any applicable Self-Insured Retention, provided that:

1. the **Cyber Claim** arises out of **Contractor Activities** or **Professional Services** performed or rendered by you, or by a **Responsible Entity** for whom you are legally responsible, on or after the **Retroactive Date** and before the end of the **Policy Period**; and
2. the **Cyber Claim** is first made against you during the **Policy Period** or Optional Extended Reporting Period, if applicable, and reported in writing by you to us during one of those periods or the Automatic Extended Reporting Period; and
3. prior to the effective date of the first policy insuring this type of **Cyber Claim** issued to you by us, and continuously renewed by us, the **Principal Personnel** had no knowledge of circumstances that could give rise to a **Cyber Claim**.

### E. Media and Personal Injury Liability

We will defend you against any **Media and Personal Injury Claim** (as provided in Section III.A. of this Policy) and pay on your behalf all **Damages** and **Claim Expense** for that **Media and Personal Injury Claim** in excess of any applicable Self-Insured Retention, provided that:

1. the **Media and Personal Injury Claim** arises out of an actual or alleged negligent act, error or omission in the rendering of or failure to render **Professional Services, Media Activities or Information Technology Services** by you, or by a **Responsible Entity** for whom you are legally responsible, on or after the **Retroactive Date** and before the end of the **Policy Period**; and
2. the **Media and Personal Injury Claim** is first made against you during the **Policy Period** or the Optional Extended Reporting Period, if applicable, and first reported in writing by you to us during one of those periods or the Automatic Extended Reporting Period; and
3. prior to the effective date of the first policy insuring this type of **Media and Personal Injury Claim** issued to you by us, and continuously renewed by us, the **Principal Personnel** had no knowledge of circumstances that could give rise to a **Media and Personal Injury Claim**.

#### F. Mitigation

We agree to pay you or on your behalf for **Mitigation Cost** in excess of any applicable Self-Insured Retention to mitigate or avoid a **Professional Claim, Pollution Claim, Cyber Claim or Media and Personal Injury Claim** that would be covered under this Policy, but has not yet been made, provided that:

1. the services or other activities you seek to mitigate or rectify were rendered or performed on or after the **Retroactive Date** and before the end of the **Policy Period**; and
2. the circumstances that would reasonably be expected to lead to such **Claim** are first reported in writing by you to us during the **Policy Period**; and
3. prior to the effective date of the first policy insuring such type of potential **Claim** issued to you by us, and continuously renewed by us, the **Principal Personnel** had no knowledge of circumstances that could give rise to a **Claim**; and
4. before incurring any **Mitigation Cost**, you demonstrate to us the reasonableness and necessity of the proposed cost in light of the projected benefit in terms of mitigating or avoiding payment under this Policy on the reasonably expected covered **Claim**, and we provide our prior written consent for such **Mitigation Cost**, such consent not to be unreasonably withheld.

## II. SUPPLEMENTAL COVERAGES

The Limits of Liability for each of the following Supplemental Coverages are separate from the Limits of Liability for the coverages in Section I. Insuring Agreement of this Policy, and payments made under the Supplemental Coverages do not erode the Limits of Liability for those coverages.

#### A. Litigation Attendance Reimbursement

Upon written request by you, we shall reimburse you for your actual and documented loss of earnings and reasonable expenses incurred when you attend a hearing, deposition, or trial at our written request, in the course of our defending a **Claim** under this Policy.

#### B. Disciplinary Proceedings Defense Expense

Upon written request by you during the **Policy Period**, Automatic Extended Reporting Period or the Optional Extended Reporting Period, if applicable, we will select and retain counsel for you and pay such counsel's reasonable and necessary fees and expenses in defense of a disciplinary proceeding against you before a design professional or contractor licensing board first brought against you during the **Policy Period** or Optional Extended Reporting Period, if applicable, and arising out of either an actual or alleged negligent act, error or omission in the rendering of **Professional Services** or **Pollution Conditions** resulting from the performance of **Contractor Activities**, rendered or performed by or on behalf of you on or after the **Retroactive Date** and before the end of the **Policy Period**.

#### C. Subpoena Defense Expense

Upon written request by you during the **Policy Period**, Automatic Extended Reporting Period or the Optional Extended Reporting Period, if applicable, we will select and retain counsel for you and pay such counsel's reasonable and necessary fees and expenses to advise and represent you regarding the production of documents and during the preparation for and giving of testimony, in response to a subpoena

in a proceeding other than a **Claim** against you or a **Protective Claim**, that is both first served on you and reported to us in writing during the **Policy Period** or the Optional Extended Reporting Period, if applicable, and arising from **Professional Services** or **Pollution Conditions** resulting from the performance of **Contractor Activities**, rendered or performed by or on behalf of you on or after the **Retroactive Date** and before the end of the **Policy Period**.

#### **D. ADA and FHA Defense Expense**

Upon written request by you during the **Policy Period**, Automatic Extended Reporting Period or the Optional Extended Reporting Period, if applicable, we shall select and retain counsel and pay such counsel's reasonable and necessary fees and expenses incurred when you respond to regulatory or administrative actions first brought against you during the **Policy Period** by a government agency under the Americans with Disabilities Act of 1990 (ADA) or the Fair Housing Act (FHA), and alleging a negligent act, error or omission in the rendering of **Professional Services** by or on behalf of you, provided that such **Professional Services** were rendered on or after the **Retroactive Date** and before the end of the **Policy Period**.

#### **E. Corporate Reputation Rehabilitation**

Upon written request by you, we shall pay on behalf of you the reasonable and necessary fees and expenses subsequently incurred by a public relations firm approved by us to restore your corporate reputation that is damaged as a result of a **Claim** that we defend under this Policy or circumstances for which we consent to the incurring of **Mitigation Cost** or **Emergency Expense** under this Policy. We have the right to require for approval of the public relations firm minimum professional certifications and qualifications (e.g., Examination for Accreditation in Public Relations, or Accredited Business Communicator from International Association of Business Communicators).

#### **F. Protective Claim Bankruptcy Litigation Expense Reimbursement**

Upon written request by you, we shall reimburse you for the reasonable and necessary fees and expenses of retaining bankruptcy counsel in the making of a **Protective Claim** arising out of **Professional Services** that qualifies for coverage under this Policy against a **Responsible Entity** who has filed for or been put into bankruptcy under the United States Bankruptcy Code, provided that the **Protective Claim**, at least in part, is allowed as against or results in a judgment against the **Responsible Entity** in your favor, which is final and no longer subject to objection or appeal.

#### **G. Building Information Modeling - Extra Expense**

Upon written request by you during the **Policy Period**, Automatic Extended Reporting Period or the Optional Extended Reporting Period, if applicable, we shall reimburse you for the reasonable and necessary additional expense payable to a third party software consulting company, not otherwise recoverable from any warrantee or guarantee, arising from loss of or damage to any information due to inherent malfunction of any software used in connection with any Building Information Modeling system purchased from a third party vendor and not modified by you or on your behalf, including but not limited to erroneous calculations or modeling, provided that the malfunction is first discovered during the **Policy Period** and after the system has been put to its intended use in the course of actual construction.

#### **H. Emergency Expense**

We will indemnify you for **Emergency Expense** in excess of the Self-Insured Retention, if applicable, provided that the **Emergency Expense** must be both incurred by you and reported to us, in writing and as soon as practicable, during the **Policy Period**, but no later than ten (10) days from the discovery of the **Pollution Condition** resulting from the performance of **Contractor Activities** or the expiration of the **Policy Period**, whichever occurs first, and provided that the **Contracting Activities** giving rise to the need for **Emergency Expense** were rendered or performed on or after the **Retroactive Date** and before the end of the **Policy Period**.

### **III. DEFENSE, SETTLEMENT AND COOPERATION**

#### **A. Defense (Coverages B, C, D and E)**

1. We have the right and duty to defend you against any **Claim** proceeding in the United States or Canada under Coverage B, C, D or E of this Policy:

- a. even if groundless or false;
- b. with counsel of our mutual agreement; and

for any **Claim** proceeding anywhere else in the world seeking such **Damages** or **Pollution Loss**, we shall have the right, but not the duty, to defend you against such **Claim**. You shall have the duty to investigate and defend such **Claims**, and we will treat all reasonable and necessary fees and expenses paid to others in the course of doing so as **Claim Expense**.

2. If you and we cannot mutually agree upon defense counsel, we shall have the final right to select defense counsel, but we then will allow for a 25% Self-Insured Retention credit, up to a maximum of \$25,000 per **Claim**, towards the costs of having you retain your own counsel to monitor the **Claim**. Defense counsel selected by us will have the sole right and responsibility for defending you against the **Claim**.
3. In the event you are entitled by law to retain independent counsel of your choosing to defend you at our expense and you choose to do so, the attorney fee component of **Claim Expense** shall be limited to the average of the rates we actually pay to counsel we retain in the ordinary course of business in the defense of similar **Claims** in the community where the **Claim** arose or is being defended. In addition, we may require that the independent counsel possess certain minimum qualifications, which may include that the selected counsel have: (1) at least five years of civil litigation experience defending similar **Claims**; and (2) errors and omissions coverage. You further agree to require your independent counsel to provide us with information concerning the **Claim** in a timely manner, to respond to our requests for information concerning the **Claim**, and to comply with our reporting and billing guidelines.
4. We shall have no obligation to pay any **Claim Expense** or to defend any **Claim** after all applicable Limits of Liability have been exhausted by incurred amounts or by payment, or after deposit or tender of the remaining applicable Limit of Liability into court.

#### **B. Settlement and Consent (Coverages B, C, D and E)**

We have the right to investigate, conduct negotiations concerning and, with your written consent, settle any **Claim** as we deem expedient. If you refuse to consent to a settlement or compromise recommended by us and acceptable to the claimant, then our Limit of Liability under this Policy with respect to such **Claim** shall be reduced to the amount for which the **Claim** could have been settled, including all **Claim Expenses** incurred up to the time we made our recommendation to you.

#### **C. Settlement (Coverage A)**

1. We have the right to investigate and participate in all negotiations concerning a **Protective Claim**.
2. You will not settle any **Protective Claim** for which coverage may be sought under this Policy without our written consent, which shall not be unreasonably withheld. We will not pay any **Loss** on a **Protective Claim** settled in part or whole without our consent.

#### **D. Proactive Resolution of Substantiated Protective Claim (Coverage A)**

If you provide us substantiation that satisfies us that the liability of the **Responsible Entities** and the value of your **Protective Loss** are not reasonably disputable and exceed all collectible **Recoverable Insurance**, then upon your written request, we will provide you the following proactive assistance in pursuing recovery for your **Protective Loss**:

1. we will consult with you in the prosecution of your **Protective Claim** and provide our input on strategy for the efficient resolution of the **Protective Claim**;
2. we will attend or otherwise participate in settlement negotiations, including mediations and settlement conferences, for the resolution of the **Protective Claim**;
3. we will assist you in negotiations with representatives for any **Recoverable Insurance**; and
4. if all of your reasonable efforts to recover your **Protective Loss** and the foregoing fail due to the

refusal of the **Responsible Entity** or the representatives for **Recoverable Insurance** to settle your substantiated **Protective Claim**, we will pay the portion of your **Protective Loss** in excess of the available collectible **Recoverable Insurance**.

The costs we incur in performing the activities described in Paragraphs 1. through 3., above, shall be borne by us and shall not erode the Limits of Liability described in Section VI. of this Policy.

#### E. Your Duties (All Coverages)

As a condition precedent to this insurance, in the event of any **First Party Claim, Claim** or reported circumstance:

1. You shall promptly forward to us all documents that you send or receive in connection with the **First Party Claim, Claim** or circumstance, and you will direct all inquiries regarding a **Claim** or circumstance to us or to our designated attorney.
2. You shall cooperate fully with us and our designees in the investigation, defense and settlement of any **First Party Claim, Claim** or circumstance, the conduct of suit or any other proceeding, and in securing and enforcing any right of contribution, indemnity, or other recovery that you potentially may have; such cooperation includes but is not limited to, when requested, attending any proceedings, assisting in securing evidence and obtaining the attendance and testimony of witnesses, whether in a legal proceeding or in an examination by us; and such cooperation will be without charge to us, except as provided otherwise in the Supplemental Coverage for Litigation Attendance Reimbursement. Such cooperation is agreed by us and you to be in furtherance of our common interest in the **First Party Claim** or **Claim**, such that all such communications shall be protected by all applicable privileges and protections.
3. You shall not voluntarily make any payment, assume or admit any liability, consent to any judgment, settle any **First Party Claim** or **Claim**, or incur any **Claim Expense** or **Mitigation Cost**, for which coverage may be sought under this Policy, without our prior written consent, except for **Emergency Expense**. We shall not be liable for any payment, assumed or admitted liability, consent judgment, settlement, or **Claim Expense** to which we have not consented. You shall not release or compromise any right you may have with respect to a **First Party Claim** or **Claim** without our prior written consent. We shall not be liable for any **Loss** attributable to a release without such consent.
4. You shall obtain our written consent before exercising any right, assuming any obligation, or making any agreement, with respect to any dispute resolution mechanism or process for a **First Party Claim** or **Claim**, including but not limited to rejecting or demanding arbitration.

#### IV. DEFINITIONS

Words stated in the singular will be construed as also being stated in the plural and vice versa. For purposes of this Policy:

- A. **Advertising** means material which promotes your products, services or business.
- B. **Bodily Injury** means physical injury, sickness, disease, building-related illness, mental anguish, emotional distress, or shock sustained by any person, including death resulting therefrom. Furthermore, **Bodily Injury** shall extend to include the monitoring of medical conditions.
- C. **Claim** means **Professional Claim, Pollution Claim, Cyber Claim, and Media and Personal Injury Claim**.
- D. **Claim Expense** means reasonable and necessary fees and costs incurred by us to investigate and defend any **Claim** for which coverage is provided under this Policy, including fees and costs charged by adjusters appointed by us to investigate a **Claim**. **Claim Expense** includes reasonable and necessary fees in defending such a **Claim**, for attorneys, investigators, arbitrators, mediators, consultants and expert testimony, as well as court and arbitration costs and expenses, but shall not include any remuneration, salaries, regular or overtime wages, benefits, fees or other payment of directors, officers, managers and employees of you or us, or fees and expenses of independent adjusters. **Claim Expense** also includes premiums for the covered portion of appeal bonds, attachment bonds or any similar bonds; however, we are not obligated to apply for, secure or furnish any such bond.

**E. Cleanup Costs** means costs for the investigation, monitoring, or disposal of soil, surface water, groundwater, indoor or outdoor atmosphere or other contamination; or for cleanup, abatement, containment, capping, remediation, or correction of a **Pollution Condition** resulting from the performance of **Contractor Activities**. **Cleanup Costs** also includes **Restoration Costs**.

**F. Content** means data, digital code, images, drawings, scents, sounds, tastes, texts or textures.

**G. Contractor Activities** means:

1. any general construction, construction management, or environmental activity; or
2. any loading, unloading, delivery or transportation of goods, materials, products, or waste to or from any site at which the activities, described in Paragraph 1. of this Definition, are performed as long as such activity is performed by an entity that is properly licensed to deliver or transport such goods, materials, products, or waste; or
3. any operation, use, ownership, or maintenance of a land motor vehicle, off-road motor vehicle, mobile equipment, trailer, semi-trailer, watercraft, aircraft, or rolling stock in connection with the activities described in Paragraph 1. of this Definition; or
4. the use of a **Non-Owned Location**.

**Contractor Activities** also includes Completed Operations. For the purpose of this Policy, Completed Operations means any of the activities described in Paragraphs 1. through 4. of this Definition that have been completed, including materials, parts or equipment furnished in connection with such work or operations.

**H. Cyber Claim** means a written demand, demand for arbitration or mediation, or suit, made against you seeking money or services due to a **Cyber Security Breach**.

**I. Cyber Security Breach** means any of the following circumstances:

1. the failure to prevent the introduction or transmission of a computer virus or any other malicious code, but only if such computer virus or malicious code affects the data, software, firmware, systems or networks of your clients;
2. the failure to provide your clients with access to your website, or your computer or communications network, when your clients have authorized use of your website, or your computer or communications network;
3. failure to prevent unauthorized access to, or use of, data, software, firmware, systems or networks containing private or confidential information of your client;
4. the destruction, deletion or corruption of your client's electronic data; or
5. failure to prevent the theft, unauthorized or illegal disclosure or loss of your client's information listed below:
  - a. an individual, natural person's private **Content**, or
  - b. commercial confidential information that resides in or on your hardware devices or data systems, including such information stored on your computer infrastructure system including cloud, remote servers at a co-location or data hosting services or any other data storage not in insureds direct control.

**J. Damages** mean any amounts you are legally obligated to pay.

**K. Emergency Expense** means reasonable and necessary expense, incurred by you, on an emergency basis, to contain, control, mitigate or rectify a **Pollution Condition** resulting from the performance of **Contractor Activities** that is an imminent and substantial endangerment to public health, safety or welfare, or the environment, where the absence of such emergency action being undertaken without delay, further harm to third parties or the environment is imminent.

**L. First Party Claim** means a **Protective Claim** and any other request of us by you for **Mitigation Cost** or for sums arising out of any of the insuring agreements described in the Supplemental Coverage Section of this Policy.

**M. Information Technology Products** means a computer or telecommunication hardware or software product or other electronic product that is used, created, developed or manufactured by or for you, including software updates, service packs and other maintenance releases for such products.

**N. Information Technology Services** means:

1. Consulting on, design of, development of, analysis of, integration of, interface of, modification of and programming of software, hardware, networks, telecommunication systems and electronic or digital devices performed by you or on your behalf for your clients;
2. installation of, training in the use of, support of, servicing of, maintenance of, repair of your **Information Technology Products**;
3. marketing of, selling of, licensing of and distribution of **Information Technology Products**;
4. storage of, warehousing of, mining of and processing of data by you;
5. managing, operating, administering and hosting **Information Technology Products** for your clients; or
6. activities performed on your website(s);

but shall not mean **Information Technology Products**.

**O. Insured** means:

1. the **Named Insured**; or
2. any fully owned subsidiary corporations or subsidiary limited liability companies of the **Named Insured**, of any tier, in the past, as now constituted or hereafter constituted, subject to the limitations in Paragraph 9. of this Definition for the newly acquired or formed entities described therein; or
3. any present or former partner, director, officer, manager, member, shareholder, principal, trustee, or employee of the **Named Insured** solely while acting on behalf of the **Named Insured**, but this Paragraph 3. shall not make any entity an **Insured** solely because of its participation with the **Named Insured** in a legal entity such as a joint venture or limited liability company; or
4. any **Insured** with regard to its participation in a legal entity, including a joint venture or limited liability company, but solely for the **Named Insured's** legal liability arising out of the performance of **Professional Services, Contractor Activities, Media Activities** or **Information Technology Services** under the respective legal entity, and such legal entity itself, or any other entity other than an **Insured** that is part of the legal entity, are not **Insureds**; or
5. with regard to Coverage C only, any client of the **Named Insured**, or other entity or person, that the **Named Insured** is obligated to name as an additional insured on this Policy pursuant to a written contract, agreement, or permit, executed prior to when the **Pollution Claim** was first made, and solely as respects **Pollution Conditions** resulting from the **Named Insured's** performance of **Contractor Activities**; or
6. any entity which is specifically identified as an **Insured** in the Declarations or by endorsement to this Policy; or
7. the estate, heirs, executors, shareholders, administrators or legal representatives of an **Insured** in the event of such **Insured's** death, incapacity, or bankruptcy, or the spouse or legal domestic partner of any **Insured**, but only to the extent such **Insured** would otherwise be provided coverage under this Policy while acting solely on behalf of the **Named Insured**; or
8. any prior entity that has been reported to us prior to when the **First Party Claim** or **Claim** was first made and whose assets, partners, principals, or shareholders were acquired by the **Named Insured**, and for which the **Named Insured** is required to provide liability insurance under a written contract or

agreement executed before the **First Party Claim** or **Claim** was first made; or

9. any entity newly formed or acquired by the **Named Insured** during the **Policy Period** in which the **Named Insured** has more than 50% legal or beneficial interest and over which the **Named Insured** exercises management or financial control and has agreed in writing to provide insurance for such entity prior to the **First Party Claim** or **Claim** being made. However:
  - a. coverage will only be provided for **First Party Claims** or **Claims** arising out of **Professional Services, Contractor Activities, Media Activities** or **Information Technology Services** performed on or after the date of formation, acquisition, or exercised financial or management control; and
  - b. this coverage will expire within 90 days for such entity, or the end of the **Policy Period**, whichever is earlier, unless the **Named Insured** provides written details of such newly acquired entity to us and pays the additional premium requested by us, if any.

**P. Insured Contract** means:

1. a contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to you, or temporarily occupied by you, with permission of the owner is not an **Insured Contract**; or
2. a sidetrack agreement; or
3. any easement or license agreement; or
4. an obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality; or
5. an elevator maintenance agreement; or
6. that part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for **Bodily Injury, Property Damage**, or **Pollution Loss** to a third party or organization. This section does not include that part of any contract or agreement that indemnifies an architect, engineer, or surveyor for injury or damage arising out of:
  - a. Preparing, approving, or failing to prepare or approve maps, drawings, opinions, reports, surveys, change orders, designs or specifications; or
  - b. Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage.

For the purpose of this section, tort liability means only that liability that would be imposed by law in the absence of any contract or agreement. Any assumption of liability beyond that of tort liability specified in this Paragraph 6. shall not be considered to be part of the **Insured Contract**.

**Q. Loss** means **Protective Loss, Third Party Loss, Mitigation Cost** and any other amount to which you are entitled under any of the insuring agreements described in the Supplemental Coverages Section of this Policy.

**R. Media Activities** means **Media Communications** or the gathering, collection, or recording of **Media Material** for inclusion in any **Media Communications** in the ordinary course of your business.

**S. Media and Personal Injury Claim** means a written demand, demand for arbitration or mediation, or suit, made against you seeking money or services due to a **Media and Personal Injury Offense**.

**T. Media and Personal Injury Offense** means:

1. Infringement of copyright, piracy, plagiarism or misappropriation or unauthorized use of ideas shared with you in the course of services for your client;
2. Infringement of trade secrets, domain name, title or slogan, or the dilution or infringement of trademark



or service mark;

3. act, error or omission regarding the **Content** of any **Media Communication**, including harm caused through any reliance or failure to rely upon such **Content**;
  4. Misappropriation of trade secret;
  5. Defamation, libel, slander, product disparagement, trade libel, or other tort related to disparagement or harm to the reputation or character of any person or organization;
  6. Invasion or interference with the right to privacy or of publicity;
  7. Misappropriation of any name or likeness for commercial advantage;
  8. False arrest, detention or imprisonment or malicious prosecution; or
  9. Invasion of or interference with any right to private occupancy, including trespass, wrongful entry, eviction or eavesdropping.
- U. Media Communications** means the display, broadcast, dissemination, distribution or release of **Media Material** to the public by you.
- V. Media Material** means information in the form of words, sounds, numbers, images or graphics in electronic, print or broadcast form, including **Advertising**, but does not mean computer software or **Content**.
- W. Mediation** means the non-binding facilitation by a neutral third party of **First Party Claim** or **Claim** resolution.
- X. Mitigation Cost** means reasonable and necessary fees or direct costs incurred to mitigate or rectify **Professional Services, Contractor Activities, Media Activities** or **Information Technology Services** that would reasonably be expected to give rise to a **Claim** covered by this Policy, provided such fees and direct costs are incurred prior to any **Claim**. In the event of a **Cyber Security Breach**, **Mitigation Costs** include costs we incur to engage a qualified firm on your behalf to:
1. investigate the **Cyber Security Breach**;
  2. notify any parties affected by the **Cyber Security Breach**;
  3. perform credit monitoring service for your clients' individual personal data or your clients' corporate data lost because of the **Cyber Security Breach**; and
  4. restore or recreate, if possible, any of your clients' lost data caused by the **Cyber Security Breach**.
- Your fees or direct costs may be treated as **Mitigation Cost** only with our prior written consent, which consent shall not be unreasonably withheld. **Mitigation Cost** does not include any fees or direct costs relating to or resulting from **Emergency Expense**; betterment; or the failure to prevent or detect faulty workmanship.
- Y. Named Insured** means the individual, partnership, entity, firm, or the company named in Item 1. of the Declarations.
- Z. Natural Resource Damage** means physical injury to or destruction of (including the resulting loss of value) land, fish, wildlife, biota, air, water, groundwater, drinking water supplies, and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States (including the resources of the fishery conservation zone established by Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. § 1801 et. seq.)), any State or Local government, any Foreign government, any Native American tribe or, if such resources are subject to a trust restriction on alienation, any member of a Native American tribe.

**AA. Non-Owned Location** means:

1. real property rented, leased or managed by you, including temporary job site offices, but only if such real property is utilized on a temporary basis for the storage of goods, materials, equipment, products or wastes for the purpose of performing the activities, described in Paragraphs 1. through 3. in Definition G. **Contractor Activities**, for a client; or
2. any location used for the treatment, storage, recycling or disposal of your waste material provided that:
  - a. the waste material is generated or removed while performing activities, described in Paragraphs 1. through 3. in Definition G. **Contractor Activities**, for a client; and
  - b. the location is not managed, operated, owned or leased by you or any of your subsidiaries or affiliates with the exception of any location that is managed, operated, owned or leased solely by one or more persons or organizations that are **Insureds** only by reason of Paragraph 5. in Definition O. **Insured**; and
  - c. the location is permitted or licensed by any Federal, State, Local or Provincial authorities to accept such material as of the date of the treatment, storage, recycling or disposal.

**BB. Policy Period** means the period from 12:01 a.m. on the effective date of this Policy as set forth in Item 3. of the Declarations, to 12:01 a.m. on the earliest of the date of the expiration date of this Policy as set forth in Item 3. of the Declarations or any earlier termination date if this Policy is cancelled.

**CC. Pollution Claim** means the assertion of a legal right alleging liability or responsibility on your part, including but not limited to lawsuits, petitions, arbitrations or other alternative dispute resolutions, and public agency directives, made against you, for **Pollution Loss** arising out of a **Pollution Condition** resulting from otherwise insured **Contractor Activities**.

**DD. Pollution Condition** means the actual or alleged discharge, dispersal, release, seepage, migration, growth or escape of smoke, soot, fumes, acids, alkalis, toxic chemicals, mold, mildew, spores, fungi, microbes, bacteria, legionella pneumophila, asbestos, lead, silica, silt, sediment, liquids, gases, waste materials, contaminants, organic or inorganic pollutants, electromagnetic fields, hazardous substances, hazardous materials, waste materials including medical, infectious, and pathological wastes, or other irritants, into or upon land, any structure on land, the indoor or outdoor atmosphere, any watercourse, or any body of water, including groundwater. Waste materials include materials to be recycled, reconditioned or reclaimed. Radioactive matter shall also be considered a pollutant, except as otherwise covered or protected by insurance or protections provided pursuant to 42 U.S.C. § 2014(w), as amended, or Section 170 of the Atomic Energy Act of 1954, as amended.

**EE. Pollution Loss** means any amounts you are legally obligated to pay for **Bodily Injury, Property Damage** or **Cleanup Costs**.

**FF. Principal Personnel** means the directors, officers, principals, partners, insurance and risk managers, and those persons responsible for your environmental or legal affairs for the **Named Insured**.

**GG. Professional Claim** means a written demand, demand for arbitration or mediation or suit made against you seeking **Damages** or correction of **Professional Services** and alleging a negligent act, error or omission in the rendering of or failure to render **Professional Services**.

**HH. Professional Services** means:

1. Construction Management, Program Management, Project Management, Owner's Representation, Property Management, Real Estate Brokerage/Agency, Property Development, Lease Brokering, any delegated design responsibility or design assist services, including but not limited to constructability reviews or value engineering; or
2. architecture; engineering; contract administration as part of design; sprinkler design; fire protection design; life safety design; mechanical, electrical or security systems design; light use, acoustical or signage design; landscaping design; surveying; quantity surveying; project accounting, quality control reviews, assist or documentation, material testing; cost consulting, economic, feasibility, technical consulting or technical studies or opinions, or scientific reviews; software design for the purpose of operating or maintaining any building system; interior design or space planning services; or design services to support Leadership in Energy and Environmental Design (LEED) certification for a project; or

3. professional services with respect to any Building Information Modeling (BIM) systems, including but not limited to modification, alteration, transfer, protection, manipulation, use, or misuse thereof, or design assist system or program, and the foregoing within Integrated Project Delivery (IPD), Public-Private Partnership projects (P3s), or Lean Project Delivery System (LPDS); or
4. environmental consulting, environmental engineering, environmental site assessment, remedial investigations, feasibility studies, remedial design, environmental monitoring, testing and sampling, remedial oversight and management, ecological studies, environmental training, industrial hygiene, forensic inspections and expert witness services; or
5. ordinary technology services utilized in the performance of the Professional Services described above. Such technology services include the design, development, programming, analysis, training, use, hosting, management, support, and maintenance of any software, database, internet service, or website.

**II. Property Damage** means:

1. physical injury to or destruction of tangible property, including resulting loss of use thereof; or
2. loss of use of tangible property that has not been physically injured or destroyed; or
3. diminution of property value; or
4. **Natural Resource Damage**.

**JJ. Protective Claim** means written demand, demand for arbitration or mediation or a suit instituted by you against the **Responsible Entity** seeking a remedy and alleging liability or responsibility on the part of such **Responsible Entity** arising from:

1. a negligent act, error or omission in the rendering of or failure to render **Professional Services**; or
2. a **Pollution Condition** resulting from the performance of **Contracting Activities**.

**Protective Claim** does not include a demand or proceeding for non-monetary or injunctive relief.

**KK. Protective Loss** means:

1. any amounts you are legally entitled to recover; or
2. in the event the **Protective Claim** is made against a **Responsible Entity** in whose favor you have granted a Limitation of Liability permitted by this Policy, any amounts you would have been legally entitled to recover in the absence of such Limitation of Liability;

from each **Responsible Entity**:

1. due to a negligent act, error or omission in the rendering of **Professional Services**; or
2. for **Bodily Injury, Property Damage** or **Cleanup Costs** due to a **Pollution Condition**.

In the event that multiple **Responsible Entities** cause the same or related loss, the amount of **Protective Loss** shall not exceed the single loss caused by such multiple **Responsible Entities**.

**LL. Recoverable Insurance** means the lesser of either Item 1. or 2. below:

1. all liability insurance applicable to the **Professional Services** or **Pollution Condition** from which the **Protective Claim** arises and providing such applicable coverage to any **Responsible Entity** or any person or entity for which the **Responsible Entity** is responsible; or
2. in the event the **Protective Claim** is made against a **Responsible Entity** in whose favor you have granted a Limitation of Liability permitted by this Policy that is applicable to the **Protective Claim**, such Limitation of Liability.

**MM. Responsible Entity** means those persons or entities, retained by you or on your behalf, rendering **Professional Services** or **Contractor Activities**.

**NN. Restoration Costs** means the reasonable and necessary costs incurred by you, with our prior written

consent, to repair, replace, or restore real or personal property to substantially the same condition it was prior to being damaged during work performed in the course of incurring **Cleanup Costs**. **Restoration Costs** do not include costs associated with improvements or betterments.

**OO.Retroactive Date(s)** means the date(s) set forth in Item 6. of the Declarations.

**PP. Third Party Loss** means the total of all **Damages** and **Pollution Loss** you are legally obligated to pay, and all related **Claim Expense**.

## V. EXCLUSIONS

We will not be liable to make payments or indemnify you for any **First Party Claim**, **Claim** or **Loss** directly or indirectly for or arising out of:

- A. any amounts incurred in connection with the making or prosecution of a **Protective Claim**. This Exclusion applies at all times, including where we are providing Proactive Resolution of Substantiated Protective Claim under Section III.D. of this Policy, excepting only the Supplemental Coverage for Protective Claim Bankruptcy Litigation Expense Reimbursement.
- B. the amount of any default judgment, arbitration award or adjudicator's decision in circumstances where the **Responsible Entity** has failed to plead or provide a defense, response or answer, or take any other procedural step, except that this Exclusion shall not apply to the amount of **Protective Loss** which you would have been entitled to recover from the **Responsible Entity**, respectively, had such defense, response or answer been pleaded or provided, or procedural step been taken.

In such instance where the **Responsible Entity** has failed to plead or provide a defense, response or answer, or take any other procedural step, the burden of proving the extent of **Protective Loss** which you would have been entitled to recover from the **Responsible Entity**, respectively, will be upon you.

- C. any design or manufacture of any goods or products which are sold or supplied by you or by anyone under license to you, including any parts, components, assemblies or equipment installed or incorporated by or on behalf of you into your work. This Exclusion does not apply to (1) software sold or supplied by you in connection with your provision of other **Professional Services**, or (2) goods or products installed or incorporated in your work which have been specially designed, but not manufactured, by you or on your behalf by a qualified **Responsible Entity** for use in a specific project, or (3) goods or products installed or incorporated in your work that cause a **Pollution Loss** arising out of a **Pollution Condition** resulting from the performance of **Contractor Activities**, or (4) **Information Technology Products**.
- D. the cost to repair or replace faulty workmanship in any construction, erection, fabrication, installation, assembly, or manufacturing process, including materials, parts, or equipment furnished in connection therewith, unless the faulty workmanship is caused by otherwise covered **Professional Services** as respects the applicability of:
  - 1. Coverages A or B; or
  - 2. **Mitigation Cost** to mitigate or rectify **Professional Services** under Coverage F, except for any fees and direct costs relating to or resulting from the failure to prevent or detect faulty workmanship.

This Exclusion does not apply to Coverages C, D, E, **Mitigation Cost** to mitigate or rectify a **Pollution Condition** resulting from the performance of **Contractor Activities** under Coverage F, or Supplemental Coverage H. Emergency Expense.

- E. any actual or alleged harassment, humiliation, discrimination, or similar misconduct on any basis, whether as to a legally protected group or otherwise.
- F. any employment obligations, decisions, conduct, practices or policies as an employer, including but not limited to any obligation for which any party shall be liable under any worker's compensation, unemployment compensation, employer's liability, obligation to pay fair wages or benefits, or disability benefits law or under any similar law.
- G. liability under contract, agreement, warranty or guarantee, except such liability that would have existed in the absence of such contract, agreement, warranty or guarantee. This Exclusion extends to any contractual obligation to make payments to others, including subcontractors, subconsultants, or their employees, or for materials. Solely for purposes of Coverage C, this Exclusion shall not apply to liability of

others assumed under an **Insured Contract**. This Exclusion shall not apply to that portion of a contract that sets forth the **Insured's** participation in a legal entity that is insured under Definition O.4. of this Policy.

- H. any fraudulent, criminal, dishonest, intentionally or knowingly wrongful, or malicious act, error, or omission, or those of an inherently harmful nature, except that this Exclusion shall not apply to a **Claim** against you if you did not commit, participate in, or have knowledge of such conduct.
- I. taxes; criminal fines; criminal penalties; or liability for liquidated damages you or the **Responsible Entity** would not have had in the absence of the agreement for liquidated damages.
- J. any return, withdrawal or reduction in contractor charges; any equitable obligation, including restitution, disgorgement, or the costs of complying with injunctive relief; or the time and expense in addressing or resolving an actual or potential **First Party Claim** or **Claim**.
- K. any conduct by an individual, corporation, partnership, or joint venture of which you are a partner, director, officer, member, participant, or employee that is not designated in the Declarations or by endorsement as an **Insured**. This Exclusion shall not apply to conduct by an entity for which the **Insured's** participation is insured under Definition O.4. of this Policy.
- L. **First Party Claims** or **Claims** made by any **Insured** against any other **Insured**. However, this Exclusion shall not apply as respects **Claims** made by any entity or person only qualifying as an **Insured** under Paragraph 5. of the Definition of **Insured** in this Policy.
- M. **Claims** against you made by, or **Protective Claims** by you made against, any individual or entity, or its subrogees or assignees:
  - 1. that wholly or partially owns, controls or operates you; or
  - 2. in which you have an ownership interest in excess of twenty-five percent (25%); or
  - 3. that is controlled or operated by you; or
  - 4. in which you are an officer or director; or
  - 5. that is an affiliate of you, where you both are ultimately owned in excess of twenty-five percent (25%), directly or indirectly, by the same entity.

With respect to Items 2., 3., and 4. above, this Exclusion shall be limited when the **Claim** or **Protective Claim** is made by a formal joint venture partnership of which you are a participant to your percentage of ownership interest in the joint venture, so that we shall only be responsible for that portion of **Third Party Loss** or **Protective Loss** that is the difference between your percentage of ownership interest and the total joint venture ownership interest percentage.
- N. **Bodily Injury** or **Property Damage** arising out of construction means, methods or techniques; site safety; crane erection, use, maintenance or operation; scaffolding; or demolition, but solely for the purposes of Coverage B, and for the purposes of Coverages A and F with respect to obligations arising from **Professional Services**.
- O. any **Loss** caused by or resulting from war, invasion, hostilities, acts of foreign enemies, civil war, rebellion, insurrection, military or usurped power, martial law, or confiscation by order of any government or public authority.
- P. any **Protective Loss** or **Pollution Loss** resulting from:
  - 1. the discovery of a **Pollution Condition** on, at or under the **Non-Owned Location**; or
  - 2. a **Pollution Condition** on, at, under or migrating from a **Non-Owned Location**, for which the owner of the **Non-Owned Location** becomes legally obligated to pay unless such **Pollution Loss** results from the performance of the activities described in Paragraphs 1. through 3. of Definition G. **Contractor Activities**.
- Q. for purposes of Coverages D and E, the loss, theft, destruction, transfer, misappropriation, or any misuse of any of your employees' personal data, confidential information or other private **Content**, including but not limited to social security numbers, phone numbers, family names, family history, or home or medical information.

- R. any **Professional Services, Contractor Activities, Media Activities, or Information Technology Services** that constitute violations of either the laws of the United States or any jurisdiction in which they were performed, including U.S. economic, trade sanction or export control laws administered by the U.S. Treasury, State and Commerce Departments (e.g., the economic and trade sanctions administered by the U.S. Treasury Office of Foreign Assets Control), or the U.S. Controlled Substances Act or similar laws in the subject jurisdiction. Additionally, we shall not be required to provide any coverage, pay any **Claim** or **First Party Claim**, or provide any other benefit hereunder to the extent that provision of such coverage, payment of such **Claim** or **First Party Claim** or provision of such other benefit would be in violation of any trade or economic sanctions laws or regulations applicable in our jurisdiction of domicile or with which we are legally obligated to comply.

## VI. LIMITS OF LIABILITY AND SELF-INSURED RETENTION

### A. Limits of Liability

1. Limit of Liability Each **Claim** or **First Party Claim**: Our Limit of Liability for the sum of all **Loss** for each single **Claim** or **First Party Claim** to which this Policy applies shall not exceed the amount stated in Item 4.A. of the Declarations specified for each applicable coverage provided by this Policy.
2. Limit of Liability in the Aggregate for Each Coverage for the Policy: Our Limit of Liability for all **Loss** under each respective coverage provided by this Policy shall not exceed the amount stated in Item 4.B. of the Declarations for such coverage for the Policy.
3. Limit of Liability in the Aggregate for All Coverages Described in Section I. of this Policy for the Policy: Our Limit of Liability for the sum of all **Loss** arising out of all **Claims** or **First Party Claims** under the coverages described in Section I. provided by this Policy shall not exceed the amount stated in Item 4.C. of the Declarations for the Policy.

### B. Self-Insured Retention

The Self-Insured Retention amount stated in Item 5.A. of the Declarations applies to each **Claim** or **First Party Claim**, if applicable. The Self-Insured Retention amount stated in Item 5.B. of the Declarations is the most you shall pay for the sum of all of your Self-Insured Retention obligations arising out of all **Claims** or **First Party Claims** under each respective coverage for the Policy, if applicable, provided that in no event shall your Self-Insured Retention obligation be less than the amount stated in Item 5.C. of the Declarations for any **Claim** or **First Party Claim** under each respective coverage. The Self-Insured Retention amount shall be paid by you before we pay any **Loss**, though any payments made by any **Recoverable Insurance** also implicated by the **Claim** or **First Party Claim** shall serve to reduce your Self-Insured Retention obligation. Our Limits of Liability set forth in Item 4. of the Declarations are in addition to and in excess of the Self-Insured Retention amount. No Self-Insured Retention amount shall apply with respect to the Supplemental Coverages provided by the Policy, except for Supplemental Coverage H. Emergency Expense. If a **Claim** arising out of the same set of circumstances for which we have paid **Mitigation Cost** is made, then any amounts paid under the Self-Insured Retention for such **Mitigation Cost** shall reduce the Self-Insured Retention for that **Claim**.

**Mediation Credit**: If you and we agree beforehand to attempt to resolve a **Claim** or **First Party Claim** at **Mediation**, and if you and we resolve such **Claim** or **First Party Claim** by such **Mediation**, your Self-Insured Retention obligation for such **Claim** or **First Party Claim** will be reduced by 50%, subject to a maximum reduction of \$25,000.

## VII. MULTIPLE INSURED

The number of **Insureds** covered by this Policy shall not operate to increase the Limit of Liability specified in the Declarations, notwithstanding any other provision of this Policy.

## VIII. MULTIPLE CLAIMS

Two or more **Claims** or **First Party Claims** arising out of one or more acts, errors, omissions, incidents, events, or **Pollution Conditions**, or a series thereof, that are related (either causally or logically), will be considered a single **Claim** or **First Party Claim** subject to:

- A. a single Each **Claim** or **First Party Claim** Limit of Liability; and

**B.** a single Self-Insured Retention (if applicable); and

shall not operate to increase our Limits of Liability. All such **Claims** or **First Party Claims** treated as a single **Claim** or **First Party Claim**, whenever made, shall be considered first made on the date the earliest such **Claim** or **First Party Claim** was first made, and only a Policy providing coverage for the earliest **Claim** or **First Party Claim** shall have any coverage for such **Claims** or **First Party Claims**.

If more than one Coverage applies to the whole or a part of a **Claim** treated as a single **Claim** pursuant to this Section VIII., then the Each **Claim** Limit of Liability for the entirety of that single **Claim** and the applicable Self-Insured Retention for that single **Claim** shall be those set forth in Items 4.A. and 5., respectively, of the Declarations for the applicable Coverage with the largest Each **Claim** Limit of Liability. If more than one applicable Coverage has the same Each **Claim** Limit of Liability, but have different Self-Insured Retentions, then the largest Self-Insured Retention shall apply to that single **Claim**.

**IX. EXTENDED REPORTING PERIOD**

**A. Automatic Extended Reporting Period**

If we or you do not renew this insurance with a renewal policy issued by us for any reason, other than after cancellation pursuant to Section XI.G. Cancellation and Termination, you shall be entitled to a period of sixty (60) days from the date of policy termination to report a **Claim** (except for a **Pollution Claim**) or **First Party Claim** which is made by or against you prior to such termination date. This Automatic Extended Reporting Period may not be canceled by you and does not require the payment of an additional premium. This Automatic Extended Reporting Period shall be included within the Optional Extended Reporting Period if such is purchased. The Automatic Extended Reporting Period shall not serve to increase or reinstate the Limits of Liability set forth in the Declarations. The Aggregate Limit of Liability for the Automatic Extended Reporting Period shall be the amount of coverage remaining in this Policy's aggregate liability limit set forth in the Declarations.

**B. Optional Extended Reporting Period**

If we or you do not renew this insurance with a renewal policy issued by us for any reason, other than after cancellation pursuant to Section XI.G. Cancellation and Termination, and if the total premium for this Policy has already been paid in full, then you shall have the option to pay an additional premium and extend the period by which a **Claim** (except for a **Pollution Claim**) or **First Party Claim** can be first made by or against you and reported to us.

The premium for the Optional Extended Reporting Period shall be: (1) 100% of the annual premium for twelve (12) months of extension; (2) 150% for twenty-four (24) months of extension; or (3) 200% for thirty-six (36) months of extension. The purchase of an Optional Extended Reporting Period shall not be effective unless endorsed herein.

Your option to purchase the Optional Extended Reporting Period must be exercised by notice in writing to us no later than sixty (60) days after the termination date of this Policy. Effective notice must indicate the total Optional Extended Reporting Period desired and must include payment of premium for such period. If such notice and premium are not mailed to us within such sixty (60) days, then you are not entitled to purchase an Optional Extended Reporting Period at a later date.

If purchased pursuant to the preceding paragraph, the Optional Extended Reporting Period shall commence upon the termination of the **Policy Period**. The Automatic Extended Reporting Period shall not apply after the termination of the Optional Extended Reporting Period. At the commencement of any Optional Extended Reporting Period, the entire premium shall be deemed fully earned. In the event you terminate the Optional Extended Reporting Period before its term for any reason, we shall not be obligated to return any portion of the premium.

Although the period during which a **Claim** (except for a **Pollution Claim**) or **First Party Claim** can be reported to us is extended by virtue of the Optional Extended Reporting Period, this fact shall not in any way increase or reinstate the Limits of Liability of this Policy. The Optional Extended Reporting Period shall not serve to increase or reinstate the Limits of Liability set forth in the Declarations. The Aggregate Limit of Liability for the Optional Extended Reporting Period shall be the amount of coverage remaining in this Policy's aggregate liability limit set forth in the Declarations.

**X. REPORTING**

**A. Reporting a Claim or First Party Claim**

As a condition precedent to coverage under this Policy, in the event of a **Claim** or **First Party Claim**, you must do the following:

1. Report the **Claim** or **First Party Claim** to us in writing as soon as reasonably possible, which (except for a **Pollution Claim**) must be during the **Policy Period**, the Automatic Extended Reporting Period, or during any applicable Optional Extended Reporting Period. Reporting should be sent to us at the address stated in the Claims Notice attached to this Policy; and
2. Promptly provide a copy of the **Claim** or **First Party Claim**, if in writing, and specify in the report: the names and addresses of the **Insured** reporting the **Claim** or **First Party Claim**, the persons or entities making the **Claim** or **First Party Claim**, and the persons or entities against whom the **Claim** or **First Party Claim** is made; when the **Claim** or **First Party Claim** was made; the subject of the **Claim** or **First Party Claim**; and any other relevant facts or allegations known to you.

#### B. Reporting a Circumstance

If during the **Policy Period**, you become aware of a circumstance that may reasonably be expected to give rise to a **Claim** or **First Party Claim** which may be covered under the Policy, and if you, during the **Policy Period**, provide a written report to us at the address stated in the Claim Notice attached to this Policy of the circumstance as soon as practicable containing particulars sufficient to identify you and all reasonably obtainable information with respect to:

1. when and how you first became aware of such circumstance;
2. any act, error, omission asserted or believed to be at issue;
3. the services or activities involved in the circumstance;
4. what happened and the dates and entities involved; and
5. the nature of any alleged or potential **Loss**;

then any **Claim** (except for a **Pollution Claim**) or **First Party Claim** arising out of such circumstance shall be deemed to have been made on the date we received the written report of the circumstance. At our sole discretion and cost, we may elect to investigate any circumstance which is reported; any such costs associated with the investigation of a circumstance prior to a **Claim** being made against you will not be considered **Claim Expense**, will not reduce the applicable Self-Insured Retention and shall be paid by us in addition to the Limit of Liability.

### XI. CONDITIONS

#### A. Territory

The coverage afforded by this Policy applies worldwide.

#### B. Audit and Inspection

Upon reasonable prior notice, we shall be permitted to audit your final books and records at any time during the **Policy Period**, the Automatic Extended Reporting Period, the Optional Extended Reporting Period, if applicable, and within three years after the final termination of this Policy, as far as they relate to the subject matter of this Policy. We shall also be permitted to inspect, sample, and/or monitor your operations on a continuing basis. Neither our right to make inspections, sample, and/or monitor, nor the actual undertaking thereof, nor any report thereon shall constitute an undertaking, on behalf of us or others, to determine or warrant that your operations are safe, healthful, conform to acceptable practice, or are in compliance with any law, rule, or regulation.

#### C. Subrogation

In the event of any payment under this Policy, we shall be subrogated to all of your rights of recovery thereof. You shall execute and deliver all requested instruments and papers in furtherance of such rights to us and do whatever else is reasonably necessary to secure such rights. You shall do nothing to waive or prejudice such rights. We shall have priority in any recovery, and any amounts recovered in excess of our total payment and the cost to us of recovery shall be paid to you. However, we waive our rights of subrogation under this Policy, to the extent such a waiver is required by a written contract with you executed prior to the **Claim**, against any of the following that is not a **Responsible Entity**: your clients, their parents or other affiliates, and your client's designees; and your co-participants in an entity for which you



participation is insured under Definition O.4. of this Policy.

For Coverage A only, we will not subrogate against a **Responsible Entity** in excess of its collectible insurance, provided it has maintained **Recoverable Insurance**, regardless of whether or not such **Recoverable Insurance** is exhausted or reduced.

#### D. Changes

None of the provisions of this Policy will be waived, changed, or modified except by written endorsement issued by us to form a part of this Policy. Notice to any of our agents or knowledge possessed by any such agent or any other person will not act as a waiver or change in any part of this Policy and will not prevent us from asserting any rights under the provisions of this Policy.

#### E. Action Against Us

Only you can make claims against us under Coverages A and F, and the Supplemental Coverages, of this Policy.

No action shall be taken against us with respect to Coverage A unless, as a condition precedent thereto, you shall have fully complied with all the terms of this Policy, and until the amount the **Responsible Entity** is legally obligated to pay shall have been finally determined either by judgment after actual contested trial or arbitration, or other method of dispute resolution for which we have given prior written approval.

No action shall be taken against us with respect to Coverage B, C, D or E unless, as a condition precedent thereto, you shall have fully complied with all the terms of this Policy, and until the amount you are legally obligated to pay shall have been finally determined either by judgment after actual contested trial or arbitration, or other method of dispute resolution for which we have given prior written approval.

No person or organization shall have any right under this Policy to join us in any action against you. No **Responsible Entity** shall be an **Insured** under this Policy.

#### F. Assignment of Interest

It is agreed that the insurance provided herein and your interests hereunder cannot be transferred or assigned to another party without our express written consent.

#### G. Cancellation and Termination

1. The premium paid for this Policy shall be fully earned in the first twelve months of the **Policy Period**.
2. This Policy may only be cancelled by us for one or more of the following reasons:
  - a. non-payment of premium; or
  - b. a material misrepresentation or concealment of facts; or
  - c. a material breach of any provision of this Policy.

If this Policy is cancelled by us, notice of cancellation will be sent in writing to the first **Named Insured** (except as modified by any Endorsement to this Policy, either electronically or at the address indicated on the Declarations. We will provide such written notice at least ninety (90) days prior to the date such cancellation is to take effect; except that, in the event of cancellation for non-payment of premium, we will provide only fifteen (15) days written notice. If the premium is paid by a premium financing company and the premium financing company, acting under a valid premium finance agreement with you, requests cancellation of the Policy due to non-payment of premium from you in the first twelve (12) months of the **Policy Period**, the earned premium shall be computed short-rate of the twelve-month policy term premium and the unearned premium shall be returned to the premium finance company.

The effective date and hour of cancellation will be stated in such notice. Cancellation by us also cancels the Automatic Extended Reporting Period and any Optional Extended Reporting Period; the **Policy Period**, the Automatic Extended Reporting Period, and any Optional Extended Reporting Period will end on that date. If we cancel for the reason specified in Subparagraph (a), there shall be no return premium. If we cancel for reasons stated in Subparagraphs (b) or (c) in the first twelve (12)

months of the **Policy Period**, the earned premium shall be computed pro-rata of the twelve-month earned policy term premium. Payment of any return premium shall not be a condition of cancellation.

3. This Policy may be cancelled by the first **Named Insured** for any reason. In the event that the first **Named Insured** cancels the Policy, the earned premium shall be computed under the customary short rate table and procedure as a percentage of the total Policy premium stated in the Declarations, and we will return the corresponding unearned premium to the first **Named Insured**. Cancellation by the first **Named Insured** shall also cancel the Automatic Extended Reporting Period and any Optional Extended Reporting Period on the date of cancellation.
4. Notwithstanding the foregoing, if you report a **Claim** or **First Party Claim** to us prior to the date of cancellation, the Policy premium shall be considered 100% earned, and no premium shall be returned upon cancellation.

#### H. No Limitation of Liability

You shall not limit the liability of any **Responsible Entity**, except to collectible insurance, without our prior written approval. If you limit the liability of a **Responsible Entity** in a manner that fails to comply with the foregoing, our obligation to pay **Loss** arising out of any **Claim** or **First Party Claim** involving such **Responsible Entity** shall apply solely in excess of the collectible insurance that would have been available in the absence of the limitation of liability to such **Responsible Entity** or any person or entity for which the **Responsible Entity** is responsible.

#### I. Your Bankruptcy

Your bankruptcy or insolvency shall not relieve us of our obligations under this Policy.

#### J. Authorization Clause

By acceptance of this Policy, the first **Named Insured** shall be the sole agent of and shall act on behalf of the **Insureds** for all purposes as to the Policy, including but not limited to the payment or return of premium, receipt and acceptance of any endorsement issued to form a part of this Policy, providing and receiving notice of cancellation, termination, or nonrenewal, the giving of notices and reporting of **First Party Claims**, **Claims** and circumstances, for completing applications and the making of any statements or representations, for making any change to the Policy, and for the exercising or declining to exercise any right under this Policy, including the purchase of an Optional Extended Reporting Period.

#### K. Severability of Policy Provisions

If any material provision or clause of this Policy is declared illegal or unenforceable by any court of competent jurisdiction and cannot be modified to be enforceable, that provision will immediately become null and void, leaving the remainder of this Policy in full force and effect.

#### L. Severability of Insureds (Coverages B, C, D and E)

Except with respect to the Limits of Liability and Self-Insured Retentions, the Authorization Clause of this Conditions Section and as otherwise provided in this Policy, this insurance applies as if each **Insured** were the only **Insured** and separately to each **Insured** against whom a **Claim** is made.

#### M. Other Insurance

This Policy is excess over the Self-Insured Retention and any other valid and collectible liability insurance available to you, whether such other insurance is stated to be primary, pro-rata, contributory, excess, contingent, self-insured or otherwise, unless such other insurance is written specifically excess of this Policy by reference in such other policy to the Policy number in this Policy's Declarations. When any other insurance has a duty to defend a **Claim**, we will have no duty to defend the **Claim**; if no such other insurance defends the **Claim**, we will have the right but not the duty to defend the **Claim**.

Under Coverage C only, when you are required by written contract, written agreement, or permit, executed prior to when the **Pollution Claim** was first made, to include any person or entity as an additional **Insured**, such coverage will be provided on a primary and non-contributory basis to the extent so required.

#### N. Choice of Law

All matters arising from or related to this Policy, including without limitation questions related to the validity, interpretation, performance, and enforcement of this Policy, all forms of contractual, tort and statutory claims, and all remedies and entitlement to costs or attorneys' fees in a dispute over any of the foregoing, shall be determined in accordance with the law and practice of the State of New York (notwithstanding New York's conflicts of law rules).

**O. Jurisdiction and Venue**

It is agreed that, in the event of any dispute arising from or related to this Policy, including without limitation questions related to the validity, interpretation, performance, and enforcement of this Policy, and all forms of contractual, tort and statutory claims, you and we will submit to the jurisdiction of any court (State or Federal) in New York and will comply with all the requirements necessary to give such court jurisdiction. Nothing in this clause constitutes or should be understood to constitute a waiver of your or our right to remove an action to the United States District Court, regardless of the jurisdiction in which an action is commenced.