



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: PO WW PO2500024700

Award Type:	Contract
Is a Board Meeting Date Requested?	Yes
Requested Board Meeting Date:	10/14/2025
Signature Only:	NO
Procurement Director Award / Delegated Award:	<ul style="list-style-type: none"><li>N/A</li></ul>
Supplier / Customer / Grantor / Subrecipient:	Pilkington Contracting Co. Inc. dba Pilkington Construction Co. (Headquarters: Yuma, AZ)
Project Title / Description:	Design-Build Services for Tres Rios Emergency Backup Power (3TREBP)
Purpose:	<p>Award: Contract No. PO2500024700. This award is recommended to the highest-ranking qualified Design-Builder in the amount of \$407,715.00 for a contract term of 10/14/25 to 10/13/27 for Design and Pre-construction Services for Tres Rios Emergency Backup Power (3TREBP). County intends to negotiate with Design-Builder regarding scope, schedule, general conditions, construction fees and other elements of the Guaranteed Maximum Price (GMP) for construction services and incorporate into this Contract by amendment. Administering Department: Regional Wastewater Reclamation.</p> <p>Board of Supervisors to authorize the Procurement Director to execute all modifications, including one or more Guaranteed Maximum Price (GMP) packages, provided that the cumulative total of all GMPs, Design and Pre-construction Services does not exceed \$5,221,883.38 and the contract expiration date does not exceed 10/13/27, which allows time for all contract close-out activities and final submittals.</p>
Procurement Method:	Other
Insert additional Procurement Method info, if applicable:	Request for Qualifications (RFQu) No. RFQu-2400003876 was conducted in accordance with A.R.S. § 34-603 and Pima County Board of Supervisors Policy D29.1 as a 2- step competitive solicitation. For Step-1, 2 responsive statements of qualifications (SOQs) were received and evaluated by a 7-member committee using qualifications and experience-based selection criteria. Based upon the evaluation of the respondents' written representation of their qualifications and necessary due diligence, a short-list of 2 respondents were invited to interviews. As a result of the combined scoring of the written statement of qualifications and interviews, a short list of 2 respondents were invited to participate in Step-2, which consisted of

technical proposal and price proposal evaluations. As a result of the combined scoring of the technical proposal and price proposal, the highest-ranked design-builder is recommended for award.

Attachments: Notice of Recommendation for Award and Contract.

<b>Program Goals/Predicted Outcomes:</b>	To purchase backup, diesel powered generators and construct infrastructure necessary to integrate backup power into the Tres Rios Wastewater Reclamation Facility (WRF) electrical system. This program will create an additional layer of safety and continuity of operations.
<b>Public Benefit and Impact:</b>	Presently the Tres Rios WRF has no emergency backup power capability, if the WRF were to lose power through one of the critical vulnerabilities, the WRF operations would be quickly compromised. Also, an extended downtime could result in permit fines of up to \$250,000.00 per permit violation. In addition, a loss of power could result in a substantial health risk to the community, by providing the infrastructure with emergency backup power equipment, this risk would be eliminated.
<b>Budget Pillar</b>	<ul style="list-style-type: none"><li>Critical infrastructure &amp; economic growth</li></ul>
<b>Support of Prosperity Initiative:</b>	N/A
<b>Provide information that explains how this activity supports the selected Prosperity Initiative</b>	N/A
<b>Metrics Available to Measure Performance:</b>	The Contractor's performance will be measured using the contractor evaluation process as outlined in BOS Policy D29.1 (E).
<b>Retroactive:</b>	NO

## Contract / Award Information

Record Number: PO WW PO2500024700

<b>Document Type:</b>	PO
<b>Department Code:</b>	WW
<b>Contract Number:</b>	PO2500024700
<b>Commencement Date:</b>	10/14/2025
<b>Termination Date:</b>	10/13/2027

Total Expense Amount:

\$407,715.00

Total Revenue Amount:

\$0.00

**Funding Source Name(s) Required:** Arizona Department of Emergency and Military Affairs, 90% Federal Share;10% RWRD Obligations

**Funding from General Fund?**

NO

**Contract is fully or partially funded with Federal Funds?**

YES

**If Yes, is the Contract to a supplier or subrecipient?** Supplier

**Enter CFDA#** 97.039

**and FAIN#** HMGP-DR-4524-009-015R

**Associated AmpliFund Grant Record ID#** 72578

**Were insurance or indemnity clauses modified?**

NO

**Vendor is using a Social Security Number?**

NO

**Department:** PO

**Name:** James Johnson JJ

**Telephone:** 5207247465

**Add Procurement Department Signatures**

Yes

**Add GMI Department Signatures**

No

**Division Manager/Procurement Officer Signature:** Scott Loomis Digitally signed by Scott Loomis Date: 2025.09.23 11:24:22 -07'00' **Date:** \_\_\_\_\_

**Procurement Director Signature:** Bruce D Collins Digitally signed by Bruce D Collins Date: 2025.09.24 14:47:46 -07'00' **Date:** \_\_\_\_\_

**Department Director Signature:** [Signature] **Date:** 9/25/2025

**Deputy County Administrator Signature:** [Signature] **Date:** 9/25/2025

**County Administrator Signature:** [Signature] **Date:** 9-26-2025



## **NOTICE OF RECOMMENDATION FOR AWARD**

Date of Issue: September 9, 2025

The Pima County Procurement Department hereby issues formal notice to respondents to Solicitation No. RFQu-2400003876 for Design-Build Services: Tres Rios Emergency Backup Power (3TREBP) that the following listed respondent will be recommended for award as indicated below. The award action is scheduled to be performed by the Board of Supervisors on or after October 14, 2025.

Award is recommended to the most qualified Respondent.

### **AWARDEE NAME**

**Pilkington Contracting Co., Inc. dba Pilkington Construction Co.**

### **OTHER RESPONDENT NAMES**

**Kiewit Infrastructure West Co.**

***NOTE: Pursuant to A.R.S. §34-603(H), only the names of the firms on the final list may be disclosed.***

Issued by: James Johnson, Procurement Officer

Telephone Number: 520-724-7465

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 REGIONAL WASTEWATER RECLAMATION DEPARTMENT**

**PROJECT:** Design-Build Services for Tres Rios Emergency Backup Power (3TREBP)

**CONTRACTOR:** Pilkington Contracting Co., dba Pilkington Construction Co.  
2975 S. Avenue B  
Yuma, AZ 85364

**CONTRACT NO.:** PO2500024700

**AMOUNT:** \$407,715.00

**FUNDING:** Arizona Department of Emergency and Military Affairs, 90% Federal Share;  
10% RWRD Obligations

### **DESIGN-BUILD CONTRACT**

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

- 1.1. Parties. This Contract is between Pima County, a body politic and corporate of the State of Arizona ("County"), and Pilkington Contracting Co., Inc. dba Pilkington Construction Co. ("Design-Builder"). County and Design-Builder may also be individually referred to as a "Party" or collectively as the "Parties."
- 1.2. History. County previously issued Request for Qualifications (RFQu) No. RFQu-2400003876 (hereinafter referred to as the "Solicitation") seeking a Design-Build services provider, the documents, amendments, requirements and specifications of which are all incorporated into this Contract by reference.
- 1.3. Design-Builder Selection. Design-Builder was selected by County through the evaluation process described in the Solicitation.
- 1.4. Purpose. The Parties desire to enter into this Contract to effect the completion of the Project on a Guaranteed Maximum Price ("GMP") basis.

#### **2. Effective Date, Term, and Schedule.**

- 2.1. The effective date of this Contract is the date last signed below.
- 2.2. Unless otherwise terminated or extended, in writing, pursuant to other provisions of this Contract, the term of this Contract shall commence on 10/14/2025 and terminate on 10/13/2027 (the "Term").
- 2.3. Design-Builder provided County with a preliminary schedule covering the planning, design, and construction of the Project which is attached as Appendix A - Project Scope of Work.

#### **3. Scope of Services.**

- 3.1. This is a Design-Build Contract for architectural, engineering, and construction services (collectively, the "Services") for Project, as more fully set forth in the following documents attached this Contract: Appendix A – Project Scope of Work (16 pages); Appendix B – Supplemental Provisions – Construction Costing (5 pages); Appendix C – Design-Builder General Conditions (49 pages); Appendix D – Federal Contract Provisions (2 pages); Appendix E – Incoming Contractor Safety & Orientation Briefing (6 pages), Appendix F – Design and Preconstruction Services Fee Proposal (27 Pages).

- 3.2. This Contract is funded wholly or partially by the State of Arizona Department of Emergency and Military Affairs (DEMA) and is subject to the requirements of Appendix D – Federal Contract Provisions.
- 3.3. Design-Builder will proceed with the Work in two phases: Phase 1 - Design and Preconstruction Services; and Phase 2 – Construction Services. This Contract covers only Phase 1 as that is defined in the Scope. Prior to any Design-Builder work on Phase 2, Design-Builder must deliver to County a proposed GMP, or multiple GMPs, if construction is divided into multiple phases.
- 3.4. With respect to Phase 2 – Construction Services, the parties acknowledge that the Construction Documents may be incomplete at the time Design-Builder delivers the GMP proposal to County, and that Design-Builder may not complete the Construction Documents until after Design-Builder begins work on Phase 2. Nevertheless, Design-Builder's GMP proposal shall include all anticipated costs for the Work required for Phase 2. If County accepts Design-Builder's GMP proposal, Design-Builder will not be entitled to any increase in the GMP unless the Work required by the completed Construction Documents: (i) is required by this Contract for Design-Build Construction; (ii) is reasonably inferable from the incomplete construction documents submitted with the proposed GMP; (iii) is consistent with County's programmatic goals and objectives; (iv) is consistent with County's Design and Construction Standards and the general industry standards for completion of the Work; (v) is not a substantial enlargement of the scope of Work; or (vi) substantially conforms to the nature, type, kind, or quality of Work depicted in the incomplete construction documents submitted with the GMP proposal.
- 3.5. If a GMP proposal is unacceptable to County, County will promptly notify Design-Builder in writing. Within 14 calendar days of notification, County and Design-Builder will meet to discuss and resolve any differences, inconsistencies, or misunderstandings and to negotiate recommended adjustments to the Work and/or to the proposed GMP.
- 3.6. County may, at its sole discretion and based upon its sole judgment: (i) accept a GMP proposal; (ii) reject a GMP proposal; (iii) terminate the Project; or (iv) proceed to construct the Project using a Party or Parties other than Design-Builder.
- 3.7. If County rejects a GMP proposal, neither Party shall have any further obligation pursuant to this Contract.
- 3.8. If County accepts a GMP proposal, the parties will complete and execute an amendment to this Contract, and County will issue a written Notice to Proceed to Design-Builder establishing the date that Design-Builder will commence Phase 2 (the "Phase Commencement Date"). Design-Builder shall not expend any monies for the new phase prior to receipt of the Notice to Proceed.
4. **Key Personnel.** Design-Builder will employ suitably trained and skilled professional personnel to perform all services under this Contract. Prior to changing any key personnel, especially those key personnel County identified in Design-Builder's Statement of Qualifications relied upon in making this Contract, Design-Builder will obtain the approval of County.
5. **Compensation and Payment.**
  - 5.1. County will pay Design-Builder at the rates in Appendix F. County's total payments to Design-Builder for Phase 1 Work, including sales taxes (if applicable), is \$407,715.00 (the "Not-to-Exceed Amount" or "NTE amount"). The payment amounts or rates in Appendix F do not include sales taxes. Design-Builder may invoice County for the sales taxes Design-Builder is required to pay on goods supplied to County under this Contract.

- 5.2. Design-Build will invoice County on a monthly basis unless a different billing period is included in Appendix A. County must receive invoices no more than 30 calendar days after the end of the billing period in which Design-Build delivered the invoiced products or services to County. County may refuse to pay for any product or service for which Design-Build does not timely invoice County and, pursuant to A.R.S. § 11-622(C), will not pay for any product or service invoiced more than 6 months late. Design-Build will cite the Contract number on all invoices. Design-Build shall show sales taxes as a separate line item on invoices. Any pre-printed terms and conditions on a purchase order form do not apply to Work performed under this Contract, which is to be governed solely by the terms of this Contract, including all attached and referenced documents.
- 5.3. County may, at any time during the Term and during the retention period set forth in Section 31 below, question any payment under this Contract. If County raises a question about the propriety of a past payment, Design-Build will cooperate with County in reviewing the payment. County may set-off any overpayment against amounts due to Design-Build under this or any other contract between County and Design-Build. Design-Build will promptly pay County any overpayment that County cannot recover by set-off.
- 5.4. Design-Build will not perform work in excess of the GMP without prior authorization by a written Change Order executed by County's Board of Supervisors or Procurement Director pursuant to the Pima County Procurement Code. Work performed in excess of the GMP without a written and properly approved Change Order is done at Design-Build's own risk.
- 5.5. Price Guarantees. Upon acceptance by County of a GMP under Section 3.7:
  - 5.5.1. Design-Build guarantees that the sum of: (i) the actual cost of the work; (ii) Design-Build's contingency; (iii) Design-Build's staffing costs; (iv) the general conditions cost; and (v) Design-Build's overhead and profit, will not exceed the amount in the accepted GMP. Design-Build is responsible for all costs or expenses that would cause the sum of the items above to exceed the GMP unless County has adjusted the GMP by an approved change order.
  - 5.5.2. Design-Build certifies that: all unit costs supporting the GMP proposal are accurate, complete, and current at the time of negotiations; and that any other factual unit costs that Design-Build may provide to County in the future to support any additional amounts that County may authorize will also be accurate and complete. County may reduce payments to Design-Build if County determines that any amounts Design-Build included are materially inaccurate, incomplete, or non-current factual unit costs.
6. **Insurance.** The Insurance Requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. County in no way warrants that the minimum limits contained herein are sufficient to protect Design-Build from liabilities that arise out of the performance of the work under this Contract. Design-Build is free to purchase additional insurance.

Design-Build's insurance will be placed with companies licensed in the State of Arizona or hold approved non-admitted status on the Arizona Department of Insurance List of Qualified Unauthorized Insurers. Insurers will have an "A.M. Best" rating of not less than A- VII. County in no way warrants that the above- required minimum insurer rating is sufficient to protect Design-Build from potential insurer insolvency.
- 6.1. Minimum Scope and Limits of Insurance.

Design-Build will procure and maintain, until all of their obligations have been discharged, coverage with limits of liability not less than those stated below.

- 6.1.1. 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, and products – completed operations.
- 6.1.2. Business Automobile Liability – Bodily Injury and Property Damage for any owned, hired, and/or non-owned automobiles used in the performance of this Contract with a Combined Single Limit (CSL) of \$1,000,000.
- 6.1.3. Workers' Compensation (WC) and Employers' Liability - Statutory requirements and benefits. In Arizona, WC coverage is compulsory for employers of one or more employees. Employer's Liability coverage- \$1,000,000 each accident and each person – disease. Note: The Workers' Compensation requirement will not apply to a Design-Builder that is exempt under A.R.S. § 23-901, and when such Design-Builder executes the appropriate County Sole Proprietor or Independent Design-Builder waiver form.
- 6.1.4. Builder's Risk Insurance does apply to this contract. Design-Builder shall be required to maintain throughout the course of construction, Builder's Risk Insurance in a dollar amount equal to the full insurable value of the work under contract, which shall include "All Risk" coverage. Pima County shall be named as a "Loss Payee". Design-Builder shall be responsible for equipment, materials, and supplies until completion of the project and acceptance by Pima County.
- 6.1.5. Professional Liability (Errors and Omissions) Insurance – This insurance is required when soliciting work from licensed professionals. The policy limits will be not less than \$2,000,000 Each Claim and \$2,000,000 Annual Aggregate. The policy will cover professional misconduct or negligent acts for those positions defined in the Scope of Work of this contract.

In the event that the Professional Liability insurance required by this Contract is written on a claims-made basis, Design-Builder warrants that any retroactive date under the policy will precede the effective date of this Contract and, either continuous coverage will be maintained, or an extended discovery period will be exercised, for a period of 2 years beginning at the time work under this Contract is completed.

## 6.2. **Additional Insurance Requirements**

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

- 6.2.1. Additional Insured Endorsement: The General Liability and Business Automobile Liability Policies will each be endorsed to include 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 Design-Builder.
- 6.2.2. Subrogation Endorsement: The General Liability, Business Automobile Liability and Workers' Compensation Policies will each contain a waiver of subrogation endorsement in favor of County, and its departments, districts, boards, commissions, officers, officials, agents, and employees for losses arising from work performed by or on behalf of Design-Builder.



6.2.3. Primary Insurance Endorsement: Design-Builder's policies will stipulate that the insurance afforded Design-Builder will be primary, and that any insurance carried by the Department, its agents, officials, employees or County will be excess and not contributory insurance, as provided by A.R.S. § 41-621 (E).

6.2.4. Insurance provided by Design-Builder will not limit Design-Builder's liability assumed under the indemnification provisions of this Contract.

6.3. Notice of Cancellation.

For each insurance policy required by the insurance provisions of this Contract, Design-Builder must provide to County, within 2 business days of receipt, a notice if a policy is suspended, voided, or cancelled for any reason. Such notice will be mailed, emailed, or hand-delivered to Pima County Procurement, 150 West Congress Street, 5th Floor, Tucson, Arizona 85701.

6.4. Verification of Coverage.

Design-Builder will furnish County with certificates of insurance (valid ACORD form or equivalent approved by County) as required by this Contract. An authorized representative of the insurer will sign the certificates.

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

6.4.2. All certificates required by this Contract will be sent directly to the Department. County Project or Contract number and Project description will be noted on the certificate of insurance. County reserves the right to require complete copies of all insurance policies required by this Contract at any time.

6.5. 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.

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. Payment and Performance Bonds.**

As required by A.R.S. §§ 34-610 and 34-611 and, as a condition precedent to receiving a Notice to Proceed for any new construction phase of the Work, Design-Builder will deliver to County the Performance Bond and the Payment Bond, each in an amount equal to the portion of the GMP attributable to that phase of the construction work, as financial security for the faithful performance and payment of its Design-Build Period obligations hereunder. The Design-Builder will provide for an increase in the Performance Bond and the Payment Bond to reflect any GMP adjustments, as a condition of its entitlement to the GMP adjustment.

- 7.1. The Performance Bond and the Payment Bond must be substantially in the form set forth in Attachment 1 hereto and must be issued by a surety company: (1) verified by County having a rating of "A-" in the latest revision of the A.M. Best Company's Insurance Report; (2) be listed in the United States Treasury Department's Circular 570, "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsurance Companies"; and (3) holding a certificate of authority to transact surety business in the State of Arizona, issued by the Director of the Department of Insurance.
- 7.2. The Performance Bond and the Payment Bond shall be released only upon the achievement of Final Completion by Design-Builder. In no event shall the Performance Bond or the Payment Bond serve as a limitation on the liability of Design-Builder under this Contract.
- 7.3. Design-Builder's failure to maintain the Performance Bond and Payment Bond in the required amounts throughout the construction phases of this Contract will constitute material breach of this Contract.
8. **Design-Builder's Performance.** Design-Builder is responsible for the professional quality, technical accuracy, timely completion, and coordination of all its efforts and other services under this Contract. Without additional compensation from County, Design-Builder will correct or revise any errors, omissions, or other deficiencies in all products of its efforts and other services provided. This will include resolving any deficiencies arising out of the willful or negligent acts or omissions of Design-Builder found during or after the course of the services performed by or for Design-Builder under this Contract, to the extent that such willful or negligent errors, omissions, and acts fall below the standard of care and skill that a professional Design-Builder in Arizona would exercise under similar conditions. Design-Builder is responsible for these corrections or revisions regardless of County having knowledge of or condoning/accepting the efforts or services.
9. **Excusable Delays.** Neither Party shall be liable to the other nor deemed in default under this Contract if and to the extent that such Party's performance is prevented or delayed by reason of an Uncontrollable Circumstance. For purposes of this Contract, Uncontrollable Circumstance means any act, event, or condition that: (1) is beyond the reasonable control of the Party relying on it as a justification for not performing an obligation or complying with any condition required of such Party under this Contract; and (2) materially expands the scope of, interferes with, delays, or increases the cost of performing the Party's obligations under this Contract, to the extent that such act, event, or condition is not the result of the intentional or negligent act, error, or omission, failure to exercise reasonable diligence, or breach of this Contract on the part of the Party claiming the occurrence of an uncontrollable circumstance. Excusable Delays shall not include late performance by a subcontractor unless the delay arises out of an Uncontrollable Circumstance. A Party shall extend the time of completion by a Change Order for a period of time equal to the time the Uncontrollable Circumstance prevented the delayed Party from performing in accordance with this Contract.
10. **Liquidated Damages.** Design-Builder agrees to achieve substantial completion by the end date as determined by mutual agreement of the Parties at time of GMP. Design-Builder's failure to reach Substantial Completion within the Term will substantially harm County. Because damages resulting from such a failure cannot be calculated with any degree of certainty, the Parties agree that if Contractor does not achieve Substantial Completion within the Term (as may be amended through written Change Orders), Design-Builder will pay to County as liquidated damages, and not a penalty, a dollar amount not-to-exceed limits set forth in Pima Association of Governments (PAG) Standards and Specifications, Section 108-9, for each calendar day between the deadline for Substantial Completion and the date Design-Builder actually achieves Substantial Completion. Dollar amount to be determined by mutual agreement of the Parties at time of GMP. The Parties further agree that the daily liquidated damages amount is fair, reasonable, and not subject to later challenge.
11. **Unilateral Change Directive.** County may issue a unilateral change directive to Design-Builder at any time during the term of the Contract. Upon receipt of a unilateral change directive, Design-Builder will promptly proceed with the performance of any change in the Work as instructed and will promptly advise County in writing of Design-Builder's agreement (or disagreement) with any price,

performance, or schedule, if any, as may be proposed by County in the unilateral change directive. No unilateral change directive will be binding on either Party unless it has been approved by the Pima County Board of Supervisors or, if authorized, County's Procurement Director. A unilateral change directive that is signed by Design-Builder and approved by the Pima County Board of Supervisors or Procurement Director reflecting the Scope of Work and any price, schedule, or performance relief, if any, will be deemed a Change Order.

## **12. Suspension/Termination for Convenience**

12.1. Suspension by County for Convenience. County may, without cause, order Design-Builder, in writing, to suspend or interrupt the Work in whole or in part for such period of time as County may determine necessary whenever such suspension or interruption would be in the best interest of County. If County suspends the Work for convenience, an adjustment shall be made for substantiated increases in the cost of performance of the Contract, if any, including profit on the increased cost of performance, caused by suspension or interruption. No adjustment shall be made to the extent:

12.1.1. performance is, was, or would have been so suspended or interrupted by another cause for which Design-Builder is responsible; or

12.1.2. an equitable adjustment is made or denied by County.

12.2. Termination by County for Convenience.

12.2.1. The performance of the Work under this Contract may be terminated by County, in whole or in part, in accordance with this clause whenever County reasonably determines that such termination is in the best interest of County. Any such termination will be affected by delivery to Design-Builder of a written Notice of Termination specifying the extent to which performance of the Work is terminated, and the date upon which such termination becomes effective.

12.2.2. If the Contract is terminated by County as provided herein, County will compensate Design-Builder for any Work performed, and accepted, prior to the termination, together with profit in proportion to the Work performed and accepted. The compensation shall include payment for contractual obligations reasonably incurred prior to termination. No amount will be allowed for: anticipated profit on unperformed Work; or consequential damages to Design-Builder resulting from the termination.

12.2.3. Termination of the Contract or any portion thereof by County for convenience will not relieve Design-Builder of its contractual responsibilities for Work completed.

## **13. Termination for Cause.**

13.1. Events of Default. This Contract may be terminated for cause upon the occurrence of one or more of the following Events of Default:

13.1.1. If Design-Builder fails or neglects to carry out the Work in accordance with the provisions of the Contract Documents, and fails, after 10 calendar days written notice from County, to correct such failure or neglect and thereafter diligently pursue the Project to completion;

13.1.2. If Design-Builder materially breaches this Contract and fails, after 10 days written notice from County, to correct such breach and thereafter diligently pursue the Project to completion; or

13.1.3. If a custodian, trustee or receiver is appointed for Design-Builder, or if Design-Builder becomes insolvent or bankrupt, or makes an assignment for the benefit of

creditors, or Design-Builder causes or suffers an order for relief to be entered with respect to it under applicable Federal bankruptcy law or applies for or consents to the appointment of a custodian, trustee or receiver for Design-Builder, or bankruptcy, reorganization, arrangement or insolvency proceedings, or other proceedings for relief under any bankruptcy or similar law or laws for the relief of debtors, are instituted by or against Design-Builder, and in any of the foregoing cases such action is not discharged or terminated within 60 days of its institution.

**13.2. Remedies of County Upon an Event of Default.**

- 13.1.1. Upon an Event of Default, County has the right to terminate this Contract upon an additional 7 days' written notice to Design-Builder provided Design-Builder has not commenced a cure within the 7-day period.
- 13.1.2. Without prejudice to any of County's other rights or remedies, County may:
  - 13.1.2.1. Take possession of all data, reports, and work in progress in possession of Design-Builder or to which Design-Builder otherwise has rights;
  - 13.1.2.2. Accept assignment of Subcontracts; and
  - 13.1.2.3. Finish the Work by whatever reasonable method County may deem expedient.
- 13.1.3. If County terminates the Contract under this Section 14.2, Design-Builder is not entitled to receive further payment until the Work is finished. If the unpaid balance exceeds costs incurred in finishing the Work, such excess may be paid to Design-Builder, up to the amount due Design-Builder to the date of the termination. If such costs exceed the unpaid balance of the Contract, Design-Builder will pay the difference to County.

**14. Dispute Resolution.**

- 14.1. In the event of any dispute between County and Design-Builder regarding any part of this Contract or the Contract Documents, or the Parties' obligations or performance hereunder, either Party may institute these dispute resolution procedures. The Parties shall continue performance of their respective obligations notwithstanding the existence of a dispute.
  - 14.1.1. The Parties are fully committed to working with each other throughout the Project and agree to communicate regularly with each other at all times to avoid or minimize disputes or disagreements. If disputes or disagreements do arise, Design-Builder and County each commit to resolving such disputes or disagreements in an amicable, professional, and expeditious manner to avoid unnecessary losses, delays, and disruptions to the Work. Design-Builder and County will first attempt to resolve disputes or disagreements at the field level through discussions between Design-Builder's Representative and County's Representative.
  - 14.1.2. Either Party may, from time to time, call a special meeting for the resolution of disputes that would have a material impact on the cost or progress of the Project. This meeting will be held at County's offices within 3 working days of a written request for a meeting that specifies in reasonable detail the nature of the dispute. County's Project Manager and Design-Builder's Project Manager will attend the meeting. These Representatives shall attempt in good faith to resolve the dispute. If unable to resolve the dispute, the Parties may agree to escalation of discussions to a higher level before proceeding to mediation, as described below.

- 14.1.3. If the Parties are unable to resolve the dispute through the special meeting or escalation, then either Party may request non-binding mediation. The non-requesting Party may decline the request in its reasonable discretion. If there is concurrence that any matter will be mediated, a mediator, mutually acceptable to the Parties and experienced in design and construction matters as well as in the Design-Build procurement method will be appointed. The Parties will share the cost of the mediator. The mediator will be given any written statements of the Parties and may review Project and any relevant documents. The mediator will call a meeting of the Parties within 10 working days after his/her appointment, which meeting will be attended by County's Project Manager and Design-Builder's Project Manager. Such Authorized Representatives shall attempt in good faith to resolve the dispute. During such 10-day period, the mediator may meet with the Parties separately.
    - 14.1.4. No minutes will be kept with respect to any mediation proceedings and the comments and/or findings of the mediator, together with any written statements prepared by the Parties, will be non-binding, confidential, and without prejudice to the rights and remedies of any Party. The entire mediation process must be completed within 20 working days of the date upon which the initial special meeting is held, unless the Parties agree otherwise in writing. If the dispute is settled through the mediation process, the decision will be implemented by written agreement signed by the Parties.
    - 14.1.5. Nothing in this Section limits, interferes with, or delays the right of either Party to this Contract to commence judicial legal proceedings upon a breach of this Contract by the other Party, whether in lieu of, concurrently with, or at the conclusion on any non-binding mediation.
15. **No Consequential or Punitive Damages.** In no event will either Party be liable to the other or obligated in any manner to pay to the other any special, incidental, consequential, punitive, or similar damages based upon claims arising out of or in connection with the performance or non-performance of its obligations or otherwise under this Contract, or the material falseness or inaccuracy of any representation made in this Contract, whether such claims are based upon contract, tort, negligence, warranty, or other legal theory; provided, however, that the waiver of the foregoing damages under this Section is intended to apply only to disputes and claims as between County and Design-Builder. Nothing in this Section shall limit the obligation of Design-Builder to indemnify, defend and hold harmless County Indemnitees for any special, incidental, consequential, punitive, or similar damages payable to third-parties resulting from any act or circumstance for which Design-Builder is obligated to indemnify County Indemnitees hereunder. In addition, the Parties acknowledge and agree that nothing in this Section will serve as a limitation or defense with respect to any obligation of a Party to pay liquidated damages specifically provided for under this Contract.
16. **Laws and Regulations.**
  - 16.1. Compliance with Laws. Design-Builder will comply with all federal, state, and local laws, rules, regulations, standards, and Executive Orders.
  - 16.2. Licensing. Design-Builder warrants that it (directly or through its subcontractors) is appropriately licensed to provide all services required under this Contract and that its subcontractors will be appropriately licensed.
  - 16.3. 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 the appropriate court of the State of Arizona in Pima County.

17. **Independent Contractor.** Design-Builder is an independent contractor. Neither Design-Builder, nor any of Design-Builder'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. Design-Builder is responsible for paying all federal, state, and local taxes on the compensation received by Design-Builder under this Contract and will indemnify, defend, and hold County harmless from any and all liability that County may incur because of Design-Builder's failure to pay such taxes.
18. **Subcontractors.** Design-Builder is fully responsible for all acts and omissions of its subcontractors, and of persons directly or indirectly employed by Design-Builder's subcontractors, and of persons for whose acts any of them may be liable, to the same extent that Design-Builder is responsible for the acts and omissions of its own employees. Nothing in this Contract creates any obligation on the part of County to pay or see to the payment of any money due any subcontractor, except as may be required by law.
19. **Assignment.** Design-Builder may not assign its rights or obligations under this Contract, in whole or in part, without County's prior written approval. County may withhold approval at its sole discretion.
20. **Non-Discrimination.** Design-Builder 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 Contract, Design-Builder 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.
21. **Americans with Disabilities Act.** Design-Builder will comply with all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36.
22. **Authority to Contract.** Design-Builder warrants its right and power to enter into this Contract. If any court or administrative agency determines that County does not have authority to enter into this Contract, County will not be liable to Design-Builder or any third-party by reason of such determination or by reason of this Contract.
23. **Full and Complete Performance.** The failure of either Party to insist, in one or more instances, upon the other Party's full and complete performance under this Contract, or to take any action based on the other Party's failure to fully and completely perform, 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.
24. **Cancellation for Conflict of Interest.** This Contract 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.
25. **Notice.** Any notice required or permitted to be given under this Contract must be in writing and be served by personal delivery, email or by certified mail upon the other Party as follows:
- |  |                             |
|--|-----------------------------|
| County:                                    | Design-Builder:             |
| Jackson Jenkins, Director                  | Clint Harrington, President |
| Regional Wastewater Reclamation Department | Pilkington Construction Co. |
| 201 N Stone Ave, 8 <sup>th</sup> Floor     | 2975 S. Avenue B            |
| Tucson, AZ 85701                           | Yuma, AZ 85364              |
| Tel:(520) 724-6549                         | Tel: (928) 317-0345         |
26. **Non-Exclusive Contract.** Design-Builder understands that this Contract is nonexclusive and is for the sole convenience of County. County reserves the right to obtain like services from other sources for any reason.

27. **Remedies.** Either Party may pursue any remedies provided by law for the breach of this Contract. 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 Contract.
28. **Encumbrances.** Design-Builder will not directly or indirectly create or permit to be created or to remain and shall promptly discharge or bond any encumbrance or lien arising in relation to the Project or the Design-Build Work. Design-Builder's Subcontracts with all materialmen, suppliers, and Subcontractors shall provide that the sole recourse for such materialmen, suppliers, and Subcontractors for non-payment shall be against the Payment Bond.
29. **Severability.** Each provision of this Contract stands alone, and any provision of this Contract found to be prohibited by law will be ineffective to the extent of such prohibition without invalidating the remainder of this Contract.
30. **Books and Records.** Design-Builder 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. In addition, Design-Builder will retain all records relating to this Contract for at least 5 years after its expiration or termination or, if later, until any related pending proceeding or litigation has concluded.

**31. Public Records.**

- 31.1. Disclosure. Pursuant to A.R.S. § 39-121 et seq., and A.R.S. § 34-603(H) in the case of construction or Architectural and Engineering services procured under A.R.S. Title 34, Chapter 6, all documents submitted in response to the solicitation resulting in award of this Contract, including, but not limited to, pricing schedules, product specifications, work plans, and any supporting documents, are public records. As such, those documents are subject to release and/or review by the general public upon request, including competitors.
- 31.2. Records Marked Confidential; Notice and Protective Order. If Design-Builder reasonably believes that some of those records contain proprietary, trade-secret, or otherwise-confidential information, Design-Builder must prominently mark those records "CONFIDENTIAL." In the event a public records request is submitted to County for records marked CONFIDENTIAL, County will notify Design-Builder of the request as soon as reasonably possible. County will release the records 10 business days after the date of that notice, unless Design-Builder, within that period, secured an appropriate order from a court of competent jurisdiction, enjoining the release of the records. County will not, under any circumstances, be responsible for securing such an order, nor will County be in any way financially responsible for any costs associated with securing such an order.

**32. Legal Arizona Workers Act Compliance.**

- 32.1. Compliance with Immigration Laws. Design-Builder hereby warrants that it will at all times during the term of this Contract comply with all federal immigration laws applicable to its employment of its employees, and with the requirements of A.R.S. § 23-214 (A) (together the "State and Federal Immigration Laws"). Design-Builder further ensure that each subcontractor who performs any work for Design-Builder under this Contract likewise complies with the State and Federal Immigration Laws.
- 32.2. Books & Records. County has the right at any time to inspect the books and records of Design-Builder and any subcontractor in order to verify such Party's compliance with the State and Federal Immigration Laws.
- 32.3. Remedies for Breach of Warranty. Any breach of Design-Builder'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 Contract subjecting Design-Builder to penalties up to and including suspension or termination of this Contract. If the breach is by a subcontractor, and the subcontract is suspended or terminated as a result, Design-Builder

will be required to take such steps as may be necessary to either self-perform the services that would have been provided under the subcontract or retain a replacement subcontractor, as soon as possible so as not to delay project completion. Any additional costs attributable directly or indirectly to such remedial action are the responsibility of Design-Builder.

32.4. Subcontractors. Design-Builder 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 Subcontractor is in compliance with these requirements. Any breach of this Section by Subcontractor is a material breach of this Contract subjecting Subcontractor to penalties up to and including suspension or termination of this Contract."

33. **Grant Compliance.** This Contract is funded wholly or partially by the State of Arizona Department of Emergency and Military Affairs (DEMA) and is subject to the requirements of Appendix D – Federal Contract Provisions.
34. **Israel Boycott Certification.** Design-Builder hereby certifies that it is not currently engaged in and will not for the duration of this Contract engage in, a boycott of Israel as defined by A.R.S. § 35-393.01. Violation of this certification by Design-Builder may result in action by County up to and including termination of this Contract.
35. **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, subconsultants 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 180 days.
36. **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.
37. **No Third-Party Beneficiaries.** Unless explicitly stated otherwise elsewhere in this Contract, no person other than the Parties themselves has any rights or remedies under this Contract.
38. **Order of Precedence.** In the event of any conflict between the terms and provisions of this Agreement and those of any Schedule, Exhibit or Statement of Work, the following order of precedence shall govern: (a) first, any Amendments or Change Orders; (b) second, this Contract, exclusive of any Schedules, Change Orders, and the General Conditions; (c) third, the Scope of Services; (d) fourth, Construction Costing in Appendix B; (e) fifth, the General Conditions in Appendix C; (f) sixth, the Federal Contract Provisions in Appendix D; and (g) seventh, Design and Pre-Construction Services Fee Proposal in Appendix F any Appendices to this Agreement.



39. **Entire Agreement.** This document constitutes the entire agreement between the Parties pertaining to the subject matter it addresses, and this Contract supersedes all prior or contemporaneous agreements and understandings, whether oral or written.

**PIMA COUNTY**

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

\_\_\_\_\_  
Date

ATTEST:

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

\_\_\_\_\_  
Date

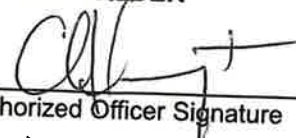
APPROVED AS TO FORM

  
\_\_\_\_\_  
Deputy County Attorney

Cindy Nguyen  
Print DCA Name

9/16/25  
Date

**DESIGN-BUILDER**

  
\_\_\_\_\_  
Authorized Officer Signature

Clint Harrington - President  
Printed Name and Title

9/18/25  
Date

## APPENDIX A – PROJECT SCOPE OF WORK (16 pages)



### PIMA COUNTY REGIONAL WASTEWATER RECLAMATION DEPARTMENT

**DATE (Version):** September 20, 2024

**PROJECT NAME:** Tres Rios Emergency Backup Power (3TREBP)

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#### SCOPE OF SERVICES TO BE PROVIDED BY THE DESIGN BUILD TEAM.

##### **General Provisions:**

- a. The Scope of Services includes all services required to design and construct 2 fully functional, operational, and easily maintainable emergency backup generators that conform to the basic dimensions, configurations and requirements written in this Scope of Services and defined more specifically in the Statement of Work (SOW) and associated documents.
- b. Design-Builder shall provide the services to design and construct 2 emergency backup generators. To fulfill this obligation, Design-Builder shall hire and coordinate all professional consultants, and subcontractors.
- c. The Contractor, Professional Consultants, and Subcontractors shall be collectively referred to as Design-Builder. Design-Builder will develop and execute the design and construction documents that comply with the SOW and construct the new emergency backup generators.
- d. The Design-Builder and all members of the Design-Builder Team shall be currently licensed to perform work in the State of Arizona and in compliance with the Arizona Administrative Code.

Design-Builder shall provide to County, the names and licensing or registration information of all project team members who have direct responsibility in designing and constructing the facility and in preparing documents that define the work for constructing the facility under this contract. Professional consultants shall sign, and seal all documents they prepare as required by Title 4, Chapter 30, Board of Technical Registration, and Section R4-30-303 of the Arizona Administrative Code. Commercially licensed contractors shall perform all construction work as required by Title 4, Chapter 9, and Section R4-9-102 and the licensee must be named on the respective license per R4-9-109.

- e. County lacks the necessary expertise for the Project and has therefore contracted with Design-Builder. Any written approval of plans, specifications, reports, and other construction documents by the Pima County Board of Supervisors is only for conformance with the program design concept of the Project. The Board of Supervisor's approval does not imply approval nor attest to the accuracy, suitability, or completeness of the design, drawings, dimensions, details, proper selection of materials, nor compliance with applicable codes or ordinances. Such accuracy, suitability, or completeness is the sole responsibility of the Design-Builder for the Project.

##### **Project Narrative:**

The TRW Microgrid Power Resiliency Project integrates a non-exporting solar field and backup power generation sources to an existing microgrid that can be isolated, intentionally or otherwise, from the Tucson Electric Power (TEP) utility grid. The 2 All-Weather standby generator skids (3-4MW each) with a minimum of 24-hour fuel storage capacity will provide a stable power base enabling the TRW solar field to contribute an additional 1MW of non-exporting power to the TRW microgrid when the TEP utility grid is down. TRW's existing solar field provides up to 1MW of a clean and renewable energy source that will automatically sync with the generators.

### **Scope of Work Tasks**

The Scope of Work task items detailed below are divided into four (A-D) Project Segments.

**A. Project Start Segment** - includes the award of the HMGP grant, implements requirements for grant management and documentation, and initiates the Pima County procurement process.

- Implement RWRD - DEMA/FEMA Grant Documentation, Budget Line Items and Milestones.
- Assign technical/managerial staff to oversee project implementation.
- Pima County bid specs preparation. Generator purchase and contractor selection awards.
- Purchase of All-Weather Generator Skids (3-4MW each) with minimum of 24-hour fuel capacity.

**B. Project Installation Sequence Segment** - includes the contractor implementation tasks required for the purchase and installation of the necessary project components, as well as testing requirements.

- Off-loading and placement of (2) generators/All-weather Generator Skids on an existing infrastructure pad.
- Contractor to provide Electrical Engineer for construction oversight, stamped design drawings, and record drawing set.
- Purchase and installation of Eaton Vacuum Breaker in Switch house "C" bus, per original 2010 electrical design.
- Purchase and installation of High Impedance Ground Resistor.
- Purchase and installation of S&C model PME-12 pad mounted switch (PME).
- Install Primary power cables from PME for two Generator units and accommodations for a third.
- Install Primary power cables from PME to "C" bus in existing underground duct bank.
- Purchase and installation of GE Multilin F60 Feeder Management Relay.
- Testing and coordination of GE Multilin with Generator controllers for Automatic Power Transfer.
- Verify auto-start sync of existing solar field power generation.
- Contractor and PCRWRD will execute a planned power outage for Final Acceptance Testing.

**C. Post Generator Installation Segment** - includes tasks related to final contractor punch-list, acceptance testing sign-off, training of RWRD personnel, generator maintenance, testing and fuel scheduling.

- Generator vendor will provide factory training (8hr) for (14) RWRD Electrician Team and Operations Management.
- Schedule RWRD Work Order for Monthly Generator Testing.
- Pima County Department of Environmental Quality Permits NOI – generator air quality permit.
- Purchase diesel fuel for testing/startup and establish refueling schedule with Pima County Fleet Services.
- Complete all punch list items and full functional acceptance testing sign-off of generators by Electrical Engineer and plant staff.
- Expand Generator Maintenance/Certification Contract to include new units for Quarterly service and Annual load testing.

**D. Final Project Closeout Segment** - includes project closeout tasks, inspection, and signoffs as required by AZDEMA, FEMA, and Pima County.

- Closeout tasks, inspections and sign-off AZDEMA, FEMA, and Pima County.

### **Project Construction Design & Implementation Activities**

The Project is set to occur over a 12-14-month period. Construction design plans for the existing buildings are included for reference (see Drawings; dated 09/17/2014, 9 pages, electronic download). The project Scope of Work calls for a contractor to provide construction and electrical engineering services to include a complete project package with stamped design drawings, construction oversight, and record drawing sets

that address the technical engineering project goals. The Project engineering design and implementation criteria will be required to meet federal, state, county (including Building Codes) and industry energy standards, as applicable.

**Ground Disturbance Activities.** The Project requires minimal land disturbance with the exception of a shallow conduit trench enabling connectivity between the emergency generators and an existing electrical vault. The trenched conduit run is approximately 25 feet in total length and at a depth of less than 3 feet. The depiction of an existing buried conduit duct bank connecting the electrical vault to the Switchgear - Building 84 is noted on the design plans. Also included is an aerial photograph depicting the location of the 48'x64' (3072 square foot) concrete pad that will accommodate the project generators.

**Infrastructure Activities.** There will be no physical modifications to Switchgear Building 84 infrastructure. The existing electrical vault will house a new S&C model PME-12 pad mounted switch. Cables for the Project generators will be pulled from the existing electrical vault via existing conduit, into existing trays and landed into a new Vacuum Breaker and Protective Relay in the ground level switchgear.

**Technical Engineering Design and Review.** The Project technical engineering design goal is that the generators will energize a non-exporting, existing internal power distribution microgrid, capable of delivering reliable power to TRW during a power outage, by islanding and operating independently of the local utility grid. The transfer of power sourcing from the main utility grid to the TRW microgrid is outlined in the General Logic Sequence supporting document with references to a technical One-Line-Diagram Microgrid Graphic. A TRW Microgrid Electric Load graphic supports the Project's technical review referenced in the Sequential Scope of Work Tasks above. Review Task calls for a planned plant shutdown with electric load segregated distribution and single generator operational exercise.

***Remainder of this page intentionally left blank***

**Attachment 1 to Appendix A**  
**Product Specifications (13 Pages)**  
**Diesel Generator Sets for RFP-2400003876**

This specification covers diesel-fueled generator sets that are rated at 2238.0kW and operating at up to 15,000VAC. Optional text to describe digital controls which are optimized for paralleling applications is included. The paralleling features described are appropriate for automatic paralleling with other generator sets on an isolated bus, as well as for utility paralleling applications. The codes and standards that are referenced are typical for North American applications.

**PART 1 - GENERAL**

**1.1 RELATED DOCUMENTS**

- A. Drawings and special provisions from Solicitation No. RFQ-2400003876, including General Conditions, apply to this Section.

**1.2 SUMMARY**

- A. This Section includes packaged engine-generator sets suitable for use in water/wastewater critical applications with the features as specified and indicated. Engine generators will be used as the Standby power source for the system but shall be capable of providing reliable power with no run-time limitations while the primary source of power is unavailable.

**1.3 DEFINITIONS**

- A. Emergency Standby Power (ESP): Per ISO 8528: The maximum power available during a variable electrical power sequence, under the stated operating conditions, for which a generating set is capable of delivering in the event of a utility power outage or under test conditions for up to 200 hours of operation per year with the maintenance intervals and procedures being carried out as prescribed by the manufacturers. The permissible average power output (Ppp) over 24 hours of operation shall not exceed 70 percent of the ESP unless otherwise agreed by the RIC engine manufacturer.
- B. Prime Power (PRP): Per ISO 8528: The maximum power which a generating set is capable of delivering continuously whilst supplying a variable electrical load when operated for an unlimited number of hours per year under the agreed operating conditions with the maintenance intervals and procedures being carried out as a prescribed by the manufacturer. The permissible average power output (Ppp) over 24 hours of operation shall not exceed 70 percent of the PRP unless otherwise agreed by the RIC engine manufacturer.
- C. Limited Time running Power (LTP): Per ISO 8528: The maximum power available, under the agreed operating conditions, for which the generating set is capable of delivering for up to 500 hours of operation per year with the maintenance intervals and procedures being carried out as prescribed by the manufacturers.
- D. Continuous Operating Power (COP): Per ISO 8528: The maximum power which a generating set is capable of delivering continuously whilst supplying a constant electrical load when operated for an unlimited number of hours per year under the agreed operating conditions with the maintenance intervals and procedures being carried out as a prescribed by the manufacturer.

- E. Data Center Continuous (DCC): The maximum power which a generating set is capable of delivering continuously whilst supplying a variable or constant electrical load when operated for an unlimited number of hours in a data center application under the agreed operating conditions with the maintenance intervals and procedures being carried out as a prescribed by the manufacturer. The permissible average power output (Ppp) over 24 hours of operation shall not exceed 100 percent of the DCC rating.
- F. Operational Bandwidth: The total variation from the lowest to highest value of a parameter over the range of conditions indicated, expressed as a percentage of the nominal value of the parameter.

1.4 ACTION SUBMITTALS (To be submitted by Design-Builder at the project kickoff meeting)

- A. Product Data: For each type of packaged engine generator indicated. Include rated capacities, operating characteristics, and furnished specialties and accessories. In addition, include the following:
  - 1. Thermal damage curve for generator.
  - 2. Time-current characteristic curves for generator protective device.
  - 3. Sound test data, based on a free field requirement.
- B. Shop Drawings: Detail equipment assemblies and indicate dimensions, weights, and location and size of each field connection.
  - 1. Dimensioned outline plan and elevation drawings of engine-generator set and other components specified.
  - 2. Wiring Diagrams: Control interconnection, Customer connections.
- C. Certifications:
  - 1. Submit statement of compliance which states the proposed product(s) is certified to the emissions standards required by the location for EPA, stationary emergency application.

1.5 INFORMATIONAL SUBMITTALS (To be submitted by Design-Builder at the project kickoff meeting)

- A. Source quality-control test reports.
  - 1. Certified summary of prototype-unit test report. See requirements in Part 2.10 "Source Quality Control" Article Part A. Include statement indicating torsional compatibility of components.
  - 2. Certified Test Report: Provide certified test report documenting factory test per the requirements of this specification, as well as certified factory test of generator set sensors per NFPA110 level 1.
  - 3. List of factory tests to be performed on units to be shipped for this Project.
  - 4. Report of exhaust emissions and compliance statement certifying compliance with applicable regulations.

B. Warranty:

1. Submit the manufacturer's warranty statement to be provided for this Project.

1.6 QUALITY ASSURANCE

- A. Installer Qualifications: Manufacturer's authorized representative who is trained and approved for installation of units required for this Project.
- B. Manufacturer Qualifications: A qualified manufacturer. Maintain, within 2-hour response time to the Project site, a service center capable of providing training, parts, and emergency maintenance repairs.
- C. Source Limitations: Obtain packaged generator sets and auxiliary components through one source from a single manufacturer.
- D. Comply with NFPA 37 (Standard for the Installation and Use of Stationary Combustion Engines and Gas Turbines).
- E. Comply with NFPA 70 (National Electrical Code. Equipment shall be suitable for use in systems in compliance with Article 700, 701, and 702).
- F. Comply with NFPA 110 (Emergency and Standby Power Systems) requirements for Level 1 emergency power supply system.
- G. Comply with UL 2200.

1.7 PROJECT CONDITIONS

- A. Environmental Conditions: Engine-generator system shall withstand the following environmental conditions without mechanical or electrical damage or degradation of performance capability:
  1. Ambient Temperature: 32.0 deg F to 117.0 deg F.
  2. Relative Humidity: 0 to 95 percent.
  3. Altitude: Sea level to 2000.0 feet (610.0 m).

1.8 WARRANTY

- A. Base Warranty: Manufacturer shall provide base warranty coverage on the material and workmanship of the generator set for a minimum of 24 months for Standby product and 12 months for Prime/Continuous product from registered commissioning and start-up.

PART 2 - PRODUCTS

2.1 MANUFACTURERS

- A. Manufacturers: The basis for this specification is Cummins Power Generation equipment Model DQLE, approved equals may be considered if equipment performance is shown to meet the requirements herein.

## 2.2 ENGINE-GENERATOR SET

- A. Factory-assembled and -tested, engine-generator set.
- B. Mounting Frame: Maintain alignment of mounted components without depending on concrete foundation; and have lifting attachments.
  - 1. Rigging Information: Indicate location of each lifting attachment, generator-set center of gravity, and total package weight in submittal drawings.
- C. Capacities and Characteristics:
  - 1. Power Output Ratings: Electrical output power rating for Standby operation of not less than 2500kW, at 80 percent lagging power factor, 13,800, Series Wye, three phase, 4 -wire, 60 hertz.
  - 2. Alternator shall be capable of accepting maximum 7267.0 kVA in a single step and be capable of recovering to a minimum of 90% of rated no load voltage. Following the application of the specified kVA load at near zero power factor applied to the generator set.
  - 3. Nameplates: For each major system component to identify manufacturer's name and address, and model and serial number of components. The engine-generator nameplate shall include information on the power output rating of the equipment.
- D. Generator-Set Performance:
  - 1. Steady-State Voltage Operational Bandwidth: 0.5 percent of rated output voltage from no load to full load.
  - 2. Transient Voltage Performance: Not more than 11 percent variation for 50 percent step-load increase or decrease. Voltage shall recover and remain within the steady-state operating band within 2 seconds. On application of a 100% load step the generator set shall recover to stable voltage within 10 seconds.
  - 3. Steady-State Frequency Operational Bandwidth: 0.25 percent of rated frequency from no load to full load.
  - 4. Steady-State Frequency Stability: When system is operating at any constant load within the rated load, there shall be no random speed variations outside the steady-state operational band and no hunting or surging of speed.
  - 5. Transient Frequency Performance: Not more than 5 percent variation for 50 percent step-load increase or decrease. Frequency shall recover and remain within the steady-state operating band within 4 seconds. On application of a 100% load step the generator set shall recover to stable frequency within 10 seconds.
  - 6. Output Waveform: At full load, harmonic content measured line to line or line to neutral shall not exceed 5 percent total and 3 percent for any single harmonic. Telephone influence factor, determined according to NEMA MG 1, shall not exceed 50.



7. Sustained Short-Circuit Current: For a 3-phase, bolted short circuit at system output terminals, system shall supply a minimum of 300 percent of rated full-load current for not less than 8 seconds without damage to generator system components. For a 1-phase, bolted short circuit at system output terminals, system shall regulate both voltage and current to prevent over-voltage conditions on the non-faulted phases.
8. Start Time: Comply with NFPA 110, Level 1, Type 10, system requirements.
9. Ambient Condition Performance: Engine generators shall be designed to allow operation at full rated load in an ambient temperature under site conditions, based on highest ambient condition. Ambient temperature shall be measured at the air inlet to the engine generator for enclosed units, and at the control of the engine generator for machines installed in equipment rooms.
10. Load Sharing: Engine generators shall share real and reactive load proportionally within plus or minus 3 percent with all other engine generators in the system.

## 2.3 ENGINE

- A. Fuel: ASTM D975 #2 Diesel Fuel
- B. Rated Engine Speed: 1800RPM.
- C. Lubrication System: The following items are mounted on engine or skid:
  1. Lube oil pump: shall be positive displacement, mechanical, full pressure pump.
  2. Filter and Strainer: Provided by the engine manufacturer of record to provide adequate filtration for the prime mover to be used.
  3. Crankcase Drain: Arranged for complete gravity drainage to an easily removable container with no disassembly and without use of pumps, siphons, special tools, or appliances.
- D. Engine Fuel System: The engine fuel system shall be installed in strict compliance to the engine manufacturer's instructions
- E. Main Fuel Pump: Mounted on engine. Pump ensures adequate primary fuel flow under starting and load conditions.
- F. Governor: Adjustable isochronous, with speed sensing. The governing system dynamic capabilities shall be controlled as a function of engine coolant temperature to provide fast, stable operation at varying engine operating temperature conditions. The control system shall actively control the fuel rate as appropriate to the state of the engine generator. Fuel rate shall be regulated as a function of starting, accelerating to start disconnect speed, accelerating to rated speed, and operating in various isochronous states.
- G. Cooling System: Closed loop, liquid cooled
  1. The generator set manufacturer shall provide prototype test data for the specific hardware proposed demonstrating that the machine will operate at rated standby load in an outdoor ambient condition of 40 deg C.

2. Coolant: Solution of 50 percent ethylene-glycol-based antifreeze and 50 percent water, with anticorrosion additives as recommended by engine manufacturer.
  3. Size of Radiator overflow tank: Adequate to contain expansion of total system coolant from cold start to 110 percent load condition.
  4. Expansion Tank: Constructed of welded steel plate and rated to withstand maximum closed-loop coolant system pressure for engine used. Equip with gage glass and petcock.
  5. Temperature Control: Self-contained, thermostatic-control valve modulates coolant flow automatically to maintain optimum constant coolant temperature as recommended by engine manufacturer.
  6. Duct Flange: Generator sets installed indoors shall be provided with a flexible radiator duct adapter flange.
- H. Muffler/Silencer: Selected with performance as required to meet sound requirements of the application, sized as recommended by engine manufacturer and selected with exhaust piping system to not exceed engine manufacturer's engine backpressure requirements. For generator sets with outdoor enclosures the silencer shall be inside the enclosure.
- I. Air-Intake Filter: Engine-mounted air cleaner with replaceable dry-filter element and restriction indicator.
- J. Starting System: 12 or 24V, as recommended by the engine manufacturer; electric, with negative ground.
1. Components: Sized so they will not be damaged during a full engine-cranking cycle with ambient temperature at maximum specified in Part 1 "Project Conditions" Article.
  2. Cranking Cycle: As required by NFPA 110 for level 1 systems.
  3. Battery Cable: Size as recommended by engine manufacturer for cable length as required. Include required interconnecting conductors and connection accessories.
  4. Battery Compartment: Factory fabricated of metal with acid-resistant finish.
  5. Battery-Charging Alternator: Factory mounted on engine with solid-state voltage regulation. The battery charging alternator shall have sufficient capacity to recharge the batteries with all parasitic loads connected within 4 hours after a normal engine starting sequence.
  6. Battery Chargers: Unit shall comply with UL 1236, provide fully regulated, constant voltage, current limited, battery charger for each battery bank. It will include the following features:
    - a. Operation: Equalizing-charging rate based on generator set manufacturer's recommendations shall be initiated automatically after battery has lost charge until an adjustable equalizing voltage is achieved at battery terminals. Unit shall then be automatically switched to a lower float-charging mode and shall continue to operate in that mode until battery is discharged again.

- b. Automatic Temperature Compensation: Adjust float and equalize voltages for variations in ambient temperature from minus 20 deg C to plus 40 deg C to prevent overcharging at high temperatures and undercharging at low temperatures.
- c. Automatic Voltage Regulation: Maintain constant output voltage regardless of input voltage variations up to plus or minus 10 percent.
- d. Safety Functions: Sense abnormally low battery voltage and close contacts providing low battery voltage indication on control and monitoring panel. Sense high battery voltage and loss of ac input or dc output of battery charger. Either condition shall close contacts that provide a battery-charger malfunction indication at system control and monitoring panel.
- e. Provide LED indication of general charger condition, including charging, faults, and modes. Provide a LCD display to indicate charge rate and battery voltage. Charger shall provide relay contacts for fault conditions as required by NFPA110.
- f. Enclosure and Mounting: NEMA, Type 1, wall-mounted cabinet.

## 2.4 FUEL OIL STORAGE

- A. Comply with NFPA 30.
- B. Subbase-Mounted Fuel Oil Tank: Provide a double wall secondary containment type subbase fuel storage tank. The tank shall be constructed of corrosion resistant steel and shall be listed and labeled UL 142. The fuel tank shall include the following features:
  - 1. Capacity: Fuel for 24 Hour(s) continuous operation at 100 percent rated power output.
  - 2. Tank rails and lifting eyes shall be rated for the full dry weight of the tank, genset, and enclosure.
  - 3. Electrical stub up(s)
  - 4. Normal & emergency vents
  - 5. Lockable fuel fill
  - 6. Mechanical fuel level gauge
  - 7. High- and low-level switches to indicate fuel level
  - 8. Leak detector switch
  - 9. Subbase tank shall include a welded steel containment basin, sized at a minimum of 110% of the tank capacity to prevent escape of fuel into the environment in the event of a tank rupture.
  - 10. Fill port with overfill prevention valve (OFPV)
  - 11. 5-gallon fill/spill dam or bucket
  - 12. Tank design shall meet the regional requirements for the Project location

## 2.5 CONTROL AND MONITORING

- A. Engine generator control shall be microprocessor based and provide automatic starting, monitoring, protection and control functions for the unit.
- B. Automatic Starting System Sequence of Operation: When mode-selector switch on the control and monitoring panel is in the automatic position, remote-control contacts in one or more separate automatic transfer switches initiate starting and stopping of generator set. When mode-selector switch is switched to the on position, generator set starts. The off position of same switch initiates generator-set shutdown. (Switches with different configurations but equal functions are acceptable.) When generator set is running, specified system or equipment failures or derangements automatically shut down generator set and initiate alarms. Operation of the local (generator set-mounted) and/or remote emergency-stop switch also shuts down generator set.
- C. Manual Starting System Sequence of Operation: Switching on-off switch on the generator control panel to the on position starts generator set. The off position of same switch initiates generator-set shutdown. When generator set is running, specified system or equipment failures or derangements automatically shut down generator set and initiate alarms. Operation of the local (generator set-mounted) and/or remote emergency-stop switch also shuts down generator set.
- D. Configuration: Operating and safety indications, protective devices, system controls, engine gages and associated equipment shall be grouped in a common control and monitoring panel. Mounting method shall isolate the control panel from generator-set vibration. AC output power circuit breakers and other output power equipment shall not be mounted in the control enclosure.
- E. Indicating and Protective Devices and Controls: As required by NFPA 110 for Level 1 system, and the following:
  - 1. AC voltmeter (3-phase, line to line and line to neutral values).
  - 2. AC ammeter (3-phases).
  - 3. AC frequency meter.
  - 4. AC kW output (total and for each phase). Display shall indicate power flow direction.
  - 5. AC kVA output (total and for each phase). Display shall indicate power flow direction.
  - 6. AC Power factor (total and for each phase). Display shall indicate leading or lagging condition.
  - 7. Ammeter-voltmeter displays shall simultaneously display conditions for all three phases.
  - 8. Emergency Stop Switch: Switch shall be a red "mushroom head" pushbutton device complete with lock-out/tag-out provisions. Depressing switch shall cause the generator set to immediately stop the generator set and prevent it from operating.
  - 9. Fault Reset Switch: Supply a dedicated control switch to reset/clear fault conditions.

10. DC voltmeter (alternator battery charging).
  11. Engine-coolant temperature gauge.
  12. Engine lubricating-oil pressure gauge.
  13. Running-time meter.
  14. Generator-voltage and frequency digital raise/lower switches. Rheostats for these functions are not acceptable. The control shall adjust of these parameters in a range of plus or minus 5% of the voltage and frequency operating set point (not nominal voltage and frequency values.) The voltage and frequency adjustment functions shall be disabled when the paralleling breaker is closed.
  15. Fuel tank derangement alarm.
  16. Fuel tank high-level shutdown of fuel supply alarm.
  17. AC Protective Equipment: The control system shall include over/under voltage, reverse kVAR, reverse kW, overload (kW) short circuit, over current, loss of voltage reference, and over excitation shut down protection. There shall be a ground fault alarm for generator sets rated over 1000 amps, overload warning, and overcurrent warning alarm.
  18. Status LED indicating lamps to indicate remote start signal present at the control, existing shutdown condition, existing alarm condition, not in auto, and generator set running.
  19. A graphical display panel with appropriate navigation devices shall be provided to view all information noted above, as well as all engine status and alarm/shutdown conditions (including those from an integrated engine emission control system). The display shall also include integrated provisions for adjustment of the gain and stability settings for the governing and voltage regulation systems.
  20. Panel lighting system to allow viewing and operation of the control when the generator room or enclosure is not lighted.
  21. Data Logging: The control system shall log the latest 20 different alarm and shut down conditions, the total number of times each alarm or shutdown has occurred, and the date and time the latest of these shutdown and fault conditions occurred.
  22. DC control Power Monitoring: The control system shall continuously monitor DC power supply to the control and annunciate low or high voltage conditions. It shall also provide an alarm indicating imminent failure of the battery bank based on degraded voltage recover on loading (engine cranking).
  23. Paralleling Breaker control switches: The control shall include manual open and close provisions for the paralleling breaker, and LED status lamps indicating whether the breaker is open or closed.
- F. Remote Alarm Annunciator: Comply with NFPA 110. An LED labeled with proper alarm conditions shall identify each alarm event and a common audible signal shall sound for each alarm condition.

- G. Remote Emergency-Stop Switch: Flush; wall mounted, unless otherwise indicated; and labeled. Push button shall be protected from accidental operation.

## 2.6 GENERATOR OVERCURRENT AND FAULT PROTECTION

- A. Generator Overcurrent Protection: The generator set shall be provided with a UL Listed/CSA Certified protective device that is coordinated with the alternator provided to prevent damage to the generator set on any possible overload or overcurrent condition external to the machine. The protective device shall be listed as a utility grade protective device under UL category NRGU. The control system shall be subject to UL follow-up service at the manufacturing location to verify that the protective system is fully operational as manufactured. Protector shall perform the following functions:
  - 1. Initiates a generator kW overload alarm when generator has operated at an overload equivalent to 110 percent of full-rated load for 60 seconds. Indication for this alarm is integrated with other generator-set malfunction alarms.
  - 2. Under single phase or multiple phase fault conditions, or on overload conditions, indicates an alarm conditions when the current flow is in excess of 110% of rated current for more than 10 seconds.
  - 3. Under single phase or multiple phase fault conditions, operates to switch off alternator excitation at the appropriate time to prevent damage to the alternator.
  - 4. The operator panel shall indicate the nature of the fault condition as either a short circuit or an overload.
  - 5. Senses clearing of a fault by other overcurrent devices and controls recovery of rated voltage to avoid overshoot greater than 120% of nominal voltage.
  - 6. The protective system provided shall not include an instantaneous trip function.

## 2.7 GENERATOR, EXCITER, AND VOLTAGE REGULATOR

- A. Comply with NEMA MG 1.
- B. Drive: Generator shaft shall be directly connected to engine shaft. Exciter shall be rotated integrally with generator rotor.
- C. Electrical Insulation: Class H
- D. Temperature Rise: 125 / Class H environment.
- E. Construction shall prevent mechanical, electrical, and thermal damage due to vibration, over speed up to 125 percent of rating, and heat during operation at 110 percent of rated capacity.
- F. Permanent Magnet Generator (PMG) shall provide excitation power for optimum motor starting and short circuit performance.
- G. Enclosure: Drip-proof.
- H. Voltage Regulator: Solid-state type, separate from exciter, providing performance as specified. The voltage regulation system shall be microprocessor-controlled, 3-phase true RMS sensing,

full wave rectified, and provide a pulse-width modulated signal to the exciter. No exceptions or deviations to these requirements will be permitted.

- I. Windings: Two-thirds pitch stator winding and fully linked amortisseur winding. Alternators operating at voltage higher than 690VAC shall be provided with form-wound stator coils.
- J. Sub transient Reactance: 12 percent maximum, based on the rating of the engine generator set.

## 2.8 VIBRATION ISOLATION DEVICES

- A. Vibration Isolation: Generators installed on grade shall be provided with elastomeric isolator pads integral to the generator, unless the engine manufacturer requires use of spring isolation.

## 2.9 FINISHES

- A. Components: Powder-coated and baked over corrosion-resistant pretreatment and compatible primer. Manufacturer's standard color or as directed on the drawings.

## SOURCE QUALITY CONTROL

- B. Prototype Testing: Factory test engine-generator set using same engine model, constructed of identical or equivalent components and equipped with identical or equivalent accessories.
  - 1. Tests: Comply with NFPA 110, Level 1 Energy Converters. In addition, the equipment engine, skid, cooling system, and alternator shall have been subjected to actual prototype tests to validate the capability of the design under the abnormal conditions noted in NFPA110. Calculations and testing on similar equipment which are allowed under NFPA110 are not sufficient to meet this requirement.
- C. Project-Specific Equipment Tests: Before shipment, factory test engine-generator set manufactured specifically for this Project. Perform tests at rated load and power factor. Include the following tests:
  - 1. Test engine generator set manufactured for this Project to demonstrate compatibility and functionality.
  - 2. Full load run.
  - 3. Maximum power.
  - 4. Voltage regulation.
  - 5. Steady-state governing.
  - 6. Single-step load pickup.
  - 7. Simulated safety shutdowns.
  - 8. Provide 14 days' advance notice of tests and opportunity for observation of tests by Owner's representative.

## PART 3 - EXECUTION

### 3.1 INSTALLATION

- A. Comply with packaged engine-generator manufacturers' written installation, application, and alignment instructions and with NFPA 110.
- B. Equipment shall be installed by the contractor in accordance with final submittals and contract documents. Installation shall comply with applicable state and local codes as required by the authority having jurisdiction. Install equipment in accordance with manufacturer's instructions and instructions included in the listing or labeling of UL listed products.
- C. Installation of equipment shall include furnishing and installing all interconnecting wiring between all major equipment provided for the on-site power system. The contractor shall also perform interconnecting wiring between equipment sections (when required), under the supervision of the equipment supplier.
- D. Equipment shall be installed on concrete housekeeping pads. Equipment shall be permanently fastened to the pad in accordance with manufacturer's instructions and seismic requirements of the site.
- E. Equipment shall be initially started and operated by representatives of the manufacturer. All protective settings shall be adjusted as instructed by the consulting engineer.
- F. All equipment shall be physically inspected for damage. Scratches and other installation damage shall be repaired prior to final system testing. Equipment shall be thoroughly cleaned to remove all dirt and construction debris prior to initial operation and final testing of the system.
- G. On completion of the installation by the electrical contractor, the generator set supplier shall conduct a site evaluation to verify that the equipment is installed per manufacturer's recommended practice.

### 3.2 ON-SITE ACCEPTANCE TEST

- A. The complete installation shall be tested to verify compliance with the performance requirements of this specification following completion of all site work. Testing shall be conducted by representatives of the manufacturer, with required fuel supplied by Contractor. The Engineer shall be notified in advance and shall have the option to witness the tests. The generator set manufacturer shall provide a site test specification covering the entire system. Tests shall include:
  - B. Prior to start of active testing, all field connections for wiring, power conductors, and bus bar connections shall be checked for proper tightening torque.
  - C. Installation acceptance tests to be conducted on site shall include a "cold start" test, a two-hour full load (resistive) test, and a one-step rated load pickup test in accordance with NFPA 110. Provide a resistive load bank and make temporary connections for full load test, if necessary.
  - D. Perform a power failure test on the entire installed system. This test shall be conducted by opening the power supply from the utility service and observing proper operation of the system for at least 2 hours. Coordinate timing and obtain approval for start of test with site personnel.



### 3.3 FIELD QUALITY CONTROL

- A. Manufacturer's Field Service: Engage a factory-authorized service representative to inspect components, assemblies, and equipment installations, including connections, and to assist in testing.

### 3.4 SERVICE AND SUPPORT

- A. The generator set supplier shall maintain service parts inventory for the entire power system at a central location which is accessible to the service location 24 hours per day, 365 days per year. The inventory shall have a commercial value of \$3 million or more. The manufacturer of the generator set shall maintain a central parts inventory to support the supplier, covering all the major components of the power system, including engines, alternators, control systems, paralleling electronics, and power transfer equipment.
- B. The generator set shall be serviced by a local service organization that is trained and factory certified in generator set service. The supplier shall maintain an inventory of critical power system replacement parts in the local service location. Service vehicles shall be stocked with critical replacement parts. The service organization shall be on call 24 hours per day, 365 days per year. The service organization shall respond to emergencies within a 2-hour window from notification.
- C. The manufacturer shall maintain model and serial number records of each generator set provided for at least 20 years.

**End of Attachment 1 to Appendix A - Product Specifications**

**End of Appendix A – Project Scope of Work**

## **APPENDIX B**

### **SUPPLEMENTAL PROVISIONS – CONSTRUCTION COSTING (5 pages)**

#### **SECTION 1 – GENERAL**

Design-Builder will develop the Guaranteed Maximum Price (GMP) as provided for in this Contract and appendices. The GMP Proposal for the entire Work (or portions thereof) will be presented in a format acceptable to County and will include the clarifications or assumptions upon which the GMP Proposal is based.

A. Unless otherwise directed by County, each GMP proposal will include all of the following components:

1. Summary of the GMP: A summary of the GMP with a total for each of the components of the GMP defined in the Construction Provisions (i.e. “Cost of the Work”, “Design-Builder Contingency”, “Fee”) as described and as shown in **Attachment 1 to this GMP Appendix**. If there will be multiple GMPs, then the GMP Summary will be presented in a spreadsheet format with each successive GMP in a separate column with the total GMP in the rightmost column.
2. Description of Work: a brief description of the Work to be performed for the Project or phase(s) to which the GMP proposal applies. Exclusions must be clearly stated.
3. List of Plans and Specifications used for GMP Proposal: A list of the Plans and Specifications with latest issuance date including all addenda used in preparation of the GMP proposal. (Date stamped and signed by Design-Builder).
4. List of clarifications, assumptions and exclusions: A list of the clarifications, assumptions, and exclusions by Design-Builder with regard to the Scope of Work in the GMP proposal, to supplement the information contained in the documents.
5. Project Schedule in Critical Path Method format: A Critical Path Method (CPM) diagram construction schedule. An updated Project Management Plan will also be submitted with each GMP proposal.
6. A calendared spend plan to show a cash-flow forecast based on the proposed construction schedule, schedule of values and GMP. If the construction covered by the GMP overlaps construction performed under a prior GMP, their cash flows will be consolidated into a single cash-flow statement.
7. Subcontractor Selections / SBE Requirements / Utilization Form / Letters of Intent: A summary of the subcontractor selections, including an SBE requirements section addressing the goals set for the Project and the current status on meeting the Project goals. The Utilization Form and Letters of Intent must be attached when subcontractor selection has been made prior to final GMP submittal. Subcontractor selections must conform to the approved Subcontractor Selection Plan provided by Design-Builder.

B. Design-Builder must keep the submittal package as simple as possible and submit it on 8 ½ x 11-inch paper. Color or shading must be kept to a minimum. If used, the color or shading must not affect the reproduction of the submittal in black and white.

C. The Parties may, by agreement, use a simplified GMP format for smaller projects or phases, so long as the documents supporting the GMP clearly delineate the Work—or that portion of the Work—to which the GMP applies and provide a schedule for completion of the Work.

#### **SECTION 2 – COST OF THE WORK**

The term “Cost of the Work” means costs necessarily incurred by Design-Builder in the proper performance of the Work. Such costs will be at rates not higher than the standard paid at the place of the Project except with prior consent of County. The Cost of the Work includes only the items set forth in this Section.

1. Wages of direct employees of Design-Builder performing the Work at the site or, with County's agreement, at locations off the site, provided, however, that the costs for those employees of Design-Builder performing design services shall be calculated on the basis of prevailing market rates for design professionals performing such services or, if applicable, those rates set forth in an exhibit to this Agreement.
2. Wages or salaries of Design-Builder's supervisory and administrative personnel engaged in the performance of the Work and who are located at the site or working off-site to assist in the coordination, production or transportation of material and equipment necessary for the Work.
3. Wages or salaries of Design-Builder's personnel stationed at Design-Builder's principal or branch offices and performing the payment of the salaries of Design-Builder's project management, estimating, administrative, scheduling, safety and other personnel when working on items of Work specifically related to the Project at Design-Builder's principal office, Design Consultant(s)' office, job site, field office or any other location for that portion of their time spent in the performance of the Work for the Project shall be included in the Cost of the Work. The cost of Vice Presidents and the President of Design-Builder is included in Design-Builder's Fee and is not part of the Cost of the Work. The reimbursable costs of personnel stationed at Design-Builder's principal or branch offices shall include a 50% markup to compensate Design-Builder for the Project related overhead associated with such personnel.
4. Costs incurred by Design-Builder for employee benefits, premiums, taxes, insurance, contributions and assessments required by law, collective bargaining agreements, or which are customarily paid by Design-Builder, excluding bonuses, to the extent such costs are based on wages and salaries paid to employees of Design-Builder covered under paragraphs 1 through 3 of this Section.
5. The reasonable portion of the cost of travel, accommodations and meals for Design-Builder's personnel necessarily and directly incurred in connection with the performance of the Work.
6. Payments properly made by Design-Builder to Subcontractors and Design Consultants for performance of portions of the Work, including any insurance and bond premiums incurred by Subcontractors and Design Consultants.
7. Costs incurred by Design-Builder in repairing or correcting defective, damaged, or nonconforming Work, provided that such defective, damaged, or nonconforming Work was beyond the reasonable control of Design-Builder, or caused by the ordinary mistakes or inadvertence, and not the negligence of Design-Builder or those working by or through Design-Builder. If the costs associated with such defective, damaged or nonconforming Work are recoverable from insurance, Subcontractors or Design Consultants, Design-Builder will exercise best efforts to obtain recovery from the appropriate source and credit County if recovery is obtained.
8. Costs, including transportation, inspection, testing, storage and handling, of materials, equipment and supplies incorporated or reasonably used in completing the Work.
9. Costs less salvage value of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned Design-Builder employees or subcontractors that are not fully consumed in the performance of the Work, and which remain the property of Design-Builder, including the costs of transporting, inspecting, testing, handling, installing, maintaining, dismantling and removing such items.
10. Costs of removal of debris and waste from the project site.
11. The reasonable costs and expenses incurred in establishing, operating, and demobilizing the site office, including the cost of facsimile transmissions, long-distance telephone calls, postage and express delivery charges, telephone service, photocopying, and reasonable petty cash expenses.
12. Rental charges and the costs of transportation, installation, minor repairs and replacements, dismantling and removal of temporary facilities, machinery, equipment, and hand tools not customarily owned by the workers, which are provided by Design-Builder at the project site, whether rented from Design-Builder or others, and incurred in the performance of the Work.
13. Premiums for insurance and bonds required by the Contract or the performance of the Work.
14. All fuel and utility costs incurred in the performance of the Work.

15. Sales, use, privilege, or similar taxes, tariffs, or duties incurred in the performance of the Work.
16. Costs for permits, royalties, licenses, tests, and inspections incurred by Design-Builder as a requirement of the Contract Documents provided, however, that costs for re-tests and re-inspections are not included in the Cost of Work to the extent the re-tests and re-inspections result from re-work or re-testing due to Design-Builder's failure to meet County requirements under this Contract.
17. Deposits which are lost, except to the extent caused by Design-Builder's negligence or delay.
18. Costs incurred in preventing damage, injury, or loss in case of an emergency affecting the safety of persons and property except to the extent the emergency was caused by Design-Builder's negligence.
19. Other costs reasonably and properly incurred in the performance of the Work to the extent approved in writing by County.

### **SECTION 3 - COSTS NOT TO BE REIMBURSED**

The following are excluded from the Cost of the Work:

1. Compensation for Design-Builder's personnel stationed at Design-Builder's principal or branch offices, except as provided for in paragraphs 1 through 3 of Section 2.
2. Overhead and general expenses, except as provided for elsewhere in this definition, or which may be recoverable for changes to the Work.
3. The cost of Design-Builder's capital used in the performance of the Work.
4. Costs that would cause the GMP, as adjusted in accordance with the Contract Documents, to be exceeded.

### **SECTION 4 - DISCOUNTS, REBATES AND REFUNDS**

- A. Cash discounts obtained on payments made by Design-Builder will accrue to County if (1) before making the payment, Design-Builder included them in an Application for Payment and received payment therefor from County, or (2) County has deposited funds with Design-Builder with which to make payments; otherwise, cash discounts will accrue to Design-Builder. Trade discounts, rebates, refunds, and amounts received from sales or surplus materials and equipment will accrue to County, and Design-Builder will make provisions so that they can be secured.
  1. Cost of the Work will be credited with all insurance policy discounts, performance and payment bond rebates or refunds, refunds or return premiums from any subcontractor default insurance, refunds or rebates from any Design-Builder controlled insurance programs applicable to the project, merchandise rebates of any nature, refunds of any nature, insurance dividends; and a portion of any volume rebates or free material credits earned with purchase of material or other goods and services charged to the job.
  2. "Cash" discounts which may accrue to Design-Builder will be limited to a maximum of 1.5% of invoice cost. Any portion of "Cash" discounts greater than 1.5% will automatically accrue to County if Design-Builder is eligible to take advantage of the discounts.
- B. Amounts that accrue to County in accordance with the provisions of Paragraph 4.A.1 will be credited to County as a deduction from the Cost of the Work.

### **SECTION 5 - CONTINGENCY FUND**

**Generally:**

- A. The GMP may include a Design-Builder Contingency in the amount stated in the GMP Summary. Each line item of the GMP Summary for which risk remains for the Design-Builder after the Design and Preconstruction Phase will carry an agreed upon contingency that can be traced back to the initial cost model. Subject to the terms of the Contract Documents and with prior notification to and approval by County, Design-Builder may allocate from and apply against the Design-Builder Contingency increases in the Cost of the Work that could not have been reasonably anticipated by a Design-Builder using the standard of care and skill that a

professional Design-Builder in Arizona would exercise under similar conditions at the time the GMP was established or for increases in General Condition Costs. County may disallow such Design-Builder Contingency use and deny reimbursement in the absence of prior notice or if County determines that the use was not consistent with the Contract Documents.

- B. Design-Builder may not apply, use, or allocate from the Design-Builder Contingency any amounts for any of the foregoing purposes that are the result of a material breach or material failure to perform by Design-Builder, any Subcontractor, or vendor (except as necessary to replace any subcontractor, or vendor because of the bankruptcy or failure of such entity to perform), or any entity for which any of them are liable or responsible at law or under the Contract Documents, or for any non-allowable costs of the Work.
- C. Each application of the Design-Builder Contingency by Design-Builder will be reflected (with narrative explanation) on the Application for Progress Payment for the period during which Design-Builder makes such application. Application of Design-Builder Contingency to any particular risk event should not exceed the agreed associated amount of the Design-Builder Contingency previously assigned to the specific line item in the GMP. Any portion of the Design-Builder Contingency remaining unapplied at final completion will be a credit against and reduce the GMP. When Design-Builder utilizes Design-Builder's Contingency funds, Design-Builder will make the appropriate changes to the Schedule of Values with the next regular progress payment request. Design-Builder will deduct the amount of Design-Builder's Contingency funds used from Design-Builder's Contingency line item and add the same amount to the line item on the Schedule of Values where the funds were used. If Design-Builder's Contingency funds are used for a new line item that was not included in the original Schedule of Values, Design-Builder will so indicate.
- D. The Design-Builder Contingency is not cumulative across multiple GMPs.
- E. County's Contingency is a sum of money in the Contract but not included in the GMP that may be used at the discretion of County to cover any increases in Project costs that result from County-directed changes, changed site conditions, or additional costs of Allowance Items that exceeds the Allowance. County's Contingency will be added to the GMP amount provided by Design-Builder, the sum of which will be the full Contract price for construction. Markups for the Construction Fee, taxes, and overhead will be applied by Design-Builder at the time that County's Contingency is used.
- F. County's Contingency and the Design-Builder Contingency will not be combined into a single project contingency.

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## ATTACHMENT 1 TO APPENDIX B

### GMP Summary Format

<b>CONSTRUCTION</b>	<b>AMOUNT</b>
<b>CONSTRUCTION COSTS:</b>	
Cost of Construction	\$
Design-Builder Contingency	\$
<b><i>Subtotal Direct Construction Costs</i></b>	\$
<b>INDIRECT CONSTRUCTION COSTS:</b>	
General Conditions	\$
Overhead	\$
Insurance	\$
Payment and Performance Bonds	\$
<b>Subtotal Direct Construction Cost + Gen Cond, Overhead, Bonds, Insurance</b>	\$
Construction Fee (As a percentage of Subtotal above or to exclude any items above)	
<b>Subtotal Direct Construction Cost + Gen Cond, Overhead, Bonds, Insurance and Fee</b>	
Arizona Gross Receipts Tax	\$
<b>Subtotal Direct Construction Cost + Gen Cond, Overhead, Bonds, Insurance, Fee and Tax</b>	\$
<b>GUARANTEED MAXIMUM PRICE (GMP)</b>	\$
<b>OTHER PROJECT COSTS:</b>	
County Contingency	\$
<b>TOTAL CONTRACT COST</b>	\$

**END OF APPENDIX B – SUPPLEMENTAL PROVISIONS—CONSTRUCTION COSTING**

# **APPENDIX C - DESIGN-BUILDER GENERAL CONDITIONS (49 pages)**

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### **SECTION 3 – DESIGN-BUILDER’S DESIGN SERVICES AND RESPONSIBILITIES**

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## **SECTION 1 – GENERAL**

### **1.1 MUTUAL OBLIGATIONS**

County and Design-Builder (Design-Builder) which includes the Design Professional (DP) commit, at all times, to cooperate fully with each other, and proceed on the basis of trust, confidence, and good faith to permit each Party to realize the benefits expected and afforded under the Contract Documents, which benefits include the satisfactory and timely completion of the Project and performance of all obligations required by or inferable from the Contract Documents.

### **1.2 BASIC DEFINITIONS**

- 1.2.1 “Actual Cost of the Work” means the aggregate amount of Design-Builder Direct Construction Costs and Indirect Construction Costs properly and actually chargeable to County when calculated under the provisions of **Appendix B of the Design-Builder Contract** throughout the Project up to the time of Final Completion.
- 1.2.2 “Allowances” means items established by County in the GMP as estimates for the cost of items of included in the Work. To the extent that the Actual Cost of the Work is lesser or greater than the corresponding estimate, the GMP will be reduced or increased by Change Order with such amount being added to or taken from County’s Contingency.
- 1.2.3 “Bidding Contingency”, or “Design-Builder Contingency” means that part of the Guaranteed Maximum Price (GMP) the Design-Builder may use during the Bidding or Construction Phase as provided in these General Conditions at Section 7.11, to cover any excess of the amount bid by a subcontractor over the amount for that Work in the GMP, or to cover legitimate unforeseen construction expenses once construction begins. Contingency may not be used to cover the cost of any Work on the Project after issuance of the Certificate of Final Completion.
- 1.2.4 “Design-Builder Authorization” means Chapter 6 of Title 34, Arizona Revised Statutes
- 1.2.5 “Design-Builder” means the Design Builder and all persons and entities identified as members of the Design-Builder team including the registered professionals responsible for the design, in the Design-Builder’s response to County’s request for fee proposal that led to the Contract with all Contract Amendments, and any substitutes permitted under the terms of the Contract, and these General Conditions. The Design-Builder leads the Preconstruction Phase as set forth in Preconstruction Phase Services Contract by, among other things, developing design and a cost model and refining it during design to ensure construction costs remain within County’s budget, doing value engineering and reviewing constructability, preparing schedules, and identifying the life-cycle implications of alternate designs, systems, and materials. **During construction, the Design-Builder assumes all risk for price and schedule under the Contract and its GMP, except as otherwise provided in the Contract.**
- 1.2.6 “Construction General Conditions” means the following types of costs during construction: Project Director costs directly attributable to time expended in execution of the project, whether on- or off- site; payroll costs for project manager or construction manager for work conducted at the site; payroll costs for the superintendent and full-time general foremen; payroll costs for other management personnel resident and working on the site; general support workers not included in direct labor costs (e.g. loading/unloading, clean-up, etc.); on-site administrative office personnel; costs of offices and temporary facilities including office materials, office supplies, office equipment, minor expenses; utilities, fuel, sanitary facilities and telephone services at the site; and fees for licenses. General Conditions specifically exclude, without limitation, the following: Home (off-site) Expenses, Profit & Overhead; Home Office Personnel such as Corporate Executive, Project Executive; Home Office Staff

Transportation & Travel Costs; Home Office Accounting & Contract Forms; Legal Expenses; Project Staff Moving Expense; off-site Staff Training & Education; Pre-Mobilization Office Space; off-site Equipment & Supplies; Forms; Estimating & Value/Constructability Analysis; Warranty Coordination; Legal Expenses, Contractor Yard not Dedicated to Project, Contractor Association Fees, Licenses & Memberships; Cost over GMP, Corrective Work, Bonuses, Cost of Living Allowance, marketing expenses, corporate sponsorships and entertainment, and Promotional or Celebratory Expenses the Design-Builder incurs while performing and completing the Project. The Parties acknowledge that some portion of the General Conditions represent upfront costs associated with mobilization and startup of construction. These amounts will be deducted from the total amount of General Conditions in the GMP and the balance will be divided by the number of days allowed for performance to arrive at a fixed daily rate for use in estimating the amount, if any, of the adjustment for General Conditions associated with changes in Contract Time or for the number of workdays in any particular month.

- 1.2.7 "Construction Documents" means the plans and specifications prepared by the DP under the Design-Builder for the Project, approved by County, and incorporated into the Contract by reference after such approval, to be used to construct the Project. All Contract Amendments, Change Orders, and other modifications to the Construction Documents must be approved by County prior to incorporation into the Contract.
- 1.2.8 "Construction Phase Fee" means profit and unallowable costs, and overhead in the case of vertical construction. The Construction Phase Fee will initially be calculated not to exceed 7% of Direct Construction Cost only, and then will be fixed as a dollar amount as mutually negotiated and agreed to by the Parties. Overhead will be treated as described in Subsection 1.2.24.
- 1.2.9 "Contract Float" means the number of calendar days between Design-Builder's anticipated date for early completion of all or any such part of the Work and the corresponding specified Contract Time and provided that the CPM schedule of the Work anticipates early completion of all or any part of the Work. It is owned jointly by County and Design-Builder.
- 1.2.10 "Contract Time" means the time allotted in the Contract Documents for completion of the Work.
- 1.2.11 "Cost of the Work" means those items of Work which are paid for by County to the Design-Builder consisting of those Direct Construction Costs and Indirect Construction Costs set forth as allowable in **Appendix B – Supplemental Provisions - Construction Costing**.
- 1.2.12 "Day" means a calendar day unless otherwise denoted.
- 1.2.13 "Deliverables" - the Work product prepared by the Design-Builder within the definition of the Scope of Work in the Contract. Some of these deliverables provided by the Design-Builder during the Preconstruction Phase included the Design Submission Documents, the Cost Model, Project Schedule, Schedule of Values, Evaluations of Alternatives, Procurement Strategies, proposed SBE Utilization, Subcontractor and Supplier bid packages and Contracts.
- 1.2.14 Design Professional ("DP") means an individual contracted through the Design-Builder who is (a) a qualified professional properly licensed in the State of Arizona to furnish applicable design services (and construction administration services, if so designated by County), and (b) responsible for the review of submittals, responding to Design-Builder Requests for Information (RFI), and Substantial Completion, if so designated.
- 1.2.15 "Design Submission Documents" means the drawings, specifications, structural calculations and any the documents required to communicate the construction requirements and are submitted at specific milestones in the design effort by the DP and other documents prepared

by the Design-Builder that are submitted for County's approval for each milestone in Project design. Because design milestones may vary from project to project, County will notify Design-Builder in writing of the milestones applicable to the project covered by this Contract. Such milestones will be as binding as if set forth herein. Direct Construction Cost means the sum of all applicable Construction General Conditions costs, subcontractor costs, costs of self-performed Work (if approved in writing in advance by County), Allowances and Contingencies. Contingencies specifically include Bidding and Construction Contingency, Design Contingency, and Schedule Contingency, as applicable.

- 1.2.16 "Final Completion" means 100% completion of all Work described by or reasonably inferred from the Project Criteria and Contract Documents, including but not limited to all punch lists, Close-Out Documents, and County training/start up activities, if included.
- 1.2.17 "Guaranteed Maximum Price" (GMP) means the dollar amount that the Design-Builder guarantees to be the maximum amount due from County to the Design-Builder under the Contract for Construction Phase services. It is the sum of Design-Builder's Construction Phase Fee, the Cost of the Work, and Contingencies and Allowances established in accordance with the Contract. The GMP is subject to additions or deductions due to changes in the Scope of Work. All costs, which exceed the GMP and are not authorized by written Change Order, are to be paid by the Design-Builder and not County.
- 1.2.18 Governmental Agency means any unit of federal, state, or local government with regulatory authority over any aspect of the Work.
- 1.2.19 "Hazardous Material" means any waste, substance, object, or material deemed hazardous under federal, state, or local law, including "hazardous substance" as defined under CERCLA, "hazardous waste" as defined under RCRA, and "hazardous material" as defined under US DOT regulations (49 CFR 100-180).
- 1.2.20 Indirect Construction Cost means the sum of all applicable insurance costs, bond costs and applicable sales or use taxes, but excludes Construction Phase Fee.
- 1.2.21 "Legal Requirements" means all regulations, policies, procedures, and practices of County and all applicable rules, laws, codes, ordinances, and regulations of any federal, state, or local government or quasi-governmental entity having jurisdiction over the Work, the practices involved in the Work, or any Work performed.
- 1.2.22 "Open Book Cost" means the Actual Cost of the Work as compiled and recorded in accordance with the provisions of Subsection 2.1.14 of these General Conditions.
- 1.2.23 "Overhead" means those items specifically excluded from General Conditions in paragraph 1.2.6 except for Estimating and Value/Constructability Analysis and profit. If this Contract is for vertical construction, Overhead will be included in the Construction Fee. If this Contract is not for vertical construction, then Overhead will be separately stated in the GMP Summary. Job Overhead will be included in General Conditions.
- 1.2.24 "Partnering or Teaming" means a mutual effort by all parties involved in the Project, principally County, the DP contracted by the Design-Builder, to cooperate and coordinate efforts to achieve the final result intended by the Project criteria. All involved use their expertise for the benefit of all. Partnering requires flexibility and appreciation of the positions of other parties and willingness to make compromises for the benefit of all. County has the exclusive right to decide whether to use Partnering on the Project and will indicate its decision during the Preconstruction Phase.
- 1.2.25 "Design and Preconstruction Phase Fee" means all direct and indirect costs of Design-Builder in providing Design and Preconstruction Phase Services until completion of the Construction Documents and the award of all bid packages, plus associated overhead and profit. The Design and Preconstruction Phase Fee also includes the cost of the DP to develop

the architectural program, design, document, attend meetings, etc. during the design phase of the project.

- 1.2.26 "Project Budget" means the funding available to County for the total cost of the Project, including the Design and Preconstruction Phase Fee, the GMP (including DP's Construction Phase Fee, Construction Services, and Contingencies), permit fees, and other costs necessary to achieve Final Completion of the Project.
- 1.2.27 "Project Criteria" means criteria developed by or for County to describe County's program, requirements and objectives for the Project, including use, space, price, time, site, utility, parking, and expandability requirements, as well as all submittal requirements and other requirements affecting Design-Builder's performance of its Work. The Project Criteria may include conceptual documents, design criteria, performance requirements, and other Project specific technical materials and requirements prepared by or for County.
- 1.2.28 "Project Manager" means County's Representative who is responsible to County for the Project completion within County established Schedule, Budget and Scope. In this document "Project Manager" is the same as "County"
- 1.2.29 "Punch List" means those minor items of Work identified and listed by County or DP and agreed to be completed by Design-Builder after Substantial Completion and prior to Final Completion, which do not prevent the Project from being fully used for the purpose for which it is intended.
- 1.2.30 "Savings" means the difference, if any, between the GMP and the Actual Cost of the Work and will be allocated as set forth in Section 7. Amount of savings is to be determined by County with such assistance as County requests of Design-Builder and is to be based on the GMP in effect on the date of Final Completion of the entire Work.
- 1.2.31 "Site" means the land and other areas on which the Project is located.
- 1.2.32 "Subcontractor" (of any tier) means any entity or person who performs a portion of the Work, on or off-site, directly on behalf of the Design-Builder, including any materials, workers and suppliers, and includes all employees, agents and authorized representatives of such entities or persons.
- 1.2.33 "Substantial Completion" means the date on which Design-Builder's Work, or an agreed upon portion of the Work, is sufficiently complete, as determined by the DP or County's issuance of a Certificate of Substantial Completion, so that County can fully occupy and utilize the Project, or a portion thereof, for the purposes for which it is intended. In order to achieve substantial completion, all Work must be complete, including all tests and inspections, except for items included on the approved punch list.
- 1.2.34 "Total Float" means the number of calendar days by which the Work or any part of the Work may be delayed without necessarily extending a pertinent Contract Time. Total Float is at least equal to Contract Float.
- 1.2.35 "Value Engineering Proposal" means a modification to the Work proposed by the Design-Builder after the Effective Date of the Contract for the purpose of reducing the total cost of construction while still delivering a quality and functional Project. Value Engineering is part of the broader goal of obtaining optimum value for each dollar County spends on the Project.
- 1.2.36 "Work" means comprised of all activities required in order to complete the Project as defined by the Project Criteria and Contract Documents, including procuring and furnishing all materials, equipment, services, and labor reasonably inferable from the Contract Documents, or from prevailing trade usage and custom.

### **1.3 CONTRACT GENERAL CONDITIONS**

The following are the mutual understanding and agreement of the Parties regarding the Contract general conditions or subjects addressed therein.

- 1.3.1 The Design-Builder shall design the Project.
- 1.3.2 The design for the Project may not be complete at a) the time the GMP is agreed to; b) the time of execution of the Contract; or c) both a and b.
- 1.3.3 Design-Builder will produce a completed design for the Project that is acceptable to County, as more fully described in the Contract Documents.
- 1.3.4 When the Design Documents are complete and requisite approvals obtained and County then accepts them, they become part of the Contract Documents without further action by the Parties as though they were specifically set forth therein at the time of execution of the Contract.

## **SECTION 2 – DESIGN-BUILDER’S SERVICES AND RESPONSIBILITIES**

### **2.1 GENERAL SERVICES**

- 2.1.1 Design-Builder’s Representative will attend all meetings and assist County during the Design and Preconstruction Phase in accordance with these General Conditions. During the Construction Phase, the Design-Builder’s Representative, and Superintendent as necessary, will be at the site at all times when Work is being performed, and will have the necessary expertise and experience required to properly supervise the Work. Design-Builder’s Representative will communicate regularly with County and be vested with the authority to act on behalf of Design-Builder as to all matters. The expectation is that meetings will be collaborative among County and the Design-Builder as described below.
  - 2.1.1.1 The Design-Builder and County will attend all regular meetings, including rolling design reviews, and such additional meetings that are called as provided below.
  - 2.1.1.2 During the Design and Preconstruction Phase Design-Builder will schedule all regular meetings with the agreement and approval of County. Unless otherwise agreed, meetings will be held weekly for the purpose of tracking design progress and consistency with County’s requirements. Design-Builder shall track and report on the design evolution log. At these meetings, Design-Builder is responsible for progressing the design, cost, and scope tracking; early identification of long-lead items; and making recommendations regarding constructability, construction sequencing, materials, and other factors that can have a material impact on cost or schedule. County will schedule all additional meetings.
  - 2.1.1.3 During the Design Phase, Design-Builder will take minutes at each meeting and distribute draft minutes within three business days after each meeting. County will promptly review the minutes of each meeting and deliver any comments to the Design-Builder. The Design-Builder will promptly issue final minutes of each meeting, which will be approved by Design-Builder and County.
  - 2.1.1.4 At the commencement of the Construction Phase, County and Design-Builder will meet to review cooperation, coordination, and if applicable, partnering during the construction phase and to establish procedures governing, among other matters, submittals and scheduling of site activities.
  - 2.1.1.5 During the Construction Phase there will be weekly progress meetings of the Design-Builder and County. The Design-Builder will schedule and conduct the progress meetings during the Construction Phase. The weekly progress meetings will include

joint discussions about such matters as procedures, progress, scheduling, submittals, requests for information (RFI), any Work deficiencies, any other actual problems or potential problems, fixes to and limits on actual problems, and ways to avoid, limit, or fix potential problems. At each meeting, the Design-Builder will provide and discuss a CPM-based look ahead schedule of construction activities to be accomplished in the next three weeks. Presentation of the look-ahead does not substitute for the 24-hour advance notice required in Section 2.6.10.8 prior to all special inspections. County, and Design-Builder will contribute their good faith efforts in such discussions to find ways (i) to complete the Project within the Contract Time(s) in accordance with the Construction Documents and the other Design-Builder Contract Documents and within the Guaranteed Maximum Price; (ii) to limit and fix actual problems; (iii) to anticipate and then avoid, limit or fix potential problems; and (iv) to discuss and decide other matters brought up by County or Design-Builder. None of these discussions will affect or impair the respective rights, responsibilities and obligations of County and the Design-Builder.

- 2.1.1.6 During the Construction Phase, County or Design-Builder may request special on-site meetings as necessary to resolve issue and maintain the construction schedule and meet the requirement of the construction documents.
- 2.1.1.7 During the Construction Phase, the Design-Builder will take minutes at each meeting and distribute draft minutes within three business days after each meeting. The DP and County will promptly review the minutes of each meeting and deliver any comments to the Design- Builder. The Design-Builder will promptly issue final minutes of each meeting, which will be approved by Design-Builder, DP, and County.
- 2.1.1.8 Design-Builder, when requested by County, will attend, make presentations and participate as may be appropriate in public agency or community meetings related to the Project. Design-Builder will provide drawings and illustrations, and Design-Builder will provide schedule diagrams, budget charts and other materials describing the Project when their use is required or appropriate in any such meetings.
- 2.1.2 During the Construction Phase, the Design-Builder will provide County, on a monthly basis, a written status report detailing the progress of the Work during that month. Design-Builder's monthly report shall state whether the Work is proceeding according to Schedule and include (1) an updated and current Critical Path Method (CPM) Schedule, (2) an updated and current Work cash flow projection for the duration of the Project, (3) copies of the construction Superintendent's daily site reports, (4) identification of any discrepancies, conflicts, or ambiguities existing in the Construction Documents that require resolution, (5) whether health and safety issues have arisen in connection with performance of the Work, and (6) whether other matters exist that require resolution so as not to jeopardize Design-Builder's ability to complete the Work for the GMP(s) on schedule and within the Contract Time(s). The Design-Builder's monthly report will also include a cost tracking report with the updated Cost Model, projected final cost, subcontract amounts and buy-out status, and status of contingency and allowance usage.
- 2.1.3 Within 30 days after executing the Contract, Design-Builder will prepare and submit to County:
  - 2.1.3.1 A Milestone Schedule for the Work including the activities in the Design Phase and the Construction Phase through bid and award. The Milestone Schedule must include three weeks of County review time for Design Submission Documents at each milestone and adequate time for Government Agency and for other regulatory-type reviews and for all other necessary approvals. The CPM Schedule will indicate the dates for the start and completion of the various stages of Work, including the dates when County information and approvals are required and all necessary shutdowns or suspensions of County or separate vendor activities on the site (if any).

The Milestone Schedule must allow for such multiple bid packages and fast-tracked construction as may be required and include any contemplated completion date(s) earlier than those required by the Contract Documents.

- 2.1.3.2 A Cost Model for construction of the project. The Cost Model must contain all of the costs that will be included in the GMP, including cost of the Work, general conditions, bonds, insurance, permits, taxes, including, without limitation, applicable sales taxes and transaction privilege tax, Design-Builder's construction fee, contingency, and any other costs in the Cost Model. As part of the Cost Model, the Design-Builder will also identify all areas of concern or risk and assign a separate and reasonable contingency to each of them. County will review these submissions and may request changes. Final contingency amounts will be as agreed by the Project Team. The statement of areas of concern/risks will be stratified by cost to enable the Project Team to focus in preconstruction on resolving or eliminating the costly uncertainties.
- 2.1.4 County and Design-Builder will have an initial meeting promptly after selection of the Design-Builder team to discuss issues affecting Project administration and to implement procedures to permit County and Design-Builder to perform their respective obligations under the Design-Builder Contract. Among other matters to be covered at this meeting will be procedures for efficient interaction during the Design and Preconstruction Phase so that each can perform its activities, functions, and obligations in an efficient, cooperative, coordinated, collaborative, and communicative manner. Among other subjects to be covered by the procedures will be:
  - 2.1.4.1 Design-Builder will be responsible for (1) preparing Design Submission Documents, the Design-Builder's Construction Cost Estimates, as required during the development of Preliminary Design, Schematic Design, and Construction Documents; and (2) submitting each set of Design Submission Documents and the related Design-Builder Construction Cost Estimates to County for review and comment by County and for group discussion among the Design-Builder and County.
  - 2.1.4.2 Arrangements that encourage frequent informal interaction, cooperation, coordination, collaboration, and communication among County and Design-Builder during the Design and Preconstruction Phase, especially between submissions of Design Submission Documents and Construction Cost Estimates. These will include among other activities, the Design-Builder offering value engineering and constructability recommendations on the design of the Project and the Design-Builder using that information in its design work on the Project.
  - 2.1.4.3 A schedule for the activities of the Design-Builder and County during the Design and Preconstruction Phase.
  - 2.1.4.4 Formal partnering for the Design Phase, at the option of County. Partnering is a mutual effort to cooperate and coordinate efforts in order to benefit and achieve the final result of an active and functional facility. Partnering requires that all parties use their particular expertise for the mutual benefit of all, rather than for the benefit of the one. Partnering requires flexibility, the ability to appreciate the positions of the other parties and to make compromises for the benefit of all. Partnering will be implemented through a formal partnering process developed as described above and presented in a separate workshop attended by Design-Builder, County and their key participants. Follow-up sessions will occur every three months or as mutually agreed to ensure that all commitments are updated and being followed by all parties. The cost of this partnering effort shall be shared by the Parties.
  - 2.1.4.5 A responsibility matrix developed with the cooperation and collaboration of County, and Design-Builder.

- 2.1.5 No action, or attempted action, of cooperation, coordination, collaboration, or communication, and no failure to cooperate, coordinate, collaborate, or communicate, on any matter will affect or impair the respective rights and obligations of County and Design-Builder under the Design-Builder Contract. No failure by any one party to perform its obligations under this Section excuses any failure by another party to perform any obligation under other provisions of the Contract Documents, unless the obligation that the first party failed to perform is an essential predicate to performance by the second party. In such case, it is the second party's duty to make all reasonable efforts to perform its obligations.
- 2.1.6 The Design-Builder will interact and cooperate fully with County during the Design and Preconstruction and Construction Phases so as to keep the Work within County's budget and schedule limitations.
- 2.1.7 The Design-Builder agrees to furnish its best skill and judgment and to cooperate with County in furthering the interests of County. Design-Builder agrees to furnish efficient business administration and superintendence and to use its best efforts to timely complete the Work in an expeditious and economical manner consistent with the interests of County.
- 2.1.8 The Design-Builder and County, collectively the "Project Team", will cooperatively work together during all phases of the Work to achieve completion. The Design-Builder will provide leadership to the Project Team during the Design and Preconstruction Phase for all design, cost, schedule, or alternative systems issues, and all matters relating to construction. During the Design and Preconstruction phase the Design-Builder will provide to County a written evaluation of County's Project Program and Project Budget and Schedule, each in relationship to the other with recommendations on the appropriateness of each.
- 2.1.9 The Contract Documents do not give any third-party any claim or right of action against County or Design-Builder which does not otherwise explicitly exist in the Contract Documents.
- 2.1.10 The Design-Builder's initial Work consists of its services in connection with the Design and Preconstruction Phase. The Design-Builder's Services in that phase include the DP's Services. Design-Builder will prepare an itemized systems type cost estimate at the completion of the Schematic Design Phase, and at other times as agreed upon by the Project Team, in a format otherwise mutually agreed upon prior to the cost estimate preparation. Design-Builder will prepare Construction Specifications Institute (CSI) Master Formatted cost estimates at each submittal phase after the completion of Schematic/Conceptual Design, to verify that the Project is staying within the applicable portions of County's identified budget. Design-Builder will keep all Deliverables required of it up to date during the Design and Preconstruction Phase so that the Project activities will continue uninterrupted while progressing into the Construction Phase.
- 2.1.11 The Design-Builder will provide a GMP during the Design and Preconstruction Phase as required in **Section 3.2 of the Contract**.
- 2.1.12 Subject to the other provisions of these General Conditions, execution of the Contract by the Design-Builder is an assurance that the Design-Builder has visited the site, has become familiar with the locale and any specific conditions under which the Work is to be performed, and has correlated Design-Builder's personal observations with the requirements of County's Project criteria.
- 2.1.13 The Parties' intent is that the Contract Documents include all items and services necessary for the proper execution and completion of the Work. The Contract Documents are complementary, and what is required by any one is binding as if required by all. Work not covered in the Contract Documents but that the Design-Builder considers necessary for the proper completion of the Work will be required of Design-Builder unless it is inconsistent with the Contract Documents or is not reasonably inferable therefrom as being necessary to



produce the intended results. Words and abbreviations that have well known technical or trade meanings are used in the Contract Documents in accordance with their recognized meanings.

- 2.1.14 The organization of the Specifications into division, section, and section, and the arrangement of Drawings does not obligate or control the Design-Builder in dividing performance of the Work among subcontractors, or in establishing the extent of the Work to be performed by any one trade.
- 2.1.15 With respect to all Work performed by Design-Builder and its Subcontractors and Consultants, Design-Builder and its Subcontractors and Consultants will keep full and detailed accounts and exercise such cost controls as may be necessary for proper financial management, using accounting and control systems in accordance with generally accepted accounting principles and subject to review by County. During performance of the Work and for five years after Final Payment, the Design-Builder will retain and will also require all Subcontractors and Consultants to retain for review or audit, or both, by County all correspondence, meeting minutes, memoranda, electronic media, books, accounts, reports, files, time cards, material invoices, payrolls, and evidence of all communications, direct and indirect costs, and all other matters related to the Work. Upon request by County, Design-Builder will produce a legible copy or the original of any or all such records as are described above at any time during or after the Work. Upon request by County, the Design-Builder will submit to County copies of all payrolls, reports, estimates, records, Change Order costs and data, and any other data concerning Work performed or to be performed, materials supplied or to be supplied, including Subcontractor or Consultant payment applications or invoices and such Subcontractor's or Consultant's progress payment checks. The Design-Builder will include the requirements of this Section in all contracts between the Design-Builder and its Subcontractors and Consultants. County may exercise its rights under this Paragraph as often as reasonably necessary in County's sole judgment to assure County that it has a complete and accurate understanding of all Project costs.

## **2.2 DESIGN AND PRECONSTRUCTION SERVICES**

The Design-Builder's primary responsibility during Design and Preconstruction is to apply its knowledge and experience to developing and keeping the design capable of being constructed within the budget and schedule. The Design-Builder must track costs on an ongoing basis and proactively advise County of lower cost or more effective means, methods, materials, design aspects, etc., or anytime when construction costs exceed, or threaten to exceed the budget, so the Project Team can take appropriate action.

- 2.2.1 The Design-Builder will develop a Construction Cost Model for the Project for County's review and approval. County will advise the Design-Builder in writing of the amount of County's Construction Budget. The Design-Builder will evaluate County's Construction Budget for cost realism and prepare construction cost estimates for the completion of the Work. Design-Builder's cost estimates must include all of the costs that will be included in the GMP, including labor, materials, general conditions, bonds, taxes, Design-Builder construction fee, Design-Builder's contingency, and all other GMP costs. Design-Builder with input from County will reconcile the differences between County's Construction Budget and the Design-Builder estimates, if any, to develop an agreed estimate for the cost of construction. If the agreed estimate exceeds County's Construction Budget, County, at its sole discretion, may (1) seek additional funding; (2) direct redesign or re-scoping of the Project to bring it within the available funding; or (3) any combination of 1 and 2; or (4) determine not to go forward with this Contract for all or part of the Project. Any adjustment to County's budget or scope must be in writing and approved by County.

2.2.2 Unless otherwise agreed to by County, County may retain or authorize Design-Builder to retain surveyors, engineers, or other consultants in connection with the following items, provided such information is specifically requested by County:

- a. A survey of existing site conditions. A complete and accurate survey of the Project site and existing improvements including, but not limited to, grades and lines of streets, pavements, and adjoining properties, contours of the site, and full information as to sewer, water, gas, electrical service, telephone lines, or other utilities.
- b. A report on subsurface investigations. Professional recommendations regarding local conditions accompanied by test borings, or test pits, soil bearing values, percolation tests, air and water pollution tests, ground corrosion, and resistivity tests including necessary operations for determining subsoil, air and water conditions, and chemical, mechanical, laboratory, or other tests.
- c. Design-Builder may recommend such additional geotechnical or investigative tests, such as potholing, as Design-Builder believes may be necessary to support construction on the site.
- d. As-built information in possession of County concerning any existing improvements that will remain on the site and that will be incorporated into the Project, to which the Project will be attached, or with which the Project will be interconnected.
- e. Other tests recommended by Design-Builder and agreed to by County.

In addition to the above information, the Design-Builder is responsible for obtaining information concerning conditions of the site required by law or typically obtained within the DP's industry to assess conditions for similar projects and will advise County of any such information so obtained that may be significant to the Project.

County will deliver to Design-Builder a copy of all available surveys, reports, test results, and other information described in this Section 2.2.2. These items, any other information concerning the site delivered by County to Design-Builder, and all information Design-Builder is obligated to obtain on its own initiative are referred to as the "site Information". The Design-Builder will thoroughly acquaint themselves with all site Information.

By making each submission of any Design Submission Documents (including, without limitation, the Construction Documents) the Design-Builder represents and warrants to County that Design-Builder has examined and evaluated the site Information and has taken the site Information into account in preparing the Design Submission Documents.

The Design-Builder has the right to rely upon surveys, soil test reports, other test reports and other information provided by County, but only to the extent provided in said reports or information. The Design-Builder will carefully examine all surveys, soil test reports, other test reports and other information, whether obtained by the Design-Builder or County, and will promptly report to County any obvious or reasonably suspected errors, omissions, or inadequacies in such surveys, soil test reports, other test reports, and other information of which the Design-Builder becomes aware as a result of such examination or otherwise, and of any disagreement the Design-Builder may have with the conclusions of such surveys, soil test reports, other test reports, and other information. The Design-Builder's Consultants will make themselves available to the soils engineer and any other person retained by County to prepare any surveys, soils test reports, other test reports, or other information, for the purpose of reconciling such concerns.

2.2.3 The Design-Builder will submit to County all required Design Submission Documents to describe the Project's essential elements. The required Design Submission Documents required will include such drawings, specifications, and other documents as may be necessary to fully identify the Project scope and materials, together with the Design-Builder's

Construction Cost Estimates. The Design-Builder will submit to County, detailed Construction Cost Estimates as part of each design submission. At the time of each scheduled submission, Design-Builder and County will meet and confer about the submission. During the meeting, the Design-Builder will identify, among other things, the evolution of the design and any significant changes or deviations from previously submitted Design Submission Documents and any changes in the Design-Builder's Construction Cost. Within three weeks following each design review meeting, County will approve or reject the Design Submission Documents, Design-Builder's Construction Cost Estimate. County may reject in full or in part any Design Submission Documents or Construction Cost Estimates (1) that do not conform to County's Project Criteria or overall Project concepts, (2) that exceed the Construction Budget, (3) are not within the Guaranteed Maximum Price, (4) are not consistent with the GMP Setting Drawings, Specifications, Assumptions, and Clarifications (unless the inconsistency was approved or requested by County), or (5) for any other reasonable cause consistent with the intent of the Design-Builder Contract Documents or the Design-Builder Contract Documents, as applicable. In the event of such rejection, the Design-Builder will bear the costs of redesign or of revising the construction costs estimates, unless the deficiencies upon which rejection is based are attributable to County-requested changes. All deviations from County's Project Criteria, the Construction Budget, the Guaranteed Maximum Price, or the GMP Setting Drawings, Specifications, Assumptions, and Clarifications must be approved in writing by County.

2.2.4 The Design-Builder will prepare a Project Management Plan (PMP), which will include:

- a. Project milestone dates and the Project Schedule, including the broad sequencing of the design and construction of the Project,
- b. Required and recommended investigations to be undertaken to ascertain subsurface conditions and physical conditions of existing surface and subsurface facilities and underground utilities,
- c. Alternate strategies for fast-tracking and/or phasing the construction,
- d. Permitting strategy,
- e. Cost estimate and basis of the cost model,
- f. Defined scope basis,
- g. Organization chart, and
- h. Procurement plan

The purpose of the PMP is to identify, coordinate, and record the tasks and activities to be performed by all of the Project Team members. The Project Team will utilize the PMP as a basis for managing and monitoring all members' compliance with the requirements of the Project. Project Team members are responsible for their compliance with the PMP requirements. A member's failure to complete a task does not excuse a subsequent failure by another member unless the first member's task is a direct prerequisite to the latter's performance provide, however, the latter team member must make reasonable efforts to mitigate impacts of the failure. Resolution of compatibility issues between the different tracking programs that may be used is the responsibility of the Design- Builder.

2.2.5 The schedule for performance of the Construction Work will be a CPM schedule with reasonable detail, including a time-scaled network and computer printout in accordance with the following requirements:

The Design-Builder will use scheduling software acceptable to County to develop the Project Schedule. The Project Schedule will be presented in graphical and/or tabular reports as

agreed upon by the Project Team. If Project phasing, as described below, is required, the Project Schedule will indicate milestone dates for the phases, once determined.

The Project Schedule will provide three weeks for County to review Design Submission Documents at each sub-phase of the Design Phase and provide adequate time for Government Agency reviews and all other necessary approvals and permits. The Project Schedule will indicate the dates for the start and completion of the various stages of the Project, including, among others, the dates when County information and approvals are required and all necessary shutdowns or suspensions of County or separate vendor activities on the site (if any). Design-Builder will update and reissue the Project Schedule throughout the Design Phase and the Construction Phase, as necessary and appropriate to reflect adjustments in the schedule. Updates will be subject to approval by County.

The Project Schedule will be in Days (5 days constitutes one week, otherwise directed by County) and indicate task duration (earliest start/latest completion) for all activities. Float times for all activities will be shown. The CPM diagram will be presented in a time scaled graphical format for the Project as a whole.

The Project Schedule must indicate all relationships between activities.

The activities making up the Project Schedule will be in sufficient detail to assure that adequate planning has been done for proper execution of the Work so that it provides an appropriate basis for monitoring and evaluating progress of the Work.

The activities upon which the Project Schedule is based will coincide with the Schedule of Values.

The Project Schedule will show all submittals associated with each Work activity and the review time for each submittal.

The Project Schedule will show milestones, including milestones for all Project Team members.

The Project Schedule does not include anticipated rain delays. This will be addressed during the construction of the project.

Throughout the Design Phase, Design-Builder will provide updates and/or revisions to the Project Schedule for use by the Project Team, whenever required, but no less often than monthly. The Design-Builder will add detail to previous version of the Project Schedule to keep it current throughout the Design Phase, so that the Project Schedule is ready for implementation at the start of the construction phase. The update/revisions will include:

- a. A narrative showing progress to-date vs. planned
- b. The fast-tracking of any of the construction, or other chosen construction delivery methods
- c. Illustrate the requisite number of separate bidding/permit packages for advertisement.
- d. The status of the procurement of long-lead time equipment and materials

As phased construction is deemed appropriate for this project, and County and Design-Builder approve, Design-Builder will review the design and make recommendations regarding the phased issuance of Construction Documents to facilitate phased construction of the Work, with the objective of shortening the Construction Time and/or reducing the Cost of the

Work. The Design-Builder will take into consideration such factors as natural and practical lines of Work severability, sequencing effectiveness, access and availability constraints, total time for completion, construction market conditions, labor and materials availability, effect on traffic or public access, and any other factors pertinent to saving time and cost. Design-Builder will adjust the Project Schedule to allow for phased construction or for portions of the Construction Work to be accepted separately by County, if required by County.

## **2.3 DESIGN PHASE AND GMP**

2.3.1 Design-Builder will continuously and actively track Project costs throughout the design phase, will proactively advise County, and will make recommendations relating to construction costs and concerns regarding the feasibility and practicality of any proposed means and methods, selected materials, equipment, building systems, and labor and material availability, and long-lead items. Design-Builder will further advise County regarding proposed site improvements, excavation, utility coordination, traffic control and public access, or other issues, as well as any concerns regarding the coordination of drawings and specifications. Design-Builder will advise County any time that a design revision results in the Design-Builder's estimate of the Cost of Construction exceeding County's construction budget.

### **2.3.2 Program Verification/Schematic Design**

- a. The Design-Builder will review County's Project Criteria to ascertain the basic requirements for the Project.
- b. The Design-Builder will prepare an expanded Project Program for review by County and for County's approval, which expands and refines the Project Criteria. The Program shall contain all space needs necessary for the operation of the facility including FFE. The description will include all site conditions affecting the Project, including utilities, drainage and flood control implications, and other requirements specified by County. County will promptly review the Program Document and approve, approve with comments or reject the document.
- c. The Design-Builder will develop a Schematic Design Submission for review by County. The submission shall include at a minimum site plan, floor plan, ceiling plan, roof plan, building elevations and sections and the preliminary calculations to understand utility requirements, metal building requirements, equipment selections, geotechnical requirements and other information necessary to develop the estimated cost of construction.
- d. The Design-Builder will develop and submit to County and DP a conceptual Construction Cost Estimate.
- e. Depending upon the stage of the Project at the inception of this Contract, County, in its sole discretion, may decide to forgo performance of the activities under this Paragraph 2.3.2 in whole or in part without liability to Design-Builder.

### **2.3.4 Construction Documents**

The Design-Builder will review the Schematic Design with County, solicit and receive comments and recommendations from County, confirm County's understanding of the subject matter, determine any additional, modified or alternative requirements, and obtain County's approval.

Based on the Schematic Design documents and any amendments thereto approved by County to the Project or the amount of County's Construction Budget, the Design-Builder will

prepare 60% and 90% Construction Documents for review with County and the Design-Builder and for County's approval. The CDs will consist of drawings and other documents to delineate and define the general design of the entire Project.

The Design-Builder for each submittal shall submit a Construction Cost Estimate for review and approval by County. The Design-Builder with County shall reconcile the estimate with County's construction budget and modify the design to meet the budget.

#### 2.3.5 Final Construction Documents

Based upon the approved 90% Construction Documents and any further amendments thereto of any kind approved by County, the Design-Builder will prepare detailed Final Construction Documents setting forth the requirements for construction of the entire Project, including complete Drawings, Specifications, calculations and reports and any other information required for the building and other construction permits. If the GMP(s) is agreed to approved prior to the final CDs then a cost evaluation shall be provided. The Design-Builder must be aware of, and conform to, the **order of precedence provisions in Section 2.6.12.3**. The Construction Documents are subject to review and approval by County. If the GMP has been agreed by County and Design-Builder before completion of the Construction Documents, the Construction Documents will be subject to review by Design-Builder for conformance with the GMP Drawings, Specifications, Assumptions, and Clarifications as provided in **Sections 3.2 to 3.5**.

All drawings and specifications included in the Construction Documents must bear the dated signature and seal of the Design-Builder's DP. The Design-Builder's is fully responsible for all designs it provides for the Project.

County will submit the Design-Builder's documents for the Building Construction Permit thru Pima County Development Services Department and the Arizona State Fire Marshal. The Design-Builder will be responsible for all other permits including those of a temporary nature required for the construction and related to the means and methods of the Design-Builder's construction plan. County will cooperate with the Design-Builder in preparing applications for necessary approvals, sign applications, and pay applicable fees. The Design-Builder will also assure that the Project meets all applicable statutory requirements for public works of the nature of the Project.

#### 2.3.6 Design-Builder's Construction Cost Estimates

Each Design-Builder Construction Cost Estimate will include without duplication:

- a. All labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for the proper execution and completion of the Construction Work, whether temporary or permanent, and whether or not incorporated or to be incorporated in the Construction Work. All fixed equipment, site improvements, utility and utility relocations, and equipment installations will also be included.
- b. General Conditions;
- c. The Construction Phase Fee;
- d. All bond and insurance premiums;
- e. All applicable taxes, including, without limitation, applicable sales taxes and transaction privilege tax; and

f. Contingency as applicable.

The Design-Builder Construction Cost Estimates will include the costs of the Construction Work and will not include the Design-Builder's Design Phase Services Fee, Preconstruction Fee, costs of land, rights of way, financing, or other costs which are the responsibility of County. Design-Builder's allowable labor rates within rates or part of Construction General Conditions are restricted to direct labor costs, *i.e.*, actual salaries/wages plus associated costs required by statute or regulation (social security, Medicare employee's match, unemployment, etc.) and employee benefits (vacations, health insurance, etc.). Non-Project specific training costs, bonuses, cost of living allowances, education, and training are not allowable labor costs and are not reimbursable. Promotional or celebratory expenses the Design-Builder incurs while performing and completing the Project are not reimbursable as part of Construction General Conditions and must be paid out of the Design-Builder Construction Phase fee.

The Design-Builder will base each of their Construction Cost Estimates on the latest Design Submissions Documents. The Design-Builder will discuss the materials, equipment, component systems, and types of construction contemplated by the Design-Builder to the extent such items are not in the latest Design Submission Documents.

The Design-Builder, prior to and in preparing its estimates of Construction Costs and providing the GMP, will consult with the DP to determine to the extent possible what materials, equipment, component systems, and types of construction are to be included in the Construction Documents and to make recommendations for reasonable adjustments in the Scope of Work, and to include in the Construction Documents such alternate items as County approves in writing.

The Design-Builder will take the lead in developing a cost model, preparing an estimate of Construction Cost as soon as major Project requirements have been identified, and updating the cost model and estimate for each submittal of the Design Submission Documents specified in Section 1.2.14 of the General Conditions. For all Bid Packages for Construction, the Design-Builder will prepare a quantity take-off cost estimate based on CSI formats within two weeks of receipt of applicable documents from the DP. All estimates of Construction Cost must make allowance for bidding and price escalation. During the Preconstruction Phase, the Design-Builder will continually monitor the cost estimates and develop a cost estimate to help assure that the Cost of the Work remains within the applicable portion of the Project Budget or GMP, as applicable. No Construction Services or Work to be performed under the Contract will commence until a GMP is established by the Design-Builder, submitted and accepted by County, and incorporated into this Contract-by-Contract Amendment.

All Design-Builder cost estimates will be based on quantitative takeoffs whenever possible and will be completed in sufficient depth and organization to be used in preparing budgets based on sub-trades, combinations of sub-trades, building systems (if any), and Bid Packages. Lump sum estimates are not acceptable.

All Design-Builder Construction Cost Estimates will use a consistent method of allocating costs of the Construction Work, will follow the standard construction format, and will otherwise be in a form agreed to by County.

After County and Design-Builder agree on a GMP and in any event during the Construction Documents sub-phase of the Design Phase, Design-Builder will continually monitor costs and develop cost estimates to help ensure that the cost of the Construction Work remains within both County's Construction Budget and the GMP.

In the event the reconciled Cost Estimates are not within County's Construction Budget or GMP, the Design-Builder will:

- a. Notify County if it appears that the Design-Builder's Construction Cost Estimate will exceed County's Construction Budget or the GMP.
- b. Satisfactorily demonstrate the accuracy of its estimate in such detail as County may reasonably require.
- c. Make reasonable recommendations for corrective action to bring the estimates back within County's Construction Budget or the GMP, if the estimates exceed County's Construction Budget.

The overall design objective is to develop a design that can be constructed for an amount within County's Construction Budget. If, in connection with any submission of Design Submission Documents and Cost Estimates, the Cost Estimates exceed County's Construction Budget, then the costs of redesign and of revising the cost estimates will be allocated as follows:

- a. If the excess costs of the Design Submission Documents are attributable to County - directed design choices, unanticipated significant materials cost increases or other unforeseen market dislocations, or other causes beyond the control of Design-Builder, then the costs of revision will be the responsibility of County.
- b. If the excess costs are attributable to unapproved deviations from County's Final Schematic Design Report or County determines design choices unreasonable or negligent, then the costs of revision will be the responsibility of Design-Builder.
- c. If the excess costs are attributable to the application of unsubstantiated deviations from the cost model by Design-Builder, then the costs of revising the costs estimates will be the responsibility of Design-Builder.
- d. If the excess costs are attributable to any combination of the causes identified above, then the costs of design and or cost estimate revision will be allocated to each party in the percentage by which their cause contributed to the excess.
- e. In the event the excess costs are attributable to an unanticipated cause not identified above, then the costs of revision will be the responsibility of County.
- f. If the Parties are unable to agree on causation or the allocation of costs, then County will make a determination with respect thereto and provide a copy of the determination in writing to each of the other Parties. County's determination will be final and conclusive unless, within 7 calendar days from delivery of County's determination, the party or parties objecting to County's determination notifies each of the other parties in writing that they are initiating the Dispute Resolution procedure of the Contract. The notice will include a brief statement of the basis for the initiating party's objection to County's determination.

#### 2.3.7 Budgeting and Guaranteed Maximum Price

- 2.3.7.1 The Design-Builder will provide its Design and Preconstruction Services for the Design and Preconstruction Phase Fee identified in the Contract. That fee will be earned based upon the amount of Design and Preconstruction Phase Work completed. That fee will be billed and payable monthly as a percentage of completion of Design and Preconstruction Services. The Construction Phase services of Design-Builder will be provided based upon an Open Book Cost of the Work, plus the separate Construction Phase Fee for Design-Builder identified in the Contract.



- 2.3.7.2 As provided for in the Contract and when the design has sufficiently progressed, County will require the Design-Builder to propose a GMP for the construction that is to be based on the Cost of the Work. The GMP will be prepared in accordance with these Sections 2.3.7.2 and **Appendix B - Supplemental Provisions - Construction Costing.**
- 2.3.7.3 County may accept the GMP submitted by Design-Builder, request that Design-Builder submit another GMP, or reject the GMP and terminate all contracts and agreements with the Design-Builder. In the event of such a termination, the Design-Builder will receive payment for services it has provided to date. In this situation, there will be no amounts paid for any termination cost, lost profits, lost opportunity or any other reason.
- 2.3.7.4 Once accepted by County, the GMP may be revised only by an approved Change Order or Contract Amendment.
- 2.3.7.5 In the event the Design-Builder elects, in its sole discretion, to maintain a construction contingency within the GMP, the criteria for the development of that contingency must be acceptable to County.

Thereafter, the Design-Builder must inform and receive approval from County of any intended usage of the contingency, with supporting itemized schedule and pricing documentation, to maintain complete records and confirm its appropriate use for the Project.

2.3.8 Intentionally Omitted

2.3.9 Other Preconstruction Services

- 2.3.9.1 The Design-Builder will review the Drawings and Specifications as they are being prepared, recommending alternative materials, alternatives, methods, means, constructability, and/or sequencing whenever design details affect construction feasibility, schedules, or cost.
- 2.3.9.2 The Design-Builder will make recommendations to County regarding the division of work in the Drawings and Specifications to facilitate the bidding and awarding of subcontracts, allowing for phased construction, if applicable, taking into consideration such factors as time of performance, availability of labor, overlapping trade jurisdictions, provisions for temporary facilities, and similar factors.
- 2.3.9.3 The Design-Builder will provide a written Constructability Review of all Drawings and Specifications, in a form acceptable to County. The Constructability Review will (a) minimize areas of conflict, errors, omissions, and overlapping of the Work to be performed by the various subcontractors; (b) confirm that the full Scope of Work has been included in the drawings; (c) endeavor to minimize cost and to Value Engineer where appropriate; and (d) allow for phased and/or fast-track bid packages and construction, as required. An acceptable and effective Constructability Review is a goal for the Design-Builder and County.
- 2.3.9.4 The Design-Builder will schedule and attend all regular meetings with County and the Design-Builder shall attend all meetings as part of the Design-Builder team. County will schedule all additional meetings.
- 2.3.9.5 The Design-Builder will investigate and recommend materials and equipment that County could purchase directly; consider long lead-time procurement and mass purchasing power in making such recommendations; recommend a schedule for such purchases after coordination with the Design-Builder regarding the timetable

for preparation of Construction Documents; and expedite and coordinate delivery of these purchases to facilitate their delivery by the required dates.

2.3.9.6 If County determines that Building Information Modeling (BIM) objectives will benefit the Project and it is or will be to the advantage of County or the Project to select certain subcontracting trades to participate in the design process during the Design and Preconstruction Phase, as well as provide Construction Services during the Construction Phase, then the following procedures will apply:

- a. Design-Builder will prequalify Subcontractors from the trades needed in the Preconstruction Phase.
- b. Upon acceptance of County, a Request for Proposal (RFP) will be requested from pre-qualified Subcontractors. The RFP will request additional qualification information in addition to pricing information, such as labor rates and overhead and profit factors.
- c. The Statement of Qualifications (SOQ) from the Subcontractors will be reviewed by a committee consisting of Design-Builder, County, and DP team members. The qualification and pricing information will be scored by a pre-determined weighted scoring system.
- d. The committee will develop a list of firms and determine if interviews are required and conduct the interviews.
- e. The Subcontractors will be ranked, and the highest ranked Subcontractor will be selected to provide the services.
- f. All Subcontractor selections will be in accordance with A.R.S. § 34-603(C)(2)(e)(i) and DP's Subcontractor Selection Plan.

For Subcontractors selected in this manner, the Design-Builder must establish to County's satisfaction that the Subcontractor's price submission is reasonable and appropriate by following the procedures outlined for the Design-Builder in Sections 2.3.9.11 and 2.3.9.12.

2.3.9.7 The Design-Builder will: assist County in the preparation of the necessary and appropriate bidding information, bidding forms, and pre-qualification criteria for bidders; develop subcontractor interest; establish bidding schedules; advertise for bids; and conduct pre-bid conferences to familiarize bidders with the bidding documents and management techniques and with any special systems, materials, or methods. The Design-Builder will review all potential subcontractors with County and obtain County's approval of the pre-qualification of any subcontractor. If the Design-Builder becomes aware prior to any bid date that fewer than 3 pre-qualified subcontractors plan to bid any portion of any Bid Package or that anticipated bids from previously approved or pre-qualified subcontractors are likely to exceed the current Schedule of Values or estimate of Construction Cost, the Design-Builder will promptly notify County.

2.3.9.8 The Design-Builder's post-bid selection of any subcontractor must be based on qualifications alone, or on a combination of qualifications and price selection, but will not be based on price alone. The Design-Builder will receive and open bids when advertised, prepare a bid analysis, conduct pre-award conferences, and notify County concerning which bids from pre-qualified subcontractors will be accepted and awarded. The Design-Builder will notify County of the time and place of all bid openings and will permit County to attend such openings with their representatives and guests. Design-Builder will justify in writing any proposal to accept other than

a low lump sum bid with sufficient detail to satisfy County, and the proposal will be subject to prior written approval by County, with no increase in the GMP. Once approved by County, Design-Builder may not replace any subcontractor without County's prior approval and any change in cost to Design-Builder will not be a responsibility of County and there will be no increase in GMP or contract price by reason of such change of subcontractor. Within 10 days after award, Design-Builder will furnish one fully executed subcontract for work or services on this Project to County together with all special or supplementary conditions applicable to the subcontract work.

2.3.9.9 The Design-Builder will provide County with requirements and assignment of responsibilities for safety precautions and programs as required for the execution of the Work, temporary Project facilities and for equipment, materials and services for common use of subcontractors and verify that all such information is included in the Construction Documents.

2.3.9.10 If the Design-Builder indicates it desires to self-perform any portion of the Construction Work, the following procedures will be followed: The Design-Builder must submit its qualifications to do the listed portion(s) of the Construction Work to County and if County is satisfied with Design-Builder's qualifications as to that portion of the Construction Work, County will designate the Design-Builder as a pre-qualified Subcontractor for that portion of the Construction Work. A bid package for each portion of the Construction Work as to which Design-Builder is a pre-qualified Subcontractor will be prepared in the same manner and content as bid packages for Subcontractors in other trades. Design-Builder will submit a proposed price for each of these portions of the Construction Work. This proposed price will include labor rates and certify that sub-sub trades and materials will be bid with a minimum of three pre-qualified bidders.

2.3.9.11 In order to evaluate the Design-Builder's Price Submission on self-performed Work, County may do any or all of the following: (i) engage an estimator selected by County to prepare an independent estimate of this portion of the Construction Work; (ii) engage the DP, or other consultants to do a construction market study to confirm construction market impacts to the cost of this portion of the Construction Work; or (iii) take other action to evaluate the Design-Builder's Price Submission. In any event, Design-Builder is responsible to establish to County's satisfaction that the Design-Builder's Price Submission is reasonable and appropriate. If County is satisfied that the Design-

Builder Price Submission is reasonable and appropriate, County will advise the Design-Builder that the Design-Builder is selected as Subcontractor for the respective portion of the Construction Work.

2.3.9.12 If at the conclusion of the review of the Design-Builder proposed price for self-performed work, County is not satisfied that the Design-Builder's Price Submission is reasonable and appropriate, County will so advise the Design-Builder and the Design-Builder will conduct a normal Subcontractor bid competition for selection of the Subcontractor to perform this portion of the Construction Work, in accordance with the procedures in Section 2.3.9.7, except that, notwithstanding any other provision of the Design-Builder Design Phase Services Contract Documents to the contrary, (i) the Design-Builder's Price Submission will be the Design-Builder's bid for that portion of the Construction Work in the Subcontractor bidding process; (ii) the Design-Builder must obtain bids for that portion of the Construction Work from a minimum of two other pre-qualified Subcontractors; (iii) the Subcontractor bids for that portion of the Construction Work must be delivered to County rather than the Design-Builder; and (iv) County will decide which Subcontractor bid to accept, in accordance with Section 2.3.9.8.

## **2.4 LEGAL REQUIREMENTS.**

Design-Builder will perform all Work in accordance with all applicable Legal Requirements as described in Section 1.2.22 and otherwise will provide all notices applicable to the Work. It is the responsibility of the Design-Builder during the Design and Preconstruction Phase to assist County to ascertain that the Construction Documents under preparation are in compliance with all applicable laws, statutes, ordinances, building codes, rules, and regulations.

## **2.5 GOVERNMENTAL APPROVALS AND PERMITS**

Unless otherwise provided in the contract documents County will obtain and pay for the building permit, Fire Marshal permit, utility permit applications and costs. The Design-Builder will assist in provided the necessary documents to obtain the permits and will assist in any coordination, corrections, etc. to obtain the permits. The Design-Builder will provide and pay or all temporary construction permits required for the construction means and methods such as dust control permits, NESHAP, etc. and include in the GMP.

## **2.6 DESIGN-BUILDER'S CONSTRUCTION PHASE SERVICES**

- 2.6.1 Unless otherwise provided in the Contract Documents to be the responsibility of County or a separate Contractor(s), Design-Builder's construction phase services will include: team management and coordination, scheduling, cost controls and Change Order management, submittal process management, subcontracting, field management, safety program, closeout process, and warranty period services. This responsibility includes providing, through itself or its Subcontractors, all necessary supervision, labor, inspection, testing, start-up, material, equipment, machinery, temporary utilities, and other temporary facilities needed to complete construction of all Work consistent with the Construction Documents.
- 2.6.2 Design-Builder will perform all construction Work, services, and activities efficiently and with the requisite expertise, skill, quality, and competence necessary to satisfy the requirements of the Contract Documents. Design-Builder will at all times exercise complete and exclusive control over the means, methods, sequences, and techniques of construction.
- 2.6.3 Design-Builder will only employ Subcontractors (of any tier) who are properly licensed and fully able and committed to performing the Work in compliance with the Construction Documents and with the same degree of skill, quality and competence as Design-Builder.
- 2.6.4 Design-Builder is fully responsible for the work of its Subcontractors and any of their acts and omissions in connection with the performance of their work. Nothing in the Contract Documents creates any legal or contractual relationship between County and a Subcontractor (of any tier). In addition, nothing in the Contract Documents creates any third-party beneficiary rights.
- 2.6.5 Design-Builder is responsible for coordinating the activities and Work of all Subcontractors. If County is performing other work with separate Contractors under County's control, Design-Builder agrees to cooperate and coordinate its Work with the work of County's separate Contractors so that the Project can be completed in an orderly, efficient, and coordinated manner reasonably free of significant disruption to any party.
  - 2.6.5.1 County reserves the right to award other contracts related to the Project, or to perform certain portions of the Work itself. Any such other work may or may not be known to County or disclosed to the Design-Builder prior to execution of the Contract. The Design-Builder will afford County and such other contractors reasonable opportunity for the introduction and storage of their materials and equipment and the execution of their work, and will properly coordinate its work with theirs in such manner as County may direct. The Design-Builder will also assure at its own cost reasonable access of other contractors to their site and their work.

- 2.6.5.2 The Design-Builder with the DP as part of their team will provide Drawings, Specifications, Schedules or other needed data relating to such other contracts or work as may be necessary to meet Design-Builder's duty to coordinate. The Design-Builder will thoroughly examine these documents and within 3 workdays of completing such examination will notify County in writing of any conflicts with the Work to be performed by the Design-Builder. In no event will such notice be given by Design-Builder so late as to interfere with or delay the Work to be performed by the Design-Builder. Failure of the Design-Builder to request, review, or provide written notice as provided above constitutes a waiver of any objections or claims the Design-Builder may otherwise have as a result of the necessity to coordinate the Design-Builder Work with other activities.
- 2.6.5.3 Should the Design-Builder sustain any damage through any act or omission of any other contractor or subcontractor, Design-Builder has no claim or cause of action against County for such damage and hereby waives any such claim. The Design-Builder does not waive any claim or cause of action against any other contractor or subcontractor to recover any and all damages sustained by reason of the acts or omissions of such other contractor or subcontractor. The phrase "act or omission" as used in this section includes, but is not limited to, any delay on the part of any such other contractor or subcontractor, whether due to negligence, gross negligence, inadvertence, or any other cause.
- 2.6.5.4 Should the Design-Builder cause damage to the work or property of any other contractor or subcontractor of County, the Design-Builder will upon receiving due notice of damage promptly attempt to settle with such other contractor by contract, repair, or otherwise to resolve the dispute. If any such separate contractor sues or initiates a proceeding against County on account of any damage alleged to have been caused by the Design-Builder or its subcontractors, County will notify the Design-Builder who will at its own cost indemnify and defend County in such proceedings, or pay the costs of County defending such proceedings, and if any judgment or award against County arises therefrom, the Design-Builder will pay or satisfy it and will reimburse County for all attorney's fees and court or other costs which County has incurred in connection with the matter.
- 2.6.6 Design-Builder will keep the site free from debris, trash, and construction waste to permit Design-Builder to perform its construction services efficiently, safely, and so as not to interfere with the use of any adjacent land areas, including the reasonable aesthetic appearance of the jobsite and all storage and staging areas. Design-Builder is also responsible for and will take precautions and measures to fully secure, safeguard, and protect the Work during the Construction Phase. Unless previously released of responsibility by County, Design-Builder's responsibility to secure, safeguard, and protect continues until final completion and acceptance.
- 2.6.7 Prior to Substantial Completion of the Work, or a portion of the Work, Design-Builder will remove all debris, materials, waste, equipment, machinery, and tools from the Work so as to permit County to safely occupy the Work or a portion of the Work for the use for which it is intended.
- 2.6.8 CONTROL OF THE WORK
- 2.6.8.1 The Design-Builder will supervise and direct the work of its employees and Subcontractors and coordinate the work with the activities and responsibilities of County so as to complete the Work in accordance with County's objectives of cost, time, and quality as set forth in the Contract Documents.
- 2.6.8.2 The Design-Builder will establish an on-site organization with lines of authority in order to carry out the overall plans for completion of the Work.

- 2.6.8.3 The Design-Builder will schedule, notice, conduct, and take and distribute minutes of weekly progress meetings at which County, and Design-Builder can discuss jointly such matters as procedures, progress, and problems.

## 2.6.9 DAILY LOG

- 2.6.9.1 The Design-Builder will maintain a daily log of construction activities for each calendar day of the Contract Time. In that log, the Design-Builder will document all activities at the Work site, including, but not limited to:

- a. Weather conditions showing the high and low temperatures during work hours, the amount of precipitation received on the job site, and any other weather conditions which adversely affect work at the site;
- b. Soil conditions which adversely affect work at the site;
- c. The hours of operation by Design-Builder and individual Subcontractor personnel;
- d. The number of Design-Builder and Subcontractor personnel present and working at the site, by subcontract and trade, and updated schedule activity number;
- e. The equipment active or idle at the site;
- f. A description of the work being performed at the site by updated schedule activity number;
- g. Any delays, disruptions or unusual or special occurrences at the site;
- h. Materials received at job site; and
- i. A list of all visitors at the site.
- j. Any other relevant information as to activities on the site that day.

- 2.6.9.2 The Design-Builder will provide copies of the daily logs to County on a weekly basis. The daily log does not constitute written notice to County of any event or occurrence when such notice is required by the Contract Documents.

- 2.6.9.3 Any changes affecting previously approved work requires prior written approval of County.

## 2.6.10 SUPERVISION AND CONSTRUCTION PROCEDURES

- 2.6.10.1 The Design-Builder will supervise and direct the Work using the Design-Builder's best skill and attention. The Design-Builder is solely responsible for the coordination and accomplishment of all portions of the Work under the Contract Documents.

- 2.6.10.2 Design-Builder is responsible to County for the acts and omissions of Design-Builder's employees, Subcontractors of all tiers, their agents and employees, and any other persons performing any of the Work or furnishing materials under a contract with the Design-Builder.

- 2.6.10.3 The Design-Builder will not be relieved from its obligation to perform the Work in accordance with the Contract Documents either by the activities or duties of the Design-Builder in its administration of this Contract, or by inspections, tests, or approvals required or performed by persons other than the Design-Builder. Nothing contained in this paragraph precludes the Design-Builder from asserting any rights it may have under this Contract in the event of unreasonable delays to

the Design-Builder in the conduct of any inspections, test, approvals, or other actions by the DP upon which Design-Builder's schedule depends.

- 2.6.10.4 The Design-Builder will employ a competent County-approved Superintendent and necessary assistants, who will be in attendance at the Project site during the progress of the Work. The Design-Builder will also employ a County-approved additional staff, such as project engineer, as may be reasonably required and appropriate to the stage of construction work. Once designated, the Superintendent and other staff of Design- Builder will not be changed except with the prior consent of County, unless the Superintendent or Representative proves to be unsatisfactory to the Design-Builder or ceases to be in its employ. The Superintendent and on-site staff will represent the Design-Builder and all communications given to the Representative are binding on the Design-Builder. All such communications will be confirmed in writing by Design-Builder.
- 2.6.10.5 The Design-Builder will at all times enforce strict discipline and good order among its employees and its Subcontractors' employees and will not allow employment on the Work of any unfit person or anyone not skilled in and capable of performing the task assigned to them.
- 2.6.10.6 The Design-Builder will at all times allow County, or any other designated representatives access to the construction work to observe progress and inspect the quality of work and conformance to the Construction Documents.
- 2.6.10.7 Any Work required to be inspected by County prior to being covered, which is covered up without prior inspection or without prior consent of County, must be uncovered by the Design-Builder, if requested by County, and then re-covered at no cost to County, notwithstanding the provisions of the following subsection. Design-Builder will notify County in writing at least 48 hours prior to the time at which County must be present to perform an inspection. Failure to provide such notice makes the Design-Builder solely responsible for all consequences of non-inspection and any required access to or uncovering of such Work.
- 2.6.10.8 Design-Builder will notify County in writing at least twenty-four (24) hours prior to the time at which County must be present to perform an inspection. Failure to provide such notice makes the CMAR solely responsible for all consequences of non-inspection and any required access to or uncovering of such Work.

## 2.6.11 ADMINISTRATION

- 2.6.11.1 Except as may be expressly provided to the contrary in the Contract Documents, the Design-Builder's Representative will forward all communications in writing and all documents simultaneously to County's Representative as listed below:

Design-Builder's	County's
Representative:	Representative:
(NAME)	(NAME)

## 2.6.12 DRAWINGS AND SPECIFICATIONS

- 2.6.12.1 The DP is an agent of the Design-Builder under this contract. The DP shall be responsible for providing the design documents with the competency and care as a technical registrant in the State of Arizona. Any DP members not under the jurisdiction of the State of Arizona shall meet the standards of any professional organization related to the field within their scope of services. The Design-Builder will study and compare the Construction Documents prior to beginning

- 2.6.12.2 The Construction Drawings are intended to show general arrangements, design, and extent of Work and are not intended to serve as Shop Drawings. Where required, the Design-Builder will perform no portion of the Work without having Shop Drawings, Product Data, or Samples approved; any Work performed in violation of this provision will be solely at the Design-Builder's risk regardless of County's knowledge of such Work being performed.
- 2.6.12.3 In the event of any conflict or ambiguity, the Construction Documents will be interpreted as being complementary, requiring delivery by Design-Builder of a complete Project, or designated portion thereof. Any requirement occurring in any one of the Construction Documents is as binding as though occurring in all Construction Documents. In the event of any conflict or ambiguity, perceived or real, the Design- Builder will provide an interpretation before performing the Work. Generally, the Specifications address quality, types of materials, and contractual conditions while the Drawings show placement, sizes, and fabrication details of materials. In the event a conflict is discovered in the Construction Documents, the priorities stated below govern and control:
- a. Addenda govern over all other Construction Documents;
  - b. Subsequent addenda govern over prior addenda, but only to the extent modified;
  - c. In case of conflict between Drawings and Specifications, the Specifications govern;
  - d. Conflicts within the Drawings:
    - (1) Schedules, when identified as such, govern over all other portions of the Drawings.
    - (2) Specific notes govern over all other notes and all other portions of the Drawings, except the schedules described in Section 2.6.12.3(d)(1) above.
    - (3) Larger scale drawings govern over smaller scale drawings.
    - (4) Figured or numerical dimensions govern over dimensions obtained by scaling.
  - e. Conflicts within the Specifications: These General Conditions govern over all sections of the Specifications except for specific modifications thereto that may be stated in Special Conditions or addenda. No other section of the Specifications modifies these General Conditions; and
  - f. In the event provisions of codes, safety orders, Construction Documents, referenced manufacturer's specifications or industry standards are in conflict, the more restrictive or higher quality governs.
- 2.6.12.4 In the event of conflict between County's Technical Standards and the Drawings and Specifications, Design-Builder will promptly call the conflict to the attention of County and will defer the use of such Drawing until resolution of the conflict to County's satisfaction.
- 2.6.12.5 If the Construction Documents are not complete as to any minor detail of a required construction system or with regard to the manner of combining or installing of parts, materials, or equipment, but there exists an accepted trade standard for good and skillful construction, such detail will be an implied



requirement of the Construction Documents in accordance with such standard. A "minor detail" includes (a) the concept of substantially identical components, where the price of each such component is small even though the aggregate cost or importance is substantial, and includes a single component which is incidental, even though its cost or importance may be substantial; and (b) the quality and quantity of the parts or materials so supplied will conform to trade standards and be compatible with the type, composition, strength, size, and profile of the parts or materials otherwise set forth in the Construction Documents.

#### 2.6.13 SUBMITTALS, DRAWINGS AND SHOP DRAWINGS

2.6.13.1 The Design-Builder will maintain at the site, for the use of County , one copy of all Drawings, Specifications, bulletins, addenda, Change Orders, field orders, approved Shop Drawings, approved Submittals, supplementary instructions, requests for information, catalog data, manufacturers' operating and maintenance instructions, certificates, warranties, guarantees, and other contract-related documents and their modifications, if any, in good order and marked daily by the Design-Builder to record all approved changes made during construction. The Design-Builder at the time of Substantial Completion will turn these over to County for use by County.

2.6.13.2 The Design-Builder will submit, with such promptness as to cause no delay in its work or in the work of any other Contractor, all Submittals and Shop Drawings as are required by the Construction Documents or are necessary to illustrate details of the Work.

2.6.13.3 Each Submittal and Shop Drawing must be accompanied by a Design-Builder transmittal letter containing a list of the titles and numbers of the Shop Drawings. Each series must be numbered consecutively for ready reference. Each Submittal and Shop Drawing will be marked with the following information:

- a. Date of Submission
- b. Name of Project
- c. Location of Project
- d. Branch of Work (Specification Section)
- e. Project Number
- f. Name of Submitting Design-Builder
- g. Name of Subcontractors
- h. Revision Number

County will identify Submittals that must be submitted to County for its review. During Construction Phase Design-Builder will promptly provide County with an electronic copy of all approved submittals.

2.6.13.4 The Design-Builder will review all Subcontractor Submittals and Shop Drawings prior to being submitted to the DP and each must bear a written statement by the Design- Builder that the Submittals and shop drawings are consistent with the Construction Documents and other Contract Documents or, if not totally consistent, they must bear a written statement indicating all variances from the Construction Documents and other applicable Documents. Any submittals or shop drawings submitted without the statements will be returned for

resubmission; the submittals or shop drawings will be considered as not having been submitted; and any delay caused thereby is the Design- Builder's sole responsibility. This review by Design-Builder of Subcontractor submittals and shop drawings is not Design-Builder approval of the design therein except that it is a representation that the letter accompanying the submittal or shop drawings does indicate all variations from the Construction Documents and other Contract Documents as required by Section 2.6.13.5.

- 2.6.13.5 The Design-Builder will include with Submittals and Shop Drawings, a letter indicating all variances from the Drawings and Specifications. Failure to so notify the DP of such variances will be grounds for subsequent rejection of the related Work or materials. If, in the opinion of the DP, the variances are not acceptable, the Design-Builder must furnish the item as specified or as indicated on the Construction Drawings.
- 2.6.13.6 The Design-Builder must check all of its Submittals and Shop Drawings and be fully responsible for them and for coordination with connecting Work. Submittals and Shop Drawings must indicate in detail all parts of an item of Work, including erection and setting instructions and engagements with work of other trades or other separate Contractors.
- 2.6.13.7 By the act of reviewing or submitting to County Submittals or Shop Drawings, the Design-Builder represents to County that it has determined and verified availability, field measurements, field construction criteria, materials, catalog numbers, and similar data, or will do so, and that it has checked and coordinated each Submittal and/or Shop Drawing with the requirements of the Work and of the Construction Documents. If any specified material item or part is not available, the Design-Builder must so indicate to County.
- 2.6.13.8 The DP will review and approve Submittals and Shop Drawings and return them to the Design-Builder within 20 calendar days of receipt unless otherwise previously agreed in writing. For scheduling purposes, the Design-Builder must assume a 20-day review period for each Submittal or set of Shop Drawings, and 10 calendar days for resubmittals, except for complex submittals identified by the DP as having significant deficiencies, in which event the resubmittal turnaround time will be within 20 calendar days. If review and approval are delayed beyond 20 calendar days, the DP will notify the Design-Builder and County in writing stating the reason for the delay. Reviews of submittals and shop drawings by the DP are the responsibility of the Design-Builder under this Design-Build Contract and any delays associated with the DP's review are not the responsibility of County. Approval does not relieve the Design-Builder from the responsibility for variances from the drawings and specifications, unless it has been called to the DP's attention, in writing, at the time of submission. Any modification will be approved only if it is in the interest of County to affect an improvement in the Work and does not increase the GMP or Contract Time. Any such modification is subject generally to all other provisions of the Construction Documents and is without prejudice to any and all rights under any surety bond.
- 2.6.13.9 If the DP returns a Submittal or Shop Drawing to the Design-Builder with the notation "rejected", "revise and resubmit", or "approved as noted", the Design-Builder, so as not to delay the Work, will promptly resubmit a Submittal or Shop Drawing conforming to the requirements of the Construction Documents and indicating in writing on the Submittal or Shop Drawing and on the transmittal what portions of the resubmittal have been altered in order to meet with the approval of the DP. Design-Builder will also indicate any other differences between the resubmittal and the prior submittal on the Shop Drawing and on the resubmittal as a special note.

- 2.6.13.10 No extension of Contract Time will be granted to the Design-Builder because of its failure to submit Submittals or Shop Drawings in ample time to allow for review, possible resubmittals, and approval. Fabrication of Work will not commence until the Design-Builder has received written approval. The Design-Builder will furnish prints of its approved Submittals and Shop Drawings to all the Subcontractors whose work is in any way related to those Submittals or Drawings. Only prints bearing this approval will be allowed on the Site.
- 2.6.13.11 The DP will solicit and receive County's review/comments on all submittals/shop drawings within the designated time for the review prior to completing their review and returning to the Design-Builder.
- 2.6.14 PRODUCT SAMPLES, TESTS, AND CERTIFICATES
- 2.6.14.1 The Design-Builder will furnish Product Samples of all items requested or required by the Specifications. Product Samples must be properly identified and submitted with such promptness as to cause no delay in Work or in the work of any other Contractor and to allow time for consideration by County. The DP or County will review Product Samples in accordance with Sections 2.6.13.2 – 2.6.13.11 above.
- 2.5.14.2 Each Product Sample must be accompanied by a letter of transmittal containing the following information:
- a) Date of Submission
  - b) Name of Project
  - c) Location of Project
  - d) Branch of Work (Specification Section Number)
  - e) Project Number
  - f) Name of Submitting Design-Builder
  - g) Name of Subcontractor
- 2.6.14.3 The Design-Builder will furnish the DP a certificate stating that material or equipment submitted by Design-Builder complies with Contract Documents. If a certificate originates with the manufacturer, the Design-Builder will endorse it and submit it to the DP together with a statement of compliance in its own name.
- 2.6.14.4 No tests, inspections or approvals performed or given by County or others acting for County or any agency of Federal, State, or Local government nor any acts or omissions by County in administering this Contract relieve the Design-Builder from its duty to perform the Work in accordance with the Contract Documents and all applicable law or regulation or code.
- 2.6.14.5 Unless the DP is authorized at the time of submittal to return samples at the Design-Builder's expense, rejected samples will be destroyed.
- 2.6.14.6 After delivery of materials by Design-Builder, the DP may make such tests, as it deems necessary, with samples required for such tests being furnished by and at the cost of the Design-Builder. Any test is for the benefit of County and does not relieve Design-Builder of the responsibility for providing quality control measures to assure that the Work strictly complies with the Construction Documents.

No test implies acceptance of materials, Work, workmanship, equipment, accessories or any other item or thing.

- 2.6.14.7 Materials, workmanship, equipment or accessories may be rejected by County on the basis of the test results even though general approval has been previously given. If items have been incorporated in the Work, the DP has the right to cause their removal and replacement by items meeting Construction Document requirements, with the cost therefor being borne by the Design-Builder and not County, or to demand and secure appropriate reparation to or price adjustment for the benefit of County from the Design- Builder.

## 2.6.15 AS-BUILT DRAWINGS

- 2.6.15.1 The Design-Builder shall maintain a set of as-builts on-site that show the changes that have occurred including changes to the following dimensions, product changes, clarifications, RFIs, ASIs, work that is concealed in walls, slabs or ceilings, underground utilities, etc. The as-builts shall be reviewed at a minimum of once a month by the DP.
- 2.6.15.2 Prior to Final Payment, the Design-Builder will complete and turn over to the DP the digital file of the Red Line Drawings kept current at the Project site by Design-Builder. Red Line Drawings will consist of a set of digital drawings that clearly indicate all field changes that were made during contract performance to adapt to field conditions, changes resulting from Change Orders and all buried and concealed installation of piping, conduit and utility services. All buried and concealed items both inside and outside the facility must be accurately located on the Red Line Drawings as to depth and in relationship to not less than two permanent features such as interior or exterior wall faces. The Red Line Drawings must be clean and all changes, corrections, and dimensions will be given in a neat and legible manner in a contrasting color. The DP will use the Design-Builder Red Line Drawings to finalize the As Built Drawings (Record Drawings) which, in turn, will be turned over to County at the end of construction.
- 2.6.15.3 With respect to any changes or corrections in the Work which are made subsequent to Substantial Completion, such revisions must be submitted to the DP for approval prior to Final Payment.
- 2.6.15.4 The DP shall review the Red Line Drawings prior to the acceptance and approval to County by Design-Builder of the monthly payment application to ensure the As-Built Drawings are updated and represent the construction progress of the Project. If the As-Built Drawings do not reflect the current progress the payment application shall not be approved by the DP and County until that are brought up to a satisfactory level.

## 2.6.16 SCHEDULE AND COORDINATION

- 2.6.16.1 The Design-Builder will schedule and coordinate the Work of all of its Subcontractors on the Project including their use of the site. The Design-Builder will keep the Subcontractors informed of the Project CPM Schedule to enable the Subcontractors to plan and perform their Work properly.
- 2.6.16.2 At the time of the submission of the GMP, the Design-Builder will submit to County a detailed CPM Schedule for the Work, which will provide for the expeditious and practicable execution of the Work. The CPM Schedule will be consistent with and build upon any previous schedules issued during the Design and Preconstruction Phase.

The CPM Schedule is not to exceed time limits under the GMP/Contract Documents and must be related to the entire Work to the extent required by the Contract Documents.

- 2.6.16.3 The CPM Schedule required for the performance of the Work will include reasonable detail including a time scaled network and computer printout in accordance with the following requirements:
- a. no activity may be longer than 14 calendar days (i.e. task line-item duration in the CPM Schedule) in length except fabrication and delivery activities;
  - b. each activity must be logically tied to another activity to show its interdependency with other activities;
  - c. installation activities must be logically tied to submittal/approval, fabrication and delivery;
  - d. only a single critical path is allowed; and
  - e. all activities on the schedule must be clearly designated.
- 2.6.16.4 The GMP will prepare and keep current, for the DP and County, a submittal schedule which is coordinated with the Design-Builder's CPM Schedule for the Work and allows the DP and County the specified time to review submittals. The schedule must allow for the review periods and take into account lead times for products and materials.
- 2.6.16.5 The Design-Builder will revise the CPM Schedule monthly to reflect actual conditions in the field and transmit it monthly to County with a copy and a Narrative Report including a description of current and anticipated problem areas, delaying factors and their impact and corrective action taken or proposed. This update is to be submitted to County by Design-Builder with each Application for Progress Payment. County's review of the CPM Schedule update does not relieve Design-Builder of its complete and exclusive control over the means, methods, sequences, and techniques of construction. The monthly updated CPM Schedule will be the basis for the analysis and granting or rejection of time extensions by County in accordance with Section 9 of these General Conditions.
- 2.6.16.6 In addition to the monthly CPM Schedule update, the Design-Builder will also revise its schedule at appropriate intervals as required by the conditions of the Work or as directed by County with an electronic copy of the revision submitted to County in a format acceptable to County.
- 2.6.16.7 The Design-Builder will perform the Work at all times during the Construction Phase within the identified times of the most recent County-approved schedule and consistent with the established Contract Time.
- 2.6.16.8 If the Design-Builder submits an original or updated CPM schedule which shows the Project and/or individual Milestone(s) for the Project completing earlier than required by the adjusted contractual completion date(s), the differences between the forecasted early completion and the required completion will be considered Project-owned float available for use by both County and the Design-Builder.
- 2.6.16.9 Since float time within the CPM Schedule is jointly owned, County will grant no time extensions and will pay no delay damages until a critical path activity delay occurs which extends the Work beyond the adjusted contractual completion date. Since float time within the CPM Schedule is jointly owned, County-caused delays

on the Project may be offset by County-caused time savings which result in a critical path activity savings of time to the Design-Builder. In that event, the Design-Builder is not entitled to receive a time extension or delay damages until all County-caused time savings are exhausted and the applicable contractual completion date or milestone date is also exceeded. The Design-Builder is not entitled to a time extension due to failure by the DP to respond to clarifications in the construction documents, delays in submittal reviews or any other delay attributed to the DP's delay in providing information as part of the Design-Builder Team to keep the construction schedule.

- 2.6.16.10 No time extensions will be granted or delay damages paid unless (1) the delay is clearly demonstrated by the updated CPM Schedule and the current and supporting narrative as of the month the change was issued or occurred, or the delay took place, and (2) the delay cannot be mitigated, offset, or eliminated through such actions as revising the intended sequence of Work or other reasonable or industry recognized means of mitigating schedule slippage.

## **2.7 DESIGN-BUILDER'S RESPONSIBILITY FOR PROJECT SAFETY**

- 2.7.1 Design-Builder recognizes the importance of performing its Work in the safest manner possible so as to prevent damage, injury or loss to (a) all individuals at or in the vicinity of the Work, whether working or visiting the Project; (b) all Work, including materials and equipment incorporated or stored on or off-site; and (c) all property adjacent to the site. On that basis Design-Builder assumes sole responsibility for implementing and monitoring all safety precautions and programs related to the performance of the Work and will submit a Safety Plan in complete form to County at the time of issuance of the Notice to Proceed with the Work. Design-Builder will, prior to commencing construction, designate a safety manager with the necessary qualifications and experience to supervise the implementation of the plan and the monitoring of all safety precautions and programs related to the Work. The safety manager will make routine daily inspections of the Work site and will hold at least weekly safety meetings with Design-Builder's personnel and Subcontractors.
- 2.7.2 Design-Builder and its Subcontractors will comply with all legal requirements relating to safety, as well as any County specific safety requirements set forth in the Contract Documents. Design-Builder will immediately report, in writing, to County's Representative and all government or quasi-government authorities having jurisdiction over matters involving the Work, any injury, loss, damage, or accident occurring at the site of the Work.
- 2.7.3 Design-Builder's responsibility for safety under this Section 2.7 is not intended to relieve Design-Builder's Subcontractors (of any tier) from applicable obligations and responsibilities for complying with all legal requirements, including those related to health and safety matters, and their taking all necessary measures to implement and monitor all safety precautions and programs to guard against injury, losses, damages, or accidents resulting from their performance of the Work.

## **2.8 WARRANTY**

- 2.8.1 Design-Builder warrants to County that the construction, including all materials and equipment furnished as part of the Work, will be new, unless otherwise specified in the Contract Documents; of good quality, in conformance with the Contract Documents; and free of defects in materials and workmanship. Design-Builder's warranty obligation excludes defects caused by abuse, alterations, or unreasonable failure to maintain the Work by persons other than Design-Builder, Design-Builder's subcontractors, or others under Design-Builder's control. Nothing in this warranty by Design-Builder limits any manufacturer's warranty which provides County with greater warranty rights than set forth in this Section 2.8 or the Contract Documents.

- 2.8.2 Design-Builder will provide County with all manufacturers' warranties and Operation and Maintenance Manuals upon the date of Substantial Completion of the Work. Design-Builder will provide County a two-year warranty for all portions of the Work, which warranty commences upon Substantial Completion and acceptance by County of the final phase of the Project. All statutory or other warranties, express or implied, related to latent defects will remain in force and are not limited or superseded by this provision.
- 2.8.3 The Warranties identified herein do not limit or control other remedies available to County at law or their limitation periods, if any.

## **2.9 CORRECTION OF DEFECTIVE WORK**

- 2.9.1 If any portion of the Work is covered over by Design-Builder or its subcontractor contrary to the request of County, or as required by the Construction Documents, or the applicable building standards or codes if requested in writing by County, that Work or portion thereof must be promptly uncovered for observation at the Design-Builder's own expense.
- 2.9.2 If any portion of the Work, other than those portions required to be inspected by County, or others, prior to being covered, has been covered over, County may request that it be uncovered for observation. If such portion of the Work is found to be in accordance with the requirements of the Construction Documents, the cost of uncovering it will be charged to County as a Change Order. If such portion of the Work is found not to be in compliance with the requirements of the Contract Documents, the Design-Builder shall bear such costs to uncover, to remove and replace, or to repair. Unless a specific written waiver of such non-conformance has been provided to the Design-Builder, Design-Builder will promptly correct any Work that is found not to be in conformance with the Contract Documents, whether previously inspected by County's representatives or not. This obligation of Design-Builder continues for a period of two years from the date of Substantial Completion. Nothing in this Section waives any other rights or remedies that County may have under applicable law.
- 2.9.3 Design-Builder, upon receipt of written notice from County that the Work is not in conformance with the Contract Documents, will, within seven days (except in the case of an emergency or an item on the schedule critical path, which will require immediate response) commence correction of such nonconforming Work, including the correction, removal, or replacement of the nonconforming Work and any damage caused to any other parts of the Work affected by the nonconforming Work. In the event Design-Builder fails to commence the necessary corrective steps within seven days of the Notice, County, in addition to any other remedies provided under the Contract Documents, may at the end of the seven-day period commence to correct or cause the correction of such nonconforming Work with its own or other forces. Design-Builder is responsible for all costs and expenses that County incurs in remedying any such Work not in conformance with the Contract Documents, including at County's sole discretion, any of its own staff time costs. County will notify Design-Builder of its intent to make such corrections at or before the commencement of the corrective work.
- 2.9.4 The two-year warranty period referenced in Section 2.8.1 applies only to the Design-Builder's obligation to correct Work not in compliance with the Construction Documents and does not constitute a period of limitations with respect to any other rights or remedies County may have with respect to Design-Builder's other obligations under the Contract Documents. Design-Builder acknowledges that, for purposes of statutes of limitations, County is a body politic and corporate of the State of Arizona acting in its governmental capacity for the general good.

## **SECTION 3 – DESIGN-BUILDER'S DESIGN SERVICES AND RESPONSIBILITIES**

In addition to the Design-Builder Design Responsibilities outlined in Section 2,

- 3.1 The Design-Builder Design Professional will be the initial interpreter of the intent and requirements of the Construction Documents. The DP will render written initial interpretations with reasonable

promptness following a written request from County or the Design-Builder. These initial interpretations will be consistent with the intent of the Contract Documents.

- 3.2 The DP will timely review and approve or take other appropriate action upon the Design-Builder's submittals, such as Shop Drawings, Product Data and Samples, for conformance with the Construction Documents. The DP will take such action with reasonable promptness as specified so as to cause no delay. The DP's approval of a specific item or component does not indicate approval of an assembly of which the item is a component.
- 3.3 Following consultation with County, the DP will take appropriate action on issuance of Change Orders and may authorize minor changes in the Work as defined in Section 10.3.
- 3.4 The DP and County each have authority to reject Work which does not conform to the Contract Documents and to require special inspection or testing but may take such action only after consultation with the other. However, neither the authority to act given to the DP and County under this subparagraph nor any decision made by them in good faith either to exercise or not exercise such authority gives rise to any duty or responsibility by them to the Design-Builder, any Subcontractor, any of their agents or employees, or any other person performing any of the Work.
- 3.5 Based on its observations of the Work and evaluation of applications for payment, County or County's designee will have the responsibility to approve the amounts owing the Design-Builder from time to time under and in accordance with Section 7 of these General Conditions and applicable law.

#### **SECTION 4 COUNTY'S SERVICES AND RESPONSIBILITIES**

In addition to its responsibilities outlined in Section 2,

- 4.1 County will, throughout the performance of the Contract, cooperate with Design-Builder and perform its responsibilities, obligations and services in a timely manner so as not to delay or interfere with Design-Builder's performance of its obligations under the Contract Documents.
- 4.2 County's Representative is responsible for processing and delivery of County-supplied information and approvals or rejections in a timely manner to permit Design-Builder to fulfill its obligations under the Contract Documents. County's Representative will also provide Design-Builder with reasonably prompt notice if and when it observes any failure on the part of Design-Builder to fulfill its contractual obligations, including errors, omissions, or defects in the Design-Builder's performance of its Work. Failure of County or its representatives to notify the Design-Builder hereunder will not alter the duties and obligations of Design-Builder under the Contract Documents.
- 4.3 County will provide reviews and approvals or rejections of the Design-Builder's cost estimate portion of the Design Submission within three weeks of receipt of those documents. County will review documents submitted by the Design-Builder and render any decisions pertaining thereto without unreasonable delay.
- 4.4 County is responsible for all Work performed at the Project by parties under County's control other than Design-Builder. County will contractually require such parties to cooperate with and coordinate their activities with Design-Builder so as not to unreasonably interfere with Design-Builder's ability to complete the Work in a timely manner, consistent with the Contract Documents.
- 4.5 County will interact and cooperate with the Design-Builder to keep the Work within the portions of the Project Budget or GMP, as may be applicable, including but not limited to giving appropriate and reasonable consideration to all reasonable recommendations of the Design-Builder, approving redesign, deductive alternatives or reductions in the Work, consideration of any requested additional Value Engineering, making modifications to the Contract Documents, or exercising such other rights or remedies as may be available elsewhere under this Contract including termination



for convenience. If at any time, it is apparent that the cost of the Work cannot be kept within the Project Budget or GMP, County may terminate this Contract in accordance with the termination for convenience provisions set forth below.

- 4.6 The DP acting through the Design-Builder, will furnish County a sufficient quantity of documents and information required for the Design-Builder's performance of its Design and Preconstruction Services.

## **SECTION 5 – HAZARDOUS MATERIALS AND UNFORESEEN PROJECT SITE CONDITIONS**

### **5.1 HAZARDOUS MATERIALS**

- 5.1.1 Design-Builder is solely responsible for properly removing and disposing of any Hazardous Materials in the Project identified as such in the Contract Documents by County. Design-Builder, upon encountering any Hazardous Materials not identified in the Contract Documents, will stop work immediately in the affected area and notify County and, if required by applicable rules, all governmental or quasi-governmental entities with jurisdiction over the Project. County has responsibility to take the necessary measures required to properly remove and dispose of Hazardous Materials not identified in the Contract Documents as being the responsibility of the Design-Builder.
- 5.1.2 Design-Builder will be entitled, in accordance with the provisions of these General Conditions, to an adjustment in the GMP or Contract Time(s) of performance, or both, to the extent that the Design-Builder's costs or time of performance have been adversely and materially impacted by the presence of unforeseen or undisclosed Hazardous Materials.
- 5.1.3 County is not responsible for Hazardous Materials introduced to the site by Design-Builder, Design-Builder's Subcontractors (at any tier), or anyone else for whom the Design-Builder is responsible unless the Contract Documents explicitly call for either the provision or removal of the specific Hazardous Materials.
- 5.1.4 Design-Builder will indemnify, defend, and hold harmless County and others under County's control, and the officers, directors, employees and agents of each of them, from and against all claims, losses, liabilities, costs and expenses, including but not limited to attorney's fees and expenses, arising out of or resulting from Design-Builder's importation, improper handling, storage, abatement, removal, remediation, or disposal of any Hazardous Materials.
- 5.1.5 Upon any release of any Hazardous Material in connection with the Work, whether relating to a pre-existing condition or to acts or omissions of Design-Builder, Design-Builder will take immediate action reasonably necessary to contain the release and if the Hazardous Material release is not a Design-Builder release, County will pay Design-Builder the reasonable costs incurred by Design-Builder in taking such containment action. County may elect to have Design-Builder control and carry out any removal and remediation activity needed, provided that if the release is not a Design-Builder release, County will be responsible to pay Design-Builder for such Design-Builder removal and remediation activities in accordance with the Change Order provision set forth in Section 10.4 of these General Conditions, including allowance of additional Contract Time.

### **5.2 UNFORESEEN PROJECT SITE CONDITIONS**

- 5.2.1 If Design-Builder encounters, during the performance of the Work, concealed or latent physical conditions or subsurface conditions at the Project which (a) materially differ from the conditions indicated in the Contract Documents; or (b) are of an unusual nature which differ materially from the conditions ordinarily encountered and generally recognized as inherent in the sort of work provided for in the Contract Documents, Design-Builder will immediately provide written notice to County apprising County of the unforeseen conditions encountered.

Design-Builder will not disturb or modify such conditions without County's prior written consent. County will promptly investigate Design-Builder's notice of an unforeseen site condition and advise Design-Builder of its findings and determination.

- 5.2.2 If County determines that the conditions encountered by Design-Builder under Section 5.2.1 are an unforeseen Project site condition, Design-Builder will be entitled, in accordance with the provisions of these General Conditions, to an adjustment in its GMP or Contract Time(s) of performance, or both, to the extent that Design-Builder's cost or time of performance have been adversely impacted by the unforeseen conditions. Adjustments to GMP will be for the actual direct cost impact incurred by Design-Builder to address and resolve the unforeseen conditions.
- 5.2.3 County will not consider or allow any claim by the Design-Builder for an increase in the GMP or in Contract Time(s) without compliance with the advance notice requirement set forth above, submission of verifiable documentation of specific direct cost impact, and an adequate opportunity for County to investigate. Extensions of Contract Time(s) will be considered and allowed only when based upon submission of an updated CPM Schedule and supporting narrative showing an actual unavoidable delay to the Project Critical Path due to the unforeseen Project Site Conditions.
- 5.2.4 In no event will the Contract Time or GMP be adjusted for conditions that Design-Builder could or should have identified through past work or its investigations or survey of existing conditions prior to submission and establishment of the GMP and the GMP Schedule.
- 5.2.5 If County determines Design-Builder has no entitlement to an adjustment in GMP or Contract Time for what Design-Builder contends is an unforeseen Project Site Condition, Design-Builder may only proceed in pursuit of its position or claim in accordance with the Dispute Resolution provisions of the Contract.

### **5.3 ARCHAEOLOGICAL CONDITIONS:**

If in the course of performing the Work, the Design-Builder, any subcontractor, or other persons or entities under the control of Design-Builder, encounter any Native American burial site or other archaeological artifacts, Design-Builder will immediately notify County and suspend any Work or activity in the vicinity of the burial site or artifact. County will determine with reasonable promptness what action, if any, needs to be taken and advise Design-Builder how to proceed or adjust the Work. Any claim for adjustment in Contract Time or GMP will be handled under Section 5.2.2 above.

## **SECTION 6 – RESERVED**

## **SECTION 7 – PAYMENT**

### **7.1 GUARANTEED MAXIMUM PRICE, SAVINGS.**

- 7.1.1 County will pay the Design-Builder for the Design-Builder's performance and the Design-Builder accepts the Design and Preconstruction Phase Fee in full payment for Preconstruction services, and the Actual Cost of Work (as defined in Appendix B hereto) plus the Construction Phase Fee for construction services, provided, however, that the amount paid to Design-Builder will not exceed the GMP as originally fixed or as adjusted from time to time as provided in these General Conditions.
- 7.1.2 Savings will be calculated and paid upon Final Completion of the Work. One hundred percent of all savings will be allocated to County. Savings returned to County will not include return of Construction Phase Fee for the amount of the savings but will include an appropriate percentage of bonds and insurance premiums and taxes attributable to the savings amount. One hundred percent of allocations to GMP for allowance and contingency items that remain unused upon Final Completion will be returned to County.

## **7.2 SCHEDULE OF VALUES.**

- 7.2.1 Before issuance of the Notice to proceed and commencement of the Work in the Construction Phase, the Design-Builder will submit to County, and County and the Design-Builder shall agree upon, a complete Schedule of Values on the items constituting the GMP following the sample outline in **Appendix B**, setting forth the various portions of the Work, and the portions of the GMP allocated to each portion of the Work. This Schedule of Values will also be the basis for payment as the Work progresses. Those portions of the Schedule of Values allocable to Work to be performed by Subcontractors of the Design-Builder will be finalized as and when the Subcontracts are executed. All estimated construction costs not specifically allocated to a Subcontract (including Work self-performed) or to Construction General Conditions will be allocated to "Bidding Contingency" and will, upon approval of County, be available for later use by the Design-Builder as Construction Contingency, for reallocation to other line items as provided for in these General Conditions.

## **7.3 APPLICATIONS FOR PROGRESS PAYMENTS.**

- 7.3.1 Design-Builder will deliver to County (or such other person as is designated by County) on the last day of each month a sworn application for progress payment in the format specified by County. Each such application for payment will be based on the Schedule of Values and be in an amount determined by the percentage of completion of the Work in the month being billed. It will show the percentage of completion of each category of the Work performed in the billing period. The payment application must be accompanied (as separate documents) by (a) an updated CPM Schedule and narrative schedule update report as provided for herein; and (b) conditional lien waivers from each subcontractor or supplier entitled to progress payment thereunder. In addition, the Design-Builder will provide the following documentation upon specific request by County: (a) a written accounting in a form agreed by Design-Builder and County of the actual cost of the Work completed; (b) a report by Design-Builder on Subcontractor buy-out status, contract sums, and subcontractor pay applications; (c) a copy of job cost ledger; (d) a copy of timecards for all employees charged to the Project; and (e) a copy each of Construction General Conditions invoices and purchase orders for the time periods periodically requested by County.
- 7.3.2 The Design-Builder Construction Phase Fee and the Construction General Conditions will be paid monthly by County, in accordance with the percentage of completion of the Work. The amount approved by County and paid for progress achieved in the month billed for is not final acceptance of the Work and is subject to final adjustment at the time of Final Acceptance and Final Payment. At no time may the cumulative value of past progress payments plus the current requested progress payment on any pay application exceed the GMP as it may be adjusted under these General Conditions.
- 7.3.3 County, within seven days after receipt of Design-Builder's application for progress payment, and no later, will either issue (a) a certificate of approval for payment of such amount as is invoiced in the payment application; or (b) specific written findings setting forth those items in detail in the estimate of the Work in the pay application that are not approved for payment under the Contract. All items in the payment application are considered approved that are not made the subject of the written detailed finding of non-approval.
- 7.3.4 County may withhold an amount from the progress payment to be made for the time period billed for a sufficient sum to pay the expenses that County reasonably expects to incur in correcting the deficiencies set forth in the written finding issued by County as to the items not approved for payment.

## **7.4 PAYMENT AND RETAINAGE.**

- 7.4.1 The DP shall review the payment application with County prior to approving to verify that the work completed is consistent with the percentage identified in the payment application, stored

materials documentation is provided to County, and retention amounts are accurate. Within 14 days following the receipt of the DP certificate of approval for payment and the written detailed findings of items not approved, if any, County will pay the amount due on the progress payment application to the Design-Builder. Payment will be limited to 90% of the value approved of the Construction Work in place and for materials suitably stored in accordance with Section 7.6.1, below, of these General Conditions during the month being billed. County will retain the remaining 10% until the Contract is 50% complete, at which time County may, in its sole discretion, reduce the retainage to 5%; provided that: (a) the Design-Builder is making satisfactory progress on the Contract; and (b) in County's sole judgment, there is no specific cause or claim requiring a greater amount than 5% to be retained. Thereafter, County will pay the Design-Builder 95% of the value of the Construction Work and materials on approved progress billings, unless and until County determines, in its sole discretion that satisfactory progress is not being made, at which time County may reinstate 10% retainage. Such 10% reinstatement is equal to 10% of the total Contract value of Construction Work in place and materials stored. County's determinations concerning the satisfactory progress of the Work for retainage adjustment purposes is final.

- 7.4.2 Within 60 days after the issuance of the Certificate of Final Completion by the DP and receipt by County of all other documents required from Design-Builder by the Contract Documents, County will pay all retained amounts to Design-Builder as part of Final Payment, provided, however, (a) the Final Payment is not due from County until the Design-Builder delivers full and final unconditional lien releases in statutory form from all Subcontractors and major Suppliers (any claim filed thereafter is the responsibility of the Design-Builder), and (b) if any claim remains unsatisfied after all payments are made by County, the Design-Builder will immediately, upon demand, refund to County all monies that County may be compelled to pay in discharging such unsatisfied claims including all costs, interest, and attorneys' fees.

## **7.5 EARLY RELEASE OF SUBCONTRACTOR RETAINAGE.**

If a Subcontractor has completed its portion of the Work (including all Punch list items) pursuant to its Subcontract, the Design-Builder may ask County to disburse the amount of Retainage allocable to such Subcontractor after delivering to County, when required by County, consent to such disbursement from such Subcontractor's surety, in a form satisfactory to County, and a final lien release from the Subcontractor. If County is satisfied that the Subcontractor's Work has been fully and finally completed in accordance with the Contract Documents, County may disburse said Retainage to Design-Builder for payment over to the Subcontractor. However, the two-year warranty period with respect to such Subcontractor Work will not commence until Substantial Completion of the entire Project.

## **7.6 PAYMENT FOR ON-SITE AND OFF-SITE MATERIALS.**

County will make progress payments when due to Design-Builder on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. County may similarly make payment to Design-Builder for materials and equipment suitably stored off the site, conditioned upon the Design-Builder furnishing satisfactory evidence to County that (a) title to the materials and equipment will pass to County upon payment for same;

(b) there are no claims of third parties; (c) the materials and equipment are adequately insured for full replacement value plus delivery; and (d) such other matters as County may reasonably request in order to protect its interests.

## **7.7 OWNERSHIP OF CONSTRUCTION WORK.**

- 7.7.1 The Design-Builder warrants that title to all Construction Work included in an Application for Progress Payment will pass to County no later than the time of payment therefor. The Design-

Builder further warrants and represents to County that upon submittal of an Application for Payment, all Construction Work for which Applications for Payment have been previously issued and payments received from County will, to the best of the Design-Builder's knowledge, information and belief, be free and clear of liens, claims, security interests, or encumbrances in favor of the Design-Builder, its Subcontractors, material suppliers, or other persons or entities making a claim by reason of having provided labor, materials, and equipment relating to the Work.

- 7.7.2 As a condition precedent to Final Payment from County the Design-Builder will provide unconditional waivers of lien in statutory form from all Subcontractors, material suppliers, and other persons or entities having provided labor, materials and equipment relating to the Work.

## **7.8 SUBSTANTIAL COMPLETION.**

When the Design-Builder believes the Work, or a portion thereof which County wants and agrees to accept separately, is Substantially Complete, the Design-Builder will notify County and will submit to County a comprehensive list of items to be completed or corrected as to that Work or all Work. Within five working days of receipt of the Design-Builder's notice and list, County, the DP, and Design-Builder will jointly inspect the Project to determine whether Substantial Completion has in fact occurred. If County determines that the Work, or the relevant portion thereof, is Substantially Complete, County will issue the Punch List and the Certificate of Substantial Completion stating the date of Substantial Completion, which certificate will be executed by County and the Design-Builder. The Design-Builder will thereupon proceed promptly to complete or correct Punch List items. Failure to include an item on the Punch List does not alleviate or alter the responsibility of the Design-Builder to complete all Work in accordance with the Contract Documents.

## **7.9 FINAL COMPLETION AND FINAL PAYMENT**

- 7.9.1 Completion of all outstanding Work items noted in the Substantial Completion "Punch List" for the entire Work, or relevant portion thereof, and other Contract requirements are necessary for County to certify Final Completion. Requirements for this certification also include, but are not limited to, completion of equipment operating training for County and the submission and approval by County of (a) all Record and Close Out Documents; (b) copies of all Construction General Conditions and Purchase Orders not previously provided; and (c) all required reports.
- 7.9.2 Neither Final Payment nor any final release of Retainage become due until such time as Design- Builder submits all of the following to County:
- a. An affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which County or County's property might be responsible or encumbered (less amounts withheld by County) have been paid or otherwise satisfied by Design-Builder;
  - b. A certificate evidencing that insurance required by the Contract Documents to remain in force after Final Payment is currently in effect and will not be canceled or allowed to expire until at least 60 days' prior written notice has been given to County;
  - c. Consent of Sureties to final payment;
  - d. Unconditional waivers of lien in statutory form from all Subcontractors, material suppliers, and other persons or entities having provided labor, materials, and equipment relating to the Work;

- e. If required by County, other data establishing payment or satisfaction of obligations, such as receipts; releases; and waivers of liens, claims, security interests, or encumbrances arising out of the Contract Documents;
- f. All Project warranty documents;
- g. Final Subcontractor List;
- h. All approved Submittals and Shop Drawings (electronic copy);
- i. Schedule of Required Maintenance;
- j. Operation and Maintenance Manuals (electronic and hard copies);
- k. As-Builts (electronic copies, hard copies and BIM Model, if any);
- l. Any required County training provided by Design-Builder;
- m. State Fire Marshal and State Elevator Inspection approvals and certificates received, if applicable;
- n. Commissioning completed and reports received, if applicable; and
- o. Any other items identified by County, and agreed to by Design-Builder in Contract Documents, to be received by County.

7.9.3 If, after Substantial Completion of the Project has been achieved, Final Completion is materially delayed through no fault of the Design-Builder, or by the issuance of additional Change Orders by County, County may at its sole discretion, upon request of the Design-Builder, and without terminating the Contract, make payment to Design-Builder of the balance due for that portion of the Work fully completed. If the remaining balance for Work not fully completed is less than the Retainage, and if bonds have been furnished, the written consent of surety to payment for that portion of the Work fully completed must be delivered by the Design-Builder to County, and such payment will be made under the terms and conditions governing Final Payment, except that such payment does not constitute a waiver of claims by either the Design-Builder or County.

7.9.4 Acceptance of Final Payment by the Design-Builder constitutes a waiver of all affirmative claims by the Design-Builder in connection with the Contract and construction of the Project. Final Payment by County constitutes a waiver of claims by County, except those arising from (a) liens, claims, security interests, and encumbrances arising out of the Work after final payment; (b) latent defects which County becomes aware of after Final Payment; or (c) the terms of warranties required by the Contract Documents and other rights provided under applicable law.

## **7.10 ALLOWANCES.**

The Design-Builder will include in the GMP all allowances required by County. Items covered by allowances will be supplied for such amounts and by such persons or entities as County may direct, but the Design-Builder is not required to employ persons or entities against which the Design-Builder makes reasonable objection. Unless otherwise provided in the Contract Documents:

- a. County will select materials and equipment under an Allowance within a reasonable time frame as defined in County-approved Project CPM Schedule;
- b. Allowances will cover the cost to the Design-Builder of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;

- c. Allowances will not include professional or construction fees, Construction General Conditions, bond and insurance premiums;
- d. Allowances will cover Design-Builder's costs for unloading and handling at the site, labor, installation costs and other expenses;
- e. Whenever costs are more than or less than Allowances, the GMP may be adjusted accordingly by Change Order in accordance with provisions of Section 10. The amount of the Change Order will reflect the difference between Actual Costs and the Allowances plus Fee on such difference in accordance with Section 10 hereof if the Actual Costs are greater than the allowances.

## **7.11 CONTINGENCIES.**

### **7.11.1 Bidding Contingency**

7.11.1.1 The GMP contains a line item for a "Bidding Contingency". The Bidding Contingency, upon approval of County, is for the Design-Builder's use and will be increased by amounts not expended on other line item bid packages and will decrease by additional amounts required to be expended on other line item bid packages. Following completion of all contract execution by subcontractors (Project buy-out), Bidding Contingency becomes Construction (Design-Builder) Contingency and Design-Builder may use this Construction (Design-Builder) Contingency for legitimate unforeseen construction expenses, subject to County's review and approval. Design-Builder will submit detailed monthly reports to County indicating how the Construction (Design-Builder) Contingency was used in the reporting period, and the status of the Construction (Design-Builder) Contingency. County has the authority to reject any use of the Construction (Design-Builder) Contingency after it has been submitted if County believes, in its reasonable judgment, that some or all of the amount included in the use of the Construction (Design-Builder) Contingency is not a legitimate expense for the Project. Upon County's rejection of a Construction (Design-Builder) Contingency use, the Design-Builder will thereupon credit the Construction (Design-Builder) Contingency amount back to the Construction (Design-Builder) Contingency in the next subsequent payment request. Any amounts remaining in Bidding / Construction (Design-Builder) Contingency at Final Completion are Savings and will be allocated to County. Should the Bidding / Construction (Design-Builder) Contingency be exhausted prior to award of all the bid packages, any subsequent overruns in bid package costs will be the Design-Builder's sole responsibility, with no additional compensation due therefor from County.

7.11.1.2 Total Bidding Contingency will be determined pending mutual agreement by County and Design-Builder per GMP.

7.11.1.3 Upon award of each Bid Package, the difference between the Design-Builder's estimated Cost of the Work contained within the Bid Package, exclusive of contingency, versus the actual award cost thereof as determined by the bidding and award of the package will be promptly calculated. If the award cost exceeds the Design-Builder's estimated cost in the GMP, any necessary portion of the Bidding Contingency identified in subparagraph 7.11.1.2 above will be applied, subject to County's approval, to cover any overrun, and any underrun amount will be used to increase the Bidding Contingency.

7.11.2 Design-Builder will include in all subcontracts an explicit requirement that Change Orders between Design-Builder and the subcontractors will be priced consistently with the requirements of Section 10 of these General Conditions, with adequate itemized Change

Order pricing regardless of whether or not there is a comparable Change Order between Design- Builder and County. In addition, Design-Builder will retain, and make available to County upon request, all bid documents including requests for proposals, requests for quotes, and bid responses from both successful and unsuccessful bidding subcontractors.

## **SECTION 8 – INDEMNIFICATION**

### **8.1 PROPRIETARY RIGHTS, PATENT AND COPYRIGHT INFRINGEMENT**

- 8.1.1 Design-Builder will defend any action or proceeding brought against County based on any assertion or claim that the Work, or any part thereof, or the operation thereof or use of the Work or any part thereof, constitutes infringement of any proprietary rights or United States patent or copyright, now or hereafter issued. County agrees to give prompt notice in writing to Design-Builder of any such action or proceeding and to provide authority, information and assistance in the defense of same. Design-Builder will indemnify and hold harmless County from and against all damages and costs, including attorney's fees, awarded against County or Design-Builder in any such action or proceeding. Design-Builder further agrees to keep County informed of all developments in the defense of such actions or proceedings.
- 8.1.2 In the event that County is enjoined from the operations or use of the Work, or any part thereof in connection with any proprietary rights, patent suit, claim, or proceeding, Design-Builder will at its sole expense take reasonable steps to procure the right or license to operate or use the Work. If Design-Builder cannot so procure the aforesaid right within a reasonable time, Design-Builder will then promptly, at Design-Builder's option and at Design-Builder's expense (a) modify the Work so to avoid infringement of any patents, or copyrights; or (b) replace said Work with Work that does not infringe or violate any such proprietary rights, patent, or copyright.
- 8.1.3 Sections 8.1.1 and 8.1.2 above do not apply to any action or proceeding based on infringement or violation of a proprietary right, patent, or copyright (a) relating solely to a particular process or the product of a particular manufacturer specified by County and such processes or products are something other than that which has been offered or recommended by Design-Builder to County; or (b) arising from modifications to the Work by County or its agents after acceptance of the Work.
- 8.1.4 Design-Builder's warranty and indemnification obligations survive expiration or termination of this Contract unless otherwise specifically stated.
- 8.1.5 The obligations set forth in this "Proprietary Rights, Patent and Copyright Infringement" section constitute the sole agreement between the parties relating to liability for infringement or violation of any proprietary rights, patent or copyright.

### **8.2 GENERAL INDEMNITY**

To the fullest extent permitted by law, Design-Builder will defend, indemnify, and hold harmless Pima County and any related taxing district, and the officials and employees of each of them (collectively, "Indemnitee") 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 Design-Builder or any of Design-Builder'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 Design-Builder to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. The Indemnitee will, in all instances, except for Claims arising solely from the acts or omissions of the Indemnitee, be indemnified by Design-Builder from and against any and all Claims. Design-Builder 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.



### **8.3 CUMULATIVE RIGHTS**

The rights of indemnification in this Section 8 are cumulative and in addition to any other rights of indemnification under this Contract. Nothing in this Section 8 limits or otherwise impairs any other right of indemnification in this Contract.

### **SECTION 9 – TIME AND DELAY**

- 9.1.1 All time limits set forth in the Contract Documents for performance are of the essence of this Contract. Design-Builder agrees that it will commence performance of the Work, achieve Substantial and Final Completion of the entire Project, and achieve any interim Milestones for Substantial and Final Completion in compliance with all contractual time requirements.
- 9.1.2 Time is of the essence of each and every part of the Contract Documents and of the Specifications wherein a definite and certain length of time is fixed for the performance of any act or activity whatsoever. Where, under the Contract Documents, additional time is allowed for the completion of any Work, the new time limit fixed by such extension is also of the essence of this Contract.
- 9.1.3 Failure of the Design-Builder to achieve the completion dates for Substantial or Final Completion set forth in the Contract will result in the assessment of Liquidated Damages as required by the Contract. Design-Builder will pay the per diem amount for Liquidated Damages provided for in the Contract for each and every calendar day that the Design-Builder is not in full compliance with the time(s) stipulated in the Contract for completing the Work. The Liquidated Damages per diem amount is fixed and agreed upon by and between the Design-Builder and County because of the impracticality and extreme difficulty of fixing and ascertaining the actual damages County would in such event sustain. County may withhold any such sums from Final Payment due hereunder or from retainage.
- 9.1.4 If Design-Builder is delayed in the performance of the Work and such delay actually and directly delays the timely achievement of a critical path activity, element, or component, based upon an analysis of the current CPM Schedule due to acts, omissions, conditions, events, or circumstances beyond its reasonable control or prevention and due to no legal fault of its own or those for whom Design-Builder is responsible under the terms of the Contract Documents, the time for Substantial Completion of the Work, and to the extent applicable, any interim milestones or Substantial Completion dates for portions of the Work will be extended by written Change Order for the amount of time attributable to such events or circumstances. By way of example only, such acts, omissions, conditions, events, and circumstances which would entitle Design-Builder to an extension of the Contract Time(s), include acts or omissions of County, or anyone under County's control, including changes made by separate contractors in the Work by County, unforeseeable Project site conditions, wars, floods, labor disputes, unusual delay in transportation, and unusually adverse weather conditions.
- 9.1.5 The Design-Builder has included a specified number of days of weather-related delays within the CPM Schedule which County has approved, and that number of days is incorporated herein by reference. If the Project experiences weather-related delays beyond the contractually specified number of weather days, the Design-Builder is entitled to a commensurate extension of time.
- 9.1.6 Design-Builder is entitled to an appropriate adjustment of its GMP for extended Construction General Conditions only for mutually determined delays directly caused by the actions, omissions, or inactions of County and upon proof of the actual, direct additional cost to the Design-Builder for such delays.
- 9.1.7 Design-Builder will provide notice of any delay in performance of the Work that Design-Builder attributes to County in writing to County immediately but in no event later than 24

hours after discovery of the event giving rise to the delay. The Design- Builder will then provide additional details concerning the delay in writing to County within 7 calendar days from the delay notice. Failure to satisfy each of these time requirements will absolutely bar any and all later delay claims. The detailed notice will indicate the cause of the delay, the anticipated length of the delay in reasonable detail, the probable effect of such delay upon the progress and Cost of the Work, and possible mitigation plans. If the cause of the delay is ongoing, the Design-Builder must give further detailed notice every month at the same time it submits the updated progress Narrative Report to County.

- 9.1.8 Design-Builder will, upon discovering an event giving rise to a delay, as promptly as possible, make all reasonable efforts to mitigate the impact of the delay.
- 9.1.9 Within 15 calendar days after elimination of any such delay, the Design-Builder will, unless the time is extended in a Change Order approved by County, submit further documentation concerning the delay and, if appropriate, a formal written request requesting an extension of time for such delay and any compensation sought for the delay. The written request for time extension will state the cause of the delay, the number of days of extension requested and the compensation sought and provide a fully documented analysis of the Progress Schedule, including any data demonstrating a delay in the critical path of the Work or individual milestone or the overall Project completion. If the Design-Builder does not timely comply with the notice and documentation requirements set forth in this Section 9.1.9, the Design-Builder's claim for delay is barred.
- 9.1.10 In the event the Design-Builder gives notice to County of compensable delay alleging that County is responsible for the delay as to which the notice was given and the delay is unreasonable under the circumstances and was not within the contemplation of County and Design-Builder when they entered into the Contract, County will enter into negotiations with Design-Builder as to Design-Builder's damages, if any.

## **SECTION 10 – CHANGES TO THE CONTRACT PRICE AND TIME**

### **10.1 CHANGES**

- 10.1.1 After the Contract is signed, modifications to the Contract, including any changes to GMP, the Contract Time(s) or Scope of Work, may only be made by a written Contract Amendment or written Change Order.
- 10.1.2 The Design-Builder will not proceed with the Work on any change involving an increase or decrease in cost or time without prior approval of the Change Order or Contract Amendment by the Board of Supervisors or the Procurement Director, as required by Section 11.16.010(C) of the Pima County Procurement Code. If the Design-Builder proceeds with any change involving an increase or decrease in cost or time without written authorization from County as required by this paragraph, the Design-Builder hereby waives all rights or claims Design-Builder may have in connection with or as a result of the change.
- 10.1.3 County's right to make changes in the Work will not invalidate this Contract, relieve the Design-Builder of any responsibility, or require County to give notice to the Surety. Any requirement of notice to the Surety of a change in the Work is the sole responsibility of Design-Builder.
- 10.1.4 A Contract Amendment or Change Order is a written instrument issued after execution of the Contract signed by County and Design-Builder, stating their agreement upon all of the following:
  - a. The scope of the change in the Work;

- b. The amount of the adjustment, if any, to the GMP; and
- c. The extent of the adjustment, if any, to the Contract Time(s) for performance set forth in the Contract Documents.

10.1.5 All changes in the Work authorized by a Contract Amendment or Change Order will be performed under the applicable terms of the Contract Documents, and County, and Design-Builder will negotiate in good faith and as expeditiously as possible on the appropriate adjustments, if any, in Contract Time or GMP. No GMP adjustment on account of a Change Order will include the Design-Builder's or Subcontractor's profit, fee, home office overhead, or a formula allocation of indirect costs except as allowed in Section 10.3.1 below unless otherwise specifically allowed under these General Conditions.

## **10.2 MINOR CHANGES IN THE WORK**

10.2.1 County may make minor changes in the Work consistent with the intent of the Contract Documents providing such changes do not involve an adjustment in the GMP or Contract Time(s) of performance and do not materially affect or alter the design, quality, or performance. The DP will promptly inform County, in writing, of any such changes, and verify that Design-Builder has recorded such changes on the As-Built Documents.

## **10.3 PRICE, TIME, OR SCOPE OF WORK ADJUSTMENT**

10.3.1 The cost of or credit to County resulting from a change in the Work will be determined in one or more of the following ways:

- a. By unit prices stated in the Contract Documents;
- b. By cost, as defined below, and described in Appendix C, properly itemized and supported by sufficient data reduced to meaningful unit prices for each assembled component of the Work in order to facilitate evaluation. Such costs will be itemized by crafts as defined within the Schedule of Values, submitted in a format approved by County, and limited to items directly allocable to the change in the Work:
  - 1) Cost of materials, including delivery;
  - 2) Cost of labor, fully burdened, including, but not limited to, payroll taxes, social security, old age and unemployment insurance, vacation and fringe benefits required by contract or routinely paid by Design-Builder, and workers' compensation insurance but excluding Subcontractor's labor;
  - 3) Rental value of equipment and machinery to be established by rental receipts and not to exceed reasonable and customary rates for the locale of the Work. For owned equipment, Design-Builder must prove reasonable rental rate pursuant to actual ownership costs. County will not pay for equipment idle time unless the equipment is engaged in County- authorized force account or other time and materials work, and then only for the time it is engaged in such work. When the authorized force account or time and materials work is completed or the equipment ceases to be used for that work, payment for idle time stops;

- 4) As a guideline, on a not-to-exceed ("NTE") percentage of Direct Construction Cost only basis, the following overhead, general conditions and fee percentages will be utilized, and will be fixed as a dollar amount, unless otherwise established in the Contract, or otherwise mutually agreed upon and documented in the Change Order description:

Subcontractor Fee (profit):	5%
Subcontractor Overhead & General Conditions, NTE:	10%
Total Subcontractor Markups, NTE:	15%

Design-Builder Fee (profit), approximately or as per Design-Builder Contract:	5%
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Design-Builder Overhead & General Conditions, NTE or as per Design-Builder Contract:	5%
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Total Design-Builder Markups, NTE:	10%
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- 5) The Contract may include provisions for some situations where larger amounts of Overhead and General Conditions are needed to address extenuating site-related circumstances. However, the combined total fee, Profit, Overhead and General Conditions, including the Design-Builder and all levels or tiers of subcontractors, will not exceed twenty-five percent (25%) of the total direct costs of materials, labor, rental equipment, and subcontractor insurance and bonds.

- c. Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to facilitate evaluations; provided that such lump sum will not exceed that amount calculated under (b) above.

- 10.3.2 Any dispute regarding the pricing methodology or cost of a change does not relieve the Design-Builder of the obligation to proceed with work on the change. Any such dispute will be preserved by inclusion in the Change Order or Contract Amendment.
- 10.3.3 A County-approved written Contract Amendment or Change Order is full and final settlement of all entitlement claims for direct, indirect, delay, disruption, inefficiency, productivity, and any other consequential costs related to items covered or affected, as well as for related delays. Design-Builder irrevocably waives any such claim not presented for inclusion in the Contract Amendment or Change Order prior to signature.
- 10.3.4 In the event that County and the Design-Builder disagree upon whether Design-Builder is entitled to be paid for any Change Order services required of Design-Builder by County, or as to amount of compensation in the event of any other disagreement over the Scope of Work or proposed changes to the Work, County and Design-Builder will resolve all such disagreements consistent initially with Section 10 of these General Conditions and thereafter if not resolved, in accordance with the Dispute Resolution provisions of the Contract. As part of the negotiation process, Design-Builder will furnish County with a good faith estimate of the costs to perform the disputed services or Work in accordance with County's interpretations. If the parties are unable to agree, and County expects Design-Builder to promptly perform the services in accordance with County's or DP's interpretations of the documents, Design-Builder will proceed to perform the disputed services, conditioned upon County issuing a written order to Design-Builder directing Design-Builder to proceed and specifying County's interpretation of the services that are to be performed.

- 10.3.5 The requirements set forth above as to Design-Builder providing detailed, itemized pricing on subcontractor Change Orders is fully applicable to Change Orders from Design-Builder to subcontractor where there is no comparable Change Order between County and Design-Builder.

#### **10.4 EMERGENCIES**

In any emergency affecting the safety of persons or property, Design-Builder will promptly act, at its discretion, to prevent threatened damage, injury or loss. Any increase in the Guaranteed Maximum Price or Contract Time(s) of performance or both claimed by Design-Builder on account of emergency work will be determined as provided in this Section.

### **SECTION 11 – STOP WORK AND TERMINATION**

#### **11.1 COUNTY’S RIGHT TO STOP WORK OR TERMINATE FOR CONVENIENCE**

- 11.1.1 County at any time may, without cause and for its convenience, order Design-Builder in writing to stop or suspend the Work, for a period not to exceed 60 calendar days. In that event, Design-Builder may seek an adjustment of the GMP or Contract Time(s) of performance or both under Section 10 of the General Conditions to the extent that its Work has been adversely impacted by any such suspension or stoppage of the Work by County, unless actions, omissions or inactions of the Design-Builder are the cause of County stopping or suspending the Work.
- 11.1.2 Upon seven days written notice to Design-Builder, County may, without cause and without prejudice to any other right or remedy of County, elect to terminate the Contract for convenience of County. In such case Design-Builder will be paid (without duplication of any items): a) for completed and accepted Work executed in accordance with Contract Documents prior to the effective date of the termination, including fair and reasonable sums for overhead and profit on such Work; b) for expenses sustained prior to termination in performing services and furnishing labor, materials, and equipment as required by the Contract Documents in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses; c) for all claims, costs, losses, and damages incurred in settlement of terminated contracts with subcontractors, suppliers, and others; and d) for reasonable expenses directly attributable to termination.
- 11.1.3 Upon receiving a Notice of Termination for Convenience, the Design-Builder will proceed as follows: a) stop Work as specified in the Notice; b) place no further subcontracts on purchase orders; c) terminate all subcontracts to the extent they relate to the Work terminated; d) assign to County all rights of the Design-Builder under terminated subcontracts, in which case County has the right to settle or to pay any termination settlement proposal arising out of these terminations; and e) submit complete termination inventory schedules to County no later than 120 days from date of the Notice of Termination.

#### **11.2 COUNTY’S RIGHT TO TERMINATE FOR DEFAULT AND PERFORM**

- 11.2.1 If Design-Builder persistently fails to (a) provide a sufficient number of skilled workers, the materials required by the Construction Documents, or both; (b) comply with applicable legal requirements; (c) pay, without cause, its Subcontractors or suppliers; (d) prosecute the Work with promptness and diligence to ensure that the Work is completed by the Contract Time(s) as may be from time to time adjusted; (e) maintain contractor, business, or other required licenses or authority; (f) otherwise perform the Work and its obligations in compliance with the Contract Documents; or (g) if, for any reason, Design-Builder curtails or ceases business or business operations to a degree that would substantially impair or preclude Design-Builder’s performance of this Contract, County has the right, in addition to any other rights and remedies provided in the Contract Documents or by law, after seven (7) days’ written

notice of default to Design-Builder and its surety and Design-Builder's (or its surety's) failure to cure within that seven day period, to (i) perform and furnish through itself or through others it selects any such labor, materials, or Work, and to deduct the cost thereof from any monies due or to become due to Design-Builder under the Contract Documents; or (ii) terminate the Contract with Design-Builder for all or any portion of the Work, enter upon the premises and take possession, for the purpose of completing the Work, of all materials, equipment scaffolds, tools, appliances, and other items thereon, all of which Design-Builder hereby transfers, assigns, and sets over to County for such purpose, and to employ any person or persons to complete the Work and provide all of the required labor, services, materials, equipment, and other items; or (iii) both (i) and (ii) above. Upon exercising its right to Terminate for Default for any reason set forth above, County, at its discretion, may also exercise the right to have each or any of Design-Builder's subcontractor and supply contracts assigned to County, or County's nominee, provided however, County will have no responsibility or liability for acts or omission of Design-Builder under such Contracts and the sole recourse of subcontractors on pre-termination events will be against Design-Builder. Design-Builder will ensure that a clause providing for this conditional assignment on the foregoing terms is included in each subcontract.

11.2.2 In the event of such termination for default:

11.2.2.1 Design-Builder is not entitled to recover any further payment until the Work is completed and will then only be entitled to be paid for all acceptable Work performed prior to its date of default minus costs incurred by County to complete the Project exceeding the GMP as described below. In the event County's cost and expense of completing Design-Builder's Work exceeds the GMP, then Design-Builder or its surety will promptly pay the difference to County. Such costs and expense will include not only the cost of completing the Work to the satisfaction of County and of performing and furnishing all labor, services, tools, equipment and other items required in the Contract Documents, but also losses, damages, costs and expense, including consultant and attorney's fees and expenses incurred in connection with any additional procurement and the defending of claims, if any, arising from or related to Design-Builder's default.

11.2.2.2 All finished and unfinished As-Built, shop drawings, documents, data, studies, surveys, drawings, photographs, reports, and other information in whatever form, including electronic, acquired, or prepared by Design-Builder 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.

11.2.2.3 County may withhold payments to Design-Builder 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 Design-Builder is determined

11.2.3 In the event that County terminates the Contract for default and such termination is ultimately determined to be improper or wrongful, the termination for default will be automatically converted to a termination for convenience and the provisions of Section 11.1 of these General Conditions will apply.

11.2.4 If Design-Builder institutes or has instituted against it a proceeding under the United States Bankruptcy Code, such event is a default that may impair or frustrate Design-Builder's performance of its obligations under the Contract Documents. Accordingly, if such event of default occurs, County is entitled to request Design-Builder, its trustee, or other successor, to provide adequate assurance of future performance. If Design-Builder or Design-Builder's trustee, or other successor fails to comply with such request within 10 days after receiving notice of the request, County, in addition to any other rights and remedies provided by the Contract Documents, or by law, is entitled to terminate the Contract. County will thereupon be entitled to perform and furnish through itself or through others any such labor, materials,

or equipment necessary for the completion of the Work and necessary to maintain the Contract Time(s) of performance, and to deduct the costs from any monies due or to become due Design-Builder under the Contract Documents pending receipt of adequate assurances of performance and actual performance in accordance herewith. In the event of any such bankruptcy proceedings, the Contract will terminate if Design-Builder rejects the Contract or if there has been a default under the Contract Documents, and Design-Builder is unable to give adequate assurances that it will perform as provided in the Contract Documents or otherwise is unable to comply with the requirements for assuming the Contract under the applicable provisions of the Bankruptcy Code.

### **11.3 DESIGN-BUILDER'S RIGHT TO STOP WORK AND TERMINATE FOR CAUSE**

11.3.1 Design-Builder may, in addition to any other rights afforded it under the Contract Documents or by applicable law, either stop Work or terminate the Contract for cause upon County's failure to timely pay an amount in excess of \$100,000 properly due to Design-Builder under any Design-Builder Application for Payment. In this regard Design-Builder will provide County with written notice indicating that such non-payment condition has occurred, and that it is Design-Builder's intention to stop Work or terminate the Contract only if the non-payment condition is not cured within 7 days from County's receipt of Design-Builder's notice. In the event that Design-Builder elects to only stop Work, it may nonetheless later indicate its intention to terminate the Contract by providing County with written notice that Design-Builder will terminate the Contract within 7 days from receipt of Design-Builder's notice, unless the alleged cause of termination is cured in the interim.

11.3.2 In the event Design-Builder properly and lawfully elects to stop Work under section 11.3.1 for non-payment and then resumes Work, Design-Builder will be entitled to make a claim for adjustment to the GMP and Contract Time(s) of performance to the extent Design-Builder has been adversely impacted by the stoppage of Work. In the event that Design-Builder elects to terminate the Contract on the basis permitted under Section 11.3.1, Design-Builder will be entitled to recover the same costs it would be permitted to recover had County terminated this Contract for convenience under Section 11.1 of these General Conditions.

11.4 If the Contract is terminated for any of the reasons set forth above, Design-Builder's contracts with its subcontractors and suppliers, at County's option and without further action by Design-Builder, will be assigned to County; provided however, that County will have no liability for any pre-existing acts or omissions or default by Design-Builder under such contracts and the sole recourse of such subcontractors and suppliers for any such events will be against Design-Builder.

### **End of Appendix C – Design Builder General Conditions**

## APPENDIX D – FEDERAL CONTRACT PROVISIONS (2 Pages)

In addition to other provisions required by the Federal agency or non-Federal entity, County is required to include the following additional provisions, as applicable, under 2 C.F.R. Pt. 200, Appendix II.

(A) Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by [41 U.S.C. 1908](#), must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be affected and the basis for settlement.

(C) Equal Employment Opportunity. Except as otherwise provided under [41 CFR Part 60](#), all contracts that meet the definition of “federally assisted construction contract” in [41 CFR Part 60–1.3](#) must include the equal opportunity clause provided under [41 CFR 60–1.4\(b\)](#), in accordance with Executive Order 11246, “Equal Employment Opportunity” ([30 FR 12319](#), [12935](#), [3 CFR Part, 1964–1965 Comp.](#), p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at [41 CFR part 60](#), “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

(D) Davis-Bacon Act, as amended ([40 U.S.C. 3141–3148](#)). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act ([40 U.S.C. 3141–3144](#), and [3146–3148](#)) as supplemented by Department of Labor regulations ([29 CFR Part 5](#), “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act ([40 U.S.C. 3145](#)), as supplemented by Department of Labor regulations ([29 CFR Part 3](#), “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

(E) Contract Work Hours and Safety Standards Act ([40 U.S.C. 3701–3708](#)). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with [40 U.S.C. 3702](#) and [3704](#), as supplemented by Department of Labor regulations ([29 CFR Part 5](#)). Under [40 U.S.C. 3702](#) of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of [40 U.S.C. 3704](#) are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or Sections ordinarily available on the open market, or contracts for transportation or transmission of intelligence.



(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under [37 CFR § 401.2 \(a\)](#) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of [37 CFR Part 401](#), “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

(G) Clean Air Act ([42 U.S.C. 7401–7671q](#).) and the Federal Water Pollution Control Act ([33 U.S.C. 1251–1387](#)), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act ([42 U.S.C. 7401–7671q](#)) and the Federal Water Pollution Control Act as amended ([33 U.S.C. 1251–1387](#)). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see [2 CFR 180.220](#)) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at [2 CFR 180](#) that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

(I) Byrd Anti-Lobbying Amendment ([31 U.S.C. 1352](#))—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by [31 U.S.C. 1352](#). Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

(J) See [§ 200.323](#). Procurement of recovered materials.

(K) See [§ 200.216](#). Prohibition on certain telecommunications and video surveillance services or equipment.

(L) See [§ 200.322](#). Domestic preference for procurements, and 2 CFR Part 184, Buy America preferences for infrastructure projects.

(M) Compliance with 1933 Buy American Act requirements if applicable.

## **End of Appendix D – Federal Contract Provisions**

## APPENDIX E (6 pages)

### INCOMING CONTRACTOR SAFETY & ORIENTATION BRIEFING

#### RWRD TREATMENT



#### Incoming Contractor Safety & Orientation Briefing Prior to Beginning Work



Date: \_\_\_\_\_ Time: \_\_\_\_\_ Location: \_\_\_\_\_

RWRD Project Manager: \_\_\_\_\_ Office Phone: \_\_\_\_\_

Cell Phone: \_\_\_\_\_

Contract \_\_\_\_\_ Company \_\_\_\_\_ Name: \_\_\_\_\_

Contract \_\_\_\_\_ Company's \_\_\_\_\_ Supervisor: \_\_\_\_\_

**Purpose:** As a contractor you shall comply with the Occupational Safety and Health Act (OSHA, Public Law 91-596) and all standards of (29 CFR 1910 and 1926). The detailed provisions of this act for prevention of accidents and illnesses are directly applicable to your operations. As the Primary Contractor of this job, you are also responsible for ensuring that any subcontractors you employ shall also adhere to OSHA guidelines.

**FACILITY CONTACT INFORMATION:** (This section is for reference purposes only, all communication regarding the project shall be directed to the RWRD Project Manager).

Treatment WR Facility where the job will be conducted: \_\_\_\_\_

Plant Manager: \_\_\_\_\_ Office Phone: \_\_\_\_\_

Cell Phone: \_\_\_\_\_

WW Operations Asst. Mgr.: \_\_\_\_\_ Office Phone: \_\_\_\_\_

Cell Phone: \_\_\_\_\_

WWTP Maintenance Asst. Mgr.: \_\_\_\_\_ Office Phone: \_\_\_\_\_

Cell Phone: \_\_\_\_\_

RWRD Operations Control Center (24/7 Operation): Office Phone: 520-724-6047

Cell Phone: 520-349-7943

#### **Covered with contractor/Initial**

#### **GENERAL INFORMATION:**

##### Working Hours:

- The normal working hours for this facility are M-F \_\_\_\_\_ a.m. to \_\_\_\_\_ p.m.

##### After normal working hours require:

- The permission of the RWRD Project Manager who can coordinate facility access during non-normal working hours.

### Phone Usage

- Internal calls from any Pima County Mitel phone system at the Tres Rios Facility and the Sub- Regional, Walker Road facilities, dial 4 and the four digit extension of the employee you are trying to reach.
- Outside calls made from any Pima County Mitel phone system, dial 9 then the seven digit number.
- Calls made from any Sub Regional Outlying WRF utilize the phone system as you would any regular phone.
- Contractor's or Sub-contractors are not authorized to place long-distance phone calls from any Pima County phone.

### Intercom Use (Intercom System is only available at Tres Rios WRF)

- To access the Tres Rios WRF's intercom system utilizing a Pima County Shortel Phone system, dial 88888, listen for the connection tone, dial 2 zeros, and proceed to announce your message.

### Location of Restrooms

- Tres Rios WRF - Bldgs. 1, 2, 9, 16, 23, 80 and 88
- Sub Regional Walker Rd. Admin. Bldg.
- Sub Regional Outlying Facilities
- Avra Valley WRF Admin. Bldg.
- Corona de Tucson WRF Admin. Bldg.
- Mt. Lemmon WRF Main Bldg.
- Green Valley WRF Admin. Bldg.
- For large projects, porta-johns shall be supplied by the contractor

### Drinking Water

- **Do not drink water** from any hose, spigots or eyewash stations.
- Only drink water from supplied bottled water sources found throughout the facilities.

### Driving Speed Limits and Parking of Construction Vehicles at all Treatment Plant sites

- 15 mph
- Be watchful for the safety of pedestrians and the use of golf carts
- Construction Vehicles must park in designated parking areas, unless otherwise approved by the RWRD Project Manager.

### No Drugs, Alcohol or Firearms

- The use and possession of drugs, alcohol and firearms is prohibited at all RWRD Treatment Facilities.

### Safety, PPE and Security/Facility Access

#### **Incident Reporting:**

- Contractors shall utilize the contractor's incident reporting procedure and provide copies of the incident report to the RWRD Project Manager.
- Incidents of Injury and/or Illnesses that occur while conducting work at a RWRD Treatment Facility must be reported to the RWRD Project Manager immediately after the incident occurs.
- Property Losses involving Pima County property must immediately be reported to the RWRD Project Manager.
- These reports shall be provided to the RWRD Safety Officer and/or Security Manager by the RWRD Project Manager.

**Calling for Emergency Services:**

- Call 9-911 from county phone or 911 from a private phone. Provide the plant location, the building number or building name, the nature of the emergency, do not hang up until the dispatcher hangs-up.
- Contact the RWRD Operations Control Center at 520-724-6047 or 520-349-7943 and inform personnel of the emergency.
- RWRD Operations Control Center will advise the appropriate Plant Management personnel of the emergency and will work closely with front office and plant personnel to direct EMS when they arrive on plant site.

**Fire/Evacuation Drills**

- All contractors, vendors, visitors and birdwatchers at any RWRD Treatment Division facility shall respond to a fire evacuation or a fire evacuation drill.
- Sign-In logs at each plant site shall be used to take attendance during emergency fire evacuations and drills.
- A mandatory search for all missing personnel, visitors, vendors, and/or contractors shall be conducted.

**Evacuation Points**

- All contractors and sub-contractors are required to be familiarized with the RWRD Emergency Evacuation Points where contract work is being conducted.

**Eye and Face Protection**

- The contractor shall ensure that contract employee use appropriate eye and/or face protection when exposed to eye or face hazards from flying particles, molten metal, liquid chemicals, acids or caustic liquids, chemical gases or vapors, or potentially injurious light radiation.
- Safety glasses and/or face protection must be worn at all times when working in process industrial areas.
- The Protective eye and face protection devices utilized by the of the contractor must comply with the current ANSI Z87.1 standard.

**Hearing Protection**

- As required by OSHA and where signage is posted throughout the RWRD Treatment Facilities.

**Respirator Policy**

- As required by OSHA and by the contractor.

**Hard Hats**

- As required by OSHA and by the contractor.

**Other PPE**

- As required by OSHA and by the contractor.

**General Safety**

- Adhere to all plant safety signage and warning signs.
- All possible safety hazards encountered by contract employees shall be addressed to the RWRD Project Manager immediately and if possible, left in a safe condition at the end of each workday.

## **Trenching and Shoring Requirements**

- Contractor must follow all OSHA trenching and shoring requirements when conducting trenching and shoring work.

## **Security and Facility Access**

- RWRD's site entry procedure is restricted to authorized personnel with proper Identification only. Proper ID shall include a driver's license, commercial driver's license or a passport.
- Contract employees shall be provided access to an RWRD Treatment Facility by the RWRD Project Manager and/or the Deputy Director of Treatment who coordinates with the RWRD Security Manager the issuance of security passes.
- Contract vehicles must clearly indicate the Contractor's Company's name on the outside of the vehicle or windshield.

## **LOCKOUT-TAGOUT**

### **Procedures**

- Contractors shall utilize the contractor's Lockout/Tagout Procedure.
- The Contractor's Lockout/Tagout Procedures shall be OSHA compliant.
- RWRD Treatment Lockout/Tagout Plant Procedures are available for use if needed by the Contractor.

## **Operating Valves, Switches or Breakers**

- Contract employees, visitors or vendors shall not operate any valves, switches or breakers unless authorized to do so by Pima County RWRD personnel.
- Contract authorized personnel shall coordinate with the RWRD Project Manager prior to de-energizing equipment to be locked out.
- When authorization is provided the Contractor shall install their locks and follow Lockout/Tagout Procedures.


## **CONFINED SPACE**

### **Procedures**

- Contractors shall utilize the contractor's Confined Space Program.
- The Contractors Confined Space Procedure shall be OSHA compliant.
- RWRD Treatment Confined Space Procedures are available for use if needed by the Contractor.

## **SDS/MSDS & Hazard Communication Program**

### **Chemical Usage**

- SDS/MSDS for common chemicals are available at all RWRD Treatment Plant sites and On the Pima County  [Online](#) SDS Program.
- Prior authorization must be given by the RWRD Project Manager for a chemical to be brought onto or stored at any RWRD Treatment facility.
- The Contractor shall provide an inventory of all SDS's/MSDS's for the chemicals they will be utilizing on plant site.
- The SDS's/MSDS's shall be provided to the RWRD Project Manager and shall be filed at the plant site where the chemical is being utilized.
- All containers must be clearly labeled.
- All large containers of chemicals need to have secondary containment.
- Oil/gas spills from equipment must be contained, reported immediately and cleaned.

- DO NOT dump any chemicals on-site or in building storm water drains.
- Prior to using or storing any chemical, and upon authorization to do so by the RWRD Project Manager, the SDS/MSDS for the chemical must be provided by the contractor.

## HOUSEKEEPING

### **Construction Debris**

- Packing materials and construction debris must be contained.
- Open process tanks/pumps can be fouled by uncontrolled materials.
- With permission from the RWRD Project Manager, plant site dumpsters may be available for use by the contractor for disposing of smaller trash quantities.
- The contractor shall supply roll-off(s) for large amount of debris (*Determined by the RWRD Project Manager*).
- Upon completion of the work performed by the contractor, the contractor shall remove all construction debris from the site and leave the area as found. This includes the removal of Fire Extinguishers brought on site and utilized by the contractor for emergency purposes or hot-work purposes.

### **Personal Trash Disposal**

- The personal trash of contract employees must be properly disposed of by utilizing the trash can receptacles provided on plant site.

### **Hand Cleaning**

- While working on plant site, contract employees shall clean hands often with hand sanitizer.
- Do not consume any food items without washing hands prior.

### **Smoking and The Use of Tobacco Products**

- (*In accordance with Pima County Board of Supervisors Policy No. C3.18*)  
Pima County shall sustain Tobacco-Free & Smoke-Free facilities, "SMOKING AND THE USE OF TOBACCO PRODUCTS IS PROHIBITED".

Additional notes:

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## SIGNATURES

Any violation of Pima County RWRD Safety Policies and Procedures will be reported to the Contract Supervisor immediately.

<b>Title</b>	<b>Print Name</b>	<b>Signature</b>	<b>Date</b>
RWRD Project Manager:	_____	_____	_____
RWRD Representative:	_____	_____	_____
RWRD Representative:	_____	_____	_____
RWRD Representative:	_____	_____	_____
Contract Company's Supervisor:	_____	_____	_____
Contract Company's Supervisor:	_____	_____	_____
Contract Employee:	_____	_____	_____
Contract Employee:	_____	_____	_____
Contract Employee:	_____	_____	_____
Contract Employee:	_____	_____	_____
Contract Employee:	_____	_____	_____
Contract Employee:	_____	_____	_____
Contract Employee:	_____	_____	_____
Contract Employee:	_____	_____	_____
Contract Employee:	_____	_____	_____
Contract Employee:	_____	_____	_____
Contract Employee:	_____	_____	_____
Contract Employee:	_____	_____	_____
Contract Employee:	_____	_____	_____
Contract Employee:	_____	_____	_____

**END OF APPENDIX E – INCOMING CONTRACTOR SAFETY & ORIENTATION BRIEFING**

# Cost Proposal

DESIGN-BUILD SERVICES FOR TRES RIOS EMERGENCY  
BACKUP POWER (3TREBP) - RFP-2400003876

DUE: JULY 7, 2025



**Pilkington Construction Co.**

**UEI: GDMKNKGUGMC5**

**CAGE: 8BUB9**

2975 S. Avenue B, Yuma, Arizona 85364

928-317-0345

Point of Contact: Clint Harrington, President

[clint@pcco.us](mailto:clint@pcco.us)





## **1. TASKS**

### **a. Project Initiation & Administrative Setup**

- Implement FEMA/DEMA grant documentation and budget tracking protocols.
- Assign internal technical and managerial personnel for project oversight.
- Review and finalize procurement strategy.
- Prepare bid specifications and execute procurement for generators and major equipment.
- Submit all required Design Submission Documents and Action Submittals.

### **b. Design & Preconstruction Phase**

- Develop and maintain a Project Management Plan (PMP) including scope, milestones, procurement strategy, and organizational chart.
- Conduct all design activities to produce stamped construction documents in compliance with applicable codes.
- Coordinate design reviews with County including:
  - Preliminary, schematic, and final designs
  - Cost model and value engineering
  - Constructability and scheduling recommendations
- Perform geotechnical review of the site; validate minimal disturbance and trench requirements.
- Provide monthly progress reports with updated schedule, cost model, and work completed.
- Attend all progress and coordination meetings with County and stakeholders.
- Identify long-lead procurement items and initiate early orders.
- Ensure all design elements align with FEMA-funded microgrid and resiliency goals

### **c. Permitting & Compliance**

- Secure all applicable permits including:
  - Environmental (air quality NOI)
  - Electrical (coordination with Pima County and any utility agencies)
- Confirm compliance with:
  - NFPA 110, NFPA 70, NFPA 37
  - UL 220
  - Local Building Codes
  - ADA as applicable
- Ensure adherence to federal regulations including:
  - Davis-Bacon Act (wage compliance)
  - Contract Work Hours & Safety Standards
  - Equal Employment Opportunity compliance
  - Buy American and domestic preference provisions
  - Anti-lobbying and debarment verification
  - Clean Air and Water Acts

### **d. Construction Phase**

- Mobilize team and install project signage, site controls, and temporary facilities.

- Off-load and install (2) All-Weather Generator Skids (3-4MW) on existing concrete pad.
- Provide on-site Electrical Engineer for construction oversight and design verification.
- Furnish and install:
  - Eaton Vacuum Breaker in Switch House “C”
  - High Impedance Ground Resistor
  - PME-12 pad mounted switch
  - Primary power cables from PME to two generators and “C” bus
  - GE Multilin F60 Feeder Management Relay
- Coordinate and test automatic power transfer and sync functionality with the solar field.
- Perform a full system test during a controlled power outage with County oversight.
- Conduct weekly site meetings, provide look-ahead schedules, and submit daily field logs.

***e. Post-Installation Phase***

- Conduct factory-provided training (8 hours) for 14 Pima County RWRD staff.
- Establish monthly testing schedules and coordinate with Pima County Fleet Services for fuel supply.
- Secure generator air quality permits and complete final generator acceptance testing.
- Incorporate new generators into existing generator maintenance contracts (quarterly services, annual load test).
- Prepare and submit all closeout documentation, as-build drawings, and warranty certificates.

***f. Closeout and Final Acceptance***

- Complete final punch list items and inspections.
- Coordinate sign-offs with AZDEMA, FEMA, and Pima County agencies.
- Submit Final Completion documentation and request for final payment.
- Retain all project records for a minimum of five years post- completion in compliance with 2 CFR 200.

***2. TASK BREAKDOWN***

Please see our attached breakdown.

***3. OVERHEAD RATES***

Overhead rates have been included in our breakdown. Please see our attached letter to confirm rates.

***4. HOURLY RATES***

Our attached breakdown includes Pilkington’s hourly rates. Our engineering and design partners, IMEG and ERS, have included their hourly rates, which have also been attached to this proposal.

***5. ANTICIPATED SCHEDULE***

Please see the attached proposed schedule.

**6. *OTHER DIRECT/REIMBURSABLE COSTS***

Please see our attached breakdown which includes our reimbursable costs.



DETAILED GENERAL CONDITIONS  
Issued Date: 06/15/2025  
Submitted Date: 07/17/2025

DESCRIPTION	QUANTITY	UNIT	UNIT COST	UNBURDENED UNIT COST	PCC OVERHEAD	PCC PROFIT	TOTAL COST	COMMENTS / CLARIFICATIONS
PRECONSTRUCTION:					10.705%	8.000%		
DESIGN								
IMEG - SENIOR CLIENT EXECUTIVE / SENIOR MARKET DIRECTOR / VP	21	HR	\$ 310.00	\$ 6,510.00		\$ 520.80	\$ 7,030.80	IMEG (FORMERLY HP ENGINEERING)
IMEG - PROJECT EXECUTIVE (SHANE WELLS)	58	HR	\$ 265.00	\$ 15,370.00		\$ 1,229.60	\$ 16,599.60	IMEG (FORMERLY HP ENGINEERING)
IMEG - SENIOR (ENGINEER/PLANNER/CONSULTANT) 1 (GREG ADAMS)	125	HR	\$ 190.00	\$ 23,750.00		\$ 1,900.00	\$ 25,650.00	IMEG (FORMERLY HP ENGINEERING)
IMEG - SENIOR (DESIGNER / AUTHORITY) 1 (GERARDO VICENTE)	225	HR	\$ 170.00	\$ 38,250.00		\$ 3,060.00	\$ 41,310.00	IMEG (FORMERLY HP ENGINEERING)
PCC - SR. PRECONSTRUCTION MANAGER (KEVIN EATHERLY)	40	HR	\$ 136.00	\$ 5,440.00	\$ 582.35	\$ 435.20	\$ 6,457.55	PILKINGTON CONSTRUCTION CO.
PCC - PRECONSTRUCTION MANAGER (MYRANDA OCHOA)	40	HR	\$ 115.00	\$ 4,600.00	\$ 492.43	\$ 368.00	\$ 5,460.43	PILKINGTON CONSTRUCTION CO.
TOTAL	509						\$ 102,508.38	
PROJECT MANAGEMENT								
PCC - SR. PRECONSTRUCTION MANAGER (KEVIN EATHERLY)	10	HR	\$ 136.00	\$ 1,360.00	\$ 145.59	\$ 108.80	\$ 1,614.39	PILKINGTON CONSTRUCTION CO.
PCC - PRECONSTRUCTION MANAGER (MYRANDA OCHOA)	16	HR	\$ 115.00	\$ 1,840.00	\$ 196.97	\$ 147.20	\$ 2,184.17	PILKINGTON CONSTRUCTION CO.
PCC - SR. PROJECT MANAGER (JOHN NAVARRO)	15	HR	\$ 148.00	\$ 2,220.00	\$ 237.65	\$ 177.60	\$ 2,635.25	PILKINGTON CONSTRUCTION CO.
PCC - PROJECT MANAGER (IAN POTTER)	30	HR	\$ 134.00	\$ 4,020.00	\$ 430.34	\$ 321.60	\$ 4,771.94	PILKINGTON CONSTRUCTION CO.
PCC - PROJECT ENGINEER (KATIE PILKINGTON)	25	HR	\$ 124.00	\$ 3,100.00	\$ 331.86	\$ 248.00	\$ 3,679.86	PILKINGTON CONSTRUCTION CO.
PCC - ADMINISTRATIVE SUPPORT (MADISON DELUCCE)	7	HR	\$ 90.00	\$ 630.00	\$ 67.44	\$ 50.40	\$ 747.84	PILKINGTON CONSTRUCTION CO.
PCC - PROJECT SPECIFIC ACCOUNTING (NOE GUERRA)	11	HR	\$ 86.00	\$ 946.00	\$ 101.27	\$ 75.68	\$ 1,122.95	PILKINGTON CONSTRUCTION CO.
TOTAL	114						\$ 16,756.40	
MEETINGS								
PCC - SR. PRECONSTRUCTION MANAGER (KEVIN EATHERLY)	24	HR	\$ 156.00	\$ 3,744.00	\$ 400.80	\$ 299.52	\$ 4,444.32	PILKINGTON CONSTRUCTION CO.
PCC - SR. PROJECT MANAGER (JOHN NAVARRO)	30	HR	\$ 148.00	\$ 4,440.00	\$ 475.30	\$ 355.20	\$ 5,270.50	PILKINGTON CONSTRUCTION CO.
PCC - PROJECT ENGINEER (KATIE PILKINGTON)	33	HR	\$ 180.00	\$ 5,940.00	\$ 635.88	\$ 475.20	\$ 7,051.08	PILKINGTON CONSTRUCTION CO.
IMEG - PROJECT EXECUTIVE (SHANE WELLS)	20	HR	\$ 265.00	\$ 5,300.00		\$ 424.00	\$ 5,724.00	IMEG (FORMERLY HP ENGINEERING)
IMEG - SENIOR DESIGNER (GERARDO VICENTE)	20	HR	\$ 178.00	\$ 3,560.00		\$ 284.80	\$ 3,844.80	IMEG (FORMERLY HP ENGINEERING)
TOTAL	127						\$ 26,334.69	
PROJECT CONTROLS								
IMEG - PROJECT EXECUTIVE (SHANE WELLS)	60	HR	\$ 265.00	\$ 15,900.00		\$ 1,272.00	\$ 17,172.00	IMEG (FORMERLY HP ENGINEERING)
IMEG - SENIOR DESIGNER (GERARDO VICENTE)	40	HR	\$ 178.00	\$ 7,120.00		\$ 569.60	\$ 7,689.60	IMEG (FORMERLY HP ENGINEERING)
PCC - SR. PRECONSTRUCTION MANAGER (KEVIN EATHERLY)	10	HR	\$ 156.00	\$ 1,560.00	\$ 167.00	\$ 124.80	\$ 1,851.80	PILKINGTON CONSTRUCTION CO.
PCC - SR. PROJECT MANAGER (JOHN NAVARRO)	10	HR	\$ 148.00	\$ 1,480.00	\$ 158.43	\$ 118.40	\$ 1,756.83	PILKINGTON CONSTRUCTION CO.
FORENSIC (ERS - JOSH NANTRUP)	50	HR	\$ 220.00	\$ 11,000.00		\$ 880.00	\$ 11,880.00	ELECTRICAL RELIABILITY SERVICES/VERTIV
CONSULTING SERVICES (ERS - CHRIS PIXLEY)	40	HR	\$ 220.00	\$ 8,800.00		\$ 704.00	\$ 9,504.00	ELECTRICAL RELIABILITY SERVICES/VERTIV
PCC - SR. PRECONSTRUCTION MANAGER (KEVIN EATHERLY)	40	HR	\$ 156.00	\$ 6,240.00	\$ 667.99	\$ 499.20	\$ 7,407.19	PILKINGTON CONSTRUCTION CO.
PCC - SR. PROJECT MANAGER (JOHN NAVARRO)	40	HR	\$ 148.00	\$ 5,920.00	\$ 633.74	\$ 473.60	\$ 7,027.34	PILKINGTON CONSTRUCTION CO.
TOTAL	290						\$ 64,288.76	
DESIGN SUPPORT								
FORENSIC (ERS - JOSH NANTRUP)	60	HR	\$ 220.00	\$ 13,200.00		\$ 1,056.00	\$ 14,256.00	ELECTRICAL RELIABILITY SERVICES/VERTIV
CONSULTING SERVICES (ERS - CHRIS PIXLEY)	80	HR	\$ 220.00	\$ 17,600.00		\$ 1,408.00	\$ 19,008.00	ELECTRICAL RELIABILITY SERVICES/VERTIV
PROFESSIONAL SERVICES (ERS - FRED TOEPFER)	40	HR	\$ 220.00	\$ 8,800.00		\$ 704.00	\$ 9,504.00	ELECTRICAL RELIABILITY SERVICES/VERTIV
STANDARD (ERS)	40	HR	\$ 220.00	\$ 8,800.00		\$ 704.00	\$ 9,504.00	ELECTRICAL RELIABILITY SERVICES/VERTIV
SHOP TECHNICIAN (ERS - ANDREW KASTER)	40	HR	\$ 220.00	\$ 8,800.00		\$ 704.00	\$ 9,504.00	ELECTRICAL RELIABILITY SERVICES/VERTIV
SUPPORT (ERS)	35	HR	\$ 220.00	\$ 7,700.00		\$ 616.00	\$ 8,316.00	ELECTRICAL RELIABILITY SERVICES/VERTIV
PCC - SR. PRECONSTRUCTION MANAGER (KEVIN EATHERLY)	40	HR	\$ 136.00	\$ 5,440.00	\$ 582.35	\$ 435.20	\$ 6,457.55	PILKINGTON CONSTRUCTION CO.
PCC - PRECONSTRUCTION MANAGER (MYRANDA OCHOA)	40	HR	\$ 115.00	\$ 4,600.00	\$ 492.43	\$ 368.00	\$ 5,460.43	PILKINGTON CONSTRUCTION CO.
TOTAL	375						\$ 82,009.98	
PERMITTING								
PCC - SR. PRECONSTRUCTION MANAGER (KEVIN EATHERLY)	14	HR	\$ 156.00	\$ 2,184.00	\$ 233.80	\$ 174.72	\$ 2,592.52	PILKINGTON CONSTRUCTION CO.
PCC - SR. PROJECT MANAGER (JOHN NAVARRO)	9	HR	\$ 148.00	\$ 1,332.00	\$ 142.59	\$ 106.56	\$ 1,581.15	PILKINGTON CONSTRUCTION CO.
IMEG - PROJECT ENGINEER (GREG ADAMS)	7	HR	\$ 180.00	\$ 1,260.00		\$ 100.80	\$ 1,360.80	IMEG (FORMERLY HP ENGINEERING)
TOTAL	30						\$ 5,534.47	
PROCUREMENT								
PCC - SR. PRECONSTRUCTION MANAGER (KEVIN EATHERLY)	40	HR	\$ 136.00	\$ 5,440.00	\$ 582.35	\$ 435.20	\$ 6,457.55	PILKINGTON CONSTRUCTION CO.
PCC - PRECONSTRUCTION MANAGER (MYRANDA OCHOA)	20	HR	\$ 115.00	\$ 2,300.00	\$ 246.22	\$ 184.00	\$ 2,730.22	PILKINGTON CONSTRUCTION CO.
PCC - SR. PROJECT MANAGER (JOHN NAVARRO)	40	HR	\$ 148.00	\$ 5,920.00	\$ 633.74	\$ 473.60	\$ 7,027.34	PILKINGTON CONSTRUCTION CO.
PCC - PROJECT MANAGER (IAN POTTER)	20	HR	\$ 134.00	\$ 2,680.00	\$ 286.89	\$ 214.40	\$ 3,181.29	PILKINGTON CONSTRUCTION CO.
PCC - PROJECT ENGINEER (KATIE PILKINGTON)	20	HR	\$ 124.00	\$ 2,480.00	\$ 265.48	\$ 198.40	\$ 2,943.88	PILKINGTON CONSTRUCTION CO.
TOTAL	140						\$ 22,340.28	
ESTIMATING								
PCC - SR. PRECONSTRUCTION MANAGER (KEVIN EATHERLY)	80	HR	\$ 136.00	\$ 10,880.00	\$ 1,440.36	\$ 870.40	\$ 13,190.76	PILKINGTON CONSTRUCTION CO.
PCC - PRECONSTRUCTION MANAGER (MYRANDA OCHOA)	80	HR	\$ 115.00	\$ 9,200.00	\$ 984.86	\$ 736.00	\$ 10,920.86	PILKINGTON CONSTRUCTION CO.
PCC - SR. PROJECT MANAGER (JOHN NAVARRO)	80	HR	\$ 148.00	\$ 11,840.00	\$ 1,267.47	\$ 947.20	\$ 14,054.67	PILKINGTON CONSTRUCTION CO.
PCC - PROJECT MANAGER (IAN POTTER)	80	HR	\$ 134.00	\$ 10,720.00	\$ 1,147.58	\$ 857.60	\$ 12,725.18	PILKINGTON CONSTRUCTION CO.
PCC - PROJECT ENGINEER (KATIE PILKINGTON)	80	HR	\$ 124.00	\$ 9,920.00	\$ 1,061.94	\$ 793.60	\$ 11,775.54	PILKINGTON CONSTRUCTION CO.
PCC - ADMINISTRATIVE SUPPORT (MADISON DELUCCE)	8	HR	\$ 90.00	\$ 720.00	\$ 77.08	\$ 57.60	\$ 854.68	PILKINGTON CONSTRUCTION CO.
PCC - PROJECT SPECIFIC ACCOUNTING (NOE GUERRA)	8	HR	\$ 86.00	\$ 688.00	\$ 73.65	\$ 55.04	\$ 816.69	PILKINGTON CONSTRUCTION CO.
TOTAL	416						\$ 64,338.37	
SCHEDULING								
PCC - PRECONSTRUCTION MANAGER (MYRANDA OCHOA)	117	HR	\$ 115.00	\$ 13,455.00	\$ 1,440.36	\$ 1,076.40	\$ 15,971.76	PILKINGTON CONSTRUCTION CO.
TOTAL	117						\$ 15,971.76	
MILEAGE								
Mileage	1842.4	Mi	\$ 0.70				\$ 1,289.68	4 trips (8 Round Trip)
Hotel	4	Nights	\$ 123.00				\$ 492.00	Two Travelers
Meals & IE	4	Days	\$ 80.00				\$ 320.00	Two Travelers
Plan sets, drawings, proposal documents	1		\$ 3,515.63				\$ 3,515.63	
TOTAL							\$ 6,429.31	

Tres Rios Back Up Generator Design Schedule																		
ID	Task Name	Duration	Start	Finish														
					Jun	Qtr 3, 2025			Qtr 4, 2025			Qtr 1, 2026			Qtr 2, 2026		Qtr 3, 2026	
						Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul
1	Design-Build Sevices Tres Rios Emergency Back Up Power	188 days	Fri 6/20/25	Tue 3/10/26														
2	Notice to Respondent Letter	1 day	Fri 6/20/25	Fri 6/20/25														
3	Pre-Construction Meeting	1 day	Tue 10/21/25	Tue 10/21/25														
4	30% Design Submission	20 days	Wed 10/22/25	Tue 11/18/25														
5	30% Design Review	15 days	Wed 11/19/25	Tue 12/9/25														
6	60% Design Submission	15 days	Wed 12/10/25	Tue 12/30/25														
7	60% Design Review	15 days	Wed 12/31/25	Tue 1/20/26														
8	90% Design Submission	15 days	Wed 1/21/26	Tue 2/10/26														
9	90% Design Review	15 days	Wed 2/11/26	Tue 3/3/26														
10	100% Design Submission	10 days	Wed 3/4/26	Tue 3/17/26														
11	100% Design Review	15 days	Wed 3/18/26	Tue 4/7/26														
12																		
Tres Rios Back Up Genrator Design		Task	<div></div>	Project Summary	<div></div>	Inactive Milestone	<div></div>	Manual Summary Rollup	<div></div>	Deadline	<div></div>							
		Split	<div></div>	External Tasks	<div></div>	Inactive Summary	<div></div>	Manual Summary	<div></div>	Progress	<div></div>							
		Milestone	<div></div>	External Milestone	<div></div>	Manual Task	<div></div>	Start-only	<div></div>	Manual Progress	<div></div>							
		Summary	<div></div>	Inactive Task	<div></div>	Duration-only	<div></div>	Finish-only	<div></div>									
6																		

# Proposal For Service

**PREPARED FOR:**

Pilkington Construction  
Clint Harrington  
2975 S. Ave B  
Yuma, AZ 85364  
928-503-1519  
clint@pcco.us

**PREPARED BY:**

Electrical Reliability Services

<b>Proposal #:</b> VRT-25008061	<b>Proposal Date:</b> August 25, 2025
<b>Version #:</b> 2	
<b>Site Address:</b> Pima County 7101 N Casa Grande Hwy Tucson AZ 85743	



August 25, 2025

Dear Clint Harrington,

Thank you for your interest in Electrical Reliability Services (ERS). We are pleased to offer the attached proposal for your consideration. ERS will furnish personnel, materials and equipment necessary to complete the project outlined in this proposal. This proposal does not include any state or local taxes that may apply.

Several factors set us apart in the industry including our unsurpassed experience, safety record, state-of-the-art training programs, and professional credentials. As a full charter member of the InterNational Electrical Testing Association (NETA), a recognized leader and ANSI standards developer for the electrical testing industry, you are assured that all testing is performed objectively according to NETA/ANSI standards.

Electrical Reliability Services ("ERS") delivers the most complete solutions for electrical system reliability and safety including commissioning and startup services, acceptance and maintenance testing, engineering studies, and electrical and safety training. From testing for problems that could disable your system, to complete turnaround execution, you'll quickly understand how we are your single source solution for all your electrical reliability needs. With a network of more than 30 service locations in North America, ERS has experienced professionals when and where you need them. For more information, visit us on the web at <http://ers.VertivCo.com>.

If you have any questions regarding the attached proposal, please contact me directly at 480-205-4884. I look forward to your response and the opportunity to work together.

Respectfully Submitted,

Joshua Nantroup  
Sales Engineer

Electrical Reliability Services, Inc.  
221 East Willis Road  
Chandler, AZ 85286

**PHONE** 480-205-4884

**CELL**

**EMAIL** [josh.nantroup@vertiv.com](mailto:josh.nantroup@vertiv.com)



## 1.0 WORK SCOPE SUMMARY

### 1.1 SCOPE

#### Base Scope

##### ENGINEERING SERVICES:

Meet with customer (Pilkington Construction Co.) and the owner (Pima County) to determine project requirements for the system integration of protection relays, logic controllers, HMI screens, automated switching as needed and as it relates to Pima County RFP # 2400003876 dated May 6, 2025. This RFP was not clear regarding the scope or requirements of the SCADA control system integration so this project will be a cooperative effort between the customer and end user and ERS to determine how this system should look and function. The deliverable will be a written Work Scope Description of how the end user wants this system to look and function.

ERS will bring two engineers to the project kickoff meeting where we will discuss with the customer and end user their needs and requirements for this system. There will likely be follow up online meetings where ERS can ask the end user additional questions, discuss additional items, obtain feedback from the owner, etc. ERS will make revisions based on input from the customer and owner.

##### EXCLUSIONS & CLARIFICATIONS:

- This is a project which will require involvement and support from the customer. This project is cooperative in nature and the customer will need to provide input and direction throughout the project so that ERS can direct efforts and manpower in the direction which the customer wants to take the development of the .
- No profession engineering signing or sealing of any documentation is included.
- This initial scope includes developing a Work Scope Description only. Implementation or engineering is not included. A proposal can be provided for this once the Work Scope Description is completed.
- Site visit can be scheduled per ERS availability. The more advanced notice, the more likely ERS will be able to accommodate this schedule.

##### ESTIMATED COSTS:

P&C Engineer: 32 ST hours on site, 156 ST hours off site engineering

Travel Time: 32 ST hours

Mileage (company vehicles): 0

Travel expenses (lodging, meals): 8 days Daily Lodging, 8 days M&IE

Travel expenses (airfare, rental car): 2 flights, 1 rental car per day

##### ESTIMATED MARKUPS:

P&C Engineer: ST=\$220/hr, OT=\$330/hr, DT=\$440/hr

Travel Time ST=\$130/hr, OT=\$195/hr

Mileage (company vehicles) = per GSA allowed rates

Travel expenses (lodging, meals) = per GSA allowed rates

Travel expenses (airfare, rental car) = \$600 each flight, rental car \$225 per day

All work will be performed on Straight Time (ST) unless otherwise directed by the customer.



The base scope can be performed on a  
**Time and Material Basis Not To Exceed** amount of:

Ext. Price  
**\$ 50,000.00**

Base Scope Lead Time: Consult ERS  
 Proposal Valid For: 30 calendar days

## 1.2 EQUIPMENT

No equipment included.

## 1.3 PROJECT MILESTONES AND LEADTIMES

Progress payments will apply. Invoices will be issued monthly for work performed to date.

## 2 WORK SCOPE SPECIFICATIONS **ENGINEERING EVALUATION**

### 2.1 **ENGINEERING SERVICES**

#### 2.1.1 Project Kickoff Meeting and Project Management

2.1.1.1 A Protection & Controls (P&C) engineer will be assigned as a project manager and will host an online meeting to discuss the scope, roles, responsibilities, lead times, and RFI data.

2.1.1.2 Optional Work Scope: On-Site Project Kickoff Meeting. When specifically called out in the Work Scope Summary, this would include an onsite visit to the site of the assigned P&C engineer to discuss the scope, roles, responsibilities, lead times, and RFI data.

2.1.1.3 Optional Work Scope: Project Coordination Meetings. When specifically called out in Work Scope Summary, the P&C Project Manager will attend or host regular online project coordination meetings.

#### 2.1.2 Data Gathering and Request for Information (RFI).

2.1.2.1 The project manager will submit a RFI that could include system drawings, equipment drawings, engineering studies, test reports, utility data, sequence of operations documentation, etc.

#### 2.1.3 Data Collection and Field Observation

2.1.3.1 Unless specifically called out in the Work Scope Summary for initial data gathering, an initial site visit for data collection is not included and all data shall be provided by the customer. This could include, but not be limited to, the items listed above and will require the customer to dedicate resources to assisting in collection all required data. The customer will be responsible to provide photos per ERS requirements including quality of images.

2.1.3.2 Optional Work Scope: Perform Field Data Collection. When specifically called out in the Work Scope Summary, a P&C engineer will visit the customer's site to perform field observations, visual assessment, recording settings for existing power system protection devices, measurement of installed equipment, documenting the location of installed equipment, verification of temporary power and mobilization requirements, review of appropriate drawings or other actions as it relates to the project scope. The customer is responsible for provide assistance as necessary to access equipment, open equipment doors or covers, locate drawing archives, etc. This shall occur in the same mobilization as the On-Site Project Kickoff Meeting, if included.

2.1.3.3 Optional Work Scope: Perform Field Data Collection. When specifically called out in the Work Scope Summary, a field engineer will visit the customer's site to perform field observations, visual assessment, recording settings for existing power system protection devices, measurement of installed equipment, documenting the location of installed equipment, verification of temporary power and mobilization requirements, review of appropriate drawings or other actions as it relates to the project scope.

#### 2.1.4 Engineering Evaluation & Assessment

2.1.4.1 After all data has been collected, perform an evaluation per the specific work scope identified in Section 1 Work Scope of this proposal.

## **2.2 EQUIPMENT**

2.2.1 Unless specifically called out in Section 1, no equipment is included in this work scope.

## **2.3 FACTORY ACCEPTANCE TESTING (FAT) / BENCH TESTING**

2.3.1 Unless specifically called out in Section 1, no FAT is included in this work scope.

## **2.4 SITE WORK: EQUIPMENT REMOVAL, INSTALLATION, SETUP, TESTING, AND COMMISSIONING**

2.4.1 Unless specifically called out in Section 1, no site work is included in this work scope.

## **2.5 DELIVERABLES & PROJECT CLOSEOUT**

2.5.1 Provide a final written report and supporting documentation with the following information as applicable to the work scope:

- Purpose of evaluation
- Project Data
- Supportive calculations and analysis
- Conclusions, results, and recommendations

2.5.2 Host a Teams conference call to present report and discuss the results and recommendations.

### 3.0 CUSTOMER RESPONSIBILITIES

- 3.1 **SYSTEM DOCUMENTATION:** Provide documentation including system oneline and a Short Circuit, Coordination, Arc Flash Study (SCCAF) listing all protective device settings, any necessary electrical drawings and manufacturer's instruction manuals. If documentation is not available but required to complete the work scope, ERS can develop documentation for an additional fee.
- 3.2 **EQUIPMENT ACCESS:** Provide convenient access to the equipment covered by the Scope of Work, and shall provide any special lifting or racking devices needed prior to start of any work. When equipment access is required, the Customer shall provide a Customer representative to be on-site to allow safe access to existing equipment during site visits for as-found equipment inspections. Unless specifically called out in the Work Scope Summary, the Customer will be responsible to open all equipment panels and covers. Equipment inspections may require equipment outages and will be the responsibility of the Customer. Equipment access restrictions outside of Company control resulting in additional mobilizations beyond what is outlined in the Work Scope may result in a price change.
- 3.3 **UTILITY OUTAGES:** Arrange and pay for any utility outages that may be required to de-energize equipment impacted by, modified, or tested in this scope of work.
- 3.4 **SWITCHING:** The Customer shall perform all switching required to de-energize or energize equipment associated with this project. If ERS is required to perform switching or perform any equipment modifications, upgrades, or make any connection to energized equipment or control circuits, the Customer must sign and submit a copy of our Switching Agreement. ERS will not perform energized switching of any electrical distribution equipment as part of this or any other Scope of Work without a signed Switching Agreement relieving ERS of any and all liability associated with such switching activity.
- 3.5 **ENERGIZED WORK:** Prepare the electrical equipment for de-energized work prior to the start of the work shift. When site installation work is included, the scope is based on performing the work while the switchgear and/or electrical equipment is in a de-energized state and lockout/tagout procedures have been followed and applied.
- 3.6 **RFI DATA:** Provide all required RFI data within 2 weeks of receipt of RFI. Often RFI data received leads to follow up questions in which case an additional RFI may be required. All RFI data is required to successfully complete this project. Once the initial RFI is issued, billing for this milestone will be issued. Once all data from the original and subsequent follow-up RFIs is received, then the clock will start for the next milestone. If any documentation is found to be unavailable, scope changes and/or changes orders might be required to complete this work scope. This data will be required in a timely manner. Any delay in return of RFI data could result in project delays.
- 3.7 **SITE ACCESS:** Prior to start of work, provide all site specific and generic safety training and security requirements for our employees to perform work at the Customer's site. Any additional training requirements not specifically listed in this proposal will be charged as an additional fee.
- 3.8 **DATA COLLECTION:** Breakers/Switches are occasionally tripped by accident during removal of equipment covers. In instances where the Customer chooses to have ERS remove equipment covers, the Customer holds ERS harmless of any and all liability associated with said activity.
- 3.9 **MATERIAL/EQUIPMENT RECIEVING:** Provide a forklift and operator, as necessary, to offload the material shipping crates from delivery trucks. The Customer shall provide a dry and secure location to store materials until the date of installation.

- 3.10 **BENCH TESTING AREA:** Provide a dry, secure, and conditioned space for testing the devices, materials, and equipment covered in this scope of work. Testing area shall have 120V power available.
- 3.11 **EQUIPMENT DISPOSAL:** Arrange and pay for disposal and recycling of all equipment, devices, wiring, panels, etc. removed under this scope of work.
- 3.12 **COORDINATION SETTINGS:** Coordination set points such as overcurrent elements, distance elements, under/over voltage elements, etc. typically require an evaluation of the entire system including upstream and downstream area of the electrical system. The coordination protection elements are required for device programming, unless otherwise specifically called out in the Work Scope Summary, shall be provided by the Customer.

#### 4.0 CLARIFICATIONS AND ASSUMPTIONS

- 4.1 **PRICE:** The price is based on our assumption that all of the electrical system data (e.g. single-line diagram, equipment drawings, photos, etc.) and the description of the project requirements supplied by the customer at time of bid is accurate. If data is found to be inaccurate and a scope change is required, a proposal revision or a change order proposal can be provided. Any unplanned time necessitated by inaccuracies of this information due to restricted site access, deficiencies discovered or failure of the customer to follow OSHA 1910 and NFPA 70E safety guidelines (e.g. safety equipment, procedures) will result in a work stoppage additionally billed on a time and material basis in accordance with our current published rates for applicable class of service.
- 4.2 **SCOPE:** Unless specifically called in the Work Scope Summary, this proposal is not based on, nor a reference to, any other specification; it is a stand-alone specification. Only services outlined in Section 1 Work Scope Summary are provided. Any changes in work scope that occur prior to the scope completion will require a separate proposal and change order.
- 4.3 **STANDBY TIME:** Any unplanned standby time necessitated by the Customer's operating conditions will be additionally billed on a time and material basis in accordance with straight, overtime or premium rates.
- 4.4 **CORRECTIVE ACTION:** Much of the work proposed is investigative in nature and could reveal a need for corrective maintenance, replacement of parts, or even replacement of complete system elements to complete this work scope. If any defects found in the as-found conditions of existing equipment during this project require immediate attention, the costs incurred for these repairs will be billed additional. However, no such work will be performed without the customer's prior approval.
- 4.5 **PROJECT DELAYS:** Proposal pricing and lead time is based on conditions and material availability at the time the proposal was issued and based upon stated proposal validity date. Projects placed on hold at Customer direction may be subject to price increases based on market conditions, material pricing, and schedule availability once the project is resumed. A re-mobilization fee up to 15% of the price may be charged, plus any increase in materials pricing outside of our control.
- 4.6 **EQUIPMENT AND MATERIALS:** Equipment furnished in this scope of work is limited to what is listed in Section 1. Where possible, existing terminal blocks, wiring, test switches, control switches, lockout relays and other existing materials will be maintained. Part numbers, if provided in this proposal, are based on information provided by the Customer. A final detailed bill of materials for procurement and construction will not be provided until after receipt of order and the engineering team has submitted the design documentation for review.

- 4.7 **DELIVERABLES:** Unless specifically called out in the Section 1 Work Scope, no proprietary tools are included in the project deliverables such as MathCAD files, Excel calculation files, power system modelling software model files, AutoCAD files, etc. Unless specifically called out in the Work Scope Summary, drawings, reports, or other deliverables will not be stamped by a licensed Professional Engineer.
- 4.8 **PERSONNEL QUALIFICATIONS:** Unless specifically called out in the Work Scope Summary, and removal or installation included in the scope will not be performed by licensed electricians. This can be added to the scope if required. Qualifications of engineering team members assigned to the project can be provided upon request.
- 4.9 **MOBILIZATION:** This proposal includes a limited amount of mobilizations that result in the most cost effective and efficient execution of the project. Any additional mobilizations, or additional trips requested by the customer will incur additional mobilization charges.
- 4.10 **WORK HOURS:** Unless specifically called out in the Work Scope Summary, all work will be performed within the straight time window (between 6am and 6pm), consist of 8-hour work days, weekdays only (no weekends or holidays). Any modifications to the work schedule might result in a price change. Any unplanned standby time necessitated by the customer's operating conditions will be additionally billed on a time and material basis in accordance with straight, overtime or premium rates.
- 4.11 **TRAVEL DAYS:** Unless specifically called out in the Work Scope Summary, the site work shall be performed on days such that the travel occurs on non-holiday weekdays and all travel and site work will be performed on consecutive days. For example, a non-holiday Monday is used as a travel day, the Project Kickoff Meeting and on-site data gathering performed on the next day which is a non-holiday Tuesday, and return travel performed on the next day which is a non-holiday Wednesday.
- 4.12 **TRAVEL NOTIFICATION:** Pricing for all project travel in this proposal assumes customer will provide mobilization dates at least two weeks in advance of any travel requirement. Should travel notifications be received with less than two weeks advance notice, impacting travel costs (airline tickets, hotel costs, etc.), the added costs may be considered additional to the original proposal and be billed in addition to the proposal price. Please help us better serve you by providing advance notice of site mobilization dates.
- 4.13 **PROGRESS INVOICING:** Progress payments will apply. Invoices will be issued at specific project milestones for substantial completion of work. For large or long-term fixed price projects, partial billing within each milestone will be performed, and at the end of each quarter. For time and material projects, invoices will be issued monthly. Payment Due is the percent of the total contract price. All optional, additional and change order work scopes will be billed 100% at time of completion of those services. When equipment or materials are in the work scope, sales tax will be applied per local laws and codes. Sales tax, if applicable, is not included in the price in this proposal.

## 5.0 TERMS AND CONDITIONS

- 5.2 **GENERAL PROVISIONS:** All work shall be performed in accordance with ERS Terms and Conditions, which are attached to this proposal. No other terms and conditions are acceptable unless agreed to by ERS in writing.
- 5.3 **EXPIRATION OF PROPOSAL:** This proposal shall remain valid for 30 calendar days from the date of issue. Please allow four weeks notice prior to start date of the proposed scope of work.

## ACCEPTANCE OF PROPOSAL

Pilkington Construction has read Proposal No.VRT-25008061 in its entirety, and hereby authorizes Electrical Reliability Services to proceed with executing the Scope of Work referenced herewith in the amount of **\$ 50,000.00**

All work will be performed in accordance with ERS's Standard Terms and Conditions, which are attached to this proposal. No other terms and conditions are acceptable, unless agreed to by ERS in writing. The signatory below is duly appointed by and authorized by Pilkington Construction to execute this agreement and to bind same to the terms and conditions of this proposal.

We look forward to working with Pilkington Construction on this project. Should you have any questions regarding this proposal, please do not hesitate to contact me at 480-205-4884 or email me at [josh.nantroup@vertiv.com](mailto:josh.nantroup@vertiv.com).

Vertiv, Electrical Reliability Services, Inc.	Buyer Signature Required	Date
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Printed Name	Title	Printed Name	Title
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### **Purchase Order must be assigned to:**

Electrical Reliability Services  
610 Executive Campus Dr  
Westerville, OH 43082

### **Payment Remittance address:**

Electrical Reliability Services  
24865 Network Place  
Chicago, IL 60673-1248

FID# 94-1742896

### **PO should be mailed to:**

Electrical Reliability Services  
221 East Willis Road #3  
Chandler, AZ 85286  
Attn: Joshua Nantroup

### **Please provide the following information:**

Purchase Order Number*:	Phone:
Billing Contact Person:	Fax:
Person Authorizing Payment:	Phone:
Billing Company Name:	Federal Tax ID:
Billing Address:	Taxable? Yes / No
Billing City, ST Zip:	If non-taxable, fax copy of tax exempt certificate
Site Contact Person:	Phone:
Email Invoices? Yes / No	Email Address:

\* If a Purchase Order is provided, a hard copy must be included.





HP ENGINEERING



Pilkington  
Construction Co.  
Clint Harrington

## Tres Rios Emergency Backup Power

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Proposed By:  
Shane Wells

August 18, 2025

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# STANDARD FORM OF AGREEMENT FOR ENGINEERING SERVICES

This Agreement for professional services has been entered into effective August 18, 2025 by the:

**the “Client”**

Name: Pilkington Construction Co.  
Address: 2975 S. Ave B Yuma, AZ 85364  
Phone: 928-503-1519  
Representative: Clint Harrington; President  
Email: clint@pcco.us

**and “IMEG”**

Name: IMEG Consultants Corp.  
Address: 777 E. Missouri Ave, Suite 200, Phoenix, AZ 85014  
Phone: 214-923-1536  
Representative: Shane Wells  
Email: swells@hpengineeringinc.com

**for the “Project”**

Tres Rios Emergency Backup Power

## 1 SCOPE OF WORK

IMEG will provide electrical drawings and specifications for the Tres Rios Emergency Backup Power with a construction budget of \$5,000,000 to be located at 7101 N. Casa Grande Hwy, Tucson, AZ. This proposal is based on the RFQ, RFP, addendums and amendments dated 10/11/2024 and 4/9/2025.

The anticipated scope of MEP systems and design approach are:

- SCADA design will be provided by others
- Generator and power distribution design.
- Architectural sub will create a Revit as-built drawing floor plan and assist with submitting final construction documents to AHJ for plan review approval and permitting process.
- Arc flash and coordination study and new labels as required for the affected electrical gear.

## 2 COMPENSATION FOR PROFESSIONAL SERVICES

**A. Percentage of Construction Fee:** HP Engineering, Inc. will provide professional services for this project in accordance with the Scope of Work, Basic Services, and Terms and Conditions of Agreement listed herein on the basis of HP's preliminary estimate of the construction costs resulting from HP's construction documents. For new construction, the fee shall be **4.5%** of HP's preliminary estimate. Based on HP's preliminary estimate, the lump sum fee is **\$225,000**. The engineering fee will be adjusted accordingly when bids are received, based on the Schedule of Values of the actual construction costs including the appropriate percentage for general contractor markups for overhead, profit and general conditions. At the project's substantial completion, the engineering fee will again be adjusted, based on the final Schedule of Values including all change orders of the actual construction costs including general contractor's markups.

Schematic Design Phase	20%
Design Development Phase	30%
Construction Document Phase	35%
Construction Administration	15%



- B.** If at any given time the project design goes on hold by the Client for 90 days or more, compensation shall be assessed for reengagement.
- C. Additional Services:** Additional services shall be provided only upon authorization by the Client and shall be paid for by the Client as hereinafter provided.
- 1) Fees will be billed on a time and expense basis at the following standard hourly rates:

Principal	\$315	Professional Engineer	\$230	Designer	\$135
Director	\$270	Business Development	\$167	Administrative	\$116
Sr. Professional Engineer	\$260	Senior Designer	\$170	Student Intern	\$100
Project Manager	\$220	Engineer Intern	\$140		
- D.** The following Design, Construction Administration and Contract Administration Services shall be considered additional services, but are not the only items to be considered as additional services:
- 1) Responses to the Contractor's request for information where such information is available to the Contractor through careful study and comparison of the Contract Documents, field conditions, Owner provided information, Contractor prepared coordination drawings, shop drawings or prior Project correspondence or documentation. If this becomes a chronic issue in the opinion of IMEG, IMEG reserves the right to not respond to such requests without getting additional compensation.
  - 2) Evaluation of substitutions proposed by the Owner's consultants or the project Contractors and making subsequent revisions to the instruments of service resulting from the evaluations.
  - 3) Involvement with mock-ups.
  - 4) Revisions to the deliverables of IMEG arising from changes to the Architectural plans per Plan Review comments, Code comments, Health Department comments, or Landlord or Developer comments.
  - 5) Preparation of design and documentation for alternate bids, multiple bid packages or proposal requests proposed by the Owner.
  - 6) Contract Administration Services provided more than 30 days after the date of Substantial Completion of the Work.

### 3 BASIC SERVICES

- A.** The following shall be provided by IMEG under the terms of this Agreement:
- 1) **DELIVERABLES:**
    - A) Schematic Design Phase
      - (a) Written description of intended building systems.
      - (b) Opinions of probable costs will not be provided, but costs developed by others can be reviewed for general conformance with the documented systems relative to this service agreement.
    - B) Design Development Phase
      - (a) Preliminary design documents of the building systems selected at the conclusion of Schematic Design.
      - (b) Opinions of probable costs will not be provided, but costs developed by others can be reviewed for general conformance with the documented systems relative to this service agreement.
    - C) Construction Document Phase
      - (a) Construction document drawing review sets at 90% completion.
      - (b) One set of reproducible construction drawings and specifications.
      - (c) A Building Information Model (BIM) model: where elements are modeled with approximate quantities, size, shape, location and orientation. Non-geometric information is typically attached to the model elements.
  - 2) **MEP DESIGN SERVICES:**
    - A) Electrical Design Services (Division 26)
      - (a) Electrical systems design drawings and specifications for the building (5'-0")
        - 1) Site lighting design is excluded.
        - 2) Optional standby power design (beyond code requirements) is included.
        - 3) Site power distribution design. included.
        - 4) Medium Voltage Design. included.
        - 5) Arc Flash Study and Breaker Coordination? included.
        - 6) Point by Point Photometric analysis for interior spaces. excluded.
        - 7) Advanced lighting controls beyond code. excluded
        - 8) Advanced building metering beyond code. excluded.
        - 9) Conduit and Raceway modeling in Revit (greater than 2"). excluded.
      - (b) Special systems design drawings and specifications, noted as either included or excluded.
        - 1) Lightning protection risk assessment (performance specification only) –excluded



- a. Additional Hourly Services are required to evaluate lightning protection shop drawings.
  - 2) Specialty Lighting - excluded
  - 3) IMEG will design for empty conduit and boxes (rough-in) to support LV systems.
  - 4) Onsite Renewable Sources (Solar, Wind)
    - a. new solar excluded excluded
    - b. Integration with existing solar field us included.
  - 5) Net Zero Design - excluded
- B) Low Voltage Design Services (Division 27)
  - (a) Excluded from this service agreement.
- C) Fire Protection systems design.
  - (a) Fire Alarm
    - (i) Excluded from this service agreement.
  - (b) Fire Sprinkler
    - (i) Excluded from this service agreement.
- D) Energy calculations and submittal forms as required by the authority having jurisdiction for HVAC and lighting only, building envelope calculations are excluded.
- 3) STRUCTURAL DESIGN SERVICES:
  - A) Structural design services are excluded.
- 4) COORDINATION SERVICES:
  - A) Attendance at a reasonable number of project design meetings conducted via teleconferencing (Microsoft Teams or similar).
  - B) Anticipated in person meetings for the proposed deliverables and schedule:
    - a. Schematic Design Phase (30%): 1 meetings
    - b. Design Development Phase (60%): 1 meetings
    - c. Construction Documents Phase (100%): 2 meetings
  - C) Initial site observation visit to determine existing conditions. - Included
    - (a) For safety reasons, this excludes IMEG personnel from opening live electrical equipment, taking measurements within live electrical equipment or taking measurements within improperly lockout tagged electrical equipment.
    - (b) It is understood that if such electrical observations or measurements are required to obtain necessary information for design of the project, the Owner will make arrangements for someone (either a licensed electrician or properly trained employee) to open the live equipment and take the required measurements.
  - D) Code analysis as it relates to the portion of the project relative to this services agreement.
  - E) Coordination of design relative to this services agreement with General Contractor; however, the following coordination services will be considered additional services:
    - (a) Changes in design, including but not limited to:
      - a. Revised programming after SD
      - b. Change in selected building system after SD
      - c. Revised plan layout after DD
      - d. Change in building loads after DD
      - e. Change in equipment manufacturer basis of design after DD.
    - (b) Specialty consultant coordination timely and limited to (2) updates.
- 5) CONSTRUCTION ADMINISTRATION:
  - A) Limited services included:**
    - a. Response to questions during bidding.
    - b. Response to code review comments.
    - c. Review of shop drawings, and O & M manuals, and product data:
      - i. Basic services include up to (1) reviews of each shop drawing, product data item, sample and similar submittal by the contractor. Submittal reviews beyond this number will be billed to and paid for by the submitting contractor prior to HP commencing review. If design and/or specifications are changed after initial shop drawing submittal, then the quantity of reviews will re-start based on the new design supplied by HP Engineering.
      - ii. Review of submittals shall be for general conformance with the information given and design concept expressed in the Contract Documents.
    - d. Virtual Attendance at OAC and Pre-Construction meetings, maximum of 4 meetings.
    - e. Response to contractor questions during course of construction.



f. Construction Site Observations:

- i. Site visits during construction will be to observe and become generally familiar with the progress and quality of the contractor's work and to determine if the work is proceeding in general accordance with the Contract Documents. HP does not guarantee the performance of, and shall have no responsibility for, the acts, safety procedures, programs, or omissions of any contractor, subcontractor, and supplier or by other entity furnishing materials or performing any work on the project.
- ii. Anticipated intervals and number of site visits included in this proposal are as listed below; site visits in excess of that listed will be provided as an Additional Service, when required or requested, and shall be charged at our then current standard hourly rates provided in Section titled "Compensation for Professional Services"

*Electrical Observations:*

3 of visits with Punch reports

B. The following shall not be provided by IMEG under the terms of this Agreement:

*General:*

- 1) Detailed life-cycle costs and/or energy-use studies.
- 2) Opinions of probable costs, but costs developed by others can be reviewed for general conformance with the documented systems relative to this service agreement.
- 3) Preparation of shop or fabrication drawings
- 4) Record drawings (as-builts) with contractor changes incorporated.
- 5) Studies of various schemes to accommodate special energy requirements.
- 6) Support for LEED or other similar type Certification.
- 7) Preparation of demolition documents.
- 8) Re-design due to Value Engineering (IMEG will assist with recommendations)
- 9) Storm drainage system design external to the building(s).
- 10) Foundation drainage system.
- 11) Radon Systems.
- 12) Groundwater drainage below slabs.
- 13) Screen wall designs and specifications.
- 14) Daylighting analysis, modeling, and calculations.
- 15) Greywater or storm water reuse system design.
- 16) Design of extension of water, sewer, storm, gas, electric and telephone utilities to the site.
- 17) Street Lighting.
- 18) Design of any structural engineering details such as light pole bases, MEP equipment suspension, reinforced concrete pads, seismic bracing and other supports (if IMEG's Structural services are not provided).

C. The Client shall provide the following under the terms of this Agreement:

*General:*

- 1) Electronic copies of building floor plans, furniture and equipment plans, reflected ceiling plans, and site plan on disk in .RVT, .DWG, or .DXF format.
- 2) Copies of architectural elevations, sections, details, etc. sufficient to show ceiling, wall and floor construction types, fire ratings, and clear spaces available.
- 3) Copies of any available existing building drawings and/or a pre-construction site survey providing dimensions and extents of all systems and elements abutting or adjacent to the scope of work for coordination of the design.

*Mechanical, Electrical, and Plumbing:*

- 4) Copy of site survey indicating utility line locations, sizes and capacities.
- 5) Cut sheets indicating electrical, plumbing, and environmental requirements and rough-in locations for all equipment provided by others. This includes cut sheets and/or conduit routing plans for all audio-visual, security, telephone, data, and kitchen equipment provided by others which have connections or conduit to be shown on plans compiled by IMEG.

## 4 REIMBURSABLE EXPENSES

- A. Reimbursable expenses shall be billed above and beyond all fees for professional services at the cost incurred, reimbursable items shall be as follows:





- 1) Reproductions, plots, postage, handling and delivery of project related documents and electronic media requested by the Client or Owner. Plotting of Client, Client's consultant and sub-consultant electronic media for IMEG in-house use will be considered a reimbursable expense when no hard copy of those documents are provided to IMEG. Plotting and printing of IMEG generated documents for IMEG's in-house use is not a reimbursable expense.
- 2) Overnight delivery, handling, and postage charges.
- 3) Travel expenses (mileage, airfare, lodging, per-diem food allowance, parking and car rental).
- 4) Working with Easy Submittals or other web-based submittal review process fees and charges.
- 5) Costs to obtain product samples that are requested by the Client or Owner.
- 6) Expenses related to governing body review(s), including but not limited to State health department plumbing review.

## 5 TERMS AND CONDITIONS

This Agreement for professional services has been entered into by the Client, and IMEG Consultants Corp. (IMEG). The name IMEG shall pertain to all employees, principals, officers, and all divisions of IMEG Consultants Corp.

**A. Performance of Services:** IMEG shall perform the basic services as outlined above, and any additional services as required or directed by the Client in consideration of the fee arrangements and payment terms described in "Compensation" above. Services performed under this agreement will be performed in a manner consistent with that degree of skill and care ordinarily exercised by members of the same profession currently practicing under similar circumstances. No warranties, express or implied, are made in connection with services performed under this Agreement. Nothing in this Agreement shall be construed to establish a fiduciary relationship between the parties.

**B. Excluded Services:** Other services available from IMEG and applicable to the project have been made known and explained to the Client. Where IMEG has deemed a service needed or advisable, IMEG has made this opinion known to the Client and the Client has confirmed his or her opinion that such services are not requested of IMEG and/or the Client has made or shall make arrangements to obtain those services from a source other than IMEG. These excluded services include:

- 1) Full-time, on-site construction observation.
- 2) Providing financial feasibility or other special studies.
- 3) Providing extraordinary services to investigate existing conditions or facilities or to make measured drawings thereof.
- 4) Providing formal life-cycle cost studies of structural, mechanical and/or electrical systems.
- 5) Providing revisions of drawings, specifications or other documents when such revisions are required by changes to previously approved design criteria.
- 6) Providing consultation concerning replacement of any work damaged by fire or other causes during construction.
- 7) Providing professional services made necessary by the default of the contractor or by major defects in the work of the contractor in the performance of the Construction Contract.
- 8) Providing services or special consultants for other than the normal structural, mechanical, electrical and/or plumbing engineering services for the Project.
- 9) Preparing to serve or serving as an expert witness in connection with any public hearing, or legal proceeding where IMEG is not a named party to such a hearing or proceeding.
- 10) Preparing detailed cost estimates or opinions of probable construction cost.

The Client hereby agrees, to the fullest extent permitted by law, to indemnify and hold IMEG harmless from any claim, liability or cost, including reasonable attorney's fees and cost of defense, for injury or loss arising or allegedly arising from IMEG's failure to perform a service listed above and excluded at the Client's direction.

**C. Length of Contract:** This contract shall be in force for a period of 12 months. At the end of the term IMEG reserves the right to make modifications to the terms of this agreement, and extend the contract an additional 12 months upon agreement of both parties. If negotiations of modified terms are underway, this contract shall continue under the existing terms until either new terms are agreed upon, or negotiations cease. Either party may stop negotiations at any point.

**D. Verification of Existing Conditions:** Because evaluation of the existing structure or site requires that certain assumptions be made regarding existing conditions, and because some of these assumptions cannot be verified without expending additional sums of money or destroying otherwise adequate or serviceable portions of the building, the Client agrees to indemnify and hold IMEG harmless from and against any and all damage, liability and cost arising or allegedly arising out of the professional services under this Agreement, except for the sole negligence or willful misconduct of IMEG. IMEG shall not be required to sign any documents, no matter by whom requested, that would result in IMEG having to certify, guarantee or warrant the existence of conditions whose existence IMEG cannot ascertain.



- E. Betterment:** If, due to the Engineer's error, any required item or component of the project is omitted from the Construction Documents produced by IMEG, IMEG's liability shall be limited to the difference between the cost of adding the item at the time of discovery of the omission and the cost had the item or component been included in the construction documents. In no event will IMEG be responsible for any cost or expense that provides betterment, upgrade or enhancement of the project.
- F. Indemnification:** The Client shall, to the fullest extent permitted by law, indemnify and hold harmless IMEG, his or her officers, directors, employees, agents and subconsultants from and against all damage, liability and costs, including reasonable attorney's fees and cost of defense, to the extent caused by the performance of the services under this Agreement, excepting only those damages, liabilities or costs attributable to the sole negligence or willful misconduct of IMEG or IMEG's consultants.
- G. Limitation of Liability:** In recognition of the relative risks and benefits of the project to both the Client and IMEG, the risks have been allocated such that the Client agrees, to the fullest extent permitted by law, to limit the liability of IMEG and their subconsultants to the Client and to all construction contractors and subcontractors on the project for any and all injuries, claims, losses, expenses, damages of any nature whatsoever or claims expenses arising out of this agreement from any cause or causes, so that the total aggregate liability of IMEG and their subconsultants to all those named shall not exceed IMEG's total fee for services rendered on this project. Such claims and causes include, but are not limited to design professional's negligence, errors, omissions, strict liability, breach of contract or breach of warranty.
- H. Jobsite Safety:** Neither the professional activities of IMEG, nor the presence of his or her employees and subconsultants at a construction site, shall relieve the Contractors and any other entity of their obligations, duties and responsibilities including, but not limited to, construction means, methods, sequence, techniques or procedures necessary for performing or coordinating all portions of the Work of construction in accordance with the contract documents and any health/safety precautions required by regulatory agencies. IMEG and their personnel have no authority to exercise any control over any contractor or other entity or their employees in connection with their work or any health/safety precautions. The Client agrees that the Contractor is solely responsible for jobsite safety, and warrants that this intent shall be made evident in the Client's agreement with the General Contractor. The Client also agrees that the Client, IMEG and IMEG's consultants shall be indemnified and shall be made additional insureds under the General Contractor's general liability insurance policy.
- I. Hazardous Materials:** Both parties acknowledge that IMEG's scope of services does not include any services related to asbestos, hazardous or toxic materials. In the event IMEG or any other party encounters asbestos or hazardous or toxic materials at the jobsite, or should it become known in any way that such materials may be present at the jobsite or any adjacent areas that may affect the performance of IMEG's services, IMEG may, at their option and without liability for consequential or any other damages, suspend performance of services on the project until the Client retains appropriate specialist consultants or contractors to identify, abate and/or remove the asbestos, hazardous or toxic materials and warrant that the jobsite is in full compliance with applicable laws and regulations. IMEG is not responsible for any claims resulting from the existence, discovery, or for the removal of hazardous materials or additional costs the removal will necessitate.
- J. Information Provided by Others:** IMEG shall indicate to the Client the information needed for rendering of services hereunder. The Client shall provide to IMEG such information as is available to the Client and the Client's consultants and contractors, and IMEG shall be entitled to rely upon the accuracy and completeness thereof. The Client recognizes that it is impossible for IMEG to assure the accuracy, completeness and sufficiency of such information, either because it is impossible to verify, or because of errors or omissions which may have occurred in assembling the information the Client is providing. Accordingly, the Client agrees to indemnify and hold IMEG and IMEG's subconsultants harmless from any claim, liability or cost for injury or loss arising or allegedly arising from errors, omissions or inaccuracies in documents or other information provided by the Client to IMEG.
- K. Opinions of Probable Costs:** In providing opinions of probable cost, the Client understands that IMEG has no control over costs or the price of labor, equipment or materials, or over the Contractor's method of pricing, and that the opinions of probable construction costs provided herein are to be made on the basis of IMEG's qualifications and experience. IMEG makes no warranty, expressed or implied, as to the accuracy of such opinions as compared to bid or actual costs. IMEG shall be compensated as Additional Service, as provided for herein, for all time spent to review, redesign and to incorporate revisions due to probable costs.
- L. Value Engineering:** If the Client retains the services of a Value Engineer (VE) or allows the General Contractor or any of his or her subcontractors to function as a VE to review the Construction Documents prepared for this project by IMEG, it shall be at the Client's sole expense and shall be performed in a timely manner so as not to delay the orderly progress of IMEG's services. All recommendations of the VE shall be given to IMEG for their review, and adequate time will be provided for IMEG to respond to these recommendations. IMEG shall be compensated as Additional Service, as provided for herein, for all time spent to review the recommendations of the VE and to incorporate those accepted by both the Client and IMEG. If IMEG objects to any recommendations made by the VE, IMEG shall so state in writing to the Client, along with their reasons for objecting. If the Client insists on



incorporating in the Construction Documents any changes to which IMEG has objected in writing, the Client agrees to indemnify and hold IMEG harmless from any damage, liability or cost which arise in connection with or as a result of the incorporation of such design changes insisted upon by the Client.

- M. Unauthorized Changes:** In the event the Client consents to, allows, authorizes or approves of changes to the Construction Documents, and these changes are not approved in writing by IMEG, the Client recognizes that such changes and the results thereof are not the responsibility of IMEG. Therefore, the Client agrees to release IMEG from any liability arising from the construction, use or result of such changes. In addition, the Client agrees to indemnify and hold IMEG harmless from any damage, liability or cost arising from such changes, except only those damages, liabilities and costs arising from the sole negligence or willful misconduct of IMEG.
- N. Changed Conditions:** The Client shall rely on IMEG's judgment as to the continued adequacy of this Agreement in light of occurrences or discoveries that were not originally contemplated by or known to IMEG. Should IMEG call for contract renegotiation, IMEG shall identify the changed conditions necessitating renegotiation and IMEG and the Client shall promptly and in good faith enter into renegotiation of this Agreement. If terms cannot be agreed to, the parties agree that either party has the absolute right to terminate this Agreement.
- O. Defects in Service:** The Client shall promptly report to IMEG any defects or suspected defects in IMEG's work or services of which the Client becomes aware, so that IMEG may take measures to minimize the consequences of such a defect. The Client warrants that he or she will impose a similar notification requirement on all contractors in his or her Client/Contractor contract and shall require all sub-contracts at any level to contain a like requirement. Failure by the Client, and the Client's contractors or subcontractors to promptly notify IMEG, shall relieve IMEG of the costs of remedying the defects above the sum such remedy would have cost had prompt notification been given.
- P. Dispute Resolution:** Any claims or disputes between the Client and IMEG arising out of the services to be provided by IMEG or out of this Agreement shall, as a condition precedent to litigation, be submitted to non-binding mediation. The Client and IMEG agree to include a similar mediation agreement with all contractors, subcontractors, subconsultants, suppliers and fabricators, providing for mediation as the primary method for dispute resolution among all parties.
- Q. Fast Track Design and Construction:** In consideration of the benefits to the Client of employing the fast track process (in which some of IMEG's design services overlap the construction work and are out of sequence with the traditional project delivery method), and in recognition of the inherent risks of fast tracking to IMEG, the Client agrees to waive all claims against IMEG for design changes and modifications of portions of the Work already constructed due to the Client's decision to employ the fast track process. The Client further agrees to compensate IMEG for all Additional Services required to modify, correct or adjust the Construction Documents and coordinate them in order to meet the Client's program requirements because of the Client's decision to construct the project in a fast track manner.
- R. Ownership of Documents:** All documents, including all documents on electronic media, prepared by IMEG under this Agreement are instruments of IMEG's professional service and shall remain the property of IMEG and may not be used by the Client for any other purpose without the written prior consent of IMEG.
- S. Termination of Services:** This Agreement may be terminated at any time by either party should the other party fail to perform its obligations hereunder. In the event of termination for any reason whatsoever, the Client shall pay IMEG for all services rendered to the date of the termination, and all reimbursable expenses incurred prior to termination and reasonable termination expenses incurred as a result of termination.

## 6 TERMS AND CONDITIONS FOR THE COLLECTION OF PROFESSIONAL SERVICES FEES

- A. Payment:**
  - a. Payment to IMEG shall be made within **30 business days upon receipt of the invoice.**
- B. Independent Obligation to Pay:**
  - a. The Client acknowledges and agrees that its obligation to make payments to IMEG is independent of the Client's receipt of payment from their Client, or any other party. The Client shall not withhold or delay payments to IMEG based on the timing or receipt of payments from other parties.
  - b. The Client shall ensure that payments to IMEG are made within **3 business days** of the dates of the invoice issued by IMEG. Subject to interest fees.
  - c. In the event that the Client anticipates or experiences delays in payment from their Client that may affect its ability to make timely payments to IMEG, the Client shall promptly notify IMEG of such delays and provide an estimated timeframe for payment.





- d. If the Client fails to make payments within the stipulated timeframe, the Client shall be liable for any late fees, interest, or costs incurred by IMEG as a result of such delay.

**C. Dispute Resolution:**

- a. In the event of a 60-day delay or dispute in payment, the Client agrees to promptly inform IMEG of the situation. The parties shall work together in good faith to resolve any payment-related disputes through negotiation, mediation, or other mutually agreed-upon dispute resolution methods, as stated in section 5(P).

**D. Legal Action:**

If, despite reasonable efforts and after reasonable dispute resolutions, payments remain outstanding, legal action, including but not limited to filing a lawsuit or lien, may be deemed necessary to address and remedy the alleged breach of contract.

- E. Interest:** In the event of late payment, the unpaid amount shall accrue interest at a rate of 15% per annum, compounded annually, from 30 days of the invoice date until the outstanding balance is fully settled. However, there shall be a minimum late payment charge of \$10, in addition to the interest charges. Please note that the interest rate mentioned is subject to the maximum allowable interest rate as determined by the applicable laws and regulations in the State of Arkansas.
- F. Collection Costs:** In the event legal action is necessary to enforce the payment provisions of this Agreement, IMEG shall be entitled to collect from the Client any judgment or settlement sums due, reasonable attorneys' fees, court costs and expenses incurred by IMEG in connection therewith and, in addition, the reasonable value of IMEG's time and expenses spent in connection with such collection action, computed at IMEG's prevailing fee schedule and expense policies.
- G. Suspension of Services:** If the Client fails to make payments when due or otherwise is in breach of this Agreement, IMEG may suspend performance of services upon five (5) calendar days' notice to the Client. IMEG shall have no liability whatsoever to the Client for any costs or damages as a result of such suspension caused by any breach of this Agreement by the Client.

## 7 EXTENT OF AGREEMENT

This proposal represents the entire agreement between the Client and IMEG Consultants Corp. and supersedes all prior negotiations, representations, or agreements, whether written or oral. This agreement may be amended only by written instrument signed by both the Client and IMEG Consultants Corp. This proposal is valid for a period of 30 calendar days. If IMEG's involvement in the design of the project has not started within 6 months of the date of the signed agreement, IMEG reserves the right to modify the fee.

It is understood and agreed that both parties shall sign this Agreement to acknowledge their acceptance of the terms and conditions herein. The absence of a signature from either party shall not invalidate the Agreement if the conditions specified in this section are met.

In the event that the Agreement has not been signed by both parties within ten (10) days from the Effective date referenced herein, and there has been no written protest or objection received from either party during this period, it shall be deemed that an implied contract has been established.

In the absence of a signed Agreement, any work performed by IMEG after the expiration of the ten (10) day period, without written protest or objection from the Client, shall be considered as a clear indication of the Client's acceptance of the terms and conditions outlined in this Agreement.

Upon the establishment of an implied contract, both parties shall be bound by the terms and conditions of this Agreement, and all relevant provisions, including but not limited to payment terms, termination clauses, and dispute resolution mechanism, shall be fully applicable.

If either party wishes to raise any objections or concerns regarding the Agreement during the ten (10) day period, it is their responsibility to provide written notice to the other party explicitly detailing the nature of the objections. Failure to provide such written notice within the specified period shall be deemed as an acceptance of the Agreement.

Upon the establishment of an implied contract, both parties shall make reasonable efforts to promptly sign the Agreement and execute any additional documentation necessary to formalize the contractual relationship. The establishment of an implied contract shall not relieve either party of their obligation to sign the Agreement in the future.

In furtherance of the previous clause:



1. **Electronic Communications:** All email and text exchanges between the parties related to the subject matter of this Agreement shall be considered as evidence of the parties' intention to form a contract in accordance with the terms and conditions outlined herein.
2. **Preservation of Communications:** Both parties shall make reasonable efforts to preserve and retain all relevant email and text exchanges that pertain to the negotiation, acceptance, and performance of the Agreement. Such exchanges shall be considered integral to the determination of the existence and scope of the Agreement.
3. **Authentication of Communications:** The authenticity and integrity of email and text exchanges may be subject to verification through appropriate means, including but not limited to email headers, timestamps, digital signatures, or other relevant methods, to establish their accuracy and reliability as evidence of the implied contract agreement.
4. **Admissibility in Legal Proceedings:** The parties acknowledge that email and text exchanges may be submitted as evidence in legal proceedings or arbitration to demonstrate the existence and terms of the implied contract. Both parties agree to cooperate and provide necessary assistance to authenticate and present such communications as evidence.
5. **Entire Agreement:** This clause does not modify or supersede any provisions within the Contract related to the integration or entire agreement clause. In the event of any conflict between this clause and the Contract's provisions, the Contract shall prevail.

## 8 SEVERABILITY

In the event that any provision or clause of this agreement is deemed to be unenforceable, illegal, or invalid under applicable law by a court of competent jurisdiction, such provision or clause shall be severed from this agreement without affecting the validity or enforceability of the remaining provisions or clauses. The parties agree that the invalidation or unenforceability of any provision or clause shall not invalidate or render unenforceable the entire agreement.

We look forward to working with you on this project.

Sincerely,

---

Shane Wells  
Project Executive  
IMEG Consultants, Corp.

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Clint Harrington  
President  
Pilkington Construction Co.

**End Appendix F - Design and Preconstruction Fee Proposal**



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

8/18/2025

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> A.T.P. and Associates, LLC 350 W 16th Street Ste 103 Yuma AZ 85364	<b>CONTACT</b> NAME: Cynthia Gastelum PHONE (A/C, No, Ext): 928-783-0000 E-MAIL ADDRESS: Crios@pancrazi.com	<b>FAX</b> (A/C, No): 928-783-3731
<b>INSURER(S) AFFORDING COVERAGE</b>		<b>NAIC #</b>
INSURER A : CNA Insurance Companies		
INSURER B : Great Divide Insurance Company		
INSURER C :		
INSURER D :		
INSURER E :		
INSURER F :		

**COVERAGES****CERTIFICATE NUMBER:** 1947796383**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
A	<input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> 10,000 GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	Y	Y	6078590479	6/1/2025	6/1/2026	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 15,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
A	<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	6078561757	6/1/2025	6/1/2026	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"/> <b>UMBRELLA LIAB</b> <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			6078561726	6/1/2025	6/1/2026	EACH OCCURRENCE \$ 7,000,000 AGGREGATE \$ 7,000,000 \$
A	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input type="checkbox"/> Y/N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		Y	6078561712	6/1/2025	6/1/2026	<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
B A	Pollution & Prof Liability Equipment Floater			CPP2043695-10 6078590479	6/15/2025 6/1/2025	6/15/2026 6/1/2026	Aggregate 1,000,000 Leased Equipment 100,000

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

Certificate holder is additional insured for ongoing and completed operations including primary and non-contributory and waiver of subrogation for general liability. Additional insured and waiver of subrogation apply to auto liability. Waiver of subrogation applies to workers compensation.  
Per attached forms: CNA75079XX(10-16), CNA74705XX(01-15), CNA63359XX(04-12), WC000313(04-84).

Project: 2538-Tres Rios Emergency Backup Power Design

**CERTIFICATE HOLDER****CANCELLATION**

Pima County	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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Certified Environmentally  
Responsible Contractor

Certified Contractor	Pilkington Contracting Co., Inc., DBA: Pilkington Construction Co.		
Insurance Carrier	Great Divide Ins. Co.		
Policy #	CPP2043695-10	Policy Period	6/15/2024 - 6/15/2025

The potential risk of a pollution event is inherent in all construction work. Such an event can cause significant financial loss for project owners and other contractors at the site and can even impact the community and environment. Some contractors actively manage this risk, while others do not. Environmental Risk Professionals, LLC hereby certifies that the above referenced contractor has distributed protocols to avoid pollution incidents on job sites and has purchased a comprehensive pollution liability insurance policy to provide financial responsibility should an accident arise.

**Training** – The above referenced contractor has distributed “Pollution Prevention Practices” designed to mitigate common environmental risks associated with their contracting operations. Examples of these written protocols may include, but are not limited to, the following activities:

Chemical Storage  
Solid and Hazardous Waste Management  
General Housekeeping  
Mold Identification and Abatement  
Responding to Spills

Fugitive Dust Control  
Stormwater Pollution Prevention  
Personal Protective Equipment  
Deterring Illicit Abandonment  
Asbestos and Lead Based Paint

**Insurance**– Even when Pollution Prevention Practices are followed, accidents still happen. Property owners bear the ultimate responsibility for a pollution problem at their site, even if caused by a contractor working on their behalf. A contractor needs to purchase a true pollution liability policy in order to properly protect the entities for whom they perform operations. Environmental Risk Professionals, LLC has reviewed the above referenced pollution liability policy and hereby confirms that it provides the following important financial responsibility provisions:

1. A policy limit of at least \$1,000,000
2. Coverage is primary and non-contributory, with the certificate holders included as Additional Insureds and carrier rights to subrogation waived in their favor
3. On-site and off-site remediation expense for pollution conditions arising from contracting operations
4. No mold exclusion on policy
5. A pollution event includes damage to natural resources
6. Coverage for transportation and disposal of pollutants
7. No limitation to sudden and accidental pollution release only



ENVIRONMENTAL  
RISK PROFESSIONALS

Signed Environmental Risk Professionals, LLC

This certificate was issued on 6/17/2024 and serves as a matter of information only. The Certificate is only valid through the current policy period with an active policy. This certificate confers no rights upon the certificate holder and does not affirmatively or negatively amend, extend or alter the coverage afforded by the policy listed above. This certificate does not constitute a contract between the issuing insurer and the certificate holder.



**CONTRACTORS EXTENDED COVERAGE ENDORSEMENT - BUSINESS AUTO PLUS**

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

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

**I. LIABILITY COVERAGE**

**A. Who Is An Insured**

The following is added to **Section II, Paragraph A.1., Who Is An Insured**:

1. a. Any incorporated entity of which the Named Insured owns a majority of the voting stock on the date of inception of this Coverage Form; provided that,
  - b. The insurance afforded by this provision A.1. does not apply to any such entity that is an insured under any other liability "policy" providing auto coverage.
2. Any organization you newly acquire or form, other than a limited liability company, partnership or joint venture, and over which you maintain majority ownership interest.

The insurance afforded by this provision **A.2.**:

- a. Is effective on the acquisition or formation date, and is afforded only until the end of the policy period of this Coverage Form, or the next anniversary of its inception date, whichever is earlier.
- b. Does not apply to:
  - (1) Bodily injury or property damage caused by an accident that occurred before you acquired or formed the organization; or
  - (2) Any such organization that is an insured under any other liability "policy" providing auto coverage.
3. Any person or organization that you are required by a written contract to name as an additional insured is an insured but only with respect to their legal liability for acts or omissions of a person, who qualifies as an insured under **SECTION II - WHO IS AN INSURED** and for whom Liability Coverage is afforded under this policy. If required by written contract, this insurance will be primary and non-contributory to insurance on which the additional insured is a Named Insured.
4. An employee of yours is an insured while operating an auto hired or rented under a contract or agreement in that employee's name, with your permission, while performing duties related to the conduct of your business.

"Policy", as used in this provision **A. Who Is An Insured**, includes those policies that were in force on the inception date of this Coverage Form but:

1. Which are no longer in force; or
2. Whose limits have been exhausted.

**B. Bail Bonds and Loss of Earnings**

**Section II, Paragraphs A.2. (2) and A.2. (4)** are revised as follows:

1. In a.(2), the limit for the cost of bail bonds is changed from \$2,000 to \$5,000; and
2. In a.(4), the limit for the loss of earnings is changed from \$250 to \$500 a day.

Form No: CNA63359XX (04-2012)

Endorsement Effective Date: 06/01/2025

Endorsement No: ; Page: 1 of 4

Underwriting Company: Continental Casualty Company, 151 N Franklin St, Chicago, IL 60606  
Pilkington Contracting Co

Endorsement Expiration Date: 06/01/2026

Policy No: 6078561757

Policy Effective Date: 06/01/2025

Policy Page:



**C. Fellow Employee**

Section II, Paragraph B.5 does not apply.

Such coverage as is afforded by this provision C. is excess over any other collectible insurance.

**II. PHYSICAL DAMAGE COVERAGE**

**A. Glass Breakage – Hitting A Bird Or Animal – Falling Objects Or Missiles**

The following is added to Section III, Paragraph A.3.:

With respect to any covered auto, any deductible shown in the Declarations will not apply to glass breakage if such glass is repaired, in a manner acceptable to us, rather than replaced.

**B. Transportation Expenses**

Section III, Paragraph A.4.a. is revised, with respect to transportation expense incurred by you, to provide:

- a. \$60 per day, in lieu of \$20; subject to
- b. \$1,800 maximum, in lieu of \$600.

**C. Loss of Use Expenses**

Section III, Paragraph A.4.b. is revised, with respect to loss of use expenses incurred by you, to provide:

- a. \$1,000 maximum, in lieu of \$600.

**D. Hired "Autos"**

The following is added to Section III, Paragraph A.:

**5. Hired "Autos"**

If Physical Damage coverage is provided under this policy, and such coverage does not extend to Hired Autos, then Physical Damage coverage is extended to:

- a. Any covered auto you lease, hire, rent or borrow without a driver; and
- b. Any covered auto hired or rented by your employee without a driver, under a contract in that individual employee's name, with your permission, while performing duties related to the conduct of your business.
- c. The most we will pay for any one accident or loss is the actual cash value, cost of repair, cost of replacement or \$75,000, whichever is less, minus a \$500 deductible for each covered auto. No deductible applies to loss caused by fire or lightning.
- d. The physical damage coverage as is provided by this provision is equal to the physical damage coverage(s) provided on your owned autos.
- e. Such physical damage coverage for hired autos will:
  - (1) Include loss of use, provided it is the consequence of an accident for which the Named Insured is legally liable, and as a result of which a monetary loss is sustained by the leasing or rental concern.
  - (2) Such coverage as is provided by this provision will be subject to a limit of \$750 per accident.

**E. Airbag Coverage**

The following is added to Section III, Paragraph B.3.:

The accidental discharge of an airbag shall not be considered mechanical breakdown.

Form No: CNA63359XX (04-2012)

Endorsement Effective Date: 06/01/2025

Endorsement Expiration Date: 06/01/2026

Endorsement No: ; Page: 2 of 4

Underwriting Company: Continental Casualty Company, 151 N Franklin St, Chicago, IL 60606  
Pilkington Contracting Co

Policy No: 6078561757

Policy Effective Date: 06/01/2025

Policy Page:



**Business Auto Policy  
Policy Endorsement**

**F. Electronic Equipment**

Section III, Paragraphs B.4.c and B.4.d. are deleted and replaced by the following:

- c. Physical Damage Coverage on a covered auto also applies to loss to any permanently installed electronic equipment including its antennas and other accessories
- d. A \$100 per occurrence deductible applies to the coverage provided by this provision.

**G. Diminution In Value**

The following is added to Section III, Paragraph B.6.:

Subject to the following, the diminution in value exclusion does not apply to:

- a. Any covered auto of the private passenger type you lease, hire, rent or borrow, without a driver for a period of 30 days or less, while performing duties related to the conduct of your business; and
- b. Any covered auto of the private passenger type hired or rented by your employee without a driver for a period of 30 days or less, under a contract in that individual employee's name, with your permission, while performing duties related to the conduct of your business.
- c. Such coverage as is provided by this provision is limited to a diminution in value loss arising directly out of accidental damage and not as a result of the failure to make repairs; faulty or incomplete maintenance or repairs; or the installation of substandard parts.
- d. The most we will pay for loss to a covered auto in any one accident is the lesser of:
  - (1) \$5,000; or
  - (2) 20% of the auto's actual cash value (ACV).

**III. Drive Other Car Coverage – Executive Officers**

The following is added to Sections II and III:

- 1. Any auto you don't own, hire or borrow is a covered auto for Liability Coverage while being used by, and for Physical Damage Coverage while in the care, custody or control of, any of your "executive officers", except:
  - a. An auto owned by that "executive officer" or a member of that person's household; or
  - b. An auto used by that "executive officer" while working in a business of selling, servicing, repairing or parking autos.

Such Liability and/or Physical Damage Coverage as is afforded by this provision.

- (1) Equal to the greatest of those coverages afforded any covered auto; and
- (2) Excess over any other collectible insurance.

- 2. For purposes of this provision, "executive officer" means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document, and, while a resident of the same household, includes that person's spouse.

Such "executive officers" are insureds while using a covered auto described in this provision.

**IV. BUSINESS AUTO CONDITIONS**

**A. Duties In The Event Of Accident, Claim, Suit Or Loss**

The following is added to Section IV, Paragraph A.2.a.:

Form No: CNA63359XX (04-2012)	Endorsement Effective Date: 06/01/2025	Endorsement Expiration Date: 06/01/2026	Policy No: 6078561757
Endorsement No: ; Page: 3 of 4			Policy Effective Date: 06/01/2025
Underwriting Company: Continental Casualty Company, 151 N Franklin St, Chicago, IL 60606			Policy Page:
Pikington Contracting Co			



**Business Auto Policy  
Policy Endorsement**

- (4) Your **employees** may know of an **accident** or **loss**. This will not mean that you have such knowledge, unless such **accident** or **loss** is known to you or if you are not an individual, to any of your **executive officers** or **partners** or your **insurance manager**.

The following is added to **Section IV, Paragraph A.2.b.**:

- (6) Your **employees** may know of documents received concerning a claim or **suit**. This will not mean that you have such knowledge, unless receipt of such documents is known to you or if you are not an individual, to any of your **executive officers** or **partners** or your **insurance manager**.

**B. Transfer Of Rights Of Recovery Against Others To Us**

The following is added to **Section IV, Paragraph A.5. Transfer Of Rights Of Recovery Against Others To Us**:

We waive any right of recovery we may have, because of payments we make for injury or damage, against any person or organization for whom or which you are required by written contract or agreement to obtain this waiver from us.

This injury or damage must arise out of your activities under a contract with that person or organization.

You must agree to that requirement prior to an **accident** or **loss**.

**C. Concealment, Misrepresentation or Fraud**

The following is added to **Section IV, Paragraph B.2.**:

Your failure to disclose all hazards existing on the date of inception of this Coverage Form shall not prejudice you with respect to the coverage afforded provided such failure or omission is not intentional.

**D. Other Insurance**

The following is added to **Section IV, Paragraph B.5.**:

Regardless of the provisions of Paragraphs 5.a. and 5.d. above, the coverage provided by this policy shall be on a primary non-contributory basis. This provision is applicable only when required by a written contract.

That written contract must have been entered into prior to **Accident** or **Loss**.

**E. Policy Period, Coverage Territory**

**Section IV, Paragraph B. 7.(5).(a).** is revised to provide:

- a. 45 days of coverage in lieu of 30 days.

**V. DEFINITIONS**

**Section V. paragraph C.** is deleted and replaced by the following:

**Bodily injury** means bodily injury, sickness or disease sustained by a person, including mental anguish, mental injury or death resulting from any of these.

Form No: CNA63359XX (04-2012)

Endorsement Effective Date: 06/01/2025

Endorsement No: ; Page: 4 of 4

Underwriting Company: Continental Casualty Company, 151 N Franklin St, Chicago, IL 60606  
Pilkington Contracting Co

Endorsement Expiration Date: 06/01/2026

Policy No 6078561757  
Policy Effective Date: 06/01/2025  
Policy Page:



**CNA PARAMOUNT****Contractors' General Liability Extension Endorsement**

It is understood and agreed that this endorsement amends the **COMMERCIAL GENERAL LIABILITY COVERAGE PART** as follows. If any other endorsement attached to this policy amends any provision also amended by this endorsement, then that other endorsement controls with respect to such provision, and the changes made by this endorsement with respect to such provision do not apply.

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CONTINENTAL CASUALTY COMPANY

Insured Name: Pilkington Contracting Co

Policy No: 6078590479

Endorsement No:

Effective Date: 06/01/2025

**Contractors' General Liability Extension Endorsement****1. ADDITIONAL INSUREDS**

- a. **WHO IS AN INSURED** is amended to include as an **Insured** any person or organization described in paragraphs **A. through H.** below whom a **Named Insured** is required to add as an additional insured on this **Coverage Part** under a written contract or written agreement, provided such contract or agreement:

(1) is currently in effect or becomes effective during the term of this **Coverage Part**; and

(2) was executed prior to:

(a) the **bodily injury** or **property damage**; or

(b) the offense that caused the **personal and advertising injury**,

for which such additional insured seeks coverage.

- b. However, subject always to the terms and conditions of this policy, including the limits of insurance, the Insurer will not provide such additional insured with:

(1) a higher limit of insurance than required by such contract or agreement; or

(2) coverage broader than required by such contract or agreement, and in no event broader than that described by the applicable paragraph **A. through H.** below.

Any coverage granted by this endorsement shall apply only to the extent permissible by law.

**A. Controlling Interest**

Any person or organization with a controlling interest in a **Named Insured**, but only with respect to such person or organization's liability for **bodily injury**, **property damage** or **personal and advertising injury** arising out of:

1. such person or organization's financial control of a **Named Insured**; or
2. premises such person or organization owns, maintains or controls while a **Named Insured** leases or occupies such premises;

provided that the coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

**B. Co-owner of Insured Premises**

A co-owner of a premises co-owned by a **Named Insured** and covered under this insurance but only with respect to such co-owner's liability for **bodily injury**, **property damage** or **personal and advertising injury** as co-owner of such premises.

**C. Lessor of Equipment**

Any person or organization from whom a **Named Insured** leases equipment, but only with respect to liability for **bodily injury**, **property damage** or **personal and advertising injury** caused, in whole or in part, by the **Named Insured's** maintenance, operation or use of such equipment, provided that the **occurrence** giving rise to such **bodily injury**, **property damage** or the offense giving rise to such **personal and advertising injury** takes place prior to the termination of such lease.

**D. Lessor of Land**

Any person or organization from whom a **Named Insured** leases land but only with respect to liability for **bodily injury**, **property damage** or **personal and advertising injury** arising out of the ownership, maintenance or use of such land, provided that the **occurrence** giving rise to such **bodily injury**, **property damage** or the offense giving rise to such **personal and advertising injury** takes place prior to the termination of such lease. The

**Contractors' General Liability Extension Endorsement**

coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

**E. Lessor of Premises**

An owner or lessor of premises leased to the **Named Insured**, or such owner or lessor's real estate manager, but only with respect to liability for **bodily injury, property damage or personal and advertising injury** arising out of the ownership, maintenance or use of such part of the premises leased to the **Named Insured**, and provided that the **occurrence** giving rise to such **bodily injury or property damage**, or the offense giving rise to such **personal and advertising injury**, takes place prior to the termination of such lease. The coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

**F. Mortgagee, Assignee or Receiver**

A mortgagee, assignee or receiver of premises but only with respect to such mortgagee, assignee or receiver's liability for **bodily injury, property damage or personal and advertising injury** arising out of the **Named Insured's** ownership, maintenance, or use of a premises by a **Named Insured**.

The coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

**G. State or Governmental Agency or Subdivision or Political Subdivisions – Permits**

A state or governmental agency or subdivision or political subdivision that has issued a permit or authorization but only with respect to such state or governmental agency or subdivision or political subdivision's liability for **bodily injury, property damage or personal and advertising injury** arising out of:

1. the following hazards in connection with premises a **Named Insured** owns, rents, or controls and to which this insurance applies:
  - a. the existence, maintenance, repair, construction, erection, or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoistaway openings, sidewalk vaults, street banners, or decorations and similar exposures; or
  - b. the construction, erection, or removal of elevators; or
  - c. the ownership, maintenance or use of any elevators covered by this insurance; or
2. the permitted or authorized operations performed by a **Named Insured** or on a **Named Insured's** behalf.

The coverage granted by this paragraph does not apply to:

- a. **Bodily injury, property damage or personal and advertising injury** arising out of operations performed for the state or governmental agency or subdivision or political subdivision; or
- b. **Bodily injury or property damage** included within the **products-completed operations hazard**.

With respect to this provision's requirement that additional insured status must be requested under a written contract or agreement, the Insurer will treat as a written contract any governmental permit that requires the **Named Insured** to add the governmental entity as an additional insured.

**H. Trade Show Event Lessor**

1. With respect to a **Named Insured's** participation in a trade show event as an exhibitor, presenter or displayer, any person or organization whom the **Named Insured** is required to include as an additional insured, but only with respect to such person or organization's liability for **bodily injury, property damage or personal and advertising injury** caused by:



**Contractors' General Liability Extension Endorsement**

- a. the **Named Insured's** acts or omissions; or
- b. the acts or omissions of those acting on the **Named Insured's** behalf,

in the performance of the **Named Insured's** ongoing operations at the trade show event premises during the trade show event.

- 2. The coverage granted by this paragraph does not apply to **bodily injury** or **property damage** included within the **products-completed operations hazard**.

**2. ADDITIONAL INSURED - PRIMARY AND NON-CONTRIBUTORY TO ADDITIONAL INSURED'S INSURANCE**

The **Other Insurance** Condition in the **COMMERCIAL GENERAL LIABILITY CONDITIONS** Section is amended to add the following paragraph:

If the **Named Insured** has agreed in writing in a contract or agreement that this insurance is primary and non-contributory relative to an additional insured's own insurance, then this insurance is primary, and the Insurer will not seek contribution from that other insurance. For the purpose of this Provision 2., the additional insured's own insurance means insurance on which the additional insured is a named insured. Otherwise, and notwithstanding anything to the contrary elsewhere in this Condition, the insurance provided to such person or organization is excess of any other insurance available to such person or organization.

**3. BODILY INJURY – EXPANDED DEFINITION**

Under **DEFINITIONS**, the definition of **bodily injury** is deleted and replaced by the following:

**Bodily injury** means physical injury, sickness or disease sustained by a person, including death, humiliation, shock, mental anguish or mental injury sustained by that person at any time which results as a consequence of the physical injury, sickness or disease.

**4. BROAD KNOWLEDGE OF OCCURRENCE/ NOTICE OF OCCURRENCE**

Under **CONDITIONS**, the condition entitled **Duties in The Event of Occurrence, Offense, Claim or Suit** is amended to add the following provisions:

**A. BROAD KNOWLEDGE OF OCCURRENCE**

The **Named Insured** must give the Insurer or the Insurer's authorized representative notice of an **occurrence**, offense or **claim** only when the **occurrence**, offense or **claim** is known to a natural person **Named Insured**, to a partner, executive officer, manager or member of a **Named Insured**, or an **employee** designated by any of the above to give such notice.

**B. NOTICE OF OCCURRENCE**

The **Named Insured's** rights under this **Coverage Part** will not be prejudiced if the **Named Insured** fails to give the Insurer notice of an **occurrence**, offense or **claim** and that failure is solely due to the **Named Insured's** reasonable belief that the **bodily injury** or **property damage** is not covered under this **Coverage Part**. However, the **Named Insured** shall give written notice of such **occurrence**, offense or **claim** to the Insurer as soon as the **Named Insured** is aware that this insurance may apply to such **occurrence**, offense or **claim**.

**5. BROAD NAMED INSURED**

**WHO IS AN INSURED** is amended to delete its Paragraph 3. in its entirety and replace it with the following:

- 3. Pursuant to the limitations described in Paragraph 4. below, any organization in which a **Named Insured** has management control:

- a. on the effective date of this **Coverage Part**; or

**Contractors' General Liability Extension Endorsement**

b. by reason of a **Named Insured** creating or acquiring the organization during the **policy period**,

qualifies as a **Named Insured**, provided that there is no other similar liability insurance, whether primary, contributory, excess, contingent or otherwise, which provides coverage to such organization, or which would have provided coverage but for the exhaustion of its limit, and without regard to whether its coverage is broader or narrower than that provided by this insurance.

But this **BROAD NAMED INSURED** provision does not apply to:

- (a) any partnership, limited liability company or joint venture; or
- (b) any organization for which coverage is excluded by another endorsement attached to this **Coverage Part**.

For the purpose of this provision, management control means:

- A. owning interests representing more than 50% of the voting, appointment or designation power for the selection of a majority of the Board of Directors of a corporation; or
  - B. having the right, pursuant to a written trust agreement, to protect, control the use of, encumber or transfer or sell property held by a trust.
4. With respect to organizations which qualify as **Named Insureds** by virtue of Paragraph 3. above, this insurance does not apply to:
- a. **bodily injury or property damage** that first occurred prior to the date of management control, or that first occurs after management control ceases; nor
  - b. **personal or advertising injury** caused by an offense that first occurred prior to the date of management control or that first occurs after management control ceases.
5. The insurance provided by this **Coverage Part** applies to **Named Insureds** when trading under their own names or under such other trading names or doing-business-as names (dba) as any **Named Insured** should choose to employ.

**6. BROADENED LIABILITY COVERAGE FOR DAMAGE TO YOUR PRODUCT AND YOUR WORK**

- A. Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete exclusions k. and l. and replace them with the following:

This insurance does not apply to:

**k. Damage to Your Product**

**Property damage to your product** arising out of it, or any part of it except when caused by or resulting from:

- (1) fire;
- (2) smoke;
- (3) collapse; or
- (4) explosion.

**l. Damage to Your Work**

**Property damage to your work** arising out of it, or any part of it and included in the **products-completed operations hazard**.

This exclusion does not apply:

- (1) If the damaged work, or the work out of which the damage arises, was performed on the **Named Insured's** behalf by a subcontractor; or



**Contractors' General Liability Extension Endorsement**

(2) If the cause of loss to the damaged work arises as a result of:

- (a) fire;
- (b) smoke;
- (c) collapse; or
- (d) explosion.

B. The following paragraph is added to **LIMITS OF INSURANCE**:

Subject to 5. above, \$100,000 is the most the Insurer will pay under **Coverage A** for the sum of **damages** arising out of any one **occurrence** because of **property damage to your product** and **your work** that is caused by fire, smoke, collapse or explosion and is included within the **product-completed operations hazard**. This sublimit does not apply to **property damage to your work** if the damaged work, or the work out of which the damage arises, was performed on the **Named Insured's** behalf by a subcontractor.

C. This **Broadened Liability Coverage For Damage To Your Product And Your Work** Provision does not apply if an endorsement of the same name is attached to this policy.

## 7. CONTRACTUAL LIABILITY – RAILROADS

With respect to operations performed within 50 feet of railroad property, the definition of **insured contract** is replaced by the following:

**Insured Contract** means:

- a. 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 a **Named Insured** or temporarily occupied by a **Named Insured** with permission of the owner is not an **insured contract**;
- b. A sidetrack agreement;
- c. Any easement or license agreement;
- d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
- e. An elevator maintenance agreement;
- f. That part of any other contract or agreement pertaining to the **Named Insured's** business (including an indemnification of a municipality in connection with work performed for a municipality) under which the **Named Insured** assumes the tort liability of another party to pay for **bodily injury** or **property damage** to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph f. does not include that part of any contract or agreement:

(1) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:

- (a) Preparing, approving or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
- (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage;

(2) Under which the **Insured**, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in (1) above and supervisory, inspection, architectural or engineering activities.

## 8. ELECTRONIC DATA LIABILITY

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CONTINENTAL CASUALTY COMPANY

Insured Name: Pilkington Contracting Co

Policy No: 6078590479

Endorsement No:

Effective Date: 06/01/2025



## Contractors' General Liability Extension Endorsement

- A. Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete exclusion **p. Electronic Data** and replace it with the following:

This insurance does not apply to:

**p. Access Or Disclosure Of Confidential Or Personal Information And Data-related Liability**

Damages arising out of:

- (1) any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information; or
- (2) the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate **electronic data** that does not result from physical injury to tangible property.

However, unless Paragraph (1) above applies, this exclusion does not apply to **damages** because of **bodily injury**.

This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, forensic expenses, public relation expenses or any other loss, cost or expense incurred by the **Named Insured** or others arising out of that which is described in Paragraph (1) or (2) above.

- B. The following paragraph is added to **LIMITS OF INSURANCE**:

Subject to 5. above, \$100,000 is the most the Insurer will pay under **Coverage A** for all **damages** arising out of any one **occurrence** because of **property damage** that results from physical injury to tangible property and arises out of **electronic data**.

- C. The following definition is added to **DEFINITIONS**:

**Electronic data** means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software (including systems and applications software), hard or floppy disks, CD-ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

- D. For the purpose of the coverage provided by this **ELECTRONIC DATA LIABILITY** Provision, the definition of **property damage** in **DEFINITIONS** is replaced by the following:

**Property damage** means:

- a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it;
- b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the **occurrence** that caused it; or
- c. Loss of, loss of use of, damage to, corruption of, inability to access, or inability to properly manipulate **electronic data**, resulting from physical injury to tangible property. All such loss of **electronic data** shall be deemed to occur at the time of the **occurrence** that caused it.

For the purposes of this insurance, **electronic data** is not tangible property.

- E. If Electronic Data Liability is provided at a higher limit by another endorsement attached to this policy, then the \$100,000 limit provided by this **ELECTRONIC DATA LIABILITY** Provision is part of, and not in addition to, that higher limit.

**9. ESTATES, LEGAL REPRESENTATIVES, AND SPOUSES**

The estates, heirs, legal representatives and **spouses** of any natural person **Insured** shall also be insured under this policy; provided, however, coverage is afforded to such estates, heirs, legal representatives, and **spouses** only for

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CONTINENTAL CASUALTY COMPANY  
Insured Name: Pilkington Contracting Co

Policy No: 6078590479

Endorsement No:

Effective Date: 06/01/2025



**Contractors' General Liability Extension Endorsement**

**claims** arising solely out of their capacity or status as such and, in the case of a **spouse**, where such **claim** seeks **damages** from marital community property, jointly held property or property transferred from such natural person **Insured** to such **spouse**. No coverage is provided for any act, error or omission of an estate, heir, legal representative, or **spouse** outside the scope of such person's capacity or status as such, provided however that the **spouse** of a natural person **Named Insured** and the **spouses** of members or partners of joint venture or partnership **Named Insureds** are **Insureds** with respect to such **spouses'** acts, errors or omissions in the conduct of the **Named Insured's** business.

**10. EXPECTED OR INTENDED INJURY – EXCEPTION FOR REASONABLE FORCE**

Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete the exclusion entitled **Expected or Intended Injury** and replace it with the following:

This insurance does not apply to:

**Expected or Intended Injury**

**Bodily injury** or **property damage** expected or intended from the standpoint of the **Insured**. This exclusion does not apply to **bodily injury** or **property damage** resulting from the use of reasonable force to protect persons or property.

**11. GENERAL AGGREGATE LIMITS OF INSURANCE - PER PROJECT**

**A.** For each construction project away from premises the **Named Insured** owns or rents, a separate Construction Project General Aggregate Limit, equal to the amount of the General Aggregate Limit shown in the Declarations, is the most the Insurer will pay for the sum of:

1. All **damages** under **Coverage A**, except **damages** because of **bodily injury** or **property damage** included in the **products-completed operations hazard**; and
2. All medical expenses under **Coverage C**,

that arise from **occurrences** or accidents which can be attributed solely to ongoing operations at that construction project. Such payments shall not reduce the General Aggregate Limit shown in the Declarations, nor the Construction Project General Aggregate Limit of any other construction project.

**B.** All:

1. **Damages** under **Coverage B**, regardless of the number of locations or construction projects involved;
2. **Damages** under **Coverage A**, caused by **occurrences** which cannot be attributed solely to ongoing operations at a single construction project, except **damages** because of **bodily injury** or **property damage** included in the **products-completed operations hazard**; and
3. Medical expenses under **Coverage C** caused by accidents which cannot be attributed solely to ongoing operations at a single construction project,

will reduce the General Aggregate Limit shown in the Declarations.

**C.** The limits shown in the Declarations for Each Occurrence, for Damage To Premises Rented To You and for Medical Expense continue to apply, but will be subject to either the Construction Project General Aggregate Limit or the General Aggregate Limit shown in the Declarations, depending on whether the **occurrence** can be attributed solely to ongoing operations at a particular construction project.

**D.** 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 shown in the Declarations, regardless of the number of projects involved.



**Contractors' General Liability Extension Endorsement**

- E. If a single construction project away from premises owned by or rented to the **Insured** has been 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.
- F. The provisions of **LIMITS OF INSURANCE** not otherwise modified by this endorsement shall continue to apply as stipulated.

**12. IN REM ACTIONS**

A quasi in rem action against any vessel owned or operated by or for the **Named Insured**, or chartered by or for the **Named Insured**, will be treated in the same manner as though the action were in personam against the **Named Insured**.

**13. INCIDENTAL HEALTH CARE MALPRACTICE COVERAGE**

Solely with respect to **bodily injury** that arises out of a **health care incident**:

- A. Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Insuring Agreement** is amended to replace Paragraphs **1.b.(1)** and **1.b.(2)** with the following:

- b. This insurance applies to **bodily injury** provided that the professional health care services are incidental to the **Named Insured's** primary business purpose, and only if:

- (1) such **bodily injury** is caused by an **occurrence** that takes place in the **coverage territory**.
- (2) the **bodily injury** first occurs during the **policy period**. All **bodily injury** arising from an **occurrence** will be deemed to have occurred at the time of the first act, error, or omission that is part of the **occurrence**; and

- B. Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to:

- i. add the following to the **Employers Liability** exclusion:

This exclusion applies only if the **bodily injury** arising from a **health care incident** is covered by other liability insurance available to the **Insured** (or which would have been available but for exhaustion of its limits).

- ii. delete the exclusion entitled **Contractual Liability** and replace it with the following:

This insurance does not apply to:

**Contractual Liability**

the **Insured's** actual or alleged liability under any oral or written contract or agreement, including but not limited to express warranties or guarantees.

- iii. add the following additional exclusions:

This insurance does not apply to:

**Discrimination**

any actual or alleged discrimination, humiliation or harassment, including but not limited to **claims** based on an individual's race, creed, color, age, gender, national origin, religion, disability, marital status or sexual orientation.

**Dishonesty or Crime**

Any actual or alleged dishonest, criminal or malicious act, error or omission.

**Medicare/Medicaid Fraud**

**Contractors' General Liability Extension Endorsement**

any actual or alleged violation of law with respect to Medicare, Medicaid, Tricare or any similar federal, state or local governmental program.

**Services Excluded by Endorsement**

Any **health care incident** for which coverage is excluded by endorsement.

**C. DEFINITIONS** is amended to:**i.** add the following definitions:

**Health care incident** means an act, error or omission by the **Named Insured's employees or volunteer workers** in the rendering of:

**a.** **professional health care services** on behalf of the **Named Insured** or

**b.** Good Samaritan services rendered in an emergency and for which no payment is demanded or received.

**Professional health care services** means any health care services or the related furnishing of food, beverages, medical supplies or appliances by the following providers in their capacity as such but solely to the extent they are duly licensed as required:

**a.** Physician;

**b.** Nurse;

**c.** Nurse practitioner;

**d.** Emergency medical technician;

**e.** Paramedic;

**f.** Dentist;

**g.** Physical therapist;

**h.** Psychologist;

**i.** Speech therapist;

**j.** Other allied health professional; or

**Professional health care services** does not include any services rendered in connection with human clinical trials or product testing.

**ii.** delete the definition of **occurrence** and replace it with the following:

**Occurrence** means a **health care incident**. All acts, errors or omissions that are logically connected by any common fact, circumstance, situation, transaction, event, advice or decision will be considered to constitute a single **occurrence**;

**iii.** amend the definition of **Insured** to:**a.** add the following:

the **Named Insured's employees** are **Insureds** with respect to:

**(1) bodily injury** to a co-employee while in the course of the co-employee's employment by the **Named Insured** or while performing duties related to the conduct of the **Named Insured's** business; and

**Contractors' General Liability Extension Endorsement**

- (2) **bodily injury** to a **volunteer worker** while performing duties related to the conduct of the **Named Insured's** business;

when such **bodily injury** arises out of a **health care incident**.

the **Named Insured's** **volunteer workers** are **Insureds** with respect to:

- (1) **bodily injury** to a **co-volunteer worker** while performing duties related to the conduct of the **Named Insured's** business; and

- (2) **bodily injury** to an **employee** while in the course of the **employee's** employment by the **Named Insured** or while performing duties related to the conduct of the **Named Insured's** business;

when such **bodily injury** arises out of a **health care incident**.

- b. delete Subparagraphs (a), (b), (c) and (d) of Paragraph 2.a.(1) of **WHO IS AN INSURED**.

- D. The **Other Insurance** condition is amended to delete Paragraph b.(1) in its entirety and replace it with the following:

**Other Insurance**

b. **Excess Insurance**

- (1) To the extent this insurance applies, it is excess over any other insurance, self insurance or risk transfer instrument, whether primary, excess, contingent or on any other basis, except for insurance purchased specifically by the **Named Insured** to be excess of this coverage.

**14. JOINT VENTURES / PARTNERSHIP / LIMITED LIABILITY COMPANIES**

**WHO IS AN INSURED** is amended to delete its last paragraph and replace it with the following:

No person or organization is an **Insured** with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a **Named Insured** in the Declarations, except that if the **Named Insured** was a joint venturer, partner, or member of a limited liability company and such joint venture, partnership or limited liability company terminated prior to or during the **policy period**, such **Named Insured** is an **Insured** with respect to its interest in such joint venture, partnership or limited liability company but only to the extent that:

- a. any offense giving rise to **personal and advertising injury** occurred prior to such termination date, and the **personal and advertising injury** arising out of such offense first occurred after such termination date;
- b. the **bodily injury** or **property damage** first occurred after such termination date; and
- c. there is no other valid and collectible insurance purchased specifically to insure the partnership, joint venture or limited liability company; and

If the joint venture, partnership or limited liability company is or was insured under a **consolidated (wrap-up) insurance program**, then such insurance will always be considered valid and collectible for the purpose of paragraph c. above. But this provision will not serve to exclude **bodily injury**, **property damage** or **personal and advertising injury** that would otherwise be covered under the **Contractors General Liability Extension Endorsement** provision entitled **WRAP-UP EXTENSION: OCIP, CCIP, OR CONSOLIDATED (WRAP-UP) INSURANCE PROGRAMS**. Please see that provision for the definition of **consolidated (wrap-up) insurance program**.

**15. LEGAL LIABILITY – DAMAGE TO PREMISES / ALIENATED PREMISES / PROPERTY IN THE NAMED INSURED'S CARE, CUSTODY OR CONTROL**

- A. Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete exclusion j. **Damage to Property** in its entirety and replace it with the following:

This insurance does not apply to:





## Contractors' General Liability Extension Endorsement

## j. Damage to Property

## Property damage to:

- (1) Property the **Named Insured** owns, rents, or occupies, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;
- (2) Premises the **Named Insured** sells, gives away or abandons, if the **property damage** arises out of any part of those premises;
- (3) Property loaned to the **Named Insured**;
- (4) Personal property in the care, custody or control of the **Insured**;
- (5) That particular part of real property on which the **Named Insured** or any contractors or subcontractors working directly or indirectly on the **Named Insured's** behalf are performing operations, if the **property damage** arises out of those operations; or
- (6) That particular part of any property that must be restored, repaired or replaced because **your work** was incorrectly performed on it.

Paragraphs (1), (3) and (4) of this exclusion do not apply to **property damage** (other than damage by fire) to premises rented to the **Named Insured** or temporarily occupied by the **Named Insured** with the permission of the owner, nor to the contents of premises rented to the **Named Insured** for a period of 7 or fewer consecutive days. A separate limit of insurance applies to Damage To Premises Rented To You as described in **LIMITS OF INSURANCE**.

Paragraph (2) of this exclusion does not apply if the premises are **your work**.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph (6) of this exclusion does not apply to **property damage** included in the **products-completed operations hazard**.

Paragraphs (3) and (4) of this exclusion do not apply to **property damage** to:

- i. tools, or equipment the **Named Insured** borrows from others, nor
- ii. other personal property of others in the **Named Insured's** care, custody or control while being used in the **Named Insured's** operations away from any **Named Insured's** premises.

However, the coverage granted by this exception to Paragraphs (3) and (4) does not apply to:

- a. property at a job site awaiting or during such property's installation, fabrication, or erection;
- b. property that is **mobile equipment** leased by an **Insured**;
- c. property that is an **auto**, aircraft or watercraft;
- d. property in transit; or
- e. any portion of **property damage** for which the **Insured** has available other valid and collectible insurance, or would have such insurance but for exhaustion of its limits, or but for application of one of its exclusions.

A separate limit of insurance and deductible apply to such property of others. See **LIMITS OF INSURANCE** as amended below.



## Contractors' General Liability Extension Endorsement

- B. Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete its last paragraph and replace it with the following:

Exclusions **c.** through **n.** do not apply to damage by fire to premises while rented to a **Named Insured** or temporarily occupied by a **Named Insured** with permission of the owner, nor to damage to the contents of premises rented to a **Named Insured** for a period of 7 or fewer consecutive days.

A separate limit of insurance applies to this coverage as described in **LIMITS OF INSURANCE**.

- C. The following paragraph is added to **LIMITS OF INSURANCE**:

Subject to **5.** above, \$25,000 is the most the Insurer will pay under **Coverage A** for **damages** arising out of any one **occurrence** because of the sum of all **property damage** to borrowed tools or equipment, and to other personal property of others in the **Named Insured's** care, custody or control, while being used in the **Named Insured's** operations away from any **Named Insured's** premises. The Insurer's obligation to pay such **property damage** does not apply until the amount of such **property damage** exceeds \$1,000. The Insurer has the right but not the duty to pay any portion of this \$1,000 in order to effect settlement. If the Insurer exercises that right, the **Named Insured** will promptly reimburse the Insurer for any such amount.

- D. Paragraph **6.**, Damage To Premises Rented To You Limit, of **LIMITS OF INSURANCE** is deleted and replaced by the following:

**6.** Subject to Paragraph **5.** above, (the Each Occurrence Limit), the Damage To Premises Rented To You Limit is the most the Insurer will pay under **Coverage A** for **damages** because of **property damage** to any one premises while rented to the **Named Insured** or temporarily occupied by the **Named Insured** with the permission of the owner, including contents of such premises rented to the **Named Insured** for a period of 7 or fewer consecutive days. The Damage To Premises Rented To You Limit is the greater of:

- a. \$500,000; or
- b. The Damage To Premises Rented To You Limit shown in the Declarations.

- E. Paragraph **4.b.(1)(a)(ii)** of the **Other Insurance** Condition is deleted and replaced by the following:

(ii) That is property insurance for premises rented to the **Named Insured**, for premises temporarily occupied by the **Named Insured** with the permission of the owner; or for personal property of others in the **Named Insured's** care, custody or control;

## 16. LIQUOR LIABILITY

Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete the exclusion entitled **Liquor Liability**.

This **LIQUOR LIABILITY** provision does not apply to any person or organization who otherwise qualifies as an additional insured on this **Coverage Part**.

## 17. MEDICAL PAYMENTS

- A. **LIMITS OF INSURANCE** is amended to delete Paragraph **7.** (the Medical Expense Limit) and replace it with the following:

**7.** Subject to Paragraph **5.** above (the Each Occurrence Limit), the Medical Expense Limit is the most the Insurer will pay under **Coverage C – Medical Payments** for all medical expenses because of **bodily injury** sustained by any one person. The Medical Expense Limit is the greater of:

- (1) \$15,000 unless a different amount is shown here: \$N,NNN,NNN,NNN; or
- (2) the amount shown in the Declarations for Medical Expense Limit.



**Contractors' General Liability Extension Endorsement**

**B.** Under **COVERAGES**, the **Insuring Agreement of Coverage C – Medical Payments** is amended to replace Paragraph **1.a.(3)(b)** with the following:

(b) The expenses are incurred and reported to the Insurer within three years of the date of the accident; and

**18. NON-OWNED AIRCRAFT**

Under **COVERAGES**, **Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended as follows:

The exclusion entitled **Aircraft, Auto or Watercraft** is amended to add the following:

This exclusion does not apply to an aircraft not owned by any **Named Insured**, provided that:

1. the pilot in command holds a currently effective certificate issued by the duly constituted authority of the United States of America or Canada, designating that person as a commercial or airline transport pilot;
2. the aircraft is rented with a trained, paid crew to the **Named Insured**; and
3. the aircraft is not being used to carry persons or property for a charge.

**19. NON-OWNED WATERCRAFT**

Under **COVERAGES**, **Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete subparagraph (2) of the exclusion entitled **Aircraft, Auto or Watercraft**, and replace it with the following.

This exclusion does not apply to:

- (2) a watercraft that is not owned by any **Named Insured**, provided the watercraft is:
  - (a) less than 75 feet long; and
  - (b) not being used to carry persons or property for a charge.

**20. PERSONAL AND ADVERTISING INJURY –DISCRIMINATION OR HUMILIATION**

**A.** Under **DEFINITIONS**, the definition of **personal and advertising injury** is amended to add the following tort:

Discrimination or humiliation that results in injury to the feelings or reputation of a natural person.

**B.** Under **COVERAGES**, **Coverage B – Personal and Advertising Injury Liability**, the paragraph entitled **Exclusions** is amended to:

1. delete the Exclusion entitled **Knowing Violation Of Rights Of Another** and replace it with the following:

This insurance does not apply to:

**Knowing Violation of Rights of Another**

**Personal and advertising injury** caused by or at the direction of the **Insured** with the knowledge that the act would violate the rights of another and would inflict **personal and advertising injury**. This exclusion shall not apply to discrimination or humiliation that results in injury to the feelings or reputation of a natural person, but only if such discrimination or humiliation is not done intentionally by or at the direction of:

- (a) the **Named Insured**; or
  - (b) any **executive officer**, director, stockholder, partner, member or manager (if the **Named Insured** is a limited liability company) of the **Named Insured**.
2. add the following exclusions:

**Contractors' General Liability Extension Endorsement**

This insurance does not apply to:

**Employment Related Discrimination**

Discrimination or humiliation directly or indirectly related to the employment, prospective employment, past employment or termination of employment of any person by any **Insured**.

**Premises Related Discrimination**

**discrimination or humiliation** arising out of the sale, rental, lease or sub-lease or prospective sale, rental, lease or sub-lease of any room, dwelling or premises by or at the direction of any **Insured**.

Notwithstanding the above, there is no coverage for fines or penalties levied or imposed by a governmental entity because of discrimination.

The coverage provided by this **PERSONAL AND ADVERTISING INJURY –DISCRIMINATION OR HUMILIATION** Provision does not apply to any person or organization whose status as an **Insured** derives solely from

Provision **1. ADDITIONAL INSURED** of this endorsement; or

attachment of an additional insured endorsement to this **Coverage Part**.

This **PERSONAL AND ADVERTISING INJURY –DISCRIMINATION OR HUMILIATION** Provision does not apply to any person or organization who otherwise qualifies as an additional insured on this **Coverage Part**.

**21. PERSONAL AND ADVERTISING INJURY - CONTRACTUAL LIABILITY**

A. Under **COVERAGES, Coverage B –Personal and Advertising Injury Liability**, the paragraph entitled **Exclusions** is amended to delete the exclusion entitled **Contractual Liability**.

B. Solely for the purpose of the coverage provided by this **PERSONAL AND ADVERTISING INJURY - CONTRACTUAL LIABILITY** provision, the following changes are made to the section entitled **SUPPLEMENTARY PAYMENTS – COVERAGES A AND B**:

1. Paragraph **2.d.** is replaced by the following:

d. The allegations in the **suit** and the information the Insurer knows about the offense alleged in such **suit** are such that no conflict appears to exist between the interests of the **Insured** and the interests of the indemnitee;

2. The first unnumbered paragraph beneath Paragraph **2.f.(2)(b)** is deleted and replaced by the following:

So long as the above conditions are met, attorneys fees incurred by the Insurer in the defense of that indemnitee, necessary litigation expenses incurred by the Insurer, and necessary litigation expenses incurred by the indemnitee at the Insurer's request will be paid as **defense costs**. Such payments will not be deemed to be **damages** for **personal and advertising injury** and will not reduce the limits of insurance.

C. This **PERSONAL AND ADVERTISING INJURY - CONTRACTUAL LIABILITY** Provision does not apply if **Coverage B –Personal and Advertising Injury Liability** is excluded by another endorsement attached to this **Coverage Part**.

This **PERSONAL AND ADVERTISING INJURY - CONTRACTUAL LIABILITY** Provision does not apply to any person or organization who otherwise qualifies as an additional insured on this **Coverage Part**.

**22. PROPERTY DAMAGE – ELEVATORS**

A. Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended such that the **Damage to Your Product** Exclusion and subparagraphs **(3)**, **(4)** and **(6)** of the **Damage to Property** Exclusion do not apply to **property damage** that results from the use of elevators.



**Contractors' General Liability Extension Endorsement**

- B. Solely for the purpose of the coverage provided by this **PROPERTY DAMAGE – ELEVATORS** Provision, the **Other Insurance** conditions is amended to add the following paragraph:

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis that is Property insurance covering property of others damaged from the use of elevators.

**23. SUPPLEMENTARY PAYMENTS**

The section entitled **SUPPLEMENTARY PAYMENTS – COVERAGES A AND B** is amended as follows:

- A. Paragraph 1.b. is amended to delete the \$250 limit shown for the cost of bail bonds and replace it with a \$5,000. limit; and
- B. Paragraph 1.d. is amended to delete the limit of \$250 shown for daily loss of earnings and replace it with a \$1,000. limit.

**24. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS**

If the **Named Insured** unintentionally fails to disclose all existing hazards at the inception date of the **Named Insured's Coverage Part**, the Insurer will not deny coverage under this **Coverage Part** because of such failure.

**25. WAIVER OF SUBROGATION - BLANKET**

Under **CONDITIONS**, the condition entitled **Transfer Of Rights Of Recovery Against Others To Us** is amended to add the following:

The Insurer waives any right of recovery the Insurer may have against any person or organization because of payments the Insurer makes for injury or damage arising out of:

1. the **Named Insured's** ongoing operations; or
2. **your work** included in the **products-completed operations hazard**.

However, this waiver applies only when the **Named Insured** has agreed in writing to waive such rights of recovery in a written contract or written agreement, and only if such contract or agreement:

1. is in effect or becomes effective during the term of this **Coverage Part**; and
2. was executed prior to the **bodily injury, property damage or personal and advertising injury** giving rise to the **claim**.

**26. WRAP-UP EXTENSION: OCIP, CCIP, OR CONSOLIDATED (WRAP-UP) INSURANCE PROGRAMS**

**Note:** The following provision does not apply to any public construction project in the state of Oklahoma, nor to any construction project in the state of Alaska, that is not permitted to be insured under a **consolidated (wrap-up) insurance program** by applicable state statute or regulation.

If the endorsement **EXCLUSION – CONSTRUCTION WRAP-UP** is attached to this policy, or another exclusionary endorsement pertaining to Owner Controlled Insurance Programs (O.C.I.P.) or Contractor Controlled Insurance Programs (C.C.I.P.) is attached, then the following changes apply:

- A. The following wording is added to the above-referenced endorsement:

With respect to a **consolidated (wrap-up) insurance program** project in which the **Named Insured** is or was involved, this exclusion does not apply to those sums the **Named Insured** become legally obligated to pay as **damages** because of:

1. **Bodily injury, property damage, or personal or advertising injury** that occurs during the **Named Insured's** ongoing operations at the project, or during such operations of anyone acting on the **Named Insured's** behalf; nor



**Contractors' General Liability Extension Endorsement**

2. **Bodily injury** or **property damage** included within the **products-completed operations hazard** that arises out of those portions of the project that are not **residential structures**.

B. Condition 4. **Other Insurance** is amended to add the following subparagraph 4.b.(1)(c):

This insurance is excess over:

(c) Any of the other insurance whether primary, excess, contingent or any other basis that is insurance available to the **Named Insured** as a result of the **Named Insured** being a participant in a **consolidated (wrap-up) insurance program**, but only as respects the **Named Insured's** involvement in that **consolidated (wrap-up) insurance program**.

C. **DEFINITIONS** is amended to add the following definitions:

**Consolidated (wrap-up) insurance program** means a construction, erection or demolition project for which the prime contractor/project manager or owner of the construction project has secured general liability insurance covering some or all of the contractors or subcontractors involved in the project, such as an Owner Controlled Insurance Program (O.C.I.P.) or Contractor Controlled Insurance Program (C.C.I.P.).

**Residential structure** means any structure where 30% or more of the square foot area is used or is intended to be used for human residency, including but not limited to:

1. single or multifamily housing, apartments, condominiums, townhouses, co-operatives or planned unit developments; and
2. the common areas and structures appurtenant to the structures in paragraph 1. (including pools, hot tubs, detached garages, guest houses or any similar structures).

However, when there is no individual ownership of units, **residential structure** does not include military housing, college/university housing or dormitories, long term care facilities, hotels or motels. **Residential structure** also does not include hospitals or prisons.

This **WRAP-UP EXTENSION: OCIP, CCIP, OR CONSOLIDATED (WRAP-UP) INSURANCE PROGRAMS** Provision does not apply to any person or organization who otherwise qualifies as an additional insured on this **Coverage Part**.

All other terms and conditions of the Policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the Policy issued by the designated Insurers, takes effect on the effective date of said Policy at the hour stated in said Policy, unless another effective date is shown below, and expires concurrently with said Policy.





CNA PARAMOUNT

**Blanket Additional Insured - Owners, Lessees or  
Contractors - with Products-Completed  
Operations Coverage Endorsement**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

It is understood and agreed as follows:

- I. **WHO IS AN INSURED** is amended to include as an **Insured** any person or organization whom you are required by **written contract** to add as an additional insured on this **coverage part**, but only with respect to liability for **bodily injury, property damage or personal and advertising injury** caused in whole or in part by your acts or omissions, or the acts or omissions of those acting on your behalf:
- A. in the performance of your ongoing operations subject to such **written contract**; or
  - B. in the performance of **your work** subject to such **written contract**, but only with respect to **bodily injury or property damage** included in the **products-completed operations hazard**, and only if:
    - 1. the **written contract** requires you to provide the additional insured such coverage; and
    - 2. this **coverage part** provides such coverage.
- II. But if the **written contract** requires:
- A. additional insured coverage under the 11-85 edition, 10-93 edition, or 10-01 edition of CG2010, or under the 10-01 edition of CG2037; or
  - B. additional insured coverage with "arising out of" language; or
  - C. additional insured coverage to the greatest extent permissible by law;
- then paragraph I. above is deleted in its entirety and replaced by the following:
- WHO IS AN INSURED** is amended to include as an **Insured** any person or organization whom you are required by **written contract** to add as an additional insured on this **coverage part**, but only with respect to liability for **bodily injury, property damage or personal and advertising injury** arising out of **your work** that is subject to such **written contract**.
- III. Subject always to the terms and conditions of this policy, including the limits of insurance, the Insurer will not provide such additional insured with:
- A. coverage broader than required by the **written contract**; or
  - B. a higher limit of insurance than required by the **written contract**.
- IV. The insurance granted by this endorsement to the additional insured does not apply to **bodily injury, property damage, or personal and advertising injury** arising out of:
- A. the rendering of, or the failure to render, any professional architectural, engineering, or surveying services, including:
    - 1. the preparing, approving, or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; and
    - 2. supervisory, inspection, architectural or engineering activities; or
  - B. any premises or work for which the additional insured is specifically listed as an additional insured on another endorsement attached to this **coverage part**.
- V. Under **COMMERCIAL GENERAL LIABILITY CONDITIONS**, the Condition entitled **Other Insurance** is amended to add the following, which supersedes any provision to the contrary in this Condition or elsewhere in this **coverage part**:

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Insured Name: Pilkington Contracting Co

Policy No: 6078590479

Endorsement No:

Effective Date: 06/01/2025



**Blanket Additional Insured - Owners, Lessees or  
Contractors - with Products-Completed  
Operations Coverage Endorsement****Primary and Noncontributory Insurance**

With respect to other insurance available to the additional insured under which the additional insured is a named insured, this insurance is primary to and will not seek contribution from such other insurance, provided that a **written contract** requires the insurance provided by this policy to be:

1. primary and non-contributing with other insurance available to the additional insured; or
2. primary and to not seek contribution from any other insurance available to the additional insured.

But except as specified above, this insurance will be excess of all other insurance available to the additional insured.

**VI. Solely with respect to the insurance granted by this endorsement, the section entitled COMMERCIAL GENERAL LIABILITY CONDITIONS is amended as follows:**

The Condition entitled **Duties In The Event of Occurrence, Offense, Claim or Suit** is amended with the addition of the following:

Any additional insured pursuant to this endorsement will as soon as practicable:

1. give the Insurer written notice of any **claim**, or any **occurrence** or offense which may result in a **claim**;
2. send the Insurer copies of all legal papers received, and otherwise cooperate with the Insurer in the investigation, defense, or settlement of the **claim**; and
3. make available any other insurance, and tender the defense and indemnity of any **claim** to any other insurer or self-insurer, whose policy or program applies to a loss that the Insurer covers under this **coverage part**. However, if the **written contract** requires this insurance to be primary and non-contributory, this paragraph 3. does not apply to insurance on which the additional insured is a named insured.

The Insurer has no duty to defend or indemnify an additional insured under this endorsement until the Insurer receives written notice of a **claim** from the additional insured.

**VII. Solely with respect to the insurance granted by this endorsement, the section entitled DEFINITIONS is amended to add the following definition:**

**Written contract** means a written contract or written agreement that requires you to make a person or organization an additional insured on this **coverage part**, provided the contract or agreement:

**A.** is currently in effect or becomes effective during the term of this policy; and

**B.** was executed prior to:

1. the **bodily injury or property damage**; or
2. the offense that caused the **personal and advertising injury**;

for which the additional insured seeks coverage.

Any coverage granted by this endorsement shall apply solely to the extent permissible by law.

All other terms and conditions of the Policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the Policy issued by the designated Insurers, takes effect on the effective date of said Policy at the hour stated in said Policy, unless another effective date is shown below, and expires concurrently with said Policy.



Workers Compensation And Employers Liability Insurance  
Policy Endorsement

**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 on whose behalf you are required to obtain this waiver of our right to recover from under a written contract or agreement.

The premium charge for the endorsement is reflected in the Schedule of Operations.

All other terms and conditions of the policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the policy issued by the designated Insurers, takes effect on the Policy Effective Date of said policy at the hour stated in said policy, unless another effective date (the Endorsement Effective Date) is shown below, and expires concurrently with said policy unless another expiration date is shown below.

Form No: WC 00 03 13 (04-1984)

Endorsement Effective Date:

Endorsement Expiration Date:

Endorsement No: ; Page: 1 of 1

Underwriting Company: Transportation Insurance Company, 151 N Franklin St, Chicago, IL 60606

Policy No: 6078561712

Policy Effective Date: 06/01/2025

Policy Page: