

# Request for Proposal

(RFP)

for East Cocopah Iron and Manganese Water Treatment Plant Pilot Study  
and Design

at the

East Cocopah Indian Reservation

Cocopah Indian Tribe

Arizona

Project No. PH 24-W49, WA08-25

September 2025

**COCOPAH INDIAN TRIBE**  
***East Cocopah Indian Reservation***  
***Cocopah Public Works Department***  
**9803 VETERANS PLACE**  
**SOMERTON, ARIZONA 85350**  
**Phone (928) 627-2102**

East Cocopah Iron and Manganese Removal Water Treatment  
Plant Pilot Study and Design  
Request for Proposals (RFP)

**PH24-W49; WA# 08-25**

**Proposals Due Date, Time, and Location: October 17, 2025 @  
3:00pm AZ time, 14515 S. Veterans Drive Somerton, Arizona  
85350**

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## 1.1 Invitation

The Cocopah Indian Tribe (Tribe), through technical consultation with the Indian Health Service (IHS), is seeking a qualified engineering firm to provide professional services and technical support to conduct a pilot study and design the replacement of the existing iron and manganese water treatment plant for the East Cocopah community located on the East Cocopah Indian Reservation (Reservation). The Environmental Protection Agency (EPA), a Federal Agency of the United States, is the funding agency for this Request for Proposals (RFP) solicitation. IHS will provide the Tribe technical assistance in assessing submitted proposals and making final award recommendations based on the scoring and selection criteria described in this RFP.

In order to be considered for this Request for Proposal, please submit the following:

- One (1) hard copy, bound together.
- One (1) electronic copy (in PDF format) on a USB drive.

**Proposals are due by October 17, 2025 at 3:00 P.M. AZ time.** Proposals shall be mailed to Attn: Rudy Alcala, Public Works Director at 14515 S. Veterans Drive Somerton, Arizona 85350.

Each proposal must be submitted in a sealed envelope, addressed to Rudy Alcala, Public Works Director. Each sealed envelope containing a proposal must be plainly marked on the outside as **“PROPOSAL FOR PH24-W49 WA08-25: EAST COCOPAH IRON AND MANGANESE WATER TREATMENT PLANT PILOT STUDY AND DESIGN”** and the envelope should bear on the outside the name of the firm, company address and license number. Proposals received via fax or e-mail will be rejected.

**Note that a cost estimate is not a factor in determining selection of the most qualified proposal, and should NOT be included in the package.** The contract amount will be negotiated between the Tribe and the selected firm upon completion of the selection process. The top two or three firms may be asked to attend an interview session.

The Tribe intends on providing a voluntary, pre-submittal meeting to be held **on September 22, 2025, at 11:00 A.M.** in person. The meeting will be held at the Cocopah Indian Tribe's Tribal Headquarters in the Cultural Center Arts and Crafts Room at 14529 Veterans Place, Somerton, AZ 85350 (32.61537946472395, -114.76729889620222). At this meeting, the Tribe will discuss the scope of work, general contract issues and respond to questions from the attendees. Immediately after the pre-submittal meeting, a site visit to the location of proposed water treatment plant will be conducted. Proposers are encouraged to attend.

Questions concerning this RFP must be submitted in writing as a Request for Information (RFI). Interested firms are encouraged to submit Requests for Information (RFI), as provided for herein, to reduce uncertainty about the details of the contract documents by correcting mistakes or clarifying ambiguous descriptions. RFI submissions must be made via e-mail. RFI submissions must be received by Rudy Alcala, Public Works Director at [alcalar@cocopah.gov](mailto:alcalar@cocopah.gov) no later than **September 29, 2025 by 3:00 pm AZ time**. RFIs and their answers will be formatted, made anonymous, and shared with all prospective firms interested in submitting a proposal. Non-participants of the pre-submittal meeting will be provided a copy of the RFIs and responses.

## 1.2 Project Description

The Cocopah Indian Tribe is located on three separate Reservations that combines the North Cocopah, the East Cocopah, and the West Cocopah areas into the entire 10 square miles of the Cocopah Indian Reservation in Yuma County, Arizona. The North Cocopah Reservation is 9 miles northwest of Yuma, Arizona. The West Cocopah Reservation is 14 miles southwest of Yuma, Arizona and 4 miles west of Somerton, Arizona. The project location, East Cocopah Reservation, is located 9 miles south of Yuma, Arizona and 3 miles east of Somerton, Arizona. The Cocopah Indian Reservation is located in agricultural land and hot desert climate with low humidity with an average annual temperature of 71 degrees Fahrenheit and temperature high of 122 degrees Fahrenheit during the summer. Annual precipitation averages approximately 3.36 inches and mostly occurs in the late summer and winter. Appendix A includes a map that shows the location of the Reservations and the project location.

The Cocopah Public Works Department is responsible for the operation and maintenance of all water systems on the three Reservations. The Tribe's East Cocopah Public Water System (PWS No. 0400073) is a community water system located near Somerton, Arizona, on the East Cocopah Indian Reservation. The PWS consists of an inactive well (Well #1), a disconnected well (Well #2), one active well known as the East Well (Well #3), one new well (Well #4), an Iron and Manganese removal facility with disinfection, one storage tank, and a distribution system. Appendix B shows the location of the components of the East Cocopah PWS.

The East Cocopah Water PWS has 72 residential/non-transient connections. There are approximately 18 fire hydrants located within the East Cocopah Reservation service area and the water is supplied by groundwater from the active East Well (#3). The calculated average daily water demand for the PWS is 52,000 gallons per day and the maximum daily demand (MDD) is approximately 110,000 gallons per day. The projected 20-year future water demand is estimated to be 65,000 gallons per day and the maximum daily demand (MDD) is approximately 130,000 gallons per day based on a ten percent planned and reasonable growth on the Reservation.

In 1971, the North Well (#1) was drilled to a depth of 186 feet with an 8-inch casing size to 165 feet, and, a 6-inch casing from 165-186 feet. The well produced at a rate of 130 gpm and it was the primary operating well until it collapsed in February 2021. In 1971, the South Well (#2) was drilled, but it was abandoned due to low production. The South Well (#2) has been disconnected from the Public Water System (PWS). The well casing has been backfilled. The discharge piping is still connected to the distribution system; however, all valves have been closed and blind flanged off.

In 2004, the East Well (#3) was drilled in 2004 to a depth of 300 feet with a 10 in casing size to 295 feet. The well is screened from 175-235 feet and from 255-275 feet. The well produced 150 GPM of water flow. Test results of the East Well have reported that the well has an Iron concentration of 0.17 mg/l and a Manganese concentration of 0.31 mg/l. The Manganese concentration of the East Well exceeds the EPA Secondary Maximum Contaminant Level (SMCL) of 0.05 mg/l for Manganese.

In December of 2023, Well #4 was drilled, casing was installed, and capped for future connection to the system. Well #4 produced approximately 150 gpm of water flow with an Iron concentration of 0.19 mg/l, a Manganese concentration of 0.25 mg/l, and a Total Dissolved Solids (TDS) concentration of 1300 mg/l. The Manganese concentration of Well #4 exceeds the EPA SMCL of 0.05 mg/l for Manganese. The TDS concentration of Well #4 exceeds the EPA SMCL of 500 mg/l for TDS.

East Cocopah has one primary storage tank (Tank No. 1) that is located approximately half a mile northeast from the East Well (#3). Tank No. 1 was constructed in 1999 and holds 300,000 gallons.

The welded steel tank is 40 feet in height and 75 feet in diameter. The SCADA operates the well pump to maintain the water level in the tank. There is approximately 2 miles of 8-inch polyvinyl chloride (PVC) pipe that serves as the water distribution system.

The East Cocopah Water Treatment Plant (WTP) was rehabilitated in 2004 and additional upgrades were completed in 2021. The WTP is designed for the removal of iron and manganese from the source water. The active well supplies water through a Mixed Oxidant (MIOX) Solution to oxidize manganese and iron. The treated water then passes through the treatment units and then into the storage tank. The treatment units are pressure vessels which contain treatment media consisting of anthracite and manganese greensand granular materials. The MIOX system was replaced in October 2021 as well as the Schedule 80 PVC piping and several appurtenances in the WTP. The Cocopah Public Works replaced the filter media in 2022.

The East Cocopah WTP is in an area designated as Zone X by the Federal Emergency Management Agency (FEMA), which indicates a 0.2% annual flood hazard. The project is listed on FEMA floodplain panel maps 04027C1835E, which is provided as an excerpt of the FEMA FIRM mapping in Appendix C. The project design would have to consider the project elevation in relation to the 500-year floodplain.

### 1.3 Scope of Work

The scope of work is to provide professional services and technical support to conduct a pilot study that assesses the treatment alternatives of the Tribe's water sources and to design the replacement of the existing Iron and Manganese water treatment plant. The design shall include the connection of the newly constructed Well #4 to the PWS. The firm shall ensure the project will meet both the budget and schedule as defined by this RFP. The estimated budget for construction is approximately \$5 Million. The engineering design firm will have extensive experience in the provision of engineering services, construction management, building codes, regulatory compliance, and project management.

The engineering firm for this project will be required to conduct a pilot study that evaluates the alternatives to provide Iron and Manganese removal treatment from the raw groundwater sources. The pilot study will be utilized as the basis for a full-scale water treatment plant design to serve the community. The proposed technology will be used to mitigate Iron and Manganese concentration to below the EPA compliance level.

Following the completion of the pilot study and the selection of a treatment alternative, the engineering firm will be required to design the water treatment plant, which includes the stamped and sealed construction documents (plans and technical specifications) for the following components and related appurtenances but not limited to:

- A. Iron and Manganese treatment plant system (skid or non-skid platform) with reconfiguration of existing system to implement a blending bypass system, if feasible.
- B. Connection of Well #4 to the treatment facility.
- C. Pretreatment & disinfection system, if needed.
- D. Onsite facilities (foundation, buildings, shade structure, fence, enclosures).
- E. Backwash system including reclaim system and/or explore option for new sewer mains to dispose to collection system.
- F. Electrical enclosures.
- G. Electrical, instrumentation, controls and SCADA.
- H. Standby power.
- I. Disposal and sludge handling from backwash/reclaim system.
- J. Startup services and training.
- K. Deconstruction of existing treatment plant.

The recommended water treatment technique will be consistent with those described in the AWWA Treatment Technologies for Groundwater Handbook (latest version). The recommended water treatment process and proposed design will produce drinking water that exceeds all current and known future regulatory requirements of the US EPA Safe Drinking Water Regulations (treatment and disposal) including the National Primary Drinking Water Regulations (NPDWR), the National Secondary Drinking Water Regulations (NSDWR), and Great Lakes – Upper Mississippi River Board Recommended Standards for Water Works-Latest Edition (i.e. 10-States Standards). Since the project is federally funded, the proposed design shall adhere to all environmental regulations as defined by the National Environmental Policy Act (NEPA).

Furthermore, the engineer shall conduct necessary drainage studies to assure site is protected from flood and erosion events. All water supply facilities and water treatment plant access roads shall be protected to at least the 100-year flood elevation. All design work shall be completed under the direction of a State of Arizona licensed Professional Engineer (PE).

The following is offered to describe the general extent of services to be provided by the consultant. This is not necessarily all-inclusive and the consultant shall include in the proposal any tasks and services deemed necessary to satisfactorily complete the project. The Tribe will rely on the firm to develop a final scope of services identifying necessary tasks, meetings and deliverables.

### **Task Series 1 – Management of Engineering Services:**

#### *Task 1.1 – Project Management*

1. Develop project management plan for the development of a pilot study, the creation of a comprehensive set of contract documents including design drawings, construction plans, detailed cost estimate and technical specifications adhering to the applicable regulatory requirements and guidelines described in this Scope of Work.
2. Complete invoices.
3. Complete/coordinate specialized engineering design work (i.e. geotechnical investigations) as necessary to complete the design.
4. Coordinate and execute all requirements for construction and encroachment permits.
5. Monitor quality control and quality assurance plan.
6. Manage deliverables and overall project design schedule.
7. Engage in the following general services across all project phases to complete the deliverable as necessary. Included but not limited to:
  - Hydrology engineering services
  - Geotechnical engineering services
  - Structural engineering services
  - Mechanical engineering services
  - Electrical engineering services
  - Engagement of filtration equipment suppliers
  - Engagement of local, provincial and federal regulatory authorities
  - Revisions to drawings, specifications or other documents as necessary
  - Services required due to potential significant changes to the project
  - Engagement of additional consulting services as necessary

#### *Task 1.2 – Project meetings*

The firm is to schedule and coordinate meetings as necessary. A minimum list of meetings is outlined below.

1. Pilot Study
  - a. Kick off meeting:

- i. Kickoff meeting with the Tribe and IHS to review the scope of required services, pilot study criteria and expectations, obtain background information, and establish/review tentative schedule for completion.
    - ii. Develop meeting schedule and develop communication processes.
  - b. Pilot Study Presentation:
    - i. Presentation of the pilot study findings and recommendations.
  - c. Closeout meeting:
    - i. Closeout meeting with the Tribe and IHS to review report and recommendations of the pilot study.
- 2. Construction Design
  - a. Progress meetings:
    - i. Facilitate bi-weekly progress meetings with applicable project team members to provide project status update, discuss design details, and project design/construction budget. Meeting intervals may be increased during critical design periods.
    - ii. Prepare meeting agenda and meeting minutes.
  - b. Project Milestone Meetings:
    - i. Complete project milestone meetings at the 30%, 60%, and 95% design level.
    - ii. Prepare meeting agenda and meeting minutes.

Note – Key project team members are expected to attend the pilot study presentation, pilot study closeout meeting, construction design progress meetings, and the construction design project milestone meetings.

## **Task Series 2 – Study and Report Phase**

### *Task 2.1 – Pilot Study*

- 1. Initial evaluation of the water source quality.
- 2. Furnish and install at the site a temporary pilot-scale testing unit for testing the wells that serve the community.
- 3. Prepare a report summarizing the findings of the pilot testing. The report shall summarize the data collected during the pilot testing including but not limited to the following:
  - a. Results of the initial water analysis,
  - b. Recommended pilot treatment methodology,
  - c. Pilot treatment plant design and site requirements,
  - d. Oxidation demand for Sodium Hypochlorite (available chlorine) and recommended oxidation method and dosage,
  - e. Proposed media type and depth for a full-scale system,
  - f. Pressure loss through the media,
  - g. Proposed loading rate for the full-scale system,
  - h. Proposed reclaim system for backwash and/or solution for backwash by-products,
  - i. Proposed vessel configuration/sizing including underdrain and vessel inlet distribution piping configuration and sizing,
  - j. Process floor plan showing overall equipment dimensions and orientation,
  - k. Site plan with concept contours and piping,
  - l. Estimate of electrical loads.
  - m. Chemical and Electrical costs,
  - n. Capital, operating, and life-cycle costs based on process layouts,
  - o. O&M Costs, O&M requirements, and frequency,



- p. Expression of THM development and chlorine residual on the treated water,
  - q. Pilot test data summary sheets,
  - r. Pro's and Con's of the proposed technology compared to other existing treatment options,
  - s. Evaluation of non-economic issues such as ease of operation and reliability, and
  - t. Qualitative considerations such as sustainability, operational flexibility, maintenance requirements, ease of integration into existing facilities, complexity of the process, and track record of the proposed technology on similar applications and location of service technicians.
- 4. Presentation of the pilot study findings through a presentation to the Tribe and IHS.
  - 5. Provide three (3) 8 ½ X 11 bound hard copies and one (1) electronic copy (in PDF format) on a USB drive of the report.
  - 6. Provide one (1) electronic copy of all drawings in AutoCAD format on a USB drive.

Note – The Tribe (through consultation with IHS) will provide comments and feedback at the completion of the pilot study report within 14 calendar days.

### **Task Series 3 – Design Phase**

#### ***Task 3.1 – Preliminary Design – 30 Percent***

- 7. Field Survey – Complete topographic field survey, site investigations, geotechnical evaluations and field measurements of existing facilities.
- 8. Geotechnical Evaluations – Perform an investigation at the proposed project sites to evaluate the site and gather all relevant information necessary to provide recommendations to support the design of the proposed facilities. All geotechnical reports shall be signed and sealed by a State of Arizona licensed Professional Engineer (PE) and the reports shall be incorporated into the final project construction manual as appendices.
- 9. Develop key project design criteria, preliminary list of drawings and specifications, site considerations, and 30 percent cost estimate.
- 10. Prepare up to three concept drawings (24"x36") based on Tribal input showing the proposed water treatment plant, plan and section views of equipment locations, flow diagrams and utility impacts.
- 11. Review existing studies and reports. Develop memorandum confirming project design criteria based on the capacity of existing infrastructure and future needs.
- 12. Evaluate any applicable permitting requirements with regulatory agencies and draft permit applications as needed.
- 13. Coordinate and attend 30 percent review meeting.

Note – The Tribe (through consultation with IHS) will provide comments and feedback at the completion of the 30 percent design submittal and select a preferred concept within 14 calendar days.

#### ***Task 3.2 – Final Design – 60 Percent***

- 1. Include a response to 30% review comments.
- 2. Further develop drawings and technical specifications of preferred concept, sequence of construction, site considerations, and finalize building and site layout, process piping sizes and equipment locations. Provide 60 percent cost estimate.
- 3. Coordinate and attend a 60 percent design review meeting.

4. Upon conclusion of 60 percent review, coordinate and submit permit requirements to any applicable stakeholders.

Note – The Tribe (through consultation with IHS) will provide comments and feedback at the completion of the 60 percent design submittal (within 14 calendar days) for consideration into the design.

#### *Task 3.3 – Final Design – 95 Percent*

1. Include response to 60% review comments.
2. Finalize drawings and technical specifications, sequence of construction, site considerations, process and instrumentation diagram and cost estimate.
3. Coordinate and attend a 95 percent design review meeting.
4. Upon conclusion of 95 percent review, coordinate and submit permit requirements to any applicable stakeholders.

Note – The Tribe (through consultation with IHS) will provide comments and feedback at the completion of the 95 percent design submittal (within 14 calendar days) for consideration into the design.

#### *Task 3.4 – Final Design – 100 Percent*

1. Obtain and incorporate boiler plate contract documents (Bid invitation, General Provisions, Special Provisions, etc.) that will be used in the final solicitation package. EJCDC format is recommended.
2. Stamp and seal a complete set of finalized drawings (24"x36"), technical specifications and bid schedule for inclusion in the boiler plate contract documents used for bidding.
3. Provide Three (3) hard copies and one (1) electronic copy (in PDF format) on a USB drive of the complete set of stamped and sealed finalized drawings, technical specifications and bid schedule.
4. Provide the AutoCAD design file that includes all finalized drawings and MS Word files technical specifications on a USB drive.
5. At the conclusion of 100 percent design submittal, coordinate, submit and obtain final permit requirements of any applicable stakeholders.

Note – The Tribe (through consultation with IHS) will provide comments and feedback at the completion of the 100 percent design submittal (within 14 calendar days) for consideration into the design.

### **Task Series 4 – Bidding Proposal Phase**

*Task 4.1 – Pre-Bid Services and Requirements* (In general, bidding services activities will be completed by the Tribe with consultation from IHS.)

1. Attend pre-bid conference.
2. Review RFI (Request for Information) and provide draft responses, as necessary.
3. Prepare revised set of "For Construction" Drawings and Specification based on changes during the bidding phase for bid addendums, as necessary.

## Task Series 5 – Construction Phase

**Task 5.1 – Project Management** (In general, project management and inspection of construction activities will be completed by the Tribe with consultation from IHS.)

1. Provide design plan clarifications and revisions as requested through the owner or owner's representative, as necessary.
2. Provide review of construction submittals, as necessary.
3. Review change proposals or field changes with respect to the design, drawings and technical specification, as necessary.
4. Provide part-time construction inspection of critical work activities, as necessary.
5. Attend system startup and training and provide design technical support as needed through the completion of the commissioning of the facilities.
6. Provide a review of record drawings, as-builts and closeout documentation to ensure compliance with drawings and specifications.
7. Participate in the final inspection and review punchlist documents, as necessary.

### 1.4 Selection Process and Schedule

The successful firm will be selected through a qualifications-based selection process. The selection panel will evaluate each proposal submitted according to the criteria set forth in Section 1.5. The Tribe will select a firm based on the proposals received without possibly conducting formal interviews. The Tribe may conduct a due diligence review on the firm receiving the highest evaluation. The selection committee (three-person minimum) reserves the right to select a firm from the written proposals, but may short list a small group of firms for an interview process based upon the proposal evaluations. The Indian Health Service (IHS) will assist the Tribe with the evaluation of proposals and selection of the firm that best meets the criteria as described in this RFP document. The IHS designated representative shall be a licensed Professional Engineer (PE).

The Tribe may create a final list of at least three, but not more than five firms based on each proposals' total score. The Tribe will enter into negotiations with the selected firm with the highest score and execute a contract upon completion of negotiation of fees and contract terms for the Tribes approval. If selected firm and Tribe cannot come to an agreement during the negotiation phase, the Tribe reserves the right to follow up with the next selected firm for the negotiation process until a contract can be agreed upon and awarded. Once the Tribe and selected firm reach an agreement, a contract will be executed between the parties and the remaining firms will be notified that negotiation phase has ended.

The following is the tentative RFP schedule.

Advertisement	September 15, 2025
Pre-Submittal Meeting/Site Visit	September 22, 2025 @ 11:00 AM
Request for Information (RFI) Deadline	September 29, 2025 @ 3:00 PM
RFPs Due	October 17, 2025 @ 3:00 PM
Interviews if necessary	November 17, 2025
Firm Selected	November 24, 2025
Contract Negotiating Completed	December 08, 2025
Contract Approval/Award	December 15, 2025
Notice to Proceed	December 22, 2025

The following is the tentative Design and Construction Schedule:

Pilot Study	February 3, 2026
Preliminary Design – 30 Percent	April 17, 2026
Final Design – 60 Percent	June 29, 2026
Final Design – 95 Percent	August 28, 2026
Final Design Submittal– 100 Percent	December 11, 2026
Bid Advertisement	January 25, 2027
Begin Construction	March 23, 2027
Construction Substantial Completion	March 22, 2028
Closeout Documents/Record Drawings	April 22, 2028

Dates listed above are tentative; however, the selected firm shall complete task within the same allowable time based on the start date defined in the Notice to Proceed (NTP).

## 1.5 Proposal Evaluation Criteria

Prospective proposals will be evaluated by the criteria, listed in Table 1, that will guide which proposal best meets the needs of the Tribe. Each criterion is described in Section 1.6 that provides details on what information should be included in the submitted proposal. The information requested below should be organized in the manner specified in order to achieve a uniform review process and obtain the maximum degree of comparability for the selection committee.

Any additional information that a proposing firm wishes to include that is not specifically requested should be included in an appendix to the proposal. Firms are encouraged to keep the proposals brief and to the point, but sufficiently detailed to allow evaluation of the project approach.

**Table 1 – Proposal Criterion Summary**

Criterion	Points	Multiplier	Total Points
A. General Information	/10	0.5	/5
B. Experience of the Lead Firm	/10	2.0	/20
C. Construction Administration and Inspection Experience of the Lead Firm	/10	1.5	/15
D. Experience of Key Personnel and Sub-consultants	/10	2.0	/20
E. Project Understanding and Approach	/10	3.0	/30
F. Overall evaluation of the firm and its perceived ability to provide the required services	/10	1.0	/10
Maximum Total Score			100

Proposal evaluation will be based on points assigned for each criterion and then multiplied by a weighted factor, which will be summed up for a maximum score on the proposal document. Scoring will be awarded on a scale of 0 to 10, where the range is defined in Table 2.

**Table 2 – Rated Criteria Summary Table**

Points	Description
0	Lack of response or complete misunderstanding of the requirements, no probability of success
2	Does not meet expectations or demonstrate understanding of the requirements, major weakness or deficiencies, low probability of success
4	Partially meets expectations; minor weakness or deficiencies, fair probability of success
6	Meets expectations; Applicant has good understanding of requirement, no weakness or deficiencies, good probability of success
8	Somewhat exceeds expectations; high probability of success
10	Fully exceeds expectations; Applicant clearly understands the requirement, excellent probability of success

## 1.6 Proposal Submittal Requirements

### A. General Information:

The lead for this project must be registered as a Professional Engineer in the State of Arizona. All qualified professionals must have adequate education and experience to complete the desired work as identified in this request for proposal. Provide a general description of the firm or team that is proposing to provide services for the project.

Provide the following information:

1. List the professional licenses held by the team and the key personnel who will be assigned to this project.
2. Identify the location of the lead firm's principal office and the home office location of key staff on this project.
3. Provide an organization chart showing key personnel.

### B. Experience of the Prime Firm:

Discuss the experience and qualifications of the prime firm in providing design services for similar projects in the past 10 years. Identify projects the submitting firm has completed. For each project listed, please provide:

1. Description of the project
2. Project's original contracted cost and final cost
3. Design milestone dates
4. Project owner
5. Reference information (two current names with telephone numbers and emails per project)

**C. Construction Administration and Inspection Experience of the Prime Firm:**

Discuss the experience and qualifications of the prime firm in providing construction administration and inspection services for similar projects. Identify projects the submitting firm has completed. For each project listed, please provide:

1. Description of the project
2. Project's original contracted construction cost and final construction cost
3. Construction dates
4. Project owner
5. Reference information (two current names with telephone numbers and emails per project)

**D. Experience of Key Personnel and Sub-consultants:**

The project team selection will provide identification of responsible project personnel and will identify their role on the team. Specify if work completed by project staff while employed under submitting firm or another firm. A project team organizational diagram and a brief resume of each team member will be included. Any proposed sub-consultants will be listed. Include sub-consultants assigned task(s) and experience. Full resumes may be included in the appendix.

For each key person identified, list their length of time with the firm and at least two comparable projects in which they have played a primary role. If a project selected for a key person is the same as one selected for the firm, provide just the project name and the role of the key person. For other projects, provide the following:

1. Description of project
2. Role of the person
3. Project's original contracted cost and final cost
4. Design milestone dates
5. Project owner
6. Reference information (two current names with telephone numbers and emails per project)

**E. Project Understanding and Approach:**

Provide a description of the tasks and duties required to implement the scope of work and any recommended additions to the list of tasks. Provide a listing of all assumptions made (by work task), including anticipated level of work assistance to be provided by the Tribe. Identify any steps required that have not been specifically identified in the scope of work. Also, identify any unique approaches or strengths that your team may have related to this project.

Provide in detail the proposed treatment method and the strategy for the iron and manganese treatment pilot study. Outline the piloting test time and required site conditions (space requirements, system operating temperature, electrical requirements, flow rate, waste disposal, etc.) for installation and operation of the pilot plant. Describe the pilot scale study and provide a water sampling schedule, including frequency, chemical constituents to be tested and length of time needed to collect study data.

Identify and discuss significant project issues, which you perceive will influence the timely implementation and satisfactory conclusion of the piloting and full-scale installation phases of this project.

**F. Overall evaluation of the firm and its perceived ability to provide the required services:**

Overall evaluation of the firm's capability to provide the required services as determined by the selection panel members. No additional submittal response is required.

Proposals missing the required information listed in Section 1.6 will be considered nonresponsive.

Note that a cost estimate is not a factor in determining selection of the most qualified proposal, and should **NOT** be included in the package. The contract amount will be negotiated between the Tribe and the selected firm upon completion of the selection process.

## 1.7 The Deliverables

The successful engineering design firm will be responsible for managing and overseeing all aspects of sub-consultants, equipment suppliers and contractors necessary to complete the pilot study, design and support services as described in the aforementioned Scope of Work. The pilot study services require a report and presentation. The design services require a complete set of stamped and sealed construction drawings, technical specifications, and bid schedule that can be incorporated into request for bids (RFB) used to solicit for the construction of the East Cocopah Iron and Manganese Removal Water Treatment Plant. The firm shall obtain and incorporate boiler plate EJCDC contract documents (Bid invitation, General Provisions, Special Provisions, etc.) that will be used in the final solicitation package. The design and subsequent construction shall achieve a complete an operational system that meets the needs of the Tribe.

## 1.8 Contract Documents

Once awarded, the work will be executed according to the specifications outlined in the contract documents package, which includes the following:

- This Request for Proposal.
- Location of Water Treatment Plant (Appendix A)
- Distribution System (Appendix B)
- Final Negotiated Proposal and Pricing
- Contract Agreement

Proposals missing the required information listed in Section 1.6 will be considered nonresponsive.

## 1.9 Supplemental Information

The Tribe may waive any informalities or minor defects or reject any and all proposals. Any proposal may be withdrawn prior to the above scheduled time for the opening of proposals or authorized postponement thereof. Any proposal received after the time and date specified will not be considered. No firm may withdraw a proposal within 60 days after the actual date of the opening thereof. Should there be reasons why the contract cannot be awarded within the specified period; the time may be extended by mutual agreement between the Tribe and the firm.

Firms must satisfy themselves of the accuracy of the RFP by examination of the site and a review of the proposal submittal requirements including any issued addendum. After proposals have been submitted, the firm will not assert that there was a misunderstanding concerning the quantities of work or of the nature of the work to be done.

The Tribe will provide to the awarded firm, all information that is pertinent to, and delineates and describes, the land owned and rights-of-way acquired or to be acquired.

The contract documents contain the provisions required for the completion of the project. Information obtained from an officer, agent, or employee of the Tribe or any other person will not affect the risks or obligations assumed by the awarded firm or relieve him from fulfilling any of the conditions of the contract.

The Notice to Proceed will be issued within ten (10) days of the execution of the Agreement by the Tribe. The commence work date will be established by the Tribe in the Notice to Proceed. The awardee must execute the Notice to Proceed within ten (10) days of receipt. Should there be reasons why the Notice to Proceed cannot be issued within such period; the time may be extended by mutual agreement between the Tribe and awardee. If the Notice to Proceed has not been issued within the ten (10) day period or within the period mutually agreed upon, the contractor may terminate the Agreement without further liability on the part of either party.

The Tribe may make such investigations as deemed necessary to determine the ability of the firm to perform the work, and the firm will furnish to the Tribe all such information and data for this purpose as the Tribe may request. The Tribe reserves the right to reject any proposal if the evidence submitted by, or investigation of, such firm fails to satisfy the Tribe that such firm is properly qualified to carry out the obligations of the Agreement and to complete the work contemplated therein.

A conditional or qualified proposal will not be accepted.

All applicable laws, ordinances, and the rules and regulations of all authorities having jurisdiction over the completion of the project will apply to the contract throughout.

Each firm is responsible for inspecting the site and for reading and being thoroughly familiar with the contract documents. The failure or omission of any firm to do any of the foregoing will in no way relieve any firm from any obligation in respect to their proposal.

The Tribe reserves the right to decline to enter into an Agreement.

All correspondence shall be addressed to Rudy Alcala, Public Works Director.

Contact Information for the Tribe and IHS follows:

<b>Cocopah Indian Tribe</b>	<b>Indian Health Service Representative</b>
Rudy Alcala, Public Works Director Email: <a href="mailto:alcalar@cocopah.gov">alcalar@cocopah.gov</a> Phone: (928) 627-2102	Joel Garcia E.I.T., Field Engineer Email: <a href="mailto:joel.garcia@ihs.gov">joel.garcia@ihs.gov</a> Phone: (480) 466-7825



# Appendices

## Appendix A – Site Location Map



Figure 1. Site Location Map



Figure 2. Residential Area of the East Cocopah Reservation

## Appendix B – Components of the East Cocopah PWS



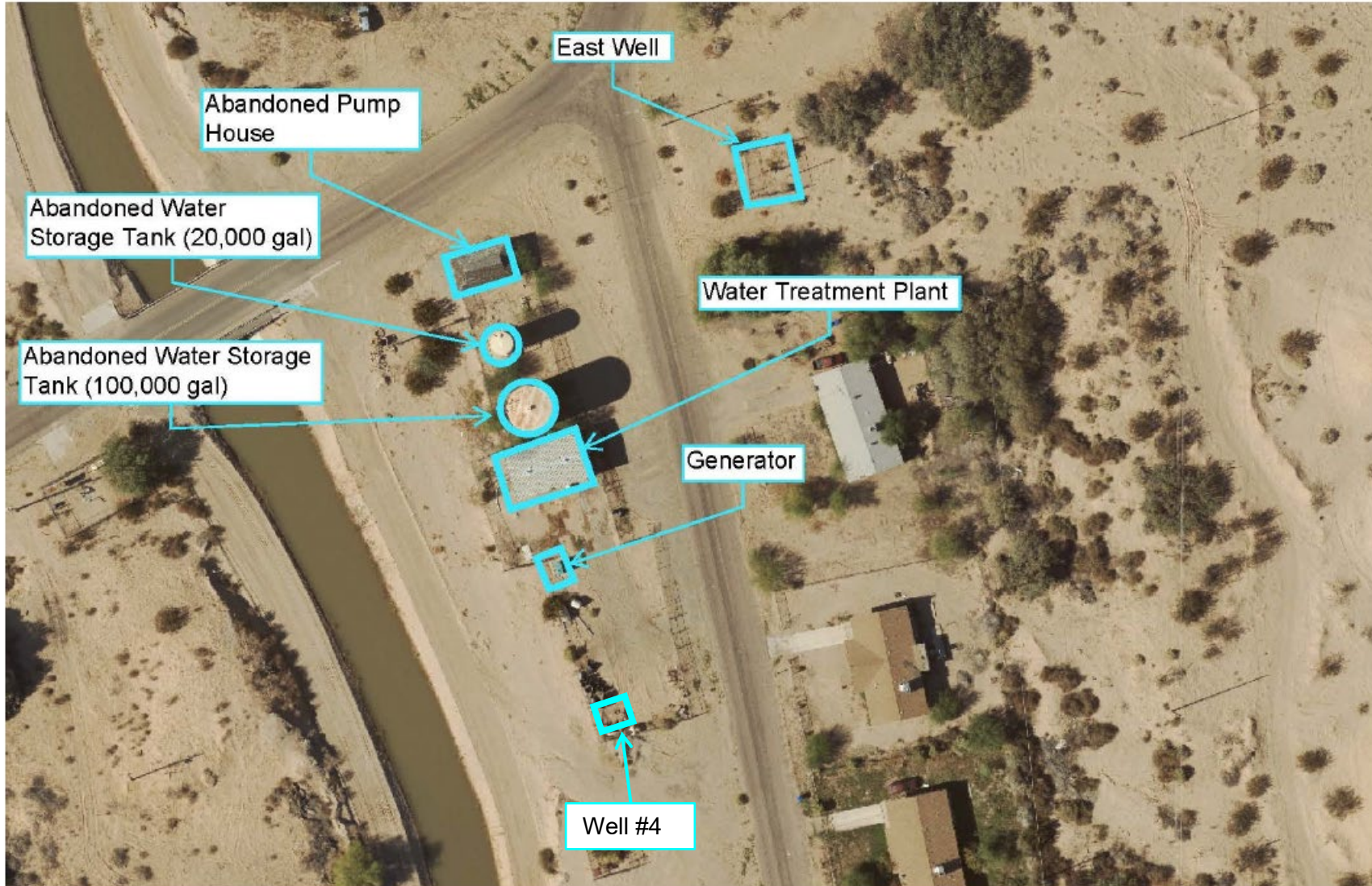


Figure 1. Aerial view of the East Cocopah Water Treatment Plant site and of the East Well.





Figure 2. View of the East Cocopah Water Treatment Plant and the Storage Tank.

## Appendix C – FEMA FIRM Mapping



# National Flood Hazard Layer FIRMette



114°40'39"W 32°34'26"N



1:6,000

114°40'1"W 32°33'55"N

Basemap Imagery Source: USGS National Map 2023

## Legend

SEE FIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT

SPECIAL FLOOD HAZARD AREAS		Without Base Flood Elevation (BFE) Zone A, V, A99
		With BFE or Depth Zone AE, AO, AH, VE, AR
		Regulatory Floodway
OTHER AREAS OF FLOOD HAZARD		0.2% Annual Chance Flood Hazard, Areas of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile Zone X
		Future Conditions 1% Annual Chance Flood Hazard Zone X
		Area with Reduced Flood Risk due to Levee. See Notes. Zone X
		Area with Flood Risk due to Levee Zone D
OTHER AREAS		NO SCREEN Area of Minimal Flood Hazard Zone X
		Effective LOMRs
		Area of Undetermined Flood Hazard Zone D
GENERAL STRUCTURES		Channel, Culvert, or Storm Sewer
		Levee, Dike, or Floodwall
OTHER FEATURES		20.2 Cross Sections with 1% Annual Chance Water Surface Elevation
		17.5 Cross Sections with 1% Annual Chance Water Surface Elevation
		Coastal Transect
		Base Flood Elevation Line (BFE)
		Limit of Study
		Jurisdiction Boundary
		Coastal Transect Baseline
MAP PANELS		Digital Data Available
		No Digital Data Available
		Unmapped



The pin displayed on the map is an approximate point selected by the user and does not represent an authoritative property location.

This map complies with FEMA's standards for the use of digital flood maps if it is not void as described below. The basemap shown complies with FEMA's basemap accuracy standards

The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on 8/15/2024 at 6:42 PM and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

This map image is void if the one or more of the following map elements do not appear: basemap imagery, flood zone labels, legend, scale bar, map creation date, community identifiers, FIRM panel number, and FIRM effective date. Map images for unmapped and unmodernized areas cannot be used for regulatory purposes.

## Appendix D – Draft Agreement Between Owner and Engineer for Professional Services

# AGREEMENT BETWEEN OWNER AND ENGINEER FOR PROFESSIONAL SERVICES

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## **AGREEMENT BETWEEN OWNER AND ENGINEER FOR PROFESSIONAL SERVICES**

This is an Agreement between the Cocopah Indian Tribe (Owner) and **[Name of Engineer]** (Engineer). Owner's Project, of which Engineer's services under this Agreement are a part, is generally identified as East Cocopah Iron and Manganese Water Treatment Plant Design (Project). Other terms used in this Agreement are defined in Article 7. Engineer's services under this Agreement are generally identified as to design a new water treatment plant that will provide disinfection, as well as iron and manganese removal and disposal, on the East Cocopah Indian Reservation.

Owner and Engineer further agree as follows:

### **ARTICLE 1—SERVICES OF ENGINEER**

#### **1.01 Scope**

- A. Engineer shall provide, or cause to be provided, the services set forth herein and in Exhibit A.
- B. All phases of service will include Management of Engineering Services as shown in Exhibit A.

### **ARTICLE 2—OWNER'S RESPONSIBILITIES**

#### **2.01 Project Information**

- A. To the extent Owner has not already provided the following, or has new, additional, or revised information from that previously provided, Owner shall provide Engineer with information and data needed by Engineer in the performance of Basic and Additional Services, including Owner's:
  - 1. design objectives and constraints;
  - 2. space, capacity, and performance requirements;
  - 3. flexibility and expandability needs;
  - 4. design and construction standards;
  - 5. budgetary limitations; and
  - 6. any other available information pertinent to the Project including reports and data relative to previous designs, construction, or investigation at or adjacent to the Site.
- B. Following Engineer's assessment of initially-available Project information and data and upon Engineer's request, Owner shall obtain, furnish, or otherwise make available (if necessary through retention of specialists or consultants) such additional Project-related information and data as is reasonably required to enable Engineer to complete its Basic and Additional Services; or, with consent of Engineer, Owner may authorize the Engineer to obtain or provide all or part of such additional information as Additional Services. Such additional information or data may include the following:
  - 1. Property descriptions.
  - 2. Zoning, deed, and other land use restrictions.
  - 3. Surveys, topographic mapping, and utility documentation.

4. Property, boundary, easement, right-of-way, and other special surveys or data, including establishing relevant reference points.
  5. Explorations and tests of subsurface conditions at or adjacent to the Site; geotechnical reports and investigations; drawings of physical conditions relating to existing surface or subsurface structures at the Site; hydrographic surveys, laboratory tests and inspections of samples, materials, and equipment; appropriate professional interpretation of such information or data.
  6. Environmental assessments, audits, investigations, and impact statements, and other relevant environmental, historical, or cultural studies relevant to the Project, the Site, and adjacent areas.
  7. Data or consultations as required for the Project but not otherwise identified in this Agreement.
- C. Owner shall examine all alternative solutions, studies, reports, sketches, Drawings, Specifications, proposals, and other documents presented by Engineer (including obtaining advice of an attorney, risk manager, insurance counselor, financial/municipal advisor, and other advisors or consultants as Owner deems appropriate with respect to such examination) and render in writing timely decisions pertaining thereto.
- D. Owner shall furnish to Engineer data as to Owner's anticipated costs for services to be provided to Owner by others (including, but not limited to, accounting, bond and financial, independent cost estimating, insurance counseling, and legal advice) so that Engineer may assist Owner in collating the various cost categories that comprise Total Project Costs.
- E. Owner shall advise Engineer if any invention, design, process, product, or device that Owner has requested, required, or recommended for inclusion in the Drawings or Specifications will be subject to payment (whether by Owner or Contractor) of any license fee or royalty to others, as required by patent rights or copyrights.
- F. Owner shall inform Engineer as to whether Engineer's assistance is requested with respect to Owner's evaluation of the possible use of Project Strategies, Technologies, and Techniques, as defined in Exhibit A.
- G. Owner shall inform Engineer as to whether Engineer's assistance is requested in identifying opportunities for enhancing the sustainability of the Project.
- 2.02 Owner's Instructions Regarding Bidding/Proposal and Front-End Construction Contract Documents
- A. Owner shall give instructions to Engineer regarding Owner's procurement of construction services (including instructions regarding advertisements for bids, instructions to bidders, and requests for proposals, as applicable) and Owner's construction contract practices and requirements, and furnish to Engineer (or give specific directions requesting Engineer to use copies already in Engineer's possession) the following:
1. Owner's standard contract forms, general conditions (if other than the current edition of EJCDC® C-700, Standard General Conditions of the Construction Contract), supplementary conditions, text, and related documents and content for Engineer to include in the draft Bidding/Proposal Documents, and in draft Front-End Construction Contract Documents;

2. insurance and bonding requirements;
  3. protocols for electronic transmittals during bidding and construction;
  4. Owner's safety and security programs applicable to Contractor and other Constructors;
  5. diversity and other social responsibility requirements;
  6. bidding and contract requirements of funding, financing, or regulatory entities;
  7. other specific conditions applicable to the procurement of construction or contract documents;
  8. any other information necessary for Engineer to assist Owner in preparing its Bidding/Proposal Documents and Front-End Construction Contract Documents.
- B. Owner shall have responsibility for the final content of (1) such Bidding/Proposal Documents, and (2) such Front-End Construction Contract Documents, other than content furnished by Engineer concerning the design (as set forth in the Drawings, Specifications, or otherwise) or other engineering or technical matters.
1. Owner shall seek the advice of Owner's legal counsel, risk managers, and insurance advisors with respect to the drafting and content of such documents.
- C. If there will be an advertisement soliciting bids for construction, Owner shall place and pay for such advertisement.

#### 2.03 Owner-Furnished Services

- A. Recognizing and acknowledging that Engineer's services and expertise do not include the following services, Owner shall obtain, as required for the Project:
1. Accounting, bond and financial advisory services (including, if applicable, "municipal advisor" services as described in Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) and the municipal advisor registration rules issued by the Securities and Exchange Commission), independent cost estimating, and insurance counseling services.
  2. Legal services, including attorney review of proposed Construction Contract Documents, legal services required by Owner, legal services needed as a result of issues raised by Contractor, and Project-related legal services reasonably requested by Engineer.
  3. Auditing services, including those needed by Owner to ascertain how or for what purpose Contractor has used money paid to it.
- B. Owner shall provide the services of an independent testing laboratory to perform all inspections, tests, and approvals of samples, materials, and equipment required by the Construction Contract Documents (other than those required to be furnished or arranged by Contractor), or to evaluate the performance of materials, equipment, and facilities of Owner, prior to their incorporation into the Work with appropriate professional interpretation thereof. Owner shall provide Engineer with the findings and reports generated by testing laboratories, including findings and reports obtained from or through Contractor.
- C. Owner shall acquire or arrange for acquisition of the Site(s) and any temporary or permanent rights of access, easements, or property rights needed for the Project.

- D. Except as provided in Exhibit A, with respect to the portions or phases of the Project designed or specified by Engineer, Owner shall provide, obtain, or arrange for:
  - 1. all required reviews, approvals, consents, and permits from governmental authorities having jurisdiction, and
  - 2. such reviews, approvals, and consents from others as may be necessary for completion of each portion or phase of the Project.
- E. Owner may delegate to Contractor or others the responsibilities set forth in Paragraphs 2.03.C and D.

#### 2.04 Owner's General Responsibilities

- A. Owner shall inform Engineer of the policies, procedures, and requirements of Owner that are applicable to Engineer's performance of services under this Agreement.
- B. Owner shall provide Engineer with Owner's budget for the Project, including type and source of funding to be used, and will promptly inform Engineer if the budget or funding sources change.
- C. Owner shall inform Engineer in writing of any safety or security programs that are applicable to the personnel of Engineer, its Subconsultants, and Engineer's Subcontractors, as they visit the Site or otherwise perform services under this Agreement.
- D. Owner shall arrange for safe access to and make all provisions for Engineer to enter upon public and private property as required for Engineer to perform services under this Agreement.
- E. Owner shall provide necessary direction and make decisions, including prompt review of Engineer's submittals, and carry out its other responsibilities in a timely manner so as not to delay Engineer's performance of its services.
- F. Owner shall be responsible for all requirements and instructions that it furnishes to Engineer pursuant to this Agreement, and for the accuracy and completeness of all programs, reports, data, and other information furnished by Owner to Engineer pursuant to this Agreement. Engineer may use and rely upon such requirements, programs, instructions, reports, data, and information in performing or furnishing services under this Agreement, subject to any express limitations or reservations applicable to the furnished items.
- G. Owner shall give prompt written notice to Engineer whenever Owner observes or otherwise becomes aware of:
  - 1. any development that affects the scope or time of performance of Engineer's services;
  - 2. the presence at the Site of any Constituent of Concern; or
  - 3. any relevant, material defect or nonconformance in: (a) Engineer's services, (b) the Work, (c) the performance of any Constructor, or (d) Owner's performance of its responsibilities under this Agreement.
- H. Owner shall advise Engineer of the identity and scope of services of any independent consultants employed by Owner to perform or furnish services in regard to the Project, including, but not limited to, cost estimating, project peer review, value engineering, and constructability review.

- I. If Owner designates a construction manager, site representative, or any individual or entity other than, or in addition to, Engineer to represent Owner at the Site, Owner shall define and set forth as an exhibit to this Agreement the duties, responsibilities, and limitations of authority of such other party and the relation thereof to the duties, responsibilities, and authority of Engineer.
- J. Owner shall:
  1. Attend and participate in the pre-bid conference, bid opening, pre-construction conferences, construction progress and other job-related meetings, and Site visits to determine Substantial Completion and readiness of the completed Work for final payment.
  2. Primarily communicate with Engineer's Subcontractors and Subconsultants through the Engineer.
    - a. Promptly inform Engineer of the substance of any communications between Owner and Engineer's Subcontractors or Subconsultants.
    - b. Refrain from directing the services of Engineer's Subcontractors or Subconsultants.
  3. Authorize Engineer to provide Additional Services as set forth in Article 2 of Exhibit A of the Agreement, as required.
  4. Perform or provide the following:
    - a. Not Used.

## 2.05 Payment

- A. Owner shall pay Engineer as set forth in Article 4 and Exhibit J.
- B. Engineer's compensation is summarized as follows; if there is a conflict between the following summary and the contents of Exhibit J, then Exhibit J will prevail.

Description of Service		Amount	Basis of Compensation
1.	Management of Engineering Services (Article 1 of Exhibit A)	\$	Lump Sum
2.	Study and Report Phase (Article 1 of Exhibit A)	\$	Lump Sum
3.	Preliminary Design Phase (Article 1 of Exhibit A)	\$	Lump Sum
4.	Final Design Phase (Article 1 of Exhibit A)	\$	Lump Sum
5.	Bidding Proposal Phase (Article 1 of Exhibit A)	\$	Lump Sum
6.	Construction Phase (Article 1 of Exhibit A)	\$	Lump Sum

Based on a One (1) – month continuous construction period.

1. Compensation items and totals based in whole or in part on Hourly Rates, Direct Labor, or Percentage of Construction Cost are estimates only.
2. Lump sum amounts incorporate Engineer's labor, overhead, profit, and Engineer's Subcontractor and Subconsultants' charges.



## **ARTICLE 3—SCHEDULE FOR RENDERING SERVICES**

### **3.01 Commencement**

- A. Engineer is authorized to begin rendering services as of the Effective Date.

### **3.02 Time for Completion**

- A. Engineer shall complete its obligations within a reasonable time. Specific periods of time for rendering services, or specific dates by which services are to be completed, are provided in Exhibit B, and are hereby agreed to be reasonable.
- B. If, through no fault of Engineer, such periods of time or dates are changed, or the orderly and continuous progress of Engineer's services is impaired, or Engineer's services are delayed or suspended, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, will be adjusted equitably.
- C. If Owner authorizes changes in the scope, extent, or character of the Project or Engineer's services, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, will be adjusted equitably.
- D. If Engineer fails, for reasons within control of Engineer, to complete the performance required in this Agreement within the time set forth, as duly adjusted, then Owner shall be entitled, as its sole remedy, to the recovery of direct damages to the extent, if any, resulting from such failure by Engineer.

## **ARTICLE 4—INVOICES AND PAYMENTS**

### **4.01 Invoices**

- A. Preparation and Submittal of Invoices: Engineer shall prepare invoices in accordance with its standard invoicing practices, the progress reporting and special invoicing requirements (if any) in Exhibit A Paragraph 1.01.A, and the terms of Exhibit J. Engineer shall submit its invoices to Owner on a monthly basis. Invoices are due and payable within 30 days of receipt.

### **4.02 Payments**

- A. Application to Interest and Principal: Payment will be credited first to any interest owed to Engineer and then to principal.
- B. Disputed Invoices: If Owner disputes an invoice, either as to amount or entitlement, then Owner shall promptly advise Engineer in writing of the specific basis for doing so; may withhold only that portion so disputed; and must pay the undisputed portion, subject to the terms of Paragraph 4.01. After a disputed item has been resolved, Engineer shall include the agreed-upon amount on a new invoice.
- C. Failure to Pay: If Owner fails to make any undisputed payment due Engineer within 30 days after receipt of Engineer's invoice, then:
  - 1. amounts due Engineer will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day, and
  - 2. Engineer may, after giving 7 days' written notice to Owner, suspend services under this Agreement until Owner has paid in full amounts due. Owner waives any and all claims against Engineer for any such suspension.

- D. Sales or Use Taxes: If after the Effective Date any governmental entity takes an action that imposes additional sales or use taxes on Engineer's services or compensation under this Agreement, then Engineer may invoice such additional sales or use taxes for reimbursement by Owner. Owner shall reimburse Engineer for the cost of such invoiced additional sales or use taxes; such reimbursement will be in addition to the compensation to which Engineer is entitled under the terms of Exhibit J.

## **ARTICLE 5—OPINIONS OF COST**

### **5.01 Opinions of Probable Construction Cost**

- A. Engineer's opinions of probable Construction Cost (if any) are to be made on the basis of Engineer's experience, qualifications, and general familiarity with the construction industry. However, because Engineer has no control over the cost of labor, materials, equipment, or services furnished by others, or over contractors' methods of determining prices, or over competitive bidding or market conditions, Engineer cannot and does not guarantee that proposals, bids, or actual Construction Cost will not vary from opinions of probable Construction Cost prepared by Engineer. If Owner requires greater assurance as to probable Construction Cost, then Owner agrees to obtain an independent cost estimate.

### **5.02 Opinions of Total Project Costs**

- A. The services, if any, of Engineer with respect to Total Project Costs will be limited to assisting the Owner in tabulating the various categories that comprise Total Project Costs. Engineer assumes no responsibility for the accuracy of any opinions of Total Project Costs.

## **ARTICLE 6—GENERAL CONSIDERATIONS**

### **6.01 Standards of Performance**

- A. Standard of Care: The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality.
- B. Technical Accuracy: Owner shall not be responsible for discovering deficiencies in the technical accuracy of Engineer's services. Engineer shall correct deficiencies in technical accuracy without additional compensation, unless such corrective action is directly attributable to deficiencies in Owner-furnished information.
- C. Engineer's Subcontractors and Subconsultants: Engineer may retain such Engineer's Subcontractors and Subconsultants as Engineer deems necessary to assist in the performance or furnishing of the services, subject to reasonable, timely, and substantive objections by Owner.
- D. Reliance on Others: Subject to the standard of care set forth in Paragraph 6.01.A, Engineer may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.
- E. Compliance with Laws and Regulations, and Policies and Procedures
  - 1. Engineer and Owner shall comply with applicable Laws and Regulations.

2. Engineer shall comply with the policies, procedures, and instructions of Owner that are applicable to Engineer's performance of services under this Agreement and that Owner provides to Engineer in writing, subject to the standard of care set forth in Paragraph 6.01.A, and to the extent compliance is not inconsistent with professional practice requirements.
3. This Agreement is based on Laws and Regulations and Owner-provided written policies and procedures as of the Effective Date. The following may be the basis for modifications to Owner's responsibilities or to Engineer's scope of services, times of performance, or compensation:
  - a. changes after the Effective Date to Laws and Regulations,
  - b. the receipt by Engineer after the Effective Date of Owner-provided written policies and procedures, and
  - c. changes after the Effective Date to Owner-provided written policies or procedures.
- F. General Conditions of Construction Contract: The general conditions for any Construction Contract Documents prepared hereunder are to be the current edition of EJCDC® C-700, Standard General Conditions of the Construction Contract, prepared by the Engineers Joint Contract Documents Committee, unless expressly indicated otherwise.
- G. Copies of Drawings and Specifications: If Engineer is required to prepare or furnish Drawings or Specifications under this Agreement, Engineer shall deliver to Owner at least one complete electronic copy of such Drawings and Specifications, signed and sealed according to applicable Laws and Regulations, and one complete printed copy, duly signed and sealed.
- H. Engineer shall not be required to sign any document, no matter by whom requested, that would result in Engineer having to certify, guarantee, or warrant conditions whose existence Engineer cannot ascertain within the authorized scope of Engineer's services. Owner agrees not to make resolution of any dispute with Engineer or payment of any amount due to Engineer in any way contingent upon Engineer signing any such document.
- I. Engineer shall not at any time supervise, direct, control, or have authority over any Constructor's work, nor will Engineer have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, or the safety precautions and programs incident thereto, for security or safety at the Site, nor for any failure of a Constructor to comply with Laws and Regulations applicable to that Constructor's furnishing and performing of its work. Engineer shall not be responsible for the acts or omissions of any Constructor.
- J. Engineer neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's failure to furnish and perform the Work in accordance with the Construction Contract Documents.
- K. Engineer shall not be responsible for any decision made regarding the Construction Contract Documents, or any application, interpretation, clarification, or modification of the Construction Contract Documents, other than those made by Engineer.
- L. Engineer is not required to provide and does not have any responsibility for surety bonding or insurance-related advice, recommendations, counseling, or research, or enforcement of construction insurance or surety bonding requirements.

- M. Engineer's services do not include providing legal advice or representation.
- N. Engineer's services do not include (1) serving as a "municipal advisor" for purposes of the registration requirements of Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) or the municipal advisor registration rules issued by the Securities and Exchange Commission, or (2) advising Owner, or any municipal entity or other person or entity, regarding municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms, or other similar matters concerning such products or issuances.
- O. While at the Site, Engineer, its Subconsultants, and Engineer's Subcontractors, and their employees and representatives will comply with the applicable requirements of Contractor's and Owner's safety programs of which Engineer has been informed in writing.

#### 6.02 Ownership and Use of Documents

- A. All Documents are instruments of service, and Engineer owns the Documents, including all associated copyrights and the right of reuse at the discretion of the Engineer. Engineer shall continue to own the Documents and all associated rights whether or not the Project is completed.
  - 1. Owner may make and retain copies of Documents for information and reference in connection with the use of the Documents on the Project.
  - 2. Engineer grants Owner a limited license to use the Documents on the Project, extensions of the Project, and for related uses of the Owner, subject to receipt by Engineer of full payment due and owing for all services relating to preparation of the Documents, and subject to the following limitations:
    - a. Owner acknowledges that such Documents are not intended or represented to be suitable for use on the Project unless completed by Engineer, or for use or reuse by Owner or others on extensions of the Project, on any other project, or for any other use or purpose, without written verification or adaptation by Engineer;
    - b. any such use or reuse, or any modification of the Documents, without written verification, completion, or adaptation by Engineer, as appropriate for the specific purpose intended, will be at Owner's sole risk and without liability or legal exposure to Engineer or to its officers, directors, members, partners, agents, employees, and Subconsultants;
    - c. Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Subconsultants from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from any use, reuse, or modification of the Documents without written verification, completion, or adaptation by Engineer; and
    - d. such limited license to Owner shall not create any rights in third parties.
- B. If Engineer at Owner's request verifies the suitability of the Documents, completes them, or adapts them for extensions of the Project or for any other purpose, then Owner shall compensate Engineer at rates or in an amount to be agreed upon by Owner and Engineer.
- C. Engineer shall inform Owner if Engineer is aware of any invention, design, process, product, or device specified in the Drawings, Specifications, or other Documents that is subject to

payment (whether by Owner or Contractor) of any license fee or royalty to others, as required by patent rights or copyrights. If Engineer's good-faith inclusion in the Drawings, Specifications, or other Documents of new, innovative, or non-standard technologies, for the benefit of Owner and the Project, results in third-party claims of infringement or violation of intellectual property rights, then Owner and Engineer shall share equally the costs of defending against, settling, or paying such claims.

- D. Engineer will obtain Owner's consent, which will not be unreasonably withheld, prior to releasing any publicity, including news and press releases, promotional publications, award and prize competition submittals, and other advertising regarding the subject matter of this Agreement. Nothing herein will limit the Engineer's right to include information in statements of qualifications and proposals to others accurately describing its participation and participation of employees in the Project.

#### 6.03 Electronic Transmittals

- A. To the fullest extent practical, Owner and Engineer agree to transmit, and accept, Project-related correspondence, Documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Project website, in accordance with Exhibit F, Electronic Documents Protocol (EDP).
  - 1. Compliance with the EDP by Engineer shall be considered a Basic Service and no direct or separate compensation will be paid to Engineer for such compliance, unless provisions for separate compensation are expressly set forth in the EDP.
  - 2. Engineer's costs directly attributable to changes in Engineer's Electronic Documents obligations, after the effective date of this Agreement, necessitated by revisions to Exhibit F, delayed adoption of Exhibit F, or implementation of other Electronic Documents protocols, will be compensated as Additional Services.
- B. If this Agreement does not include Exhibit F or otherwise does not establish or include protocols for transmittal of Electronic Documents by Electronic Means, then Owner and Engineer may operate without specific protocols or may jointly develop such protocols at a later date.
- C. Except as stated otherwise in Exhibit F (if included in this Agreement), when transmitting Electronic Documents by Electronic Means, the transmitting party makes no representations as to long term compatibility, usability, or readability of the Electronic Documents resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the Electronic Documents, or from those established in applicable protocols.
- D. This Agreement (including the EDP) is not intended to create obligations for Owner or Engineer with respect to transmittals to or from third parties, except as expressly stated in the EDP.

#### 6.04 Insurance

- A. Engineer shall procure and maintain insurance as set forth in Exhibit G.
- B. Additional Insureds: The Engineer's commercial general liability, automobile liability, and umbrella or excess liability policies, must:

1. include and list as additional insureds Owner, and any individuals or entities identified as additional insureds in Exhibit G;
  2. include coverage for the respective officers, directors, members, partners, and employees of all such additional insureds;
  3. afford primary coverage to these additional insureds for all claims covered thereby (including as applicable those arising from both ongoing and completed operations); and
  4. not seek contribution from insurance maintained by the additional insured.
- C. Owner shall procure and maintain insurance as set forth in Exhibit G.
- D. Owner shall require Contractor to purchase and maintain policies of insurance covering workers' compensation, general liability, motor vehicle damage and injuries, and other insurance necessary to protect Owner's and Engineer's interests in the Project. Owner shall require Contractor to cause Engineer, its Subconsultants, and Engineer's Subcontractors to be listed as additional insureds with respect to such liability insurance purchased and maintained by Contractor for the Project. Owner shall give Engineer access to any certificates of insurance and copies of endorsements and policies obtained by Owner from Contractor.
- E. Owner and Engineer shall each deliver to the other certificates of insurance evidencing the coverages indicated in Exhibit G. Such certificates must be furnished prior to commencement of Engineer's services and at renewals thereafter during the life of the Agreement.
1. Upon request by Owner or any other insured, Engineer shall also furnish other evidence of such required insurance, including but not limited to copies of policies and endorsements, documentation of applicable self-insured retentions (if allowed) and deductibles, full disclosure of all relevant exclusions, and evidence of insurance required to be purchased and maintained by Subconsultants and Engineer's Subcontractors. In any documentation furnished under this provision, Engineer may redact (a) any confidential premium or pricing information and (b) any wording specific to projects or jurisdictions other than those applicable to this Agreement.
- F. All construction contracts entered into by Owner with respect to the Project must require builder's risk or similar property insurance.
- G. All policies of property insurance relating to the Project, including but not limited to any builder's risk or similar policy, must allow for waiver of subrogation rights and contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any insured thereunder or against Engineer, its Subconsultants, or Engineer's Subcontractors. Owner and Engineer waive all rights against each other, Contractor, Engineer's Subcontractors and Subconsultants, and the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from any of the perils or causes of loss covered by any such builder's risk or similar policy and any other property insurance relating to the Project. Owner and Engineer shall take appropriate measures in other Project-related contracts to secure waivers of rights consistent with those set forth in this paragraph.
- H. All policies of insurance must contain a provision or endorsement that the coverage afforded will not be canceled, and that renewal will not be refused, until at least 10 days' prior written

notice has been given to the primary insured. Upon receipt of such notice, the primary insured must promptly forward a copy of the notice to the other party to this Agreement and replace the coverage being cancelled or reduced to conform to the requirements of this Agreement.

- I. At any time, Owner may request that Engineer, or Engineer's Subcontractors or Subconsultants, at Owner's sole expense, provide additional insurance coverage, increased limits, or revised deductibles that are more protective than those specified in Exhibit G. If so requested by Owner, and if commercially available, Engineer shall obtain and shall require Engineer's Subcontractors or Subconsultants to obtain such additional insurance coverage, different limits, or revised deductibles for such periods of time as requested by Owner, and Exhibit G will be supplemented to incorporate these requirements.

## 6.05 Suspension and Termination

### A. Suspension

1. By Owner: Owner may suspend Engineer's services for up to 90 days upon 7 days' written notice to Engineer.
2. By Engineer: Engineer may, after giving 7 days' written notice to Owner, suspend services under this Agreement:
  - a. if Owner has failed to pay Engineer for invoiced services and expenses, as set forth in Paragraphs 4.02.B and 4.02.C;
  - b. in response to the presence of Constituents of Concern at the Site, as set forth in Paragraph 6.09.D; or
  - c. if persistent circumstances beyond the control of Engineer have prevented it from performing its obligations under this Agreement.

### B. Termination for Cause

1. Either party may terminate the Agreement for cause upon 30 days' written notice in the event of substantial failure by the other party to perform in accordance with the terms of the Agreement, through no fault of the terminating party.
  - a. Notwithstanding the foregoing, this Agreement will not terminate under Paragraph 6.05.B.1 if the party receiving such notice begins, within 7 days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt thereof; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30-day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein will extend up to, but in no case more than, 60 days after the date of receipt of the notice.
2. In addition to its termination rights in Paragraph 6.05.B.1, Engineer may terminate this Agreement for cause upon 7 days' written notice:
  - a. if Owner demands that Engineer furnish or perform services contrary to Engineer's responsibilities as a licensed professional;

- b. if Engineer's services for the Project are delayed or suspended for more than 90 days for reasons beyond Engineer's control; or
  - c. as the result of the presence at or adjacent to the Site of undisclosed Constituents of Concern, as set forth in Paragraph 6.09.E.
- 3. Engineer will have no liability to Owner on account of any termination by Engineer for cause.
- C. Termination for Convenience: Owner may terminate this Agreement for convenience, effective upon Engineer's receipt of notice from Owner.
- D. Extension of Effective Date of Termination: If Owner terminates the Agreement for cause or convenience, Owner may set the effective date of termination at a time up to 30 days later than otherwise provided to allow Engineer to demobilize personnel and equipment from the Site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files. Engineer shall be entitled to compensation for such tasks.
- E. Payments Upon Termination: In the event of any termination under Paragraph 6.05, Engineer will be entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with this Agreement and all reimbursable expenses incurred through the effective date of termination. Upon making such payment, Owner will have the limited right to the use of Documents, at Owner's sole risk, subject to the provisions of Paragraph 6.02.A.
  - 1. If Owner has terminated the Agreement for cause and disputes Engineer's entitlement to compensation for services and reimbursement of expenses, then Engineer's entitlement to payment and Owner's rights to the use of the Documents will be resolved in accordance with the dispute resolution provisions of this Agreement or as otherwise agreed in writing.
  - 2. If Owner has terminated the Agreement for convenience, or if Engineer has terminated the Agreement for cause, then Engineer will be entitled, in addition to the payments identified above, to invoice Owner and receive payment of a reasonable amount for services and expenses directly attributable to termination, both before and after the effective date of termination, such as reassignment of personnel, costs of terminating contracts with Engineer's Subcontractors or Subconsultants, and other related close-out costs, using methods and rates for Additional Services as set forth in Exhibit J.

#### 6.06 Successors, Assigns, and Beneficiaries

- A. Owner and Engineer are hereby bound and the successors, executors, administrators, and legal representatives of Owner and Engineer (and to the extent permitted by Paragraph 6.06.B the assigns of Owner and Engineer) are hereby bound to the other party to this Agreement and to the successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.
- B. Neither Owner nor Engineer may assign, sublet, or transfer any rights under or interest (including, but without limitation, claims arising out of this Agreement or money that is due or may become due) in this Agreement without the written consent of the other party, except to the extent that any assignment, subletting, or transfer is mandated by law. Unless



specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

C. Unless expressly provided otherwise in this Agreement:

1. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Owner and Engineer and not for the benefit of any other party.
2. Nothing in this Agreement will be construed to create, impose, or give rise to any duty owed by Owner or Engineer to any Constructor, other third-party individual or entity, or to any surety for or employee of any of them.
3. Owner agrees that the substance of the provisions of this Paragraph 6.06.C will appear in the Construction Contract Documents.

6.07 Dispute Resolution

A. Unless otherwise required by Exhibit H, Owner and Engineer shall resolve all disputes in the following manner:

1. Owner and Engineer agree to negotiate all disputes between them in good faith for a period of 30 days from the date of notice, prior to invoking mediation.
2. Owner and Engineer agree that they shall first submit any and all unsettled claims, counterclaims, disputes, and other matters in question between them arising out of or relating to this Agreement or the breach thereof ("Disputes") to mediation. Owner and Engineer agree to participate in the mediation process in good faith. The process will be conducted on a confidential basis, and must be completed within 120 days.
3. If the parties fail to resolve a Dispute through negotiations under Paragraph 6.07.A.1 or mediation under Paragraph 6.07.A.2, then:
  - a. either or both may invoke the applicable dispute resolution procedures of Exhibit H for final resolution of Disputes.
  - b. If Exhibit H is not included, or if no final dispute resolution method is specified in Exhibit H, then the parties may exercise their rights at law.

6.08 Controlling Law; Venue

- A. This Agreement shall be governed by the laws of the state of Arizona.
- B. Engineer agrees to submit to the jurisdiction of the Federal District Court in and for the State of Arizona, or if said court denies jurisdiction, to the Superior Court of the State of Arizona in and for the County of Yuma.
- C. Nothing in this Agreement shall be construed as a waiver of Owner's sovereign immunity and nothing in this Agreement shall be construed as a consent to suit in any court by Engineer or any third party beneficiary hereof.

6.09 Environmental Condition of Site

- A. Owner represents to Engineer that, as of the Effective Date, to the best of Owner's knowledge, no Constituents of Concern, other than those disclosed in writing to Engineer, exist at or adjacent to the Site.

- B. Undisclosed Constituents of Concern: For purposes of this Paragraph 6.09, the presence at or adjacent to the Site of Constituents of Concern that were not disclosed to Engineer pursuant to Paragraph 6.09.A, in such quantities or circumstances that such Constituents of Concern may present a danger to persons or property exposed to them, will be referred to as “undisclosed” Constituents of Concern.
1. The presence at the Site of materials that are necessary for the execution of the Work, or that are to be incorporated in the Work, and that are controlled and contained pursuant to industry practices, Laws and Regulations, and the requirements of this Agreement or the Construction Contract, are not undisclosed Constituents of Concern.
  2. Constituents of Concern that are to be located, identified, studied, removed, or remediated as part of the services under this Agreement are not undisclosed Constituents of Concern.
  3. Constituents of Concern that are to be located, identified, studied, removed, or remediated as part of the services under another professional services contract for Owner, or as part of the work under a construction or remediation contract, are not undisclosed Constituents of Concern if Engineer has been informed of the general scope of such contract.
- C. If Engineer encounters or learns of an undisclosed Constituent of Concern at the Site, then Engineer shall notify (1) Owner and (2) appropriate authorities having jurisdiction if Engineer reasonably concludes that doing so is required by applicable Laws or Regulations.
- D. It is acknowledged by both parties that Engineer’s scope of services does not include any services related to undisclosed Constituents of Concern. If Engineer or any other party encounters, uncovers, or reveals an undisclosed Constituent of Concern, or if encountered, uncovered, or revealed Constituents of Concern are present in substantially greater quantities or substantially different locations than disclosed or anticipated, or if investigative or remedial action, or other professional services, are necessary or required by applicable Laws and Regulations with respect to such Constituents of Concern, then Engineer may, at its option and without liability for direct, consequential, or any other damages, suspend performance of services on the portion of the Project adversely affected thereby until such portion of the Project is no longer so affected; and Owner shall promptly determine whether to retain a qualified expert to evaluate such condition or take any necessary corrective action.
- E. If the presence at the Site of undisclosed Constituents of Concern, or of Constituents of Concern in substantially greater quantities or in substantially different locations than disclosed or anticipated, adversely affects the performance of Engineer’s services under this Agreement, then:
1. if the adverse effects do not preclude Engineer from completing its Project services in general accordance with this Agreement on unaffected or marginally affected portions of the Project, Engineer may accept an equitable adjustment in its compensation or in the time of completion, or both; and the Agreement will be amended to reflect changes necessitated by the presence of such Constituents of Concern; or
  2. if the adverse effects are of such materiality to the overall performance of Engineer that it cannot complete its services without significant changes to the scope of services, time

of completion, and compensation, then Engineer may terminate this Agreement for cause on 7 days' written notice.

- F. Owner acknowledges that Engineer is performing professional services for Owner and that Engineer is not and will not be required to become an "owner," "arranger," "operator," "generator," or "transporter" of hazardous substances, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, which are or may be encountered at or near the Site in connection with Engineer's activities under this Agreement.

#### 6.10 Indemnification and Mutual Waiver

- A. Indemnification by Engineer: To the fullest extent permitted by Laws and Regulations, Engineer shall indemnify and hold harmless Owner, and Owner's officers, directors, members, partners, agents, and employees, from losses, damages, and judgments (including reasonable consultants' and attorneys' fees and expenses) arising from third-party claims or actions relating to the Project, provided that any such claim, action, loss, damages, or judgment is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, but only to the extent caused by any negligent act or omission of Engineer or Engineer's officers, directors, members, partners, agents, employees, Subconsultants, or Engineer's Subcontractors. This indemnification provision is subject to and limited by the provisions, if any, agreed to by Owner and Engineer in Exhibit I, "Limitations of Liability."
- B. Environmental Indemnification: To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Engineer, its Subconsultants, Engineer's Subcontractors, and their officers, directors, members, partners, agents, employees, and subconsultants from all claims, costs, losses, damages, actions, and judgments (including reasonable consultants' and attorney's fees and expenses) caused by, arising out of, relating to, or resulting from a Constituent of Concern at, on, or under the Site, provided that:
  - 1. any such claim, cost, loss, damages, action, or judgment is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, and
  - 2. nothing in this paragraph obligates Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence or willful misconduct.
- C. No Defense Obligation: The indemnification commitments in this Agreement do not include a defense obligation by the indemnitor unless such obligation is expressly stated.
- D. Percentage Share of Negligence: To the fullest extent permitted by Laws and Regulations, a party's total liability to the other party and anyone claiming by, through, or under the other party for any cost, loss, or damages caused in part by the negligence of the party and in part by the negligence of the other party or any other negligent entity or individual, will not exceed the percentage share that the party's negligence bears to the total negligence of Owner, Engineer, and all other negligent entities and individuals.
- E. Deleted.

#### 6.11 Records Retention

- A. Engineer shall maintain on file in legible form, for a period of five years following completion or termination of its services, or such other period as required by Laws and Regulations, all Documents, records (including cost records), and design calculations related to Engineer's services or pertinent to Engineer's performance under this Agreement. Upon Owner's request, Engineer shall provide a copy of any such item to Owner at cost.

#### 6.12 Miscellaneous Provisions

- A. Notices: Any notice required under this Agreement will be in writing, and delivered: in person (by commercial courier or otherwise); by registered or certified mail; or by e-mail to the recipient, with the words "Formal Notice" or similar in the e-mail's subject line. All such notices are effective upon the date of receipt. For the purposes of this section, the date of receipt shall mean the date on which the registered or certified mail was delivered to the intended recipient by the United States Postal Service or the next business day after an e-mail is sent. All notices under this Agreement shall be sent as follows:

If to Owner:

Elizabeth Benitez

Tribal Administrator

14515 S. Veterans Drive

Somerton, Arizona 85350

[beniteze@cocopah.gov](mailto:beniteze@cocopah.gov)

With a mandatory copy to:

Brandon S. Kinsey, Esq.

General Counsel, Cocopah Indian Tribe

Garcia, Kinsey & Villarreal, P.L.C.

2620 W. 24<sup>th</sup> Street

Yuma, Arizona 85364

[bk Kinsey@gkvlaw.com](mailto:bk Kinsey@gkvlaw.com)

If to Engineer:

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

- B. Survival: Subject to applicable Laws and Regulations, all express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.

- C. Severability: Any provision or part of the Agreement held to be void or unenforceable under any Laws or Regulations will be deemed stricken, and all remaining provisions will continue to be valid and binding upon Owner and Engineer.
- D. No Waiver: A party's non-enforcement of any provision will not constitute a waiver of that provision, nor will it affect the enforceability of that provision or of the remainder of this Agreement.
- E. Accrual of Claims: To the fullest extent permitted by Laws and Regulations, all causes of action arising under this Agreement will be deemed to have accrued, and all statutory periods of limitation will commence, no later than the date of Substantial Completion; or, if Engineer's services do not include Construction Phase services, or the Project is not completed, then no later than the date of Owner's last payment to Engineer.

## **ARTICLE 7—DEFINITIONS**

### **7.01 Defined Terms**

- A. Wherever used in this Agreement (including the exhibits hereto) terms (including the singular and plural forms) printed with initial capital letters have the meanings indicated in the text above, in the exhibits, or in the following definitions:
  - 1. Addenda—Written or graphic instruments issued prior to the opening of bids which clarify, correct, or change the bidding requirements or the proposed Construction Contract Documents.
  - 2. Additional Services—The services to be performed for or furnished to Owner by Engineer in accordance with Article 2 of Exhibit A of this Agreement.
  - 3. Agreement—This written contract for professional services between Owner and Engineer, including all exhibits identified in Paragraph 8.01 and any duly executed amendments.
  - 4. Application for Payment—The form acceptable to Engineer which is to be used by Contractor during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Construction Contract.
  - 5. Basic Services—The services to be performed for or furnished to Owner by Engineer in accordance with Article 1 of Exhibit A of this Agreement.
  - 6. Bidding/Proposal Documents—Documents related to the selection of the Contractor, including advertisements or invitations to bid; requests for proposals; instructions to bidders or proposers, including any attachments such as lists of available Site-related documents; bid forms; bids; proposal forms; proposals; bidding requirements; and qualifications documents.
  - 7. Change Order—A document which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Construction Contract Price or the Construction Contract Times, or other revision to the Construction Contract, issued on or after the effective date of the Construction Contract.
  - 8. Change Proposal—A written request by Contractor, duly submitted in compliance with the procedural requirements set forth in the Construction Contract, seeking an

adjustment in Construction Contract Price or Construction Contract Times, or both; contesting an initial decision by Engineer concerning the requirements of the Construction Contract Documents or the acceptability of Work under the Construction Contract Documents; challenging a set-off against payments due; or seeking other relief with respect to the terms of the Construction Contract.

9. **Constituents of Concern**—Asbestos, petroleum, radioactive materials, polychlorinated biphenyls (PCBs), lead-based paint (as defined by the HUD/EPA standard), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to Laws and Regulations regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.
10. **Construction Contract**—The entire and integrated written contract between Owner and Contractor concerning the Work.
11. **Construction Contract Documents**—Those items designated as “Contract Documents” in the Construction Contract, and which together comprise the Construction Contract. See also definition of “Front-End Construction Contract Documents” below.
12. **Construction Contract Price**—The money that Owner has agreed to pay Contractor for completion of the Work in accordance with the Construction Contract Documents.
13. **Construction Contract Times**—The number of days or the dates by which Contractor must: (a) achieve milestones, if any, in the Construction Contract; (b) achieve Substantial Completion; and (c) complete the Work.
14. **Construction Cost**—The cost to Owner of the construction of those portions of the entire Project designed or specified by or for Engineer under this Agreement, including construction labor, services, materials, equipment, insurance, and bonding costs, and allowances for contingencies. Construction Cost does not include costs of services of Engineer or other design professionals and consultants; cost of land or rights-of-way, or compensation for damages to property; Owner’s costs for legal, accounting, insurance counseling, or auditing services; interest or financing charges incurred in connection with the Project; or the cost of other services to be provided by others to Owner. Construction Cost is one of the items comprising Total Project Costs.
15. **Constructor**—Any person or entity (not including the Engineer, its employees, agents, representatives, or Subconsultants, or Engineer’s Subcontractors), performing or supporting construction activities relating to the Project, including but not limited to Contractors, Subcontractors, Suppliers, Owner’s work forces, utility companies, other contractors, construction managers, design-builders, testing firms, shippers, and truckers, and the employees, agents, and representatives of any or all of them.
16. **Contractor**—The entity or individual with which Owner enters into a Construction Contract.
17. **Documents**—All documents expressly identified as deliverables in this Agreement, whether in printed or Electronic Document form, required by this Agreement to be provided or furnished by Engineer to Owner. Such specifically required deliverables may include, by way of example, Drawings, Specifications, data, reports, building information models, and civil integrated management models.

18. Drawings—That part of the Construction Contract Documents that graphically shows the scope, extent, and character of the Work to be performed by Contractor.
19. Effective Date—The date indicated in this Agreement on which it becomes effective, but if no such date is indicated, the date on which this Agreement is signed and delivered by the last of the parties to sign and deliver.
20. Electronic Document—Any Project-related correspondence, attachments to correspondence, data, documents, drawings, information, or graphics, including but not limited to Shop Drawings and other Submittals, that are in an electronic or digital format.
21. Electronic Means—Electronic mail (e-mail), upload/download from a secure Project website, or other communications methods that allow: (a) the transmission or communication of Electronic Documents; (b) the documentation of transmissions, including sending and receipt; (c) printing of the transmitted Electronic Document by the recipient; (d) the storage and archiving of the Electronic Document by sender and recipient; and (e) the use by recipient of the Electronic Document for purposes permitted by this Agreement. Electronic Means does not include the use of text messaging, or of Facebook, Twitter, Instagram, or similar social media services for transmission of Electronic Documents.
22. Engineer—The individual or entity named as such in this Agreement.
23. Engineer's Subcontractor—An individual, firm, vendor, or other entity having a contract with Engineer to furnish general services, equipment, or materials with respect to the Project as an independent contractor.
24. Field Order—A written order issued by Engineer which requires minor changes in the Work but does not change the Construction Contract Price or the Construction Contract Times.
25. Front-End Construction Contract Documents—Those Construction Contract Documents whose primary purpose is to establish legal and contractual terms and conditions, typically including the Owner-Contractor agreement, bonds, general conditions, and supplementary conditions. The term excludes the Drawings and Specifications, and any Construction Contract Documents delivered or issued after the effective date of the Construction Contract.
26. Laws and Regulations; Laws or Regulations—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
27. Owner—The individual or entity named as such in this Agreement and for which Engineer's services are to be performed. Unless indicated otherwise, this is the same individual or entity that will enter into any Construction Contracts concerning the Project.
28. Project—The total undertaking to be accomplished for Owner by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the services to be performed or furnished by Engineer under this Agreement are a part.

29. **Record Drawings**—Drawings depicting the completed Project, or a specific portion of the completed Project, prepared by Engineer and based on Contractor's record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, and written interpretations and clarifications, as delivered to Engineer and annotated by Contractor to show changes made during construction.
30. **Resident Project Representative**—The authorized representative of Engineer assigned to assist Engineer at the Site during the Construction Phase. As used herein, the term Resident Project Representative (RPR) includes any assistants or field staff of the RPR.
31. **Samples**—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work will be judged.
32. **Shop Drawings**—All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Construction Contract Documents.
33. **Site**—Lands or areas to be indicated in the Construction Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements, and such other lands furnished by Owner which are designated for the use of Contractor.
34. **Specifications**—The part of the Construction Contract Documents that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.
35. **Subconsultant**—An individual, design firm, consultant, or other entity having a contract with Engineer to furnish professional services with respect to the Project as an independent contractor.
36. **Subcontractor**—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work.
37. **Submittal**—A written or graphic document, prepared by or for Contractor, which the Construction Contract Documents require Contractor to submit to Engineer, or that is indicated as a Submittal in the Schedule of Submittals accepted by Engineer. Submittals may include Shop Drawings and Samples; schedules; product data; Owner-delegated designs; sustainable design information; information on special procedures; testing plans; results of tests and evaluations, source quality-control testing and inspections, and field or Site quality-control testing and inspections; warranties and certifications; Suppliers' instructions and reports; records of delivery of spare parts and tools; operations and maintenance data; Project photographic documentation; record documents; and other such documents required by the Construction Contract Documents. Submittals, whether or not approved or accepted by Engineer, are not Construction Contract Documents. Change Proposals, Change Orders, Claims, notices, Applications for Payment, and requests for interpretation or clarification are not Submittals.



38. Substantial Completion—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Construction Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms “substantially complete” and “substantially completed” as applied to all or part of the Work refer to Substantial Completion thereof.
39. Supplier—A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or a Subcontractor.
40. Total Project Costs—The total cost of planning, studying, designing, constructing, testing, commissioning, and start-up of the Project, including Construction Cost and all other Project labor, services, materials, equipment, insurance, and bonding costs, allowances for contingencies, and the total costs of services of Engineer or other design professionals and consultants, together with such other Project-related costs that Owner furnishes for inclusion, including but not limited to cost of land, rights-of-way, compensation for damages to properties and private utilities (including relocation if not part of Construction Cost), Owner’s costs for legal, accounting, insurance counseling, and auditing services, interest and financing charges incurred in connection with the Project, and the cost of other services to be provided by others to Owner.
41. Underground Facilities—All active or not-in-service underground lines, pipelines, conduits, ducts, encasements, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or systems at the Site, including but not limited to those facilities or systems that produce, transmit, distribute, or convey telephone or other communications, cable television, fiber optic transmissions, power, electricity, light, heat, gases, oil, crude oil products, liquid petroleum products, water, steam, waste, wastewater, storm water, other liquids or chemicals, or traffic or other control systems. An abandoned facility or system is not an Underground Facility.
42. Work—The entire construction or the various separately identifiable parts thereof required to be provided under the Construction Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction; furnishing, installing, and incorporating all materials and equipment into such construction; and may include related services such as testing, start-up, and commissioning, all as required by the Construction Contract Documents.
43. Work Change Directive—A written directive to Contractor issued on or after the effective date of the Construction Contract, signed by Owner and recommended by Engineer, ordering an addition, deletion, or revision in the Work.

B. Terminology

1. The word “day” means a calendar day of 24 hours measured from midnight to the next midnight.

## ARTICLE 8—EXHIBITS AND SPECIAL PROVISIONS

### 8.01 Exhibits to Agreement

The following exhibits are incorporated by reference and included as part of this Agreement:

- A. Exhibit A, Engineer's Services.
- B. Exhibit B, Deliverables Schedule.
- C. Exhibit C, Amendment to Owner-Engineer Agreement (form).
- D. Exhibit D, Duties, Responsibilities and Limitations of Authority of Resident Project Representative. – NOT USED
- E. Exhibit E, EJCDC® C-626, Notice of Acceptability of Work (form).
- F. Exhibit F, Electronic Documents Protocol (EDP).
- G. Exhibit G, Insurance.
- H. Exhibit H, Dispute Resolution. – NOT USED
- I. Exhibit I, Limitations of Liability. – NOT USED
- J. Exhibit J, Payments to Engineer for Services and Reimbursable Expenses.

### 8.02 Total Agreement

- A. This Agreement (which includes the exhibits listed above) constitutes the entire contractual agreement between Owner and Engineer and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a written instrument duly executed by both parties. Amendments should be based whenever possible on the format of Exhibit C to this Agreement.

### 8.03 Designated Representatives

- A. With the execution of this Agreement, Engineer and Owner shall each designate a specific individual to act as representative under this Agreement. Such an individual must have authority to transmit instructions, receive information, and render decisions with respect to this Agreement on behalf of the party that the individual represents.

### 8.04 Engineer's Certifications

- A. Engineer certifies that it has not engaged in corrupt, fraudulent, or coercive practices in competing for or in executing the Agreement. For the purposes of this Paragraph 8.04:
  - 1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the selection process or in the Agreement execution;
  - 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the selection process or the execution of the Agreement to the detriment of Owner, or (b) to deprive Owner of the benefits of free and open competition;
  - 3. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the selection process or affect the execution of the Agreement.

#### 8.05 Conflict of Interest

- A. Nothing in this Agreement will be construed to create or impose any duty on the part of Engineer that would be in conflict with Engineer's paramount obligations to the public health, safety, and welfare under the professional practice requirements governing Engineer, its Subconsultants, and all licensed professionals employed by Engineer or its Subconsultants.
- B. If during the term of this Agreement a potential or actual conflict of interest arises or is identified:
  - 1. Engineer and Owner together will make reasonable, good faith efforts to avoid or eliminate the conflict of interest; to mitigate any adverse consequences of the conflict of interest; and, if necessary and feasible, to modify this Agreement to address the conflict of interest and its consequences, such that progress under the Agreement may continue.
  - 2. Such efforts will be governed by applicable Laws and Regulations and by any pertinent Owner's policies, procedures, and requirements (including any conflict of interest resolution methodologies) provided to Engineer under Paragraph 2.04.A of this Agreement.

This Agreement's Effective Date is **[insert date]**.

Owner:

The Cocopah Indian Tribe

(name of organization)

By:

(individual's signature)

Date:

(date signed)

Name:

(typed or printed)

Title:

(typed or printed)

Attach evidence of authority to sign.

Attest:

(individual's signature)

Title:

(typed or printed)

Address for giving notices:

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Designated Representative:

Name:

(typed or printed)

Title:

(typed or printed)

Address:

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---

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Phone:

Email:

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Engineer:

(name of organization)

By:

(individual's signature)

Date:

(date signed)

Name:

(typed or printed)

Title:

(typed or printed)

Attach evidence of authority to sign.

Attest:

(individual's signature)

Title:

(typed or printed)

Address for giving notices:

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Designated Representative:

Name:

(typed or printed)

Title:

(typed or printed)

Address:

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Phone:

Email:

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# **EXHIBITS TO AGREEMENT BETWEEN OWNER AND ENGINEER FOR PROFESSIONAL SERVICES**

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Article 1 of the Agreement, Services of Engineer, is supplemented to include the following provisions:

Baseline Information: Owner has furnished the following Project information to Engineer as of the Effective Date. Engineer’s scope of services has been developed based on this information. As the Project moves forward, some of the information may change or be refined, and additional information will become known, resulting in the possible need to change, refine, or supplement the scope of services.

Project Title:	East Cocopah Iron and Manganese Water Treatment Plant Design
Type and Size of Facility:	Iron and Manganese Water Treatment Plant
Description of Improvements:	Design of new Iron and Manganese Water Treatment Plant
Expected Construction Start:	TBD
Prior Studies, Reports, Plans:	Preliminary Engineering Report
Facility Location(s):	East Cocopah Reservation, Arizona
Current Project Budget:	\$4,500,000.00
Funding Sources:	EPA Drinking Water Tribal Set-Aside
Known Design Standards:	Ten States Standards, EPA Safe Drinking Water Regulations

Engineer shall provide Basic and Additional Services as set forth below.

## **ARTICLE 1—BASIC SERVICES**

### **1.01 Management of Engineering Services**

- A. All phases of Engineer's services will include management of Engineer's Project-specific responsibilities, including but not limited to the following management tasks, whether separately tracked and itemized or included as being incidental to other phase and scope task items.
  - 1. Develop and submit an Engineering Services Schedule. The Engineering Services Schedule will:
    - a. be consistent with and serve as a supplement to the Schedule of Deliverables set forth in Exhibit B.
    - b. be updated on a regular basis, and as required to reflect any programmatic decisions by Owner.
    - c. include, but not be limited to, an anticipated sequence of tasks; estimates of task duration; interrelationships among tasks; milestone meetings and submittals; anticipated schedule of construction; and other pertinent Project events.
  - 2. Develop and submit detailed work plans from Exhibit A tasks.
  - 3. Coordinate services within Engineer's internal team, and with Subconsultants and Engineer's Subcontractors.
  - 4. Prepare for and participate in meetings with consultants and contractors working on other parts of the Project that may affect, or be affected by, Engineer's services or resulting construction.
  - 5. Prepare and submit monthly engineering services progress reports to the Owner. Include summary of services performed in period, expected progress in next period, percent completion of current tasks, and a description of major issues or concerns.
  - 6. Special Invoicing: In addition to, or as a substitute for, Engineer's standard invoicing, provide the specified additional information or documentation, following the invoicing procedures indicated: Not Applicable.
  - 7. Conduct ongoing management tasks, including:
    - a. Maintaining communications records and files pertaining to or arising from Engineer's services;
    - b. With respect to Engineer's services and other directly relevant parts of the Project, prepare for and participate in periodic progress meetings with Owner to discuss progress, schedule, budget, issues, potential problems and their resolution; and
    - c. Preparing agendas prior to and minutes following all Engineer-led meetings.
- B. In all phases of Engineer's services, Engineer shall prepare draft and final Drawings in accordance with Engineer's CAD standards, using Latest version of AutoCAD software.

- C. The source documents for the draft and final Specifications in all phases of Engineer's services will be Engineer's standard specifications, unless otherwise mutually agreed upon by the parties.

## 1.02 Study and Report Phase

### A. Engineer shall:

1. Consult with Owner to define and clarify Owner's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility, and expandability, and any budgetary limitations, and identify available data, information, reports, facilities plans, and site evaluations.
  - a. If Owner has already identified one or more potential solutions to meet its Project requirements, then proceed with the study and evaluation of the Owner-identified potential solutions listed here:
    - 1) None.
  - b. If Owner has not identified specific potential solutions for study and evaluation, then assist Owner in determining whether Owner's requirements, and available data, reports, plans, and evaluations, point to a single potential solution for Engineer's study and evaluation, or are such that it will be necessary for Engineer to identify, study, and evaluate multiple potential solutions.
  - c. If it is necessary for Engineer to identify, study, and evaluate multiple potential solutions, then identify one (1) alternative solutions potentially available to Owner, unless Owner and Engineer mutually agree that some other specific number of alternatives should be identified, studied, and evaluated.
2. Identify potential solution(s) to meet Owner's Project requirements, as needed.
3. Study and evaluate the potential solution(s) to meet Owner's Project requirements.
4. Visit the Site, or potential Project sites, to review existing conditions and facilities, unless such visits are not necessary or applicable to meeting the objectives of the Study and Report Phase.
5. Assess initially available Project information and data, including the Baseline Information set forth at the beginning of this Exhibit A.
6. Advise Owner of any need for Owner to obtain, furnish, or otherwise make available to Engineer additional Project-related information and data, for Engineer's use in the study and evaluation of potential solution(s) to Owner's Project requirements, and preparation of a related report.
7. After consultation with Owner, recommend the solution(s) which in Engineer's judgment meet Owner's requirements for the Project.
8. Identify, consult with, and analyze requirements of authorities having jurisdiction to permit or approve construction or operation of the portions of the Project to be designed or specified by Engineer, including but not limited to impacts and mitigating measures identified in previously prepared environmental assessments for the Project provided to the Engineer or being concurrently prepared for Owner by others.



9. Advise the Owner of any need for Owner to provide data or services of the types described in Article 2 of the Agreement, for use in Project design, or in preparation for Contractor selection and construction.
10. Assist Owner in evaluating the possible use of building information modeling; civil integrated management; geotechnical baselining of subsurface conditions at the Site; innovative design, contracting, or procurement strategies; project delivery method; or other strategies, technologies, or techniques for assisting in the design, construction, and operation of Owner's facilities. The subject matter of this paragraph will be referred to in Exhibit A as "Project Strategies, Technologies, and Techniques."
11. Assist Owner in identifying opportunities for enhancing the sustainability of the Project, and pursuant to Owner's instructions, plan for the inclusion of sustainable features in the design.
12. Review with Owner the thresholds established in applicable codes, standards, and design criteria specifically governing the ability of the proposed facilities or improvements to perform, and to absorb or avoid damage without suffering complete or substantial failure. As part of the review, identify additional risk assessment studies or tools that are available to evaluate the susceptibility of the facilities or improvements to natural and man-made events beyond the applicable established thresholds. Upon Owner request, as an additional service, perform additional risk assessment studies or tools to further evaluate system resiliency beyond the applicable established thresholds.
13. Utilities, including Underground Facilities
  - a. Review any utility mapping and surveys and other utilities documentation made available by Owner. Take note of observable utilities during Site visit.
  - b. Identify, in a preliminary manner and to the extent determinable by such mapping or other information provided by Owner, and by observations at the Site, those utilities (whether above-ground utilities of any type, or Underground Facilities) likely to be affected by the Project construction and additional utility facilities or extensions that will be needed to serve the Project.
  - c. If the impact on existing utilities or the need for additional utility facilities or extensions cannot reasonably be determined in a preliminary manner from mapping or other information provided by Owner, or such information was not available from Owner, then assist Owner in evaluating the need to either obtain additional utility mapping and utility documentation during the Study and Report Phase, or undertake other alternative approaches and contingencies to account for utility uncertainties in this phase.
  - d. Advise Owner of additional utility documentation and coordination needed during the design and construction phases to adequately assess, mitigate, and manage the impact of the Project (including any additional utility facilities or extensions needed to serve the Project) on existing utilities.
  - e. Use ASCE 38, "Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data" as a means to advise the Owner regarding the extent and

identification and mapping of existing Underground Facilities during the design and construction phases.

- 1) If Owner has retained a land surveyor, utility engineer, or utility consultant, collaborate with such individuals or entities regarding the application of ASCE 38.
14. Inquire regarding survey methodologies and technologies that would aid in addressing Owner's Project requirements. Develop a scope of work and survey limits for any topographic and other surveys necessary for design. For recommended survey deliverables, specify a) required technical specifications; b) pertinent datum; c) survey limits, and d) formats of deliverables. Collaborate with land surveyor, when separately retained by Owner or third party, to develop such scope of work.
15. Prepare a report (the "Report") which will, as appropriate, contain schematic layouts, sketches, and conceptual design criteria with appropriate exhibits to indicate the agreed-to requirements, considerations involved, and Engineer's recommended solution(s).
  - a. For each recommended solution, Engineer will separately tabulate Total Project Cost, itemizing those items and services included within the definition of Total Project Costs.
  - b. Engineer will meet with Owner to discuss the draft Report and receive Owner's comments.
16. Perform or provide the following other Study and Report Phase tasks or deliverables:
  - a. Not Used.
17. Furnish the Report and any other Study and Report Phase deliverables to Owner pursuant to the requirements of the Deliverables Schedule in Exhibit B, and review the deliverables with Owner.
18. Revise the Report and any other Study and Report Phase deliverables in response to Owner's comments, as appropriate, and submit revised deliverables pursuant to the Deliverables Schedule.
- B. Engineer's services under the Study and Report Phase will be considered complete on the date when Engineer has delivered to Owner the final Report (as revised) and any other Study and Report Phase deliverables.

#### 1.03 Preliminary Design Phase

- A. After acceptance by Owner of the Report and any other Study and Report Phase deliverables (if Engineer's services under this Agreement included Study and Report Phase services); selection by Owner of a recommended solution; issuance by Owner of any instructions for use of Project Strategies, Technologies, and Techniques, or for inclusion of sustainable features in the design, or enhanced resiliency of the design; indication by Owner of any specific modifications or changes in the scope, extent, character, or design requirements of the Project desired by Owner; and any necessary changes, refinements, and supplementation of the Baseline Information set forth at the beginning of this Exhibit A, Engineer and Owner shall discuss, resolve, and document in writing any necessary revisions

to Engineer's scope of services, compensation (through application of the provisions regarding Additional Services, or otherwise), and the time for completion of Engineer's services, resulting from the selected solution, related Project Strategies, Technologies, or Techniques, sustainable design and resiliency instructions, specific modifications to the Project, or changes, refinements, or supplementation of the Baseline Information.

B. Upon written authorization from Owner, Engineer shall:

1. Review and assess all available Project information and data, including any pertinent reports or studies (whether prepared by Engineer or others) and any related instructions from Owner.
2. Based on the threshold review and assessment of available information and data, advise Owner of any need for Owner to obtain, furnish, or otherwise make available to Engineer any additional information and data, for Engineer's use in the preparation of a Preliminary Design Phase Report.
3. Prepare a Preliminary Design Phase Report in the following format: A consolidated and comprehensive report.
4. The Preliminary Design Phase Report will consist of final design criteria, preliminary drawings, a preliminary list of expected specifications, and written descriptions of the Project. The Preliminary Design Phase Report will consider the following matters to the extent applicable to the Project and as necessary to establish the basis of design for proceeding to final design and construction:
  - a. The Project concept, intent, performance criteria, desired outcomes, Owner's standards and Owner directed improvements and facility elements as established in the Study and Report Phase and as expressly set forth in the Baseline Information section of this Exhibit A (collectively the "Project Goals").
  - b. Recommended appropriate design criteria for each primary portion and significant discipline of the design necessary to address the Project Goals.
  - c. Site conditions and characterization as known at the time of, or to be determined during, the Preliminary Design Phase, including topography; subsurface information; Constituents of Concern; cultural, historical, and archaeological resources at the Site; wetlands information; and evaluations of flora and fauna that may be affected by the Project.
  - d. The time schedule for completion of the Project in accordance with Project Goals, including any recommended changes to the time required to complete the Final Design Phase (as set forth in Exhibit B, Deliverables Schedule) and estimated schedule(s) for construction.
  - e. Identification of major items of materials and equipment, rationale for selection with consideration of quality, suitability, pricing, sourcing, regulatory, and bidding issues affecting recommended selection.
  - f. Revised opinions of probable Construction Cost.
  - g. The impact of Project Strategies, Technologies, and Techniques, sustainable features, and enhanced resiliency selected by Owner for inclusion in the Project on

the Project Goals, schedule and probable Construction Cost, including impact of multiple prime construction contracts, separate procurement of materials or equipment, and other alternate project delivery methods when the Project Goals necessitate and Owner authorizes;

- h. Construction Phase quality assurance and quality control needs affecting development of Drawings and Specifications and other Final Design and Bidding Phase documents.
  - i. The effect of permits and authorizations by other entities and utility coordination needs on the Project.
  - j. Other matters and information pertinent to addressing the Project Goals.
- 5. In preparing the Preliminary Design Phase Report, use any specific applicable Project Strategies, Technologies, and Techniques authorized by Owner during or following the Study and Report Phase, and include sustainable features and enhanced resiliency, as appropriate, pursuant to Owner's instructions.
- 6. Visit the Site as needed to prepare the Preliminary Design Phase Report.
- 7. If at any point in the Preliminary Design Phase it becomes apparent to Engineer that additional reports, data, information, or services of the types described in Article 2 are necessary, then so advise Owner, and assist Owner in obtaining such reports, data, information, or services.
- 8. Above-Ground Utilities
  - a. Review above-ground utilities information obtained from Owner and from observations at the Site.
  - b. Make recommendations regarding any further identification, investigation, and mapping of above-ground utilities at or adjacent to the Site, for Engineer's design purposes or otherwise.
  - c. Account for above-ground utilities, based on available information, when advancing design during the Preliminary Design Phase.
- 9. Underground Facilities
  - a. Review Underground Facilities data furnished by Owner. Assist Owner in reducing and managing risks associated with Underground Facilities by working together with Owner to jointly establish a procedure ("Underground Facilities Procedure") for the further identification, investigation, and mapping of Underground Facilities at or adjacent to the Site, using ASCE 38, "Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data," as a basis for establishing such Underground Facilities Procedure.
  - b. Such Underground Facilities Procedure must take into account the Site and the nature of the Project.
  - c. Use the Underground Facilities Procedure to aid in the performance of design services:

- 1) Account for Underground Facilities, based on available information, when advancing the design during the Preliminary Design Phase.
- 2) The Underground Facilities Procedure will include a plan to keep Underground Facilities information current as Engineer proceeds with the provision of design services, and to add new or relocated Underground Facilities information to the base utility or Site drawings.
- 3) To manage the potential impact of design changes on Underground Facilities, Engineer shall work together with Owner to modify or reapply the Underground Facilities Procedure as the design progresses and changes.

#### 10. Mitigation of Utilities Conflicts

- a. Identify potential conflicts between the Project (including existing and new facilities and structures) and above-ground utilities and Underground Facilities as reviewed in Exhibit A Paragraphs 1.03.B.8 and 9 above, and advise Owner regarding the need for resolution of such conflicts with utility and Underground Facilities owners and permit agencies. Identify the potential need for the relocation of existing above-ground utilities and Underground Facilities.
- b. Update the Underground Facilities Procedure as necessary for any Underground Utilities conflicts and relocations.
- c. Working together with Owner, jointly identify which specific parties or other entities will be responsible for implementation of the various specific parts of the Underground Facilities Procedure (including those parts that address resolution of Underground Facilities conflicts), and for resolution of above-ground utilities conflicts. Such identification will take into account Owner's authority and standing, as owner of the Site, with respect to Underground Facilities and above-ground utilities.
  - 1) To the extent that Owner and Engineer agree that in addition to performing the design-related obligations set forth in Exhibit A Paragraphs 1.03.B.8 and 9, Engineer will also implement any non-design part of the Underground Facilities Procedure (including resolution of Underground Facilities conflicts), or undertake resolution of above-ground utilities conflicts, such additional duties will be Additional Services under Article 2 of this Exhibit A.

#### 11. Surveys, Topographic Mapping, and Utility Documentation

- a. Coordinate with Owner's utility engineer, utility consultant, or land surveyor for the necessary field surveys, topographic mapping, and utility documentation required for Engineer's design purposes, or by the Underground Facilities Procedure.
- b. If no scope of work and procedure for utility documentation has been established, selected, or authorized, then at a minimum Engineer will contact utility owners and obtain available information. Except as otherwise provided in this Agreement, Owner acknowledges that the information gathered from utility owners may be incorrect, incomplete, outdated, or otherwise flawed, and as to Engineer, bidders, and Contractor, the Owner accepts all associated risks. Owner reserves all

associated rights as to recourse against the sources of such flawed information and against third parties.

12. Prepare initial draft of a comprehensive permit document that identifies Owner's permit duties, Engineer's permit duties, and Contractor's permit duties, and the schedule for permitting activities.
13. Continue to assist Owner with Project Strategies, Technologies, and Techniques that Owner has chosen to implement in Exhibit A Paragraph 1.03.A.
14. Obtain Owner's instructions regarding Owner's procurement of construction services (including instructions regarding advertisements for bids, instructions to bidders, and requests for proposals, as applicable), Owner's construction contract practices and requirements, insurance and bonding requirements, electronic transmittals during construction, and other information necessary for the finalization of Owner's Bidding/Proposal Documents and Front-End Construction Contract Documents.
  - a. Also obtain copies of Owner's standard Bidding/Proposal Documents and Front-End Construction Contract Documents (if other than the EJCDC 2018 Construction Series documents), and any other related documents or content for Engineer to include in drafts of the Project-specific Bidding/Proposal Documents and Front-End Construction Contract Documents, when applicable.
  - b. Review Owner's instructions regarding procurement, bidding and contracting of construction services with respect to effects on the Project design, schedule and construction and address as needed in the Preliminary Design Phase deliverables.
15. Prepare the Preliminary Design Phase Report. This Report will consist of, as appropriate, separate or combined submittals in whole or summary, the Preliminary Design Phase documents listed in Exhibit A Paragraph 1.03.B.4, and Engineer's findings and recommendations for advancing the Project to the Final Design Phase (including Engineer's findings and recommendations, if any, regarding permitting, utilities, and Underground Facilities). The submittal will be in the format of a report, or otherwise organized and assembled for ease and practicality of use.
  - a. Based on the information contained in the Preliminary Design Phase documents, prepare a revised opinion of probable Construction Cost, and on the basis of information furnished by Owner, assist Owner in tabulating the various cost categories which comprise Total Project Costs.
  - b. Engineer will meet with Owner to discuss the draft Preliminary Design Phase submittal and receive Owner's comments.
16. Perform or provide the following other Preliminary Design Phase tasks or deliverables:
  - a. Not Used.
17. Furnish the Preliminary Design Phase Report, opinion of probable Construction Cost, and any other Preliminary Design Phase deliverables to Owner pursuant to the requirements of the Deliverables Schedule in Exhibit B, and review the deliverables with Owner.

18. Revise the Report and any other deliverables in response to Owner's comments, as appropriate, and submit revised deliverables pursuant to the Deliverables Schedule.
- C. Engineer's services under the Preliminary Design Phase will be considered complete on the date when Engineer has delivered to Owner the final Preliminary Design Phase Report (as revised) and associated documents, revised opinion of probable Construction Cost, and any other Preliminary Design Phase deliverables.

#### 1.04 Final Design Phase

- A. After acceptance by Owner of the Preliminary Design Phase Report and any other Preliminary Design Phase deliverables; issuance by Owner of any instructions for specific modifications or changes in the scope, extent, character, or design requirements of the Project desired by Owner; and any necessary changes, refinements, and supplementation of the Baseline Information set forth at the beginning of this Exhibit A, Engineer and Owner shall discuss, resolve, and document any necessary revisions to Engineer's scope of services, compensation (through application of the provisions regarding Additional Services, or otherwise), and the time for completion of Engineer's services, resulting from specific modifications to the Project, or changes, refinements, or supplementation of the Baseline Information.
  1. The number of prime contracts for Work designed or specified by Engineer upon which the Engineer's compensation has been established under this Agreement is One (1). If more prime contracts are awarded, Engineer shall be entitled to an equitable increase in its compensation under this Agreement.
  2. If more than one prime construction contract is to be awarded for the Work designed or specified by Engineer, then Owner shall define and set forth (in an exhibit to this Agreement, or in a subsequent document) the duties, responsibilities, and limitations of authority of a person or entity that will have authority and responsibility for coordinating the activities among the various prime Contractors, and any resulting changes in the duties, responsibilities, and authority of Engineer.
  3. In the event that the Work designed or specified by Engineer is to be performed or furnished under more than one prime construction contract, or if Engineer's services are to be separately sequenced with the work of one or more separate design professional consultants or prime Contractors (such as in the case of fast-tracking), Owner and Engineer shall, prior to commencement of the Final Design Phase, develop a schedule for performance of Engineer's services during the Final Design, Bidding/Proposal, Construction, and Post-Construction Phases in order to sequence and coordinate properly such services as are applicable under such separate prime construction contracts. This schedule is to be prepared and included in or become an amendment to Exhibit A whether or not the work under such construction contracts is to proceed concurrently.
- B. Upon written authorization from Owner, Engineer shall prepare final Drawings and Specifications indicating the scope, extent, and character of the Work to be performed and furnished by Contractor, in accordance with the Preliminary Design Phase Report (as revised) and other Preliminary Design Phase deliverables. As part of the preparation of the Drawings and Specifications, Engineer shall prepare interim drafts and final Drawings and Specifications as follows, pursuant to the Deliverables Schedule in Exhibit B:

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Exhibit A—Engineer's Services.

Exhibits to EJCDC® E-500, Agreement between Owner and Engineer for Professional Services.  
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and American Society of Civil Engineers. All rights reserved.

1. First Final Design Phase draft of all Drawings and Specifications.
  2. Second Final Design Phase draft of all Drawings and Specifications, addressing Owner comments and including appropriate design advancement.
  3. Final Drawings and Specifications that address Owner comments; complete the design; are suitable for estimating and pricing by prospective Contractors; and are complete and ready for construction.
- C. In preparing the Specifications (and any bidding, contract, or other documents that are part of Engineer's scope of services), Engineer shall obtain from Owner or Owner's legal counsel any relevant constraints such as requirements for use of domestic steel and iron, other domestic purchasing requirements, statutory restrictions on utilizing proprietary specifying methods, and the like, and comply with or account for such constraints in drafting Specifications, Bidding/Proposal Documents, and other Project documents.
- D. Engineer shall prepare or assemble draft Bidding/Proposal Documents and Front-End Construction Contract Documents as follows:
1. Such documents will be based on the 2018 EJCDC Construction Documents, and on the specific bidding or Contractor selection-related instructions and forms, contract forms, text, or other content received from Owner.
  2. When Engineer is required to use other than the 2018 EJCDC Construction Documents, then as required in the Preliminary Design Phase Owner will furnish to Engineer a copy of the required documents to be used for the Project's Bidding/Proposal Documents and Front-End Construction Contract Documents. Prior to the first Final Design Phase submittal, Engineer will review the bidding and contracting documents furnished by Owner and provide comments to Owner. Engineer will meet with Owner to discuss Engineer's comments. Owner will consider Engineer's recommendations to revise Owner's documents for the Project.
  3. Engineer will furnish to Owner, for review by Owner's legal counsel, the draft Bidding/Proposal Documents and Front-End Construction Contract Documents. Owner and Owner's legal counsel must transmit to Engineer, in a timely manner, one coordinated set of comments and revisions to the draft documents.
- E. During the Final Design Phase the Engineer shall continue to account for above-ground utilities and Underground Facilities as the design advances and is finalized. This may include:
1. performing the services assigned to Engineer under the Underground Facilities Procedure described in Exhibit A Paragraph 1.03 above, including but not limited to the design-related tasks in Exhibit A Paragraph 1.03.B.9.
  2. addressing required and proposed activities or mitigations identified in the analysis of utilities and by the Underground Facilities Procedure as having an impact on the final design, and considering such in preparing the Drawings and Specifications.
- F. Engineer shall perform or furnish the following other Final Design Phase services:
1. Visit the Site as needed to assist in preparing the final Drawings and Specifications.
  2. Assist with or prepare applications for permits and approvals, as follows:



- a. Update comprehensive permit document created in Preliminary Design Phase for Final Design detail.
  - b. Prepare the following applications for Owner's submittal to authorities having jurisdiction over the construction or operation of the Project:
    - 1) None.
  - c. Confer with Owner regarding revisions, if any, to the application(s), and make appropriate revisions to the application(s) for Owner's resubmittal to the authority having jurisdiction.
  - d. Provide technical criteria, written descriptions, and design data for Owner's use in filing applications for permits from or approvals of the authorities having jurisdiction listed above, including applications for review or approval of the final design.
  - e. Identify and indicate in the Construction Contract Documents the permits and approvals for which Contractor will be responsible, including work permits, building permits, and other permits and approvals that will be Contractor's responsibility; and, in addition, indicate those permits initially obtained by Owner for which Contractor will be a co-permittee, together with associated requirements.
  - f. Unless expressly indicated otherwise, Engineer's scope and budget includes attending all necessary meetings or conference calls with each permit and approval-issuing agency to discuss the Project and receive the agency's comments on the application.
  - g. Engineer does not guarantee issuance of any required permit or approval.
  - h. Fees charged by authorities having jurisdiction for such permits or approvals are the responsibility of Owner.
3. Advise Owner of any recommended adjustments to the opinion of probable Construction Cost. Furnish to Owner an updated opinion of probable Construction Cost with the interim and final deliverables of the Drawings and Specifications.
  4. After consultation with Owner, include in the Front-End Construction Contract Documents any Electronic Document Protocol addressing specific protocols for the transmittal of Project-related correspondence, documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Project website.
  5. Assist Owner in assembling known reports and drawings of Site conditions, and in identifying the technical data contained in such reports and drawings upon which bidders or other prospective contractors may rely.
  6. Review the preliminary schedule for the Construction Phase and advise Owner when initial understanding of the Construction Contract Times must or should be revised, and furnish Owner with recommendations on revisions to the proposed Construction Contract Times.
  7. Engineer's project manager and other appropriate staff will participate in the following meetings and conference calls:

- a. First draft design review meeting at Owner's office.
  - b. Second draft design review meeting at Owner's office.
  - c. Engineer will prepare and distribute minutes of each such meeting and conference call, indicating attendees, topics discussed, decisions made, and action items for follow-up.
8. Perform or provide the Final Design Phase activities or deliverables as listed in the Deliverables Schedule of Exhibit B.
- G. Engineer shall complete the Final Design Phase as follows:
  1. Pursuant to the requirements of the Deliverables Schedule in Exhibit B, furnish for review by Owner, its legal counsel, and other advisors, the final Drawings and Specifications (as set forth in Exhibit A Paragraph 1.04.B.3 above); assembled drafts of other Construction Contract Documents including the draft Front-End Construction Contract Documents; the draft Bidding/Proposal Documents; the most recent opinion of probable Construction Cost; and any other Final Design Phase deliverables, and review the deliverables with Owner.
  2. Revise the final Design Phase deliverables in response to Owner's comments, as appropriate, and submit revised deliverables pursuant to the Deliverables Schedule.
  3. Engineer's services under the Final Design Phase will be considered complete on the date when Engineer has delivered to Owner the final Drawings and Specifications; assembled drafts of the Front-End Construction Contract Documents; the draft Bidding/Proposal Documents; and any other Final Design Phase deliverables, as revised.

#### 1.05 Bidding/Proposal Phase

- A. After acceptance by Owner of the final Drawings and Specifications; assembled drafts of other Construction Contract Documents, including the draft Front-End Construction Contract Documents; the draft Bidding/Proposal Documents; the most recent opinion of probable Construction Cost as determined in the Final Design Phase, and any other Final Design Phase deliverables, and upon written authorization by Owner to proceed, Engineer shall:
  1. Assist Owner in advertising for and obtaining bids or proposals for the Work; assist Owner in issuing assembled Bidding/Proposal Documents and proposed Construction Contract Documents to prospective contractors; if applicable, maintain a record of prospective contractors to which documents have been issued; attend pre-bid conferences, if any; and receive and process contractor deposits or charges, if any, for the issued documents.
  2. Prepare and issue addenda as appropriate to clarify, correct, or change the issued documents.
  3. If the issued documents require, the Engineer shall evaluate and determine the acceptability of "or equals" and substitute materials and equipment proposed by prospective contractors, provided that such proposals are allowed by the bidding-related documents (or requests for proposals or other construction procurement documents) prior to award of contracts for the Work. Services under this paragraph are subject to the provisions of Exhibit A Paragraph 2.01.A.2.

4. Attend the bid opening; prepare bid tabulation sheets; and assist Owner in evaluating bids or proposals, assembling final Construction Contracts for the Work for execution by Owner and Contractor, and in preparing notices of award to be issued by Owner for such contracts.
5. Provide information or assistance needed by Owner in the course of any review of bids, proposals, or negotiations with prospective contractors.
6. Consult with Owner as to the qualifications of prospective contractors.
7. Consult with Owner as to the qualifications of subcontractors, suppliers, and other individuals and entities proposed by prospective contractors, for those portions of the Work as to which review of qualifications is required by the issued documents.
8. If Owner engages in negotiations with bidders or proposers, assist Owner with respect to technical and engineering issues that arise during the negotiations.
9. Perform or provide the following other Bidding/Proposal Phase tasks or deliverables:
  - a. Not used.
10. The Bidding/Proposal Phase will be considered complete upon award of Construction Contracts for the Work and commencement of the Construction Phase, or upon cessation of negotiations with prospective contractors.

#### 1.06 Construction Phase

- A. After completion of the Final Design Phase and concurrent with the Bidding/Proposal Phase, and after issuance by Owner of any instructions for specific modifications or changes in the scope, extent, character, design, schedule, number of prime construction contracts, and other construction requirements of the Project during the Construction Phase desired by Owner, the Engineer and Owner shall discuss, resolve, and document any necessary revisions to Engineer's scope of services or compensation (through application of the provisions regarding Additional Services, or otherwise), or the time for completion of Engineer's services, resulting from specific modifications to the Project.
  1. Engineer shall be responsible only for those Construction Phase services expressly required of Engineer in Exhibit A Paragraph 1.06, as duly modified. With the exception of such expressly required services, Engineer shall have no design, Submittal (including Shop Drawing) review, or other obligations during construction, and Owner assumes all responsibility for providing or arranging for all other necessary Construction Phase administrative, engineering, and professional services.
  2. Owner waives all claims against Engineer and its officers, directors, members, partners, agents, employees, and Subconsultants, and Engineer's Subcontractors, that may be connected in any way to Construction Phase administrative, engineering, or professional services except for those services that are expressly required of Engineer in Exhibit A. Notwithstanding the foregoing waiver, Engineer shall be responsible for any professional opinions and interpretations provided by Engineer to Owner during the Construction Phase or Post-Construction Phase, including interpretations or clarifications of the Construction Contract Documents.

- B. Upon successful completion of the Bidding/Proposal Phase, and upon written authorization from Owner, Engineer shall provide the following services:
1. General Administration of Construction Contract: Consult with Owner and act as Owner's representative as provided in this Agreement and the Construction Contract. Unless otherwise set forth in the scope of Basic Services (as duly modified), the extent and limitations of the duties, responsibilities, and authority of Engineer shall be as assigned in EJCDC® C-700, Standard General Conditions of the Construction Contract (2018) or other construction general conditions specified in this Agreement. Except as otherwise provided in the Construction Contract, Owner's communications to Contractor will be issued through Engineer.
    - a. If the responsibilities of Engineer as set forth in the Construction Contract are greater than those Construction Phase services expressly required of Engineer in Exhibit A Paragraph 1.06, as duly modified, then Owner shall either (1) expand the scope of the Construction Phase services to match those of the Construction Contract, and compensate Engineer for any related increases in the cost to provide Construction Phase services, pursuant to the provisions for compensating Additional Services, or (2) identify a qualified individual or entity (other than Engineer) responsible for the additional responsibilities in the Construction Contract.
    - b. If Owner, or Owner and Contractor, modify the duties, responsibilities, and authority of Engineer in the Construction Contract, or modify other terms of the Construction Contract having a direct bearing on Engineer, or if Owner requires Engineer's services for construction that extends longer than the anticipated Construction Contract Times, then Owner shall compensate Engineer for any related increases in the cost to provide Construction Phase services, pursuant to the provisions for compensating Additional Services.
    - c. Engineer shall not be required to furnish or perform services contrary to Engineer's responsibilities as a licensed professional.
  2. Field Office: DELETED.
  3. Resident Project Representative (RPR): DELETED.
  4. Selection of Independent Testing Laboratory: Assist Owner in the selection of an independent testing laboratory to perform required testing services.
  5. Pre-Construction Conference: Participate in a pre-construction conference prior to commencement of Work at the Site; prepare and distribute agenda for the conference and prepare and distribute minutes of such conference.
  6. Electronic Transmittal Protocols: If the Construction Contract does not establish protocols for transmittal of Electronic Documents by Electronic Means, then Owner, Engineer, and Contractor shall jointly develop such protocols.
  7. Original Documents: If requested by Owner to do so, maintain and safeguard during the Construction Phase at least one original printed record version of the Construction Contract Documents, including Drawings and Specifications signed and sealed by Engineer and other design professionals in accordance with applicable Laws and

Regulations. Throughout the Construction Phase, make such original printed record version of the Construction Contract Documents available to Contractor and Owner for review.

8. Schedules: Receive, review, and, and, subject to the criteria of the Construction Contract, determine the acceptability of any and all schedules that Contractor is required to submit to Engineer, including the progress schedule, schedule of submittals, and schedule of values. Advise Contractor in writing of Engineer's comments or acceptance of schedules.
  - a. Schedules will be acceptable to Engineer as to form and substance:
    - 1) Progress Schedule: if it provides an orderly progression of the Work to completion within the Contract Times. Such acceptance will not impose on Engineer responsibility for the Progress Schedule, for sequencing, scheduling, or progress of the Work, nor interfere with or relieve Contractor from Contractor's full responsibility therefor.
    - 2) Contractor's Schedule of Submittals: if it provides a workable arrangement for reviewing and processing the required Submittals.
    - 3) Contractor's Schedule of Values: if it provides a reasonable allocation of the Contract Price to the component parts of the Work.
9. Baselines and Benchmarks: As appropriate, establish baselines and benchmarks for locating the Work which in Engineer's judgment are necessary to enable Contractor to proceed.
10. Permits: Provide Owner with copies of technical information and supporting data previously obtained or developed by Engineer for Owner's use, or for Owner to provide to Contractor, in obtaining required permits and licenses delegated to Contractor by Owner.
11. Visits to Site and Observation of Construction: In connection with observations of Contractor's Work while it is in progress:
  - a. Make visits to the Site at intervals appropriate to the various stages of the Work, as Engineer deems necessary, to observe as an experienced and qualified design professional, the progress of Contractor's executed Work. Such visits and observations by Engineer, including its RPR, if any, are not intended to be exhaustive or to extend to every aspect of the Work or to involve detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in this Agreement and the Construction Contract Documents, but rather are to be limited to spot checking, selective sampling, and similar methods of general observation of the Work based on Engineer's exercise of professional judgment, as assisted by its RPR, if any. Based on information obtained during such visits and observations, Engineer will determine in general if the Work is proceeding in accordance with the Construction Contract Documents, and Engineer shall keep Owner informed of the progress of the Work. Engineer will make a report of Engineer's visit, summarizing Engineer's general observations and any significant findings.

- b. The purpose of Engineer's visits to the Site, and representation by the Resident Project Representative, if any, at the Site, will be to enable Engineer to better carry out the duties and responsibilities assigned to by this Agreement and undertaken by Engineer during the Construction Phase, and, in addition, by the exercise of Engineer's efforts as an experienced and qualified design professional, to provide for Owner a greater degree of confidence that the completed Work will conform in general to the Construction Contract Documents and that Contractor has implemented and maintained the integrity of the design concept of the completed Project as a functioning whole as indicated in the Construction Contract Documents. Engineer will not, during such visits or as a result of such observations of the Work, supervise, direct, or have control over the Work, nor will Engineer have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, for security or safety at the Site, for safety precautions and programs incident to any Constructor's work in progress, for the coordination of the Constructors' work or schedules, nor for any failure of any Constructor to comply with Laws and Regulations applicable to furnishing and performing of its work. Accordingly, Engineer neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's failure to furnish or perform the Work, or any portion of the Work, in accordance with the Construction Contract Documents.
12. Defective Work: If, on the basis of Engineer's observations or as indicated in documentation available to Engineer, Engineer believes that any part of the Work is defective under the terms and standards set forth in the Construction Contract Documents, Engineer will promptly issue written notice to Contractor (with copy to Owner) of such defective Work. Such notice will communicate the scope, extent (to Engineer's understanding) of defect, and associated provisions of the Construction Contract Documents.
- a. Provide recommendations to Owner regarding whether Contractor should correct such Work or remove and replace such Work, or whether Owner should consider accepting the defective Work in accordance with the provisions of the Construction Contract Documents. Engineer shall give notice to Contractor regarding whether the defective Work should be repaired, replaced, or will be accepted by Owner.
  - b. However, Engineer's authority to provide this information to Owner or Engineer's decision to exercise or not exercise such authority will not give rise to a duty or responsibility of the Engineer to Contractors, Subcontractors, material and equipment suppliers, their agents or employees, or any other person(s) or entities performing any of the Work, including but not limited to any duty or responsibility for Contractors' or Subcontractors' safety precautions and programs incident to the Work.
13. Compatibility with Design Concept: If Engineer has express knowledge that a specific part of the Work that is not defective under the terms and standards set forth in the Construction Contract Documents is nonetheless not compatible with the design concept of the completed Project as a functioning whole, then inform Owner of such incompatibility, and provide recommendations for addressing such Work.

14. Clarifications and Interpretations: Accept from Contractor and Owner submittal of all matters in question concerning the requirements of the Construction Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Construction Contract Documents. With reasonable promptness, render a written clarification, interpretation, or decision on the issue submitted, or initiate an amendment or supplement to the Construction Contract Documents.
15. Non-reviewable Matters: If a submitted matter in question concerns the Engineer's performance of its duties and obligations, or terms and conditions of the Construction Contract Documents that do not involve (a) the performance or acceptability of the Work under the Construction Contract Documents, (b) the design (as set forth in the Drawings, Specifications, or otherwise), or (c) other engineering or technical matters, then Engineer will promptly give written notice to Owner and Contractor that Engineer will not provide a decision or interpretation.
16. Field Orders: Subject to any limitations in the Construction Contract Documents, Engineer may prepare and issue Field Orders requiring minor changes in the Work.
17. Change Orders and Work Change Directives: Recommend Change Orders and Work Change Directives to Owner, as appropriate, and prepare Change Orders and Work Change Directives as required.
18. Change Proposals and Claims
  - a. Review and respond to Change Proposals. Review each duly submitted Change Proposal from Contractor and, within 30 days after receipt of the Contractor's supporting data, either deny the Change Proposal in whole, approve it in whole, or deny it in part and approve it in part. Such actions must be in writing, with a copy provided to Owner and Contractor. If the Change Proposal does not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters, then Engineer will notify the parties that the Engineer will not resolve the Change Proposal.
  - b. Provide information or data to Owner regarding engineering or technical matters pertaining to Claims.
19. Differing Site Conditions: Respond to any notice from Contractor of differing site conditions, including conditions relating to Underground Facilities such as utilities, and hazardous environmental conditions. Promptly conduct reviews and prepare findings, conclusions, and recommendations for Owner's use subject to limitations of Engineer's obligations under this Agreement.
20. Contractor's Submittals: Review and approve or take other appropriate action with respect to required Contractor Submittals, but only to determine if the items covered by the Submittals will, after installation or incorporation in the Work, comply with the requirements of the Construction Contract Documents, and for compatibility with the design concept of the completed Project as a functioning whole as indicated by the Construction Contract Documents. Such reviews and approvals or other action will not extend to means, methods, techniques, sequences, or procedures of construction or to

safety precautions and programs incident thereto. Engineer shall meet any Contractor's Submittal schedule that Engineer has accepted.

21. Substitutes and "Or-equals": Evaluate and determine the acceptability of substitute or "or-equal" materials and equipment proposed by Contractor, but subject to the provisions of Exhibit A Paragraph 2.01.A.2.

22. Inspections and Tests

- a. Receive and review all certificates of inspections, tests, and approvals required by Laws and Regulations or the Construction Contract Documents. Engineer's review of such certificates will be for the purpose of determining whether the results certified indicate compliance with the Construction Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the requirements of the Construction Contract Documents. Engineer shall be entitled to rely on the results of such inspections and tests.
- b. Reply to Contractor requests for written concurrence that specific portions of the Work that are to be inspected, tested, or approved may be covered.
- c. Issue written requests to Contractor that specific portions of the Work remain uncovered.
- d. As deemed reasonably necessary, request that Contractor uncover Work that is to be inspected, tested, or approved.
- e. Pursuant to the terms of the Construction Contract, require additional inspections or testing of the Work, whether or not the Work is fabricated, installed, or completed.

23. Contractor's Applications for Payment: Based on Engineer's observations as an experienced and qualified design professional and on review of Applications for Payment and accompanying supporting documentation:

- a. Determine the amounts that Engineer recommends Contractor be paid. Recommend reductions in payment (set offs) based on the provisions for set offs stated in the Construction Contract. Such recommendations of payment will be in writing and will constitute Engineer's representation to Owner, based on such observations and review, that, within the limits of Engineer's knowledge, information and belief, Contractor's Work has progressed to the point indicated, the Work is generally in accordance with the Construction Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Construction Contract Documents, and to any other qualifications stated in the recommendation), and the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work. In the case of unit price Work, Engineer's recommendations of payment will include final determinations of quantities and classifications of the Work (subject to any subsequent adjustments allowed by the Construction Contract Documents).



- b. By recommending payment, Engineer shall not thereby be deemed to have represented that observations made by Engineer to check the quality or quantity of Contractor's Work as it is performed and furnished have been exhaustive, extended to every aspect of Contractor's Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in this Agreement. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment including final payment will impose on Engineer responsibility to supervise, direct, or control the Work, or for the means, methods, techniques, sequences, or procedures of construction or safety precautions or programs incident thereto, or Contractor's compliance with Laws and Regulations applicable to Contractor's furnishing and performing the Work. It will also not impose responsibility on Engineer to make any examination to ascertain how or for what purposes Contractor has used the money paid to Contractor by Owner; to determine that title to any portion of the Work, including materials or equipment, has passed to Owner free and clear of any liens, claims, security interests, or encumbrances; or that there may not be other matters at issue between Owner and Contractor that might affect the amount that should be paid.
- 24. Contractor's Completion Documents: Receive from Contractor, review, and transmit to Owner maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance required by the Construction Contract Documents, certificates of inspection, tests and approvals, and Shop Drawings, Samples, and other data approved as provided under Exhibit A Paragraph 1.06.B.20. Receive from Contractor, review, and transmit to Owner the annotated record documents which are to be assembled by Contractor in accordance with the Construction Contract Documents to obtain final payment. The extent of Engineer's review of record documents will be to check that Contractor has submitted a complete set of those documents that Contractor is required to submit.
- 25. Substantial Completion: Promptly after notice from Contractor that Contractor considers the entire Work ready for its intended use, visit the Site in company with Owner and Contractor to review the Work and determine the status of completion. Follow the procedures in the Construction Contract regarding the preliminary certificate of Substantial Completion, punch list of items to be completed, Owner's objections, notice to Contractor, and issuance of a final certificate of Substantial Completion. Assist Owner regarding any remaining engineering or technical matters affecting Owner's use or occupancy of the Work following Substantial Completion.
- 26. Other Tasks: Perform or provide the following other Construction Phase tasks or deliverables:
  - a. Not Used.
- 27. Completion and Acceptability of the Work: After notice from Contractor that the Work is complete:
  - a. visit the Site with Owner and Contractor to determine if the Work is in fact complete and acceptable;

- b. notify Contractor of any part of the Work that is found during the visit to be incomplete or defective, and subsequently confirm that Contractor has corrected any such deficiencies;
    - c. follow the procedures in the Construction Contract regarding review and response to Contractor's application for final payment and accompanying documentation; and
    - d. if Engineer is satisfied that the Work is complete and acceptable, provide a notice to Owner and Contractor using EJCDC® C-626, Notice of Acceptability of Work (attached as Exhibit E), stating that the Work is acceptable (subject to the provisions of the Notice and this Exhibit A) within the limits of Engineer's knowledge, information, and belief, and based on the extent of the services provided by Engineer under this Agreement.
  - 28. Standards for Certain Construction-Phase Decisions: Engineer will render decisions regarding the requirements of the Construction Contract Documents, and judge the acceptability of the Work, pursuant to the specific procedures set forth in the Construction Contract for initial interpretations, Change Proposals, and acceptance of the Work. In rendering such decisions and judgments, Engineer will not show partiality to Owner or Contractor, and will not be liable to Owner, Contractor, or others in connection with any proceedings, interpretations, decisions, or judgments conducted or rendered in good faith.
  - C. Duration of Construction Phase: The Construction Phase will commence with the execution of the first Construction Contract for the Project or any part thereof and will terminate upon written recommendation by Engineer for final payment to Contractor. If the Project involves more than one prime contract as indicated in Exhibit A Paragraph 1.04.A.1, then Construction Phase services may be rendered at different times in respect to the separate contracts. Subject to the provisions of Article 3, Engineer shall be entitled to an equitable increase in compensation if Construction Phase services (including Resident Project Representative services, if any) are required after the original date for completion and readiness for final payment of Contractor as set forth in the Construction Contract.
- 1.07 Post-Construction Phase
- A. Not Used.

## **ARTICLE 2—ADDITIONAL SERVICES**

### **2.01 Additional Services Not Requiring Owner's Written Authorization**

- A. Engineer shall advise Owner that Engineer is commencing to perform or furnish the Additional Services of the types listed below. For such Additional Services, Engineer need not request or obtain specific advance written authorization from Owner. Engineer shall cease performing or furnishing such Additional Services upon receipt of written notice to cease from Owner. These services are not included as part of Basic Services and will be paid for by Owner as indicated in Exhibit J.

1. Substantive design and other technical services in connection with Work Change Directives, Change Proposals, and Change Orders to reflect changes requested by Owner.
2. Services essential to the orderly progress of the Bidding/Proposal and Construction Phases and not wholly quantifiable prior to those Phases or otherwise dependent on the actions of prospective individual bidders or contractors and including:
  - a. making revisions to Drawings and Specifications occasioned by the acceptance of substitute materials or equipment other than "or equal" items;
  - b. services after the award of the Construction Contract in evaluating and determining the acceptability of a proposed "or equal" or substitution which is found to be inappropriate for the Project;
  - c. evaluation and determination of an excessive number of proposed "or equals" or substitutions, whether proposed before or after award of the Construction Contract; and
  - d. providing to the Contractor or Owner additional or new information not previously prepared or developed by the Engineer for their use in applying for or obtaining required permits and licenses, in responding to agency comments on such applications, or in the administration of any such permits or licenses.
3. Services resulting from significant delays, changes, or price increases occurring as a direct or indirect result of materials, equipment, or energy shortages.
4. Additional or extended services arising from (a) the presence at the Site of any Constituent of Concern or items of historical or cultural significance, (b) emergencies or acts of God endangering the Work, (c) damage to the Work by fire or other causes during construction, (d) a significant amount of defective, neglected, or delayed Work, (e) acceleration of the progress schedule involving services beyond normal working hours, or (f) default by Contractor.
5. Implement coordination of Engineer's services with other parts of the Project that are not planned or designed by Engineer or its Subconsultants, unless Owner furnished to Engineer substantive information about such other parts of the Project prior to the parties' entry into this Agreement, in the Baseline Information section of this Exhibit A, or otherwise in Exhibit A; if such substantive information has been so provided, coordination of Engineer's services will be part of Basic Services.
6. Implement the specific parts of an Underground Facilities Procedure that are assigned to Engineer, or above-ground utilities tasks that are assigned to Engineer as the Project progresses (but not including the design-related services already assigned to Engineer as a Basic Service).
7. Services (other than Basic Services during the Post-Construction Phase) in connection with any partial utilization of the Work by Owner prior to Substantial Completion.
8. Evaluating unreasonable or frivolous requests for interpretation or information (RFIs), Change Proposals, or other demands from Contractor or others in connection with the Work, or an excessive number of RFIs, Change Proposals, or demands.

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Exhibit A—Engineer's Services.

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9. Reviewing a Shop Drawing or other Contractor submittal more than three times, as a result of repeated inadequate submissions by Contractor.
10. While at the Site, compliance by Engineer and its staff with those terms of Owner's or Contractor's safety program provided to Engineer subsequent to the Effective Date that exceed those normally required of engineering personnel by federal, State, or local safety authorities for similar construction sites.
11. To the extent the Project is subject to Laws and Regulations governing public or government records disclosure or non-disclosure, Engineer will comply with provisions applicable to Engineer, and Owner will compensate Engineer as Additional Services for Engineer's costs to comply with any disclosure or non-disclosure obligations beyond those identified in the Basic Services.
12. Services directly attributable to changes in Engineer's Electronic Documents obligations after the effective date of the Agreement.

## 2.02 Additional Services Requiring Owner's Written Authorization

- A. If authorized in writing by Owner, Engineer shall provide Additional Services of the types listed below. These services are not included as part of Basic Services and will be paid for by Owner as indicated in Exhibit J.
  1. Obtain or provide specified additional Project-related information and data to enable Engineer to complete its Basic and Additional Services.
  2. Preparation of special and customized reporting, invoicing, and related support documentation in addition to that identified to be provided under Basic Services.
  3. Preparation of applications and supporting documents (in addition to those furnished under Basic Services) for private or governmental grants, loans, or advances in connection with the Project; preparation or review of environmental assessments and impact statements; review and evaluation of the effects on the design requirements for the Project of any such statements and documents prepared by others; and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the Project.
  4. Services to make measured drawings of existing conditions or facilities, to conduct tests or investigations of existing conditions or facilities, or to verify the accuracy of drawings or other information furnished by Owner or others.
  5. Services resulting from significant changes in the scope, extent, or character of the portions of the Project designed or specified by Engineer, or the Project's design requirements, including, but not limited to, changes in size, complexity, Owner's schedule, character of construction, or method of financing; and revising previously accepted studies, reports, Drawings, Specifications, or Construction Contract Documents when such revisions are required by changes in Laws and Regulations enacted subsequent to the Effective Date or are due to any other causes beyond Engineer's control.
  6. Services resulting from Owner's request to evaluate additional Study and Report Phase alternative solutions beyond those agreed to in Exhibit A Paragraph 1.02.A.1.

7. Services required as a result of Owner's providing incomplete or incorrect Project information to Engineer.
8. Providing renderings or models for Owner's use, including development, management, and other services in support of building information modeling or civil integrated management.
9. Undertaking investigations and studies including, but not limited to:
  - a. All-hazards risk assessments and other studies to evaluate the feasibility of enhancing the resiliency of the design;
  - b. detailed consideration of operations, maintenance, and overhead expenses;
  - c. the preparation of feasibility studies (such as those that include projections of output capacity, utility project rates, project market demand, or project revenues) and cash flow analyses, provided that such services are based on the engineering and technical aspects of the Project, and do not include rendering advice regarding municipal financial products or the issuance of municipal securities;
  - d. preparation of appraisals;
  - e. with respect to proprietary systems or processes requiring licensing, providing services necessary to assist Owner in obtaining such licensing.
  - f. detailed quantity surveys of materials, equipment, and labor; and
  - g. audits or inventories required in connection with construction performed or furnished by Owner.
10. Furnishing services of Subconsultants or Engineer's Subcontractors for other than Basic Services.
11. Providing data or services of the types described in Article 2, when Owner retains Engineer to provide such data or services instead of Owner furnishing the same.
12. Providing the following services:
  - a. Services attributable to more prime construction contracts than specified in Exhibit A Paragraph 1.04.A.1.
  - b. Services to arrange for performance of construction services for Owner by contractors other than the principal prime Contractor, and administering Owner's contract for such services.
13. Services during out-of-town travel required of Engineer, other than for visits to the Site or Owner's office as required in Basic Services (Article 1 of Exhibit A).
14. Preparing for, coordinating with, participating in and responding to structured independent review processes, including, but not limited to, construction management, cost estimating, project peer review, value engineering, and constructability review requested by Owner; and performing or furnishing services required to revise studies, reports, Drawings, Specifications, or other documents as a result of such review processes.

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Exhibit A—Engineer's Services.

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15. Preparing additional bidding-related documents (or requests for proposals or other construction procurement documents); preparing pre-qualification procedures and documents, and participating in pre-qualifying prospective Bidders; and preparing Construction Contract Documents for alternate bids.
16. Assistance in connection with bid protests, rebidding, or renegotiating contracts for construction, materials, equipment, or services.
17. Preparing conformed Construction Contract Documents that incorporate and integrate the content of all addenda and any amendments negotiated by Owner and Contractor.
18. Services to assist Owner in developing or modifying protocols for transmittal of Electronic Documents by Electronic Means after the effective date of this Agreement, either by revising or adapting Exhibit F to the Project or implementing other Electronic Documents protocols among Project participants.
19. Any services by Engineer in connection with Owner or Engineer providing a Document to a Requesting Party under Exhibit F Paragraph 1.01.D (see Exhibit F, Electronic Documents Protocol), or any other distribution of a Document to a third party. Such services may include but are not limited to preparing the data contained in the requested Document in a manner deemed appropriate by Engineer; creating or otherwise preparing and distributing the Document in a format necessary to respond to Owner's direction or decision to provide the Document to a requesting party, including Contractor, in a format other than that required for deliverables from Engineer to Owner; and services in connection with obtaining required releases from the third parties to which the Documents will be distributed. Compensation for these Additional Services is not contingent upon Owner's reimbursement from the requesting party.
20. Providing Construction Phase services beyond the original date for completion and readiness for final payment of Contractor, but only if such services increase the total quantity of services to be performed in the Construction Phase, rather than merely shifting performance of such services to a later date.
21. Preparing Record Drawings, and furnishing such Record Drawings to Owner.
22. Supplementing Record Drawings with information regarding the completed Project, Site, and immediately adjacent areas obtained from field observations, Owner, utility companies, and other reliable sources.
23. Conducting surveys, investigations, and field measurements to verify the accuracy of Record Drawing content obtained from Contractor, Owner, utility companies, and other sources; revise and supplement Record Drawings as needed.
24. Preparation of operation, maintenance, and staffing manuals.
25. Protracted or extensive assistance in refining and adjusting of Project equipment and systems (such as initial startup, testing, and balancing).
26. Assistance to Owner in training Owner's staff to operate and maintain Project equipment and systems.

27. Assistance to Owner in developing systems and procedures for (a) control of the operation and maintenance of Project equipment and systems, and (b) related recordkeeping.
28. Preparing to serve or serving as a consultant or witness for, or producing documents for or on behalf of, Owner in any litigation, arbitration, mediation, lien or bond claim, or other legal or administrative proceeding involving the Project (but not including disputes between Owner and Engineer).
29. Overtime work requiring higher than regular rates.
30. Providing construction surveys and staking to enable Contractor to perform its work other than as required under Exhibit A Paragraph 1.06.B.9; any type of property surveys or related engineering services needed for the transfer of interests in real property; providing construction and property surveys to replace reference points or property monuments lost or destroyed during construction; and providing other special field surveys.
31. Providing more extensive services required to enable Engineer to issue notices or certifications requested by Owner.
32. Extensive services required during any correction period, or with respect to monitoring Contractor's compliance with warranties and guarantees called for in the Construction Contract (except as agreed to under Basic Services).
33. Other additional services performed or furnished by Engineer not otherwise provided for in this Agreement.

**EXHIBIT B—DELIVERABLES SCHEDULE**

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Paragraphs 2.04.E, 3.02.A, and Exhibit A of the Agreement are supplemented by the following paragraph and table.

Engineer shall furnish Documents to Owner as required in Column 2 of the following table (and as further described in Exhibit A), according to the schedule in Column 4. Owner shall comment or take other identified actions with respect to the Documents as indicated in Column 2 (and as further described in Exhibit A), according to the schedule in Column 4.

<b>Party</b>	<b>Action</b>	<b>Exhibit A Reference</b>	<b>Schedule</b>
Engineer	Submit Two (2) hard copies and one (1) digital *.pdf review copies of the Report and other Study and Report Phase deliverables to Owner.	1.02.A.17	Within 45 days of the Effective Date.
Owner	Submit comments regarding the Report and other Study and Report Phase deliverables to Engineer.	1.02.A.18	Within 14 days of the receipt from Engineer of the Report and other Study and Report Phase deliverables.
Engineer	Submit Two (2) hard copies and one (1) digital *.pdf copies of the revised Report and other Study and Report Phase deliverables to Owner.	1.02.A.18	Within 14 days of the receipt of Owner's comments regarding the Report and other Study and Report Phase deliverables.
Engineer	Submit Two (2) hard copies and one (1) digital *.pdf review copies of the Preliminary Design Report, opinion of probable Construction Cost, and other Preliminary Design Phase deliverables to Owner.	1.03.B.17	Within 45 days of Owner's authorization to proceed with Preliminary Design Phase services.
Owner	Submit comments regarding Preliminary Design Report, opinion of probable Construction Cost, and other Preliminary Design Phase deliverables to Engineer.	1.03.B.18	Within 14 days of the receipt from Engineer of Preliminary Design Report, opinion of probable Construction Cost, and other Preliminary Design Phase deliverables.
Engineer	Submit Two (2) hard copies and one (1) digital *.pdf copies of the revised Preliminary Design Report, opinion of probable Construction Cost, and other Preliminary Design Phase deliverables to Owner.	1.03.B.18	Within 14 days of the receipt of Owner's comments regarding the Preliminary Design Report, opinion of probable Construction Cost, and other Preliminary Design Phase deliverables.
Engineer	Submit Two (2) hard copies and one (1) digital *.pdf copies of the first Final Design Phase draft of Drawings and Specifications to Owner.	1.04.B.1	Within 45 days of Owner's authorization to proceed with Final Design Phase services.

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**Exhibit B—Deliverables Schedule.**

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Party	Action	Exhibit A Reference	Schedule
Owner	Submit comments and instructions regarding the first Final Design Phase draft of Drawings and Specifications to Engineer.	1.04.B.1	Within 14 days of the receipt of the first final Design Phase drafts of Drawings and Specifications from Engineer.
Engineer	Submit Two (2) hard copies and one (1) digital *.pdf copies of the second Final Design Phase drafts of Drawings and Specifications to Owner.	1.04.B.2	Within 45 days of the receipt of Owner's comments and instructions regarding the first Final Design Phase drafts of Drawings and Specifications.
Engineer	Submit Two (2) hard copies and one (1) digital *.pdf of copies of draft Bidding/Proposal and Front-End Construction Contract Documents, as required, and any other Final Design Phase deliverables (other than Drawings and Specifications) to Owner.	1.04.D.3; 1.04.F.8	Concurrent with submittal to Owner of the second Final Design Phase drafts of Drawings and Specifications.
Owner	Submit comments and instructions regarding the second Final Design Phase drafts of Drawings and Specifications to Engineer.	1.04.B.2	Within 14 days of the receipt from Engineer of the second Final Design Phase drafts of Drawings and Specifications.
Engineer	Submit Two (2) hard copies and one (1) digital *.pdf copies of the final, completed, pricing-ready and construction-ready Drawings and Specifications to Owner.	1.04.B.3 and 1.04.G.1	Within 45 days of the receipt of Owner's comments and instructions regarding the second Final Design Phase drafts of Drawings and Specifications.
Owner	Submit comments and instructions regarding the final, completed, pricing-ready and construction-ready Drawings and Specifications to Engineer.	1.04.G.2	Within 14 days of the receipt from Engineer of the final, completed, pricing-ready and construction-ready Drawings and Specifications.
Owner	Submit comments and instructions regarding drafts of Bidding/Proposal and Front-End Construction Contract Documents, and any other Final Design Phase deliverables (other than Drawings and Specifications) to Engineer.	1.04.D.3; 1.04.F.8	Concurrent with Owner's submittal of comments and instructions regarding the final, completed, pricing-ready and construction-ready Drawings and Specifications.

**Exhibit B—Deliverables Schedule.**

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 and American Society of Civil Engineers. All rights reserved.

Party	Action	Exhibit A Reference	Schedule
Engineer	<p>Submit to Owner:</p> <p>Two (2) hard copies and one (1) digital *.pdf copies of the revised final, completed, pricing-ready and construction-ready Drawings and Specifications; and</p> <p>Two (2) hard copies and one (1) digital *.pdf o f copies of assembled Bidding/Proposal and Front-End Construction Contract Documents, and any other Final Design Phase deliverables.</p>	<p>1.04.G.2</p> <p>1.04.G.3</p>	<p>Within 30 days of receipt of Owner's final comments and instructions regarding the regarding the final, completed, pricing-ready and construction-ready Drawings and Specifications, the Bidding/Proposal and Front-End Construction Contract Documents, and any other Final Design Phase deliverables.</p>

**Exhibit B—Deliverables Schedule.**

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## EXHIBIT C—AMENDMENT TO OWNER-ENGINEER AGREEMENT

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### AMENDMENT TO OWNER-ENGINEER AGREEMENT

Amendment No. [Enter Amendment Number]

Owner: [Name of Owner]

Engineer: [Name of Engineer]

Project: [Name of Project]

Effective Date of Owner-Engineer Agreement: [Effective Date of Agreement]

Nature of Amendment: (Check those that apply)

- ☐ Additional Services to be performed by Engineer
- ☐ Modifications to services of Engineer
- ☐ Modifications to responsibilities of Owner
- ☐ Modifications of payment to Engineer
- ☐ Modifications to time(s) for rendering services
- ☐ Modifications to other terms and conditions of the Agreement

Description of Modifications:

**[Here describe the modifications, in as much specificity and detail as needed. Use an attachment if necessary. Include cost breakdown and documentation, if applicable.]**

Agreement Summary:

Original agreement amount: \$

Net change for prior amendments: \$

This amendment amount: \$

Adjusted Agreement amount: \$

Change in time for services (days or date, as applicable):

Owner and Engineer hereby agree to modify the above-referenced Agreement as set forth in this Amendment. The Effective Date of the Amendment is [Enter Effective Date of Amendment].

Owner

Engineer

\_\_\_\_\_  
(typed or printed name of organization)

\_\_\_\_\_  
(typed or printed name of organization)

By:

\_\_\_\_\_  
(individual's signature)

By:

\_\_\_\_\_  
(individual's signature)

(Attach evidence of authority to sign.)

(Attach evidence of authority to sign.)

Date:

\_\_\_\_\_  
(date signed)

Date:

\_\_\_\_\_  
(date signed)

Name:

\_\_\_\_\_  
(typed or printed)

Name:

\_\_\_\_\_  
(typed or printed)

Title:

\_\_\_\_\_  
(typed or printed)

Title:

\_\_\_\_\_  
(typed or printed)

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## NOTICE OF ACCEPTABILITY OF WORK (EJCDC® C-626 2018)

Owner: \_\_\_\_\_ Owner's Project No.: \_\_\_\_\_  
Engineer: \_\_\_\_\_ Engineer's Project No.: \_\_\_\_\_  
Contractor: \_\_\_\_\_ Contractor's Project No.: \_\_\_\_\_  
Project: \_\_\_\_\_  
Contract Name: \_\_\_\_\_  
Notice Date: \_\_\_\_\_ Effective Date of the Construction Contract: \_\_\_\_\_

The Engineer hereby gives notice to the Owner and Contractor that Engineer recommends final payment to Contractor, and that the Work furnished and performed by Contractor under the Construction Contract is acceptable, expressly subject to the provisions of the Construction Contract's Contract Documents ("Contract Documents") and of the Agreement between Owner and Engineer for Professional Services dated **[date of professional services agreement]** ("Owner Engineer Agreement"). This Notice of Acceptability of Work (Notice) is made expressly subject to the following terms and conditions to which all who receive and rely on said Notice agree:

1. This Notice has been prepared with the skill and care ordinarily used by members of the engineering profession practicing under similar conditions at the same time and in the same locality.
2. This Notice reflects and is an expression of the Engineer's professional opinion.
3. This Notice has been prepared to the best of Engineer's knowledge, information, and belief as of the Notice Date.
4. This Notice is based entirely on and expressly limited by the scope of services Engineer has been employed by Owner to perform or furnish during construction of the Project (including observation of the Contractor's Work) under the Owner Engineer Agreement, and applies only to facts that are within Engineer's knowledge or could reasonably have been ascertained by Engineer as a result of carrying out the responsibilities specifically assigned to Engineer under such Owner Engineer Agreement.
5. This Notice is not a guarantee or warranty of Contractor's performance under the Construction Contract, an acceptance of Work that is not in accordance with the Contract Documents, including but not limited to defective Work discovered after final inspection, nor an assumption of responsibility for any failure of Contractor to furnish and perform the Work thereunder in accordance with the Contract Documents, or to otherwise comply with the Contract Documents or the terms of any special guarantees specified therein.
6. This Notice does not relieve Contractor of any surviving obligations under the Construction Contract, and is subject to Owner's reservations of rights with respect to completion and final payment.

Engineer

By (signature): \_\_\_\_\_  
Name (printed): \_\_\_\_\_  
Title: \_\_\_\_\_

## **EXHIBIT F—ELECTRONIC DOCUMENTS PROTOCOL (EDP)**

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### **ARTICLE 1—ELECTRONIC DOCUMENTS PROTOCOL (EDP)**

Paragraph 6.03 of the Agreement is supplemented by the following Exhibit F Paragraph 1.01 and Exhibit F—Attachment 1: Software Requirements for Electronic Document Exchange:

#### **1.01 Electronic Documents Protocol**

- A. Electronic Transmittals: The parties shall conform to the following provisions together referred to as the Electronic Documents Protocol ("EDP" or "Protocol") for exchange of electronic transmittals.

##### **1. Basic Requirements**

- a. To the fullest extent practical, the parties agree to and will transmit and accept Electronic Documents by Electronic Means using the procedures described in this Protocol. Use of the Electronic Documents and any information contained therein is subject to the requirements of this Protocol and other provisions of the Agreement.
- b. The contents of the information in any Electronic Document will be the responsibility of the transmitting party.
- c. Electronic Documents as exchanged by this Protocol may be used in the same manner as the printed versions of the same documents that are exchanged using non-electronic format and methods, subject to the same governing requirements, limitations, and restrictions, set forth in the Agreement.
- d. Except as otherwise explicitly stated herein, the terms of this Protocol will be incorporated into any other agreement or subcontract between the Owner and Engineer and any third party for any portion of the Project, or any Project-related services, where that third party is, either directly or indirectly, required to exchange Electronic Documents with Owner, Engineer, or any Contractor or other entity directly contracted with the Owner to furnish Program-related services. Nothing herein will modify the requirements of the Agreement and applicable Construction Contract Documents regarding communications between and among the individual third parties and their respective subcontractors and consultants, except to the extent that any respective subcontractor or consultant exchanges Electronic Documents with the Owner or Engineer.
- e. When transmitting Electronic Documents, the transmitting Party makes no representations as to long term compatibility, usability, or readability of the items resulting from the receiving Party's use of software application packages, operating systems, or computer hardware differing from those established in this Protocol.
- f. Nothing herein negates any obligation (1) in the Agreement to create, provide, or maintain an original printed record version of Drawings and Specifications, signed and sealed according to applicable Laws and Regulations; (2) to comply with any applicable Law or Regulation governing the signing and sealing of design documents or the signing and electronic transmission of any other documents; or

(3) to comply with any notice requirements limiting or otherwise modifying the acceptance of Electronic Documents for such notice.

2. System Infrastructure for Electronic Document Exchange

- a. Each party will provide hardware, operating system(s) software, internet, e-mail, and large file transfer functions ("System Infrastructure") at its own cost and sufficient for complying with the EDP requirements. With the exception of minimum standards set forth in this EDP and any explicit system requirements specified by attachment to this EDP, it will be the obligation of each party to determine, for itself, its own System Infrastructure.
  - 1) The maximum size of an e-mail attachment for exchange of Electronic Documents under this EDP is 20 MB. Attachments larger than that may be exchanged using large file transfer functions or physical media.
  - 2) Each Party assumes full and complete responsibility for any and all of its own costs, delays, deficiencies, and errors associated with converting, translating, updating, verifying, licensing, or otherwise enabling its System Infrastructure, including operating systems and software, for use with respect to this EDP.
- b. Each party is responsible for its own system operations, security, back-up, archiving, audits, printing resources, and other Information Technology ("IT") for maintaining operations of its System Infrastructure during the Project, including coordination with the party's individual(s) or entity responsible for managing its System Infrastructure and capable of addressing routine communications and other IT issues affecting the exchange of Electronic Documents.
- c. Each party will operate and maintain industry-standard, industry-accepted, ISO-standard, commercial-grade security software and systems that are intended to protect the other party from: software viruses and other malicious software like worms, trojans, adware; data breaches; loss of confidentiality; and other threats in the transmission to or storage of information from the other parties, including transmission of Electronic Documents by physical media such as CD/DVD/flash drive/hard drive. To the extent that a party maintains and operates such security software and systems, it will not be liable to the other party for any breach of system security.
- d. In the case of disputes, conflicts, or modifications to the EDP required to address issues affecting System Infrastructure, the parties will cooperatively resolve the issues; but, failing resolution, the Owner is authorized to make and require reasonable and necessary changes to the EDP to effectuate its original intent. If the changes cause additional cost or time to Engineer, not reasonably anticipated under the original EDP, Engineer shall be entitled to compensation as Additional Services for its costs associated with the revisions to the EDP, delayed adoption of Exhibit L or implementation of other Electronic Documents protocols.
- e. Each party is responsible for its own back-up and archive of documents sent and received during the term of any Project contract/agreement under this EDP, unless this EDP establishes a Project document archive, either as part of a mandatory Project website or other communications protocol, upon which the Parties may

rely for document archiving during the specified term of operation of such project document archive. Further, each party remains solely responsible for its own post-Project back-up and archive of project documents, as each party deems necessary for its own purposes, after the term of contract, or termination of the project document archive, if one is established.

- f. If a receiving party receives an obviously corrupted, damaged, or unreadable Electronic Document, the receiving party will advise the sending party of the incomplete transmission.
- g. The parties will bring any non-conforming Electronic Documents into compliance with the EDP. The parties will attempt to complete a successful transmission of the Electronic Document or use an alternative delivery method to complete the communication.
- h. DELETED

**B. Software Requirements for Electronic Document Exchange; Limitations**

- 1. Each party will acquire the software and software licenses necessary to create and transmit Electronic Documents and to read and to use any Electronic Documents received from the other party (and if relevant from third parties), using the software formats required in this section of the EDP.
  - a. Prior to using any updated version of the software required in this section for sending Electronic Documents to the other party, the originating party will first notify and receive concurrence from the other party for use of the updated version or adjust its transmission to comply with this EDP.
- 2. The parties agree not to intentionally edit, reverse engineer, decrypt, remove security or encryption features, or convert to another format for modification purposes any Electronic Document or information contained therein that was transmitted in a software data format, including Portable Document Format (PDF), intended by sender not to be modified, unless the receiving party obtains the permission of the sending party or is citing or quoting excerpts of the Electronic Document for Project purposes.
- 3. Software and data formats for exchange of Electronic Documents will conform to the requirements set forth in the following Attachment 1 to this EDP, including software version, if listed.

**C. Format and Distribution of Deliverables**

- 1. By definition, "Documents" as used in this Agreement are documents expressly identified as deliverables from Engineer to Owner. Exhibit A of the Agreement identifies various Documents that Engineer is required to deliver to Owner as part of Engineer's services; Exhibit B is a schedule of such Documents. Engineer will transmit such Documents to Owner in the formats identified in Attachment 1 to this Protocol. If no specific format is identified for a deliverable Document, the format will be Portable Document Format (PDF).
- 2. If a Document will be distributed to third parties, such as prospective bidders and contractors, reviewing agencies, or lenders, the transmittal format for distribution will be as identified in Attachment 1 to this Protocol; provided, however, that if a format for



distribution of a specific Document is expressly stated in Exhibit A, then the Exhibit A format will take precedence. If no specific format is identified for distribution of a deliverable Document to third parties, the format will be Portable Document Format (PDF).

- a. If a format for Document distribution other than Portable Document Format (PDF) is specified, Owner shall first obtain a written, signed release from each third party to which the deliverable Document is distributed, establishing agreement to the following conditions:
  - 1) The content included in the Electronic Documents prepared by or for Engineer and covered by the request was prepared as an internal working document for Engineer's purposes solely, and is being provided to the third party on an "AS IS" basis without any warranties of any kind, including, but not limited to any implied warranties of fitness for any purpose. As such, the third party is advised and acknowledges that the content may not be suitable for the third party's application, or may require substantial modification and independent verification by the third party. The content may include limited resolution of models; not-to-scale schematic representations and symbols; use of notes to convey design concepts in lieu of accurate graphics; approximations; graphical simplifications; undocumented intermediate revisions; and other devices that may affect subsequent reuse.
  - 2) Electronic Documents containing text, graphics, metadata, or other types of data that are provided to the Requesting Party are only for the convenience of the third party. Any conclusion or information obtained or derived from such data will be at the third party's sole risk and the third party waives any and all claims against Engineer or Owner arising from the use of the Electronic Documents covered by the request, or of any data contained in such Electronic Documents.
  - 3) The third party shall indemnify and hold harmless Owner, Engineer, and Engineer's Subcontractors and Subconsultants, from all claims, damages, losses, and expenses, including attorneys' fees and defense costs arising out of or resulting from the third party's use, adaptation, or distribution of any Electronic Documents provided under the request.
  - 4) The third party agrees not to sell, copy, transfer, forward, give away or otherwise distribute this information (in source or modified file format) to any third party without the direct written authorization of Engineer, unless such distribution is specifically identified in the request and is limited to the third party's subcontractors and consultants. The third party warrants that subsequent use by the third party's subcontractors and subconsultants will comply with all terms of the Construction Contract Documents and any specific instructions or conditions established by Owner.
- b. If Engineer is required to assist or participate in obtaining such releases from third parties, such services will be categorized as Additional Services.

3. Not Used.

**EXHIBIT F—ATTACHMENT 1: SOFTWARE REQUIREMENTS FOR ELECTRONIC DOCUMENT EXCHANGE**

Item	Electronic Documents	Transmittal Means	Data Format	Note (1)
a.1	General communications, transmittal covers, meeting notices, and responses to general information requests for which there is no specific prescribed form.	Email	Email	
a.2	Meeting agendas; meeting minutes; RFI's and Responses to RFI's; and Construction Contract administrative forms.	Email w/Attach	PDF	(2)
a.3	Contractor's Submittals (Shop Drawings, "Or Equal" requests, Substitute requests, documentation accompanying Sample submittals and other Submittals) to Owner and Engineer; and, Owner's and Engineer's Responses to Contractor's Submittals, Shop Drawings, Correspondence, and Applications for Payment	Email w/Attach	PDF	
a.4	Correspondence; Interim and Final Versions of reports, layouts, Specifications, Drawings, maps, calculations and spreadsheets, Construction Contract, Bidding/Proposal Documents, and Front-End Construction Contract Documents.	Email w/ Attach or LFE	PDF	(3)
a.5	Layouts, plans, maps, and Drawings to be submitted to Owner by Engineer for future use and modification	Email w/ Attach or LFE	DWG	
a.6	Correspondence, reports, and specifications to be submitted by Engineer to Owner for future word processing use and modification	Email w/ Attach or LFE	DOC	
a.7	Spreadsheets and data to be submitted to Owner by Engineer for future data processing use and modification	Email w/ Attach or LFE	EXC	
a.8	Database files and data to be submitted to Owner for future data processing use and modification	Email w/ Attach or LFE	DB	
Notes				
(1)	All exchanges and uses of transmitted data are subject to the appropriate provisions of the Agreement and Construction Contract.			
(2)	Transmittal of written notices is governed by requirements of the Agreement and Construction Contract.			
(3)	Transmittal of Bidding/Proposal Documents and Front-End Construction Contract Documents will be in manner selected by Owner in Exhibit A, Paragraph 1.05.A.1.a. Unless otherwise expressly stated, these documents and the Construction Contract will be transmitted in PDF format, including transmittals to bidders and Contractor.			
Key				
EMAIL	Standard Email formats (.htm, .rtf, or .txt). Do not use stationery formatting or other features that impair legibility of content on screen or in printed copies.			
LFE	Agreed upon Large File Exchange method (FTP, CD, DVD, hard drive.)			
PDF	Portable Document Format readable by Adobe® Acrobat Reader Version [number] or later.			
DWG	Autodesk® AutoCAD. dwg format Version [number].			
DOC	Microsoft® Word. docx format Version [number].			
EXC	Microsoft® Excel .xlsx or .xml			
DB	Microsoft® Access .mdb			

## EXHIBIT G—INSURANCE

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### ARTICLE 1—INSURANCE

Paragraph 6.04 of the Agreement, Insurance, is supplemented to include the following Exhibit G Paragraphs 1.01 and 1.02:

#### 1.01 Insurance Policies and Limits

- A. In accordance with Paragraph 6.04.A of the Agreement, the insurance that Engineer must procure and maintain, and the policy limits of such insurance, are as follows:

Coverage	Policy limits of not less than:
<b>Workers' Compensation</b>	
State	Statutory
<b>Employer's Liability</b>	
Each accident	\$1,000,000
Each employee	\$1,000,000
Policy limit	\$2,000,000
<b>Commercial General Liability</b>	
General Aggregate	\$2,000,000
Personal and Advertising Injury	\$2,000,000
Bodily Injury and Property Damage—Each Occurrence	\$1,000,000
<b>Automobile Liability</b>	
Bodily Injury	
Each Person	\$1,000,000
Each Accident	\$2,000,000
Property Damage	
Each Accident	\$
Or	
Combined Single Limit	
Combined Single Limit (Bodily Injury and Property Damage)	\$2,000,000
<b>Excess or Umbrella Liability</b>	
Each Occurrence	\$1,000,000
General Aggregate	\$2,000,000
<b>Professional Liability</b>	
Each Claim	\$1,000,000
Annual Aggregate	\$2,000,000
<b>Unmanned Aerial Vehicle Liability Insurance (If Applicable)</b>	
Each Claim	\$1,000,000
General Aggregate	\$2,000,000
<b>Other Insurance [Specify]</b>	
Each Claim	\$
General Aggregate	\$

- B. In accordance with Paragraph 6.04.C of the Agreement, the insurance that Owner must procure and maintain, and the policy limits of such insurance, are as follows:

Coverage	Policy limits of not less than:
<b>Workers' Compensation</b>	
State	Statutory
<b>Employer's Liability</b>	
Each accident	\$1,000,000
Each employee\$	\$1,000,000
Policy limit	\$1,000,000
<b>Commercial General Liability</b>	
General Aggregate	\$2,000,000
Personal and Advertising Injury	\$1,000,000
Bodily Injury and Property Damage—Each Occurrence	\$1,000,000
<b>Automobile Liability</b>	
Bodily Injury	
Each Person	\$1,000,000
Each Accident	\$2,000,000
Property Damage	
Each Accident	\$
Or	
Combined Single Limit	
Combined Single Limit (Bodily Injury and Property Damage)	\$2,000,000
<b>Excess or Umbrella Liability</b>	
Each Occurrence	\$2,000,000
General Aggregate	\$2,000,000
<b>Unmanned Aerial Vehicle Liability Insurance (If Applicable)</b>	
Each Claim	\$1,000,000
General Aggregate	\$2,000,000
<b>Other Insurance [Specify]</b>	
Each Claim	\$
General Aggregate	\$

#### 1.02 Additional Insureds

- A. Owner shall cause Engineer, its Subconsultants, and its Engineer's Subcontractors to be listed as additional insureds on any of Owner's general liability policies that are applicable to the Project. The following individuals or entities are to be listed on Owner's general liability policies of insurance (and on Contractor's policies required under Paragraph 6.04.D of the Agreement) as additional insureds:

Name of Additional Insured	Address
[Engineer]	[Engineer's Corporate Address]
[Engineer's Subconsultant]	[Subconsultant's Corporate Address]
[Engineer's Subconsultant]	[Subconsultant's Corporate Address]
[Other Additional Insured]	[Other Additional Insured's Corporate Address]

- B. During the term of this Agreement the Engineer shall notify Owner of any other Subconsultant or Engineer's Subcontractor to be listed as an additional insured on Owner's and applicable Contractor's general liability policies of insurance.
- C. The Owner must be listed on Engineer's general liability policy as provided in Paragraph 6.04.B.
- D. For applicable Contractor's general liability policies of insurance, the additional insured endorsements will include both ongoing operations and products and completed operations coverage through ISO Endorsements CG 20 10 10 01 and CG 20 37 10 01 (together). If Contractor demonstrates to Owner that the specified ISO endorsements are not commercially available, then Contractor may satisfy this requirement by providing equivalent endorsements.
- E. For applicable Contractor's general liability policies of insurance, Contractor shall provide ISO Endorsement CG 20 32 07 04, "Additional Insured—Engineers, Architects or Surveyors Not Engaged by the Named Insured" or its equivalent for Engineer, Subconsultants, and other design professional additional insureds.

## EXHIBIT J—PAYMENTS TO ENGINEER FOR SERVICES AND REIMBURSABLE EXPENSES

### COMPENSATION PACKET BC-1: BASIC SERVICES—LUMP SUM

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#### ARTICLE 1—COMPENSATION PACKET BC-1: BASIC SERVICES—LUMP SUM

Article 2 of the Agreement is supplemented to include the following Exhibit J Paragraph 1.01:

##### 1.01 Compensation for Basic Services (other than Resident Project Representative)—Lump Sum Method of Payment

A. Owner shall pay Engineer for Basic Services set forth in Exhibit A (except for Resident Project Representative services, if any) as follows:

1. A Lump Sum amount of **\$(Enter Amount)** based on the following estimated distribution of compensation:

a. Study and Report Phase	\$ _____
b. Preliminary Design Phase	\$ _____
c. Final Design Phase	\$ _____
d. Bidding and Negotiating Phase	\$ _____
e. Construction Phase	\$ _____
f. Post-Construction Phase	\$ _____

2. Engineer may alter the distribution of compensation between individual phases noted herein to be consistent with services actually rendered, but compensation will not exceed the total Lump Sum amount unless approved in writing by the Owner.

3. The Lump Sum includes compensation for Engineer's services and services of Engineer's Subcontractors and Subconsultants, if any. Appropriate amounts have been incorporated in the Lump Sum to account for labor costs, overhead, profit, and expenses (other than any expressly allowed Reimbursable Expenses).

4. In addition to the Lump Sum, Engineer is also entitled to reimbursement from Owner for the following Reimbursable Expenses (see Appendix 1 for rates or charges): None.

5. The portion of the Lump Sum amount billed for Engineer's services will be based upon Engineer's estimate of the percentage of the total services actually completed during the billing period. If any Reimbursable Expenses are expressly allowed, Engineer may also bill for any such Reimbursable Expenses incurred during the billing period.

B. Period of Service: The compensation amount stipulated in Compensation Packet BC-1 is conditioned on a period of service not exceeding **[Number of Months]** months. If such period of service is extended, the compensation amount for Engineer's services will be appropriately adjusted.

**EXHIBIT J—PAYMENTS TO ENGINEER FOR SERVICES AND REIMBURSABLE EXPENSES**  
**COMPENSATION PACKET AS-1: ADDITIONAL SERVICES—STANDARD HOURLY RATES**

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**ARTICLE 3—COMPENSATION PACKET AS-1: ADDITIONAL SERVICES—STANDARD HOURLY RATES**

Article 2 of the Agreement is supplemented to include the following Exhibit J Paragraph 3.01:

**3.01 Compensation for Additional Services—Standard Hourly Rates Method of Payment**

- A. Owner shall pay Engineer for Additional Services, if any, as follows:
  - 1. For services of Engineer's personnel engaged directly on the Project pursuant to Exhibit A Paragraph 2.01 or 2.02, except for services as a consultant or witness under Exhibit A Paragraph 2.02.A.28 (which if needed will be separately negotiated based on the nature of the required consultation or testimony), an amount equal to the cumulative hours charged by each class of Engineer's personnel providing such Additional Services times Standard Hourly Rates for each applicable billing class, plus Additional Services-related Reimbursable Expenses and Additional Services-related Engineer's Subcontractors' and Subconsultants' charges, if any.
- B. Compensation for Reimbursable Expenses
  - 1. For those Reimbursable Expenses that are directly related to the provision of Additional Services, and are not already accounted for in the compensation for Basic Services or RPR-related services, Owner shall reimburse Engineer, using the rates set forth in Appendix 1 to this Exhibit J when applicable.
  - 2. Such Reimbursable Expenses include, to the extent Additional Services-related, the expenses identified in Appendix 1 and the following categories: transportation (including mileage), lodging, and subsistence incidental thereto; providing and maintaining field office facilities including furnishings and utilities; toll telephone calls, mobile phone charges, and courier charges; reproduction of reports, Drawings, Specifications, bidding-related or other procurement documents, Construction Contract Documents, and similar items. In addition, if authorized in advance by Owner, Reimbursable Expenses will also include expenses incurred for the use of highly specialized equipment.
  - 3. The amounts payable to Engineer for Reimbursable Expenses, if any, will be the Additional Services-related internal expenses actually incurred or allocated by Engineer, plus all invoiced external Reimbursable Expenses allocable to such Additional Services, the latter multiplied by a factor of **[Enter Factor]**.
- C. Other Provisions Concerning Payment for Additional Services
  - 1. Whenever Engineer is entitled to compensation for the charges of Engineer's Subcontractors and Subconsultants, such compensation will be the amounts billed by Engineer's Subcontractors and Subconsultants to Engineer times a factor of **[Enter Factor]**.

2. Factors: The external Reimbursable Expenses and Engineer's Subcontractors' and Subconsultants' factors include Engineer's overhead and profit associated with Engineer's responsibility for the administration of such services and costs.
3. The Standard Hourly Rates and the Reimbursable Expenses Schedule will be adjusted annually (as of January 1) to reflect equitable changes in the compensation payable to Engineer for Additional Services-related services and expenses.
4. To the extent necessary to verify Engineer's charges and upon Owner's timely request, Engineer shall make copies of such records available to Owner at cost.

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## EXHIBIT J—PAYMENTS TO ENGINEER FOR SERVICES AND REIMBURSABLE EXPENSES

### APPENDIX 1: REIMBURSABLE EXPENSES SCHEDULE

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Reimbursable Expenses are subject to review and adjustment per Exhibit J. Rates and charges for Reimbursable Expenses as of the date of the Agreement are:


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## EXHIBIT J—PAYMENTS TO ENGINEER FOR SERVICES AND REIMBURSABLE EXPENSES

### APPENDIX 2: STANDARD HOURLY RATES SCHEDULE

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A. Standard Hourly Rates

1. Standard Hourly Rates are set forth in this Appendix 2 to this Exhibit J and include salaries and wages paid to personnel in each billing class plus the cost of customary and statutory benefits, general and administrative overhead, non-project operating costs, and operating margin or profit.
2. The Standard Hourly Rates apply only as specified in Exhibit J.

B. Schedule: Hourly rates for services performed on or after the date of the Agreement are:

Billing Class VIII	\$ [Enter Rate]/hour
Billing Class VII	\$ [Enter Rate]/hour
Billing Class VI	\$ [Enter Rate]/hour
Billing Class V	\$ [Enter Rate]/hour
Billing Class IV	\$ [Enter Rate]/hour
Billing Class III	\$ [Enter Rate]/hour
Billing Class II	\$ [Enter Rate]/hour
Billing Class I	\$ [Enter Rate]/hour