

CITY OF THE DALLES, OREGON

THE DALLES, OREGON

CONTRACT NO. 2022-002

BIDDING REQUIREMENTS  
AND  
CONTRACT DOCUMENTS

for purchase of

WATER PIPELINE MATERIALS AND APPURTENANCES  
FOR THE DOG RIVER PIPELINE REPLACEMENT PROJECT



JACOBS

Corvallis, Oregon

January 2022

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Project No. D3504800

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## **PART 1**

# **BIDDING REQUIREMENTS**

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**ADVERTISEMENT FOR BIDS**

The City of The Dalles (Buyer) is accepting Bids for the purchase of Water Pipeline Materials and Appurtenances for the Dog River Pipeline Replacement Project. Because of the ongoing COVID-19 pandemic, procedures for Bid submissions and public Bid openings have been amended<sup>1</sup>. Bids must be submitted no later than **January 28, 2022, at 2:00 p.m. Pacific Standard Time via e-mail to: [thedallesbids@ci.the-dalles.or.us](mailto:thedallesbids@ci.the-dalles.or.us)**, at which time the e-mail account designated for Bid receipt will be accessed. Bids shall not be sent to any other e-mail addresses. Bid responses will be read aloud via a Zoom meeting. Zoom Meeting ID is 852 8369 5792; Passcode 543692. Note: Immediately following the electronic submission of a Bid, Bidders will receive confirmation that Bidder's e-mail has been received. **DUTY IS ON BIDDER TO ENSURE THE REQUIRED BID DOCUMENTS ARE ATTACHED TO ANY E-MAIL BEING SENT TO THE CITY IN RESPONSE TO THIS ADVERTISEMENT FOR BIDS.** The Project contemplated consists of:

- Furnishing 13,250 feet of 30-inch DR 26 ductile iron pipe size (DIPS) high-density polyethylene (HDPE) pipe per AWWA C906 (50-foot pipe lengths).
- Furnishing 26 fabricated 30-inch HDPE fittings ductile iron pipe size (DIPS) high-density polyethylene (HDPE) pipe per AWWA C906.
- All products shall be delivered to the Site indicated in The Dalles, Oregon.

Delivery of portions of the specified materials shall be completed by dates indicated in the Contract. Project will be completed in all respects on or before **July 29, 2022**, assuming a Notice to Proceed of **February 28, 2022**.

Bidding Documents may be examined and obtained at no cost from the Buyer's Web Site at [http://www.ci.the-dalles.or.us/current\\_job\\_openings.htm](http://www.ci.the-dalles.or.us/current_job_openings.htm).

The following plan room services have received sets of Bidding Documents for the Project contemplated herein:

- Daily Journal of Commerce Plan Center
- Oregon Contractor Plan Center
- Southwest Washington Contractors
- Central Oregon Builders Association
- Tri-City Construction Council
- Salem Contractors Exchange
- Hermiston Plan Center
- Premier Builder's Exchange

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<sup>1</sup>Receipt of electronic bids is permissible under ORS 279.055B(a) and remote public meeting are permissible under House Bill 4212, adopted in the 80th Oregon Legislative Assembly 2020 Special Session.

- iSqFt
- Builders Exchange of Washington
- Oregon Association of Minority Entrepreneurs

Each Bid must be submitted on the prescribed Bid Form and accompanied by Bid security as prescribed in the Instructions to Bidders, payable to the Buyer in an amount not less than 5 percent of the amount Bid.

Qualified certified Disadvantaged Business Enterprises (DBEs) are encouraged to Bid.

Successful Bidder will be required to furnish the additional Bond(s) prescribed in Bidding Documents.

For information concerning the proposed Project, contact Dave Anderson, City of The Dalles, (541) 506-2008 or [danderson@ci.the-dalles.or.us](mailto:danderson@ci.the-dalles.or.us).

Buyer's right is reserved to reject all Bids or any Bid not conforming to the intent and purpose of the Bidding Documents.

Dated this 4th day of January 2022.

City of The Dalles, Oregon

By \_\_\_\_\_  
Izetta Grossman, CMC, City Clerk

**END OF SECTION**



**INSTRUCTIONS TO BIDDERS****1. DEFINED TERMS.**

1.1. Terms used in these Instructions to Bidders have the meanings indicated in the General Conditions and Supplementary Conditions. Additional terms used in these Instructions to Bidders have the meanings indicated below which are applicable to both the singular and plural thereof:

1.1.1. *Issuing Office*-the office from which the Bidding Documents are to be issued and where the Bidding procedures are to be administered.

**2. BIDS RECEIVED.**

2.1. Refer to Advertisement for Bids for information on receipt of Bids.

**3. COPIES OF BIDDING DOCUMENTS.**

3.1. A complete set of Bidding Documents, in the number and for the deposit sum, if any, stated in the Advertisement for Bids may be obtained at no cost from the City's website at [http://www.ci.the-dalles.or.us/current\\_job\\_openings.htm](http://www.ci.the-dalles.or.us/current_job_openings.htm).

3.2. Complete sets of Bidding Documents shall be used in preparing Bids; neither Buyer nor Engineer assumes any responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.

3.3. Buyer and Engineer, in making copies of Bidding Documents available on the above terms, do so only for the purpose of obtaining Bids for furnishing Goods and Special Services and do not confer a license or grant for any other use.

**4. QUALIFICATIONS OF BIDDERS.**

4.1. To demonstrate Bidder's qualifications to furnish Goods and Special Services, within 5 days of Buyer's request, Bidder shall submit written evidence, such as financial data, previous experience, and other such data as may be requested by Buyer.

4.2. Bidder is advised to carefully review those portions of Bid Form requiring Bidder's representations and certifications.

**5. EXAMINATION OF BIDDING DOCUMENTS, OTHER RELATED DATA, AND POINT OF DESTINATION.**

5.1. Upon request, Buyer will provide Bidder access to the Point of Destination and the site where Goods are to be delivered or Special Services are to be provided so that

Bidder may conduct such investigations, examinations, tests, and studies as Bidder deems necessary for submission of a Bid.

5.2. It is the responsibility of each Bidder, before submitting a Bid, to:

5.2.1. Examine and carefully study Bidding Documents, including Addenda and related data identified in Bidding Documents.

5.2.2. If specified or, if in Bidder's judgment, any local condition may affect cost, progress, or furnishing of Goods and Special Services, visit the Point of Destination and the site where the Goods are to be delivered and Special Services are to be provided to become familiar with local conditions.

5.2.3. Become familiar with and satisfy itself as to Laws and Regulations that may affect cost, progress, or furnishing of Goods and Special Services.

5.2.4. Carefully study, consider, and correlate information known to Bidder; information commonly known to Sellers of similar Goods doing business in the locality of the Point of Destination and the site where the Goods will be installed or where Special Services will be provided; information and observations obtained from Bidder's visits, if any, to the Point of Destination and the site where the Goods are to be delivered or Special Services are to be provided; and any reports and drawings identified in the Bidding Documents regarding Point of Destination and site where Goods will be delivered or where Special Services will be provided, with respect to the effect of such information, observations, and documents on the cost, progress, and performance of Seller's obligations under Contract Documents.

5.2.5. Promptly give Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder discovers in Bidding Documents and confirm that the written resolution thereof by Engineer is acceptable to Bidder.

5.2.6. Determine that Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for furnishing Goods and Special Services.

6. PREBID CONFERENCE.

6.1. No prebid conference is planned.

7. INTERPRETATIONS AND ADDENDA.

7.1. All questions about the meaning or intent of Bidding Documents are to be submitted to Engineer in writing. Send all questions to Dave Anderson, City of The Dalles. Interpretations or clarifications considered necessary by Engineer in response

to such questions will be issued by Addenda mailed or delivered to all parties recorded by Issuing Office as having received Bidding Documents. Questions received less than 7 days prior to the date for opening of Bids may not be answered. Only questions answered by Addenda will be binding. Oral statements and other interpretations may not be relied upon and will not be binding or legally effective.

7.2. Addenda may be issued to clarify, correct, or change Bidding Documents as deemed advisable by Buyer or Engineer.

8. BID SECURITY.

8.1. Bid must be accompanied by Bid security made payable to Buyer, in an amount of 5 percent of Bidder's maximum Bid price and in the form of a certified or bank check or a Bid Bond on form attached issued by a surety meeting requirements of paragraph 4.01.B of the General Conditions.

8.2. The Bid security of the apparent Successful Bidder will be retained until such Bidder has executed the Contract Documents, furnished required contract security, and met other conditions of the Notice of Award, whereupon Bid security will be returned. If apparent Successful Bidder fails to execute and deliver the Contract Documents, and furnish required contract security within 15 days after the Notice of Award, Buyer may consider Bidder to be in default, annul the Notice of Award, and Bid security of that Bidder will be forfeited. The Bid security of other Bidders that Buyer believes to have a reasonable chance of receiving award may be retained by Buyer until the earlier of 7 days after Effective Date of the Agreement or 61 days after Bid opening whereupon Bid security furnished by such Bidders will be returned.

8.3. Bid security of other Bidders that Buyer believes do not have a reasonable chance of receiving the award will be returned within 7 days after Bid opening.

9. CONTRACT TIMES.

9.1. See applicable provisions in the Agreement.

10. LIQUIDATED DAMAGES.

10.1. Provisions for liquidated damages such as those for Seller's failure to attain a Milestone, or to deliver the Goods or furnish Special Services within the Contract Times, are set forth in the Agreement.

11. "OR-EQUAL" ITEMS.

11.1. The Contract, if awarded, will be on the basis of materials and equipment specified or described in Bidding Documents without consideration of possible "or-equal" items. Whenever it is specified or described in Bidding Documents that an "or-equal" item of material or equipment may be furnished or used by Seller if

acceptable to Engineer, application for such acceptance will not be considered by Engineer until after Effective Date of the Agreement. The procedure for submittal of such application by Seller and consideration by Engineer is set forth in the General Conditions and may be supplemented in the General Requirements.

## 12. PREPARATION OF BID.

12.1. The Bid Form is included with Bidding Documents. Additional copies may be obtained from Issuing Office.

12.2. All blanks on Bid Form shall be completed by writing or typed format and the Bid Form signed. Erasures or alterations shall be initialed in writing by the person signing the Bid Form. A Bid price shall be indicated for each Bid item listed therein, or the words "No Bid", "No Change", or "Not Applicable" entered.

12.3. A Bid by a corporation shall be executed in the corporate name by the president or a vice-president or other corporate officer accompanied by evidence of authority to sign. The corporate seal must be affixed and attested by the secretary or an assistant secretary. The corporate address and state of incorporation shall be shown below the signature.

12.4. A Bid by a partnership shall be executed in the partnership name and signed by a partner (whose title must appear on the line below the signature), accompanied by evidence of authority to sign. The official address of the partnership shall be shown below the signature.

12.5. A Bid by a limited liability company shall be executed in the name of the firm by a member and accompanied by evidence of authority to sign. The state in which the firm was formed, and the official address of the firm shall be shown below the signature.

12.6. A Bid by an individual shall show the Bidder's name and official address.

12.7. A Bid by a joint venture shall be executed by each joint venture partner in the manner indicated on the Bid Form. The official address of the joint venture shall be shown below the signature.

12.8. All names must be typed or printed in writing below the signatures.

12.9. The Bid shall contain an acknowledgement of receipt of all Addenda; the numbers of which shall be filled in on the Bid Form. Failure to acknowledge receipt will cause Bid to be considered in nonconformance.

12.10. Each Bidder shall list the postal address, e-mail address, and telephone number for communications regarding the Bid.

**13. BASIS OF BID; COMPARISON OF BIDS.****13.1. Lump Sum:**

13.1.1. Bidder shall submit Bid on a lump sum basis as set forth in Bid Form.

13.1.2. For determination of apparent low Bidder, Bids will be compared on the basis of the Base Bid.

**14. SUBMISSION OF BID.**

14.1. Submit an electronic copy of the Bid Form and Bid Security and the following data, in an electronic PDF file not to exceed 20 MB in size:

14.1.1. List of Proposed Major Suppliers.

14.2. Bid shall be submitted no later than the date and time prescribed and at place indicated in Advertisement for Bids and shall be enclosed in an opaque sealed envelope plainly marked with Project title, name, and address of Bidder and shall be accompanied by Bid security and other required documents. If Bid is sent by mail or other delivery system, sealed envelope containing Bid shall be enclosed in a separate package plainly marked on outside with notation "BID ENCLOSED" and addressed as indicated in Advertisement for Bids.

**15. MODIFICATION OR WITHDRAWAL OF BID.**

15.1. "At any time prior to the scheduled time for opening and reading proposals, any bidder may withdraw its Proposal, either personally or by written request to the office indicated in the Bid Booklet. If the withdrawal is made personally, proper receipt shall be given, therefore. Withdrawal of a Proposal shall not disqualify the Bidder from submitting another Proposal provided the time for receipt of Proposals has not expired. After the time scheduled for opening and reading the Proposals, no Bidder shall be permitted to withdraw the proposal unless acceptance is delayed by the City for a period exceeding 60 days. Negligence on the part of the Bidder in preparing the Proposal confers no right to withdraw the Proposal after said scheduled time."

**16. OPENING OF BIDS.**

16.1. Bids will be opened at the time and place indicated in Advertisement for Bids and, unless obviously nonresponsive, read aloud publicly. An abstract of the amounts of the Base Bids and Alternate Bids, if any, will be made available to Bidders after opening of Bids.

17. BIDS TO REMAIN SUBJECT TO ACCEPTANCE.

17.1. All Bids will remain subject to acceptance for the period of time stated in Bid Form, but Buyer may, in its sole discretion, release any Bid and return Bid security prior to end of this period.

18. BASIS OF AWARD; AWARD OF CONTRACT.

18.1. Buyer reserves its right to reject any and all Bids, including without limitation, nonconforming, nonresponsive, unbalanced, or conditional Bids. Buyer further reserves the right to reject the Bid of any Bidder that Buyer finds, after reasonable inquiry and evaluation, to be nonresponsive. Buyer may also reject the Bid of any Bidder if Buyer believes that it would not be in the best interest of the Project to make an award to that Bidder. Buyer also reserves the right to waive informalities not involving price, time or changes in Goods and Special Services, and to negotiate contract terms with Successful Bidder.

18.2. More than one Bid for the same Goods and Special Services from an individual or entity under the same or different names will not be considered. Reasonable grounds for believing that any Bidder has an interest in more than one Bid for Goods and Special Services shall be cause for disqualification of that Bidder and rejection of all Bids in which that Bidder has an interest.

18.3. In evaluating Bids, Buyer will consider whether or not Bids comply with prescribed requirements, and such alternatives, unit prices and other data, as may be requested in Bid Form or may be requested from Bidders prior to a Notice of Award.

18.4. Buyer may conduct such investigations as Buyer deems necessary to establish responsibility, qualifications, and financial ability of Bidder.

18.5. If Contract is to be awarded, Buyer will award Contract to Bidder whose Bid is in the best interest of Project.

19. CONTRACT SECURITY AND INSURANCE.

19.1. Article 4 of the General Conditions and Article 4 of Supplementary Conditions set forth Buyer's requirements as to furnishing a supply contract bond and insurance. When Successful Bidder delivers executed Agreement to Buyer, it must be accompanied by the required bond.

20. SIGNING OF AGREEMENT.

20.1. When Buyer issues a Notice of Award to Successful Bidder, it shall be accompanied by required number of unsigned counterparts of Agreement with the other Contract Documents that are to be identified in Agreement and attached thereto. Within 10 days thereafter, Successful Bidder shall sign and deliver required number

of counterparts of Agreement and attached documents to Buyer. Within 10 days thereafter, Buyer shall deliver one fully signed counterpart to Successful Bidder with a complete set of Drawings with appropriate identification.

21. SALES AND USE TAXES.

21.1. Buyer is exempt from Oregon state sales and use taxes on materials and equipment to be incorporated in the Project. Said taxes shall not be included in Bid. Refer to Paragraph 5.05 of the Supplementary Conditions for additional information.

22. RETAINAGE.

22.1. None.

**END OF SECTION**





NOTE TO BIDDER: Use ink for completing this Bid Form.

### BID FORM

1. BID RECIPIENT.

1.1. This Bid is submitted to:

Buyer: City of The Dalles, Oregon

Address: City of The Dalles Public Works, 1215 W. 1st Street,  
The Dalles, OR 97058

Project: Water Pipeline Materials and Appurtenances for The Dog River  
Pipeline Replacement Project

1.2. Undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into a Contract with Buyer in the form included in Bidding Documents to furnish Goods and Special Services as specified or indicated in Bidding Documents for the prices and within the times indicated in this Bid and in accordance with other terms and conditions of Bidding Documents.

2. BIDDER'S ACKNOWLEDGEMENTS.

2.1. Bidder accepts all of the terms and conditions of the Instructions to Bidders, including without limitation those dealing with disposition of Bid security. Bid will remain subject to acceptance for 60 days after Bid opening, or for such longer period of time that Bidder may agree to in writing upon request of Buyer.

3. BIDDER'S REPRESENTATIONS.

3.1. In submitting this Bid, Bidder represents that:

3.1.1. Bidder has examined and carefully studied Bidding Documents, related data identified in Bidding Documents, and the following Addenda, receipt of all of which is hereby acknowledged.

| <u>Addendum No.</u> | <u>Addendum Date</u> |
|---------------------|----------------------|
| _____               | _____                |
| _____               | _____                |
| _____               | _____                |

3.1.2. Bidder has visited the Point of Destination and site where the Goods are to be delivered or Special Services will be provided and become familiar with and is satisfied as to the observable local conditions that may affect cost, progress, or furnishing of Goods and Special Services if required to do so by Bidding Documents, or if, in Bidder's judgment, any local condition may affect cost, progress, or the furnishing of Goods and Special Services.

3.1.3. Bidder is familiar with and is satisfied as to Laws and Regulations in effect as of the date of the Bid that may affect cost, progress, and furnishing of Goods and Special Services.

3.1.4. Bidder has carefully studied and correlated information known to Bidder; information commonly known to Sellers of similar goods doing business in the locality of the Point of Destination and the site where the Goods will be delivered or where Special Services will be provided; information and observations obtained from Bidder's visits, if any, to the Point of Destination and the site where the Goods will be delivered or Special Services will be provided; and any reports and drawings identified in the Bidding Documents regarding the Point of Destination and the site where the Goods will be delivered or where Special Services will be provided, with respect to the effect of such information, observations, and documents on the cost, progress, and performance of Seller's obligations under Bidding Documents.

3.1.5. Bidder has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in Bidding Documents, and written resolution thereof by Engineer is acceptable to Bidder.

3.1.6. Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for furnishing Goods and Special Services for which this Bid is submitted.

#### 4. BIDDER'S CERTIFICATIONS.

##### 4.1. Bidder certifies that:

4.1.1. This Bid is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any collusive agreement or rules of any group, association, organization, or corporation;

4.1.2. Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid;

4.1.3. Bidder has not solicited or induced any individual or entity to refrain from bidding; and

4.1.4. Bidder has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the Contract. For the purposes of this Paragraph 4.1.4:

4.1.4.1. “corrupt practice” means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process;

4.1.4.2. “fraudulent practice” means an intentional misrepresentation of facts made (a) to influence the bidding process to the detriment of Buyer, (b) to establish Bid prices at artificial noncompetitive levels, or (c) to deprive Buyer of the benefits of free and open competition;

4.1.4.3. “collusive practice” means a scheme or arrangement between two or more Bidders, with or without the knowledge of Buyer, a purpose of which is to establish Bid prices at artificial, noncompetitive levels; and

4.1.4.4. “coercive practice” means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process.

## 5. BASIS OF BID.

### 5.1. Unit Prices:

5.1.1. Bidder further proposes to accept as full payment for the Unit Price Work proposed herein the amounts computed under the provisions of the Bidding Documents and based on the following unit price amounts, it being expressly understood that the unit prices are independent of the exact quantities involved.

5.1.2. Bidder further acknowledges that quantities are not guaranteed and final payment will be based on actual quantities, determined as provided in Bidding Documents.

5.1.3. Bidder acknowledges that unit prices have been computed in accordance with Paragraph SC-10.01 of the Supplementary Conditions.

5.1.4. If no bid is proposed for a particular line item, indicate “No Bid” in the Bid Unit Price and Total Estimated Price columns.

| Unit Price Bid           |   |      |          |             |
|--------------------------|---|------|----------|-------------|
| No.                      | Description (Specification Section)   | Unit | Quantity | Total Price |
| 1                        | 13,250 feet; DR 26 30-inch DIPS HDPE Pipe per AWWA C906 (Section 33 05 01.10) | LS   | 1        |             |
| 2                        | HDPE Fittings; 30-inch DIPS HDPE Pipe Per AWWA C906 (Section 33 05 01.10)     | LS   | 1        |             |
| Total of all Unit Prices |   |      |          |             |

## 5.2. Base Bid Summary

TOTAL BASE BID \$ \_\_\_\_\_

## 6. TIME OF COMPLETION.

6.1. Bidder agrees that furnishing of Goods and Special Services will conform to schedule set forth in Agreement.

6.2. Bidder accepts the provisions of the Agreement as to liquidated damages.

## 7. ATTACHMENTS TO THIS BID.

7.1. The following documents are attached to and made a condition of this Bid:

7.1.1. Required Bid security in the form of bid bond.

7.1.2. List of Proposed Major Suppliers.

## 8. DEFINED TERMS.

8.1. Terms used in this Bid with initial capital letters have meanings stated in the Instructions to Bidders, General Conditions, and the Supplementary Conditions.

## 9. BID SUBMISSION.

9.1. This Bid submitted by:

An IndividualName (*typed or printed*): \_\_\_\_\_By (*signature*): \_\_\_\_\_

Doing Business As: \_\_\_\_\_

Business Address: \_\_\_\_\_

\_\_\_\_\_

Phone No.: \_\_\_\_\_ Facsimile: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

A Partnership

Partnership Name: \_\_\_\_\_ (SEAL)

By: \_\_\_\_\_  
(*Signature of general partner – attach evidence of authority to sign*)Name (*typed or printed*): \_\_\_\_\_

Business Address: \_\_\_\_\_

\_\_\_\_\_

Phone No.: \_\_\_\_\_ Facsimile: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

A Corporation

Corporation Name: \_\_\_\_\_

State of Incorporation: \_\_\_\_\_

Type (General Business, Professional, Service, Limited Liability): \_\_\_\_\_

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

*(Signature – attach evidence of authority to sign)*Name *(typed or printed)*: \_\_\_\_\_

Title: \_\_\_\_\_ (CORPORATE SEAL)

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

*(Signature of Corporate Secretary)*

Business Address: \_\_\_\_\_

\_\_\_\_\_

Phone No.: \_\_\_\_\_ Facsimile: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

A Limited Liability Company (LLC)

LLC Name: \_\_\_\_\_

State in Which Organized: \_\_\_\_\_

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

*(Signature – attach evidence of authority to sign)*Name *(typed or printed)*: \_\_\_\_\_

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

Business Address: \_\_\_\_\_

\_\_\_\_\_

Phone No.: \_\_\_\_\_ Facsimile: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

A Joint Venture

First Joint Venture Name: \_\_\_\_\_ (SEAL)

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

*(Signature of joint venture partner – attach evidence of authority to sign)*Name *(typed or printed)*: \_\_\_\_\_

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

Business Address: \_\_\_\_\_

\_\_\_\_\_

Phone No.: \_\_\_\_\_ Facsimile: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

Second Joint Venture Name: \_\_\_\_\_ (SEAL)

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

*(Signature of joint venture partner – attach evidence of authority to sign)*Name *(typed or printed)*: \_\_\_\_\_

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

Business Address: \_\_\_\_\_

\_\_\_\_\_

Phone No.: \_\_\_\_\_ Facsimile: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

**END OF SECTION**





**ATTACHMENT 1: LIST OF PROPOSED MAJOR SUPPLIERS**

| <b>Item No.</b> | <b>Product</b>           | <b>Supplier/Original<br/>Manufacturer Name,<br/>Address and<br/>Phone Number</b> |
|-----------------|--------------------------|--|
| 1               | 30" DIPS DR 26 HDPE Pipe |  |
| 2               | 30" DIPS HDPE Fittings   |  |



**SECTION 00 43 14  
BID BOND  
(PENAL SUM FORM)**

**BIDDER**  
(Name and Address):

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

**SURETY**  
(Name and Address of Principal Place of Business):

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

**BUYER (Name and Address):**

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

**BOND:**

**Bond Number:** \_\_\_\_\_

**Penal Sum:** \_\_\_\_\_

**Date:** \_\_\_\_\_  
(Not later than Bid due date)

**BID**

**Bid Due Date:** \_\_\_\_\_

**Project (Brief Description Including Location):**

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

IN WITNESS WHEREOF, Surety and Bidder, intending to be legally bound hereby, subject to the terms printed on the reverse side hereof, do each cause this Bid Bond to be duly executed on its behalf by its authorized officer, agent, or representative.

**BIDDER**

\_\_\_\_\_  
Bidder's Name and Corporate Seal (Seal)

By: \_\_\_\_\_  
Signature and Title

Attest: \_\_\_\_\_  
Signature and Title

**SURETY**

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

By: \_\_\_\_\_  
Signature and Title  
(Attach Power of Attorney)

Attest: \_\_\_\_\_  
Signature and Title

Note: (1) Above addresses are to be used for giving required notice.  
(2) Any singular reference to Bidder, Surety, Buyer or other party shall be considered plural where applicable.

1. Bidder and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to pay to Buyer upon default of Bidder the penal sum set forth on the face of this Bond.
2. Default of Bidder shall occur upon the failure of Bidder to deliver within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Buyer) the executed Agreement required by the Bidding Documents and any performance and payment Bonds required by the Bidding Documents.
3. This obligation shall be null and void if:
  - 3.1. Buyer accepts Bidder's Bid and Bidder delivers within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Buyer) the executed Agreement required by the Bidding Documents and any performance and payment Bonds required by the Bidding Documents, or
  - 3.2. All Bids are rejected by Buyer, or
  - 3.3. Buyer fails to issue a Notice of Award to Bidder within the time specified in the Bidding Documents (or any extension thereof agreed to in writing by Buyer and, if applicable, consented to by Surety when required by Paragraph 5 hereof).
4. Payment under this Bond will be due and payable upon default by Bidder and within 30 calendar days after receipt by Bidder and Surety of written notice of default from Buyer, which notice will be given with reasonable promptness, identifying this Bond and the Project and including a statement of the amount due.
5. Surety waives notice of any and all defenses based on or arising out of any time extension to issue Notice of Award agreed to in writing by the Buyer and Bidder, provided that the total time for issuing Notice of Award including extensions shall not in the aggregate exceed 120 days from Bid due date without Surety's written consent.
6. No suit or action shall be commenced under this Bond prior to 30 calendar days after the notice of default required in Paragraph 4 above is received by Bidder and Surety and in no case later than one year after Bid due date.
7. Any suit or action under this Bond shall be commenced only in a court of competent jurisdiction located in the state in which the Project is located.
8. Notices required hereunder shall be in writing and sent to Bidder and Surety at their respective addresses shown on the face of this Bond. Such notices may be sent by personal delivery, commercial courier or by United States Registered or Certified Mail, return receipt requested, postage prepaid, and shall be deemed to be effective upon receipt by the party concerned.
9. Surety shall cause to be attached to this Bond a current and effective Power of Attorney evidencing the authority of the officer, agent or representative who executed this Bond on behalf of Surety to execute, seal, and deliver such Bond and bind the Surety thereby.
10. This Bond is intended to conform to all applicable statutory requirements. Any applicable requirement of any applicable statute that has been omitted from this Bond shall be deemed to be included herein as if set forth at length. If any provision of this Bond conflicts with any applicable statute, then the provision of said statute shall govern and the remainder of this Bond that is not in conflict therewith shall continue in full force and effect.
11. The term "Bid" as used herein includes a Bid, offer, or proposal as applicable.

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## **PART 2**

# **CONTRACT FORMS**

---



**AGREEMENT FORM**

THIS AGREEMENT is between City of The Dalles, Oregon (“Buyer”)

and \_\_\_\_\_ (“Seller”).

Buyer and Seller, hereby agree as follows:

1. **GOODS AND SPECIAL SERVICES.**

1.1. Seller shall furnish Goods and Special Services as specified or indicated in the Contract Documents. Goods and Special Services to be furnished are described in Section 01 11 19, Purchase Contracts.

2. **THE PROJECT.**

2.1. The Project for which Goods and Special Services may be the whole or only a part of is generally described as follows: Dog River Pipeline Replacement. This project includes approximately 20,000 linear feet of 30-inch Ductile Iron Pipe Size (DIPS) High Density Polyethylene (HDPE) pipeline, along with appurtenances. A portion of the overall project pipeline materials are being purchased by City in advance of construction to provide to installing contractor.

3. **ENGINEER.**

3.1. The Contract Documents for the Goods and Special Services have been prepared by Jacobs Engineering Group Inc., which is to act as Buyer’s representative, assume all duties and responsibilities, and have rights and authority assigned to Engineer in the Contract Documents in connection with Seller’s furnishing of Goods and Special Services.

4. **POINT OF DESTINATION.**

4.1. The Point of Destination is designated as:

4.1.1. Port of The Dalles leased storage parcel

4380 River Trail Way, The Dalles, Oregon, 97058

## 4.1.2. Aerial photo/map of leased storage parcel is shown below



## 5. CONTRACT TIMES.

## 5.1. Time of the Essence:

5.1.1. All time limits for Milestones, if any, including submittal of Shop Drawings and Samples, delivery of Goods, and furnishing of Special Services as stated in the Contract Documents are the essence of the Contract.

## 5.2. Milestones:

## 5.2.1. Date for Submittal of Shop Drawings and Samples:

5.2.1.1. Seller shall submit Shop Drawings and Samples required by the Contract Documents to Buyer for Engineer's review and approval within 14 days after date when Contract Times commence to run as provided in Paragraph 2.04 of the General Conditions. It is the intent of the parties that:

5.2.1.1.1. Engineer conduct such review and issue its approval, or a denial accompanied by substantive comments regarding information needed to gain approval, within 14 days of Seller's submittal of such Shop Drawings and Samples; and



5.2.1.1.2. Resubmittals be limited whenever possible. If more than one resubmittal is necessary for reasons not the fault and beyond the control of Seller, then Seller shall be entitled to seek appropriate relief under Paragraph 7.02.B of the General Conditions.

5.2.2. Date for Delivery of Goods: Deliver Goods to the Point of Destination and ready for Buyer's receipt of delivery on (or within a period of 15 days prior to) dates as follows:

5.2.2.1. Delivery Requirement A: All fabricated HDPE fittings shall be delivered by June 30, 2022.

5.2.2.2. Delivery Requirement B: A minimum of 5,000 feet of 30-inch DIPS HDPE pipe shall be delivered by June 30, 2022.

5.2.2.3. Delivery Requirement C: A minimum of 8,000 feet of 30-inch DIPS HDPE pipe shall be delivered by July 15, 2022

5.2.2.4. Delivery Requirement D: All 30-inch DIPS HDPE pipe shall be delivered by July 29, 2022.

5.3. Buyer's Final Inspection:

5.3.1. Buyer shall make its final inspection of the Goods pursuant to Paragraph 8.01.C of the General Conditions within 14 days after Buyer's acknowledgement of receipt of delivery of the Goods. Date shall be adjusted equitably if Seller fails to deliver the Goods or furnish Special Services in compliance with the Milestones established in above paragraphs of this Agreement.

5.4. Liquidated Damages: Buyer and Seller recognize that Buyer will suffer financial loss if Goods are not delivered at the Point of Destination and ready for receipt of delivery by Buyer within times specified in Paragraph Date for Delivery of Goods herein, plus any extensions thereof allowed in accordance with Article 7 of the General Conditions. The parties also recognize timely performance of services by others involved in the Project are materially dependent upon Seller's specific compliance with requirements specified in Date for Delivery of Goods. Further, they recognize the delays, expense, and difficulties involved in proving actual loss suffered by Buyer if complete acceptable Goods are not delivered on time. Accordingly, instead of requiring such proof, Buyer and Seller agree that as liquidated damages for delay (but not as a penalty) Seller shall pay Buyer the amounts shown below for each day that expires after the time specified in Paragraph Date for Delivery of Goods, as follows, except that liquidated damages shall not exceed \$5,000 total per day for concurrent failures to achieve delivery requirements.

5.4.1. Delivery Requirement A: \$5,000 per day

5.4.2. Delivery Requirement B: \$5,000 per day

5.4.3. Delivery Requirement C: \$5,000 per day

5.4.4. Delivery Requirement D: \$5,000 per day

6. CONTRACT PRICE.

6.1. Buyer shall pay Seller for furnishing Goods and Special Services in accordance with the Contract Documents in current funds as follows:

6.1.1. Prices stated in Seller's Bid, attached hereto as an exhibit.

7. PAYMENT PROCEDURES.

7.1. Submission and Processing of Payments: Seller shall submit Applications for Payment in accordance with Article 10 of the General Conditions. Applications for Payment will be processed by Engineer in accordance with the General Conditions.

7.2. Progress Payments:

7.2.1. Buyer shall make progress payments on account of Contract Price on the basis of Seller's Application for Payment as follows:

7.2.1.1. Upon receipt of first Application for Payment submitted in accordance with Paragraph 10.01.A.1 of the General Conditions and accompanied by Engineer's recommendation of payment in accordance with Paragraph 10.02.A of the General Conditions, an amount equal to 10 percent of the Contract Price, less such amounts as Engineer may determine in accordance with Paragraph 10.02.A.3 of the General Conditions.

7.2.1.2. Upon receipt of second such Application for Payment accompanied by Engineer's recommendation of payment in accordance with Paragraph 10.01.A.2 of the General Conditions, an amount sufficient to increase total payments to Seller to 90 percent of the Contract Price, less such amounts as Engineer may determine in accordance with Paragraph 10.02.A.3 of the General Conditions.

7.3. Final Payment: Upon receipt of the final Application for Payment accompanied by Engineer's recommendation of payment Buyer shall pay Seller amount recommended by Engineer less sum Buyer is entitled to set off against Engineer's recommendation, including but not limited to liquidated damages.

8. INTEREST.

8.1. All monies not paid when due as provided in Article 10 of the General Conditions shall bear interest at statutory rate.

9. SELLER'S REPRESENTATIONS.

9.1. In order to induce Buyer to enter into this Agreement, Seller makes the following representations:

9.1.1. Seller has examined and carefully studied the Contract Documents and other related data identified in Bidding Documents, as applicable to Seller's obligations to furnish Goods and Special Services.

9.1.2. If required by Bidding Documents to visit Point of Destination and site where the Goods are to be delivered or Special Services will be provided, or if in Seller's judgment, any local condition may affect cost, progress or furnishing of Goods and Special Services, Seller has visited the Point of Destination and site where the Goods are to be delivered or Special Services will be provided and become familiar with and is satisfied as to observable local conditions that may affect cost, progress, or furnishing of Goods and Special Services.

9.1.3. Seller is familiar with and is satisfied as to Laws and Regulations that may affect cost, progress, and furnishing of Goods and Special Services.

9.1.4. Seller has carefully studied, considered, and correlated information known to Seller; information commonly known to sellers of similar goods doing business in the locality of the Point of Destination and the site where the Goods will be delivered or where Special Services will be provided; information and observations obtained from Seller's visits, if any, to the Point of Destination and site where the Goods are to be delivered or Services will be provided; and any reports and drawings identified in the Bidding Documents regarding the Point of Destination and the site where the Goods will be delivered or where Special Services will be provided, with respect to the effect of such information, observations, and documents on the cost, progress, and performance of Seller's obligations under the Contract Documents.

9.1.5. Seller has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Seller has discovered in the Contract Documents, and written resolution thereof by Engineer is acceptable to Seller.

9.1.6. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for furnishing Goods and Special Services.

## 10. CONTRACT DOCUMENTS.

### 10.1. Contents:

#### 10.1.1. The Contract Documents consist of the following:

- 10.1.1.1. This Agreement (pages 1 to \_\_\_\_, inclusive);
- 10.1.1.2. General Conditions (pages \_\_\_\_ to \_\_\_\_, inclusive);
- 10.1.1.3. Supplementary Conditions (pages \_\_\_\_ to \_\_\_\_, inclusive);
- 10.1.1.4. Specifications as listed in Table of Contents of the Project Manual dated \_\_\_\_\_;
- 10.1.1.5. Addenda (Numbers \_\_\_\_ to \_\_\_\_, inclusive);
- 10.1.1.6. Exhibits to this Agreement (enumerated as follows):
  - 10.1.1.6.1. Seller's Bid solely as to prices set forth therein (pages \_\_\_\_\_ to \_\_\_\_\_, inclusive);
  - 10.1.1.6.2. Documentation submitted by Seller prior to Notice of Award (pages \_\_\_\_ to \_\_\_\_, inclusive);
- 10.1.1.7. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:
- 10.1.1.8. Notice to Proceed (pages \_\_\_\_ to \_\_\_\_, inclusive);
- 10.1.1.9. Change Order(s);
- 10.1.1.10. Work Change Directive(s).

10.2. The documents listed in above are attached to this Agreement (except as expressly noted otherwise above).

10.3. There are no Contract Documents other than those listed above in this Article.

10.4. The Contract Documents may only be amended, or supplemented as provided in Paragraph 3.04 of the General Conditions.

## 11. MISCELLANEOUS.

11.1. Defined Terms: Terms used in this Agreement will have the meanings indicated in the General Conditions and the Supplementary Conditions.

11.2. Successors and Assigns: Buyer and Seller each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

11.3. Severability: Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Buyer and Seller. The Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

11.4. Seller's Certifications:

11.4.1. Seller certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this paragraph:

11.4.1.1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process or in the Contract execution;

11.4.1.2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Buyer, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Buyer of the benefits of free and open competition;

11.4.1.3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Buyer, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and

11.4.1.4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

11.5. Limitations:

11.5.1. Buyer and Seller waive against each other, and against the other's officers, directors, members, partners, employees, agents, consultants, and subcontractors, any and all claims for or entitlement to incidental, indirect, or consequential damages arising out of, resulting from, or related to the Contract. Upon assignment the terms of this paragraph shall be binding upon the assignee with respect to Seller and Buyer. The terms of this mutual waiver

do not apply to or limit any claim by either Buyer or Seller against the other based on any of the following: (a) contribution or indemnification, (b) costs, losses, or damages attributable to personal or bodily injury, sickness, disease, or death, or to injury to or destruction of the tangible property of others, (c) intentional or reckless wrongful conduct, or (d) rights conferred by any bond provided by Seller under this Contract.

11.5.2. Upon assignment the terms of this paragraph shall be binding upon both the Buyer and assignee with respect to Seller's liability, and upon Seller with respect to both Buyer's and assignee's liabilities. The terms of this mutual limitation do not apply to or limit any claim by either Buyer or Seller against the other based on any of the following: (a) contribution or indemnification with respect to third-party claims, losses, and damages; (b) costs, losses, or damages attributable to personal or bodily injury, sickness, disease, or death, or to injury to or destruction of the tangible property of others, (c) intentional or reckless wrongful conduct, or (d) rights conferred by any bond provided by Seller under this Contract.

IN WITNESS WHEREOF, Buyer and Seller have signed this Agreement. Counterparts have been delivered to Buyer and Seller. All portions of the Contract Documents have been signed or identified by Buyer and Seller or on their behalf.

This Agreement will be effective on \_\_\_\_\_ (which is the Effective Date of the Agreement).

(date)

Buyer: City of The Dalles, Oregon

Seller: \_\_\_\_\_

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

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

(Corporate Seal)

(Corporate Seal)

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

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

Address for giving notice:

Address for giving notice:

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

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

(If Buyer is a corporation, attach evidence of authority to sign. If Buyer is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of Buyer-Seller Agreement.)

Agent for service of process:

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

Designated Representative:

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

Name: \_\_\_\_\_

Designated Representative:

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

Name: \_\_\_\_\_

Address: \_\_\_\_\_

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

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

Address: \_\_\_\_\_

Facsimile: \_\_\_\_\_

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

Facsimile: \_\_\_\_\_

**END OF SECTION**





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## **PART 3**

# **CONDITIONS OF THE CONTRACT**

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

## STANDARD GENERAL CONDITIONS FOR PROCUREMENT CONTRACTS

Prepared by



and

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# STANDARD GENERAL CONDITIONS FOR PROCUREMENT CONTRACTS

## ARTICLE 1 - DEFINITIONS AND TERMINOLOGY

### 1.01 *Defined Terms*

A. Whenever used in the Bidding Requirements or Contract Documents and printed with initial capital letters, the terms listed below will have the meanings indicated which are applicable to the singular or plural thereof. In addition to terms specifically defined, terms with initial capital letters in the Contract Documents include references to identified articles and paragraphs, and the titles of other documents or forms.

1. *Addenda*—Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Requirements or the proposed Contract Documents.
2. *Agreement*—The written instrument signed by both Buyer and Seller covering the Goods and Special Services and which lists the Contract Documents in existence on the Effective Date of the Agreement.
3. *Application for Payment*—The form acceptable to Buyer which is used by Seller in requesting progress and final payments and which is accompanied by such supporting documentation as is required by the Contract Documents.
4. *Bid*—The offer or proposal of a Seller submitted on the prescribed form setting forth the prices for the Goods and Special Services to be provided.
5. *Bidder*—The individual or entity that submits a Bid directly to Buyer.
6. *Bidding Documents*—The Bidding Requirements and the proposed Contract Documents (including all Addenda).
7. *Bidding Requirements*—The advertisement or invitation to bid, Instructions to Bidders, Bid security of acceptable form, if any, and Bid Form with any supplements.
8. *Buyer*—The individual or entity purchasing the Goods and Special Services.
9. *Change Order*—A document which is signed by Seller and Buyer and authorizes an addition, deletion, or revision to the Contract Documents or an adjustment in the Contract Price or the Contract Times, issued on or after the Effective Date of the Agreement. Change Orders may be the result of mutual agreement by Buyer and Seller, or of resolution of a Claim.
10. *Claim*—A demand or assertion by Buyer or Seller seeking an adjustment of Contract Price or Contract Times, or both, or other relief with respect to the terms of the Contract. A demand for money or services by a third party is not a Claim.
11. *Contract*—The entire and integrated written agreement between Buyer and Seller concerning the Goods and Special Services. The Contract supersedes prior negotiations, representations, or agreements, whether written or oral.
12. *Contract Documents*—Those items so designated in the Agreement. Shop Drawings and other Seller submittals are not Contract Documents, even if accepted, reviewed, or approved by Engineer or Buyer.
13. *Contract Price*—The moneys payable by Buyer to Seller for furnishing the Goods and Special Services in accordance with the Contract Documents as stated in the Agreement.
14. *Contract Times*—The times stated in the Agreement by which the Goods must be delivered and Special Services must be furnished.
15. *Drawings*—That part of the Contract Documents prepared or approved by Engineer which graphically shows the scope, extent, and character of the Goods and Special Services to be furnished by

- Seller. Shop Drawings and other Seller submittals are not Drawings as so defined.
16. *Effective Date of the Agreement*—The date indicated in the Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver.
  17. *Engineer*—The individual or entity designated as such in the Agreement.
  18. *Field Order*—A written order issued by Engineer which requires minor changes in the Goods or Special Services but which does not involve a change in the Contract Price or Contract Times.
  19. *General Requirements*—Sections of Division 1 of the Specifications. The General Requirements pertain to all sections of the Specifications.
  20. *Goods*—The tangible and movable personal property that is described in the Contract Documents, regardless of whether the property is to be later attached to realty.
  21. *Goods and Special Services*—The full scope of materials, equipment, other items, and services to be furnished by Seller, including Goods, as defined herein, and Special Services, if any, as defined herein. This term refers to both the Goods and the Special Services, or to either the Goods or the Special Services, and to any portion of the Goods or the Special Services, as the context requires.
  22. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
  23. *Milestone*—A principal event specified in the Contract Documents relating to an intermediate completion date or time prior to the Contract Times.
  24. *Notice of Award*—The written notice by Buyer to the Successful Bidder stating that upon timely compliance by the Successful Bidder with the conditions precedent listed therein, Buyer will sign and deliver the Agreement.
  25. *Notice to Proceed*—A written notice given by Buyer to Seller fixing the date on which the Contract Times commence to run and on which Seller shall start to perform under the Contract.
  26. *Point of Destination*—The specific address of the location where delivery of the Goods shall be made, as stated in the Agreement.
  27. *Project*—The total undertaking of which the Goods and Special Services may be the whole, or only a part.
  28. *Project Manual*—The documentary information prepared for bidding and furnishing the Goods and Special Services. A listing of the contents of the Project Manual is contained in its table of contents.
  29. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Goods and Special Services and which establish the standards by which such portion of the Goods and Special Services will be judged.
  30. *Seller*—The individual or entity furnishing the Goods and Special Services.
  31. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for Seller and submitted by Seller to illustrate some portion of the Goods and Special Services.
  32. *Special Services*—Services associated with the Goods to be furnished by Seller as required by the Contract Documents.
  33. *Specifications*—That part of the Contract Documents consisting of written requirements for materials, equipment, systems, standards and workmanship as applied to the furnishing of the Goods and Special Services, and certain



- administrative requirements and procedural matters applicable thereto.
34. *Successful Bidder*—The Bidder submitting a responsive Bid, to whom Buyer makes an award.
35. *Supplementary Conditions*—That part of the Contract Documents which amends or supplements these General Conditions.
36. *Work Change Directive*—A written statement to Seller issued on or after the Effective Date of the Agreement and signed by Buyer ordering an addition, deletion, or other revision in the Contract Documents with respect to the Goods and Special Services. A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the change ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order following negotiations by the parties as to its effect, if any, on the Contract Price or Contract Times.

## 1.02 Terminology

- A. The words and terms discussed in Paragraphs 1.02.B and 1.02.C are NOT defined, but have the indicated meanings when used in the Bidding Requirements or Contract Documents.

B. *Intent of Certain Terms or Adjectives:*

1. The Contract Documents include the terms “as allowed,” “as approved,” “as ordered,” “as directed” or terms of like effect or import to authorize an exercise of professional judgment by Engineer. In addition, the adjectives “reasonable,” “suitable,” “acceptable,” “proper,” “satisfactory,” or adjectives of like effect or import are used to describe an action or determination of Engineer as to the Goods and Special Services. It is intended that such exercise of professional judgment, action, or determination will be commercially reasonable and will be solely to evaluate, in general, the Goods and Special Services for compliance with the requirements of and information in the Contract Documents and conformance with the design concept of the completed

Project as a functioning whole as shown or indicated in the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective shall not be effective to assign to Engineer any duty or authority to supervise or direct the furnishing of Goods or Special Services or any duty or authority to undertake responsibility contrary to any other provision of the Contract Documents.

2. The word “non-conforming” when modifying the words “Goods and Special Services,” “Goods,” or “Special Services,” refers to Goods and Special Services that fail to conform to the Contract Documents.
3. The word “receipt” when referring to the Goods, shall mean the physical taking and possession by the Buyer under the conditions specified in Paragraph 8.01.B.3.
4. The word “day” means a calendar day of 24 hours measured from midnight to the next midnight.
5. The word “furnish,” when used in connection with the Goods and Special Services shall mean to supply and deliver said Goods to the Point of Destination (or some other specified location) and to perform said Special Services fully, all in accordance with the Contract Documents.

- C. Unless stated otherwise in the Contract Documents, words or phrases that have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with such recognized meaning.

## ARTICLE 2 - PRELIMINARY MATTERS

### 2.01 *Delivery of Bonds*

- A. When Seller delivers the executed counterparts of the Agreement to Buyer, Seller also shall deliver such bonds as Seller may be required to furnish.

### 2.02 *Evidence of Insurance*

- A. When Seller delivers the executed counterparts of the Agreement to Buyer, Seller shall deliver to Buyer, with copies to each additional insured

identified by name in the Supplementary Conditions, certificates of insurance (and other evidence of insurance which either of them or any additional insured may reasonably request) which Seller is required to purchase and maintain in accordance with Article 4.

2.03 *Copies of Documents*

- A. Buyer shall furnish Seller up to five printed or hard copies of the Contract Documents. Additional copies will be furnished upon request at the cost of reproduction.

2.04 *Commencement of Contract Times; Notice to Proceed*

- A. The Contract Times will commence to run on the thirtieth day after the Effective Date of the Agreement or, if a Notice to Proceed is given, on the day indicated in the Notice to Proceed. A Notice to Proceed may be given at any time within 30 days after the Effective Date of the Agreement. In no event will the Contract Times commence to run later than the sixtieth day after the day of Bid opening or the thirtieth day after the Effective Date of the Agreement, whichever date is earlier.

2.05 *Designated Representatives*

- A. Buyer and Seller shall each designate its representative at the time the Agreement is signed. Each representative shall have full authority to act on behalf of and make binding decisions in any matter arising out of or relating to the Contract.

2.06 *Progress Schedule*

- A. Within 15 days after the Contract Times start to run, Seller shall submit to Buyer and Engineer an acceptable progress schedule of activities, including at a minimum, Shop Drawing and Sample submittals, tests, and deliveries as required by the Contract Documents. No progress payment will be made to Seller until an acceptable schedule is submitted to Buyer and Engineer.
- B. The progress schedule will be acceptable to Buyer and Engineer if it provides an orderly progression of the submittals, tests, and deliveries to completion within the specified Milestones and the Contract Times. Such acceptance will not impose on Buyer or Engineer responsibility for the progress schedule, for sequencing, scheduling, or progress of the work nor interfere with or relieve Seller from Seller's full responsibility therefor.

Such acceptance shall not be deemed to acknowledge the reasonableness and attainability of the schedule.

2.07 *Preliminary Conference*

- A. Within 20 days after the Contract Times start to run, a conference attended by Seller, Buyer, Engineer and others as appropriate will be held to establish a working understanding among the parties as to the Goods and Special Services and to discuss the schedule referred to in Paragraph 2.06.A, procedures for handling Shop Drawings and other submittals, processing Applications for Payment, and maintaining required records.

2.08 *Safety*

- A. Buyer and Seller shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss. When Seller's personnel, or the personnel of any subcontractor to Seller, are present at the Point of Destination or any work area or site controlled by Buyer, the Seller shall be responsible for the compliance by such personnel with any applicable requirements of Buyer's safety programs that are made known to Seller.

**ARTICLE 3 - CONTRACT DOCUMENTS: INTENT AND AMENDING**

3.01 *Intent*

- A. The Contract Documents are complementary; what is called for by one is as binding as if called for by all.
- B. Any labor, documentation, services, materials, or equipment that may reasonably be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce or furnish the indicated Goods and Special Services will be provided, whether or not specifically called for, at no additional cost to Buyer.
- C. Clarifications and interpretations of, or notifications of minor variations and deviations in, the Contract Documents, will be issued by Engineer as provided in Article 9.

3.02 *Standards, Specifications, Codes, Laws and Regulations*

- A. Reference to standards, specifications, manuals, or codes of any technical society, organization, or association, or to Laws and Regulations, whether such reference be specific or by implication, shall mean the standard, specification, manual, code, or Laws and Regulations in effect at the time of opening of Bids (or on the Effective Date of the Agreement if there were no Bids), except as may be otherwise specifically stated in the Contract Documents.
- B. No provision of any such standard, specification, manual or code, or any instruction of a supplier shall be effective to change the duties or responsibilities of Buyer or Engineer, or any of their subcontractors, consultants, agents, or employees from those set forth in the Contract Documents, nor shall any such provision or instruction be effective to assign to Buyer or Engineer, or any of their consultants, agents, or employees any duty or authority to supervise or direct the performance of Seller's obligations or any duty or authority to undertake responsibility inconsistent with the provisions of the Contract Documents.

3.03 *Reporting and Resolving Discrepancies*

A. *Reporting Discrepancies:*

- 1. *Seller's Review of Contract Documents Before the Performance of the Contract:* Before performance of the Contract, Seller shall carefully study and compare the Contract Documents and check and verify pertinent figures therein and all applicable field measurements. Seller shall promptly report in writing to Engineer any conflict, error, ambiguity, or discrepancy which Seller discovers or has actual knowledge of and shall obtain a written interpretation or clarification from Engineer before proceeding with the furnishing of any Goods and Special Services affected thereby.
- 2. *Seller's Review of Contract Documents During the Performance of the Contract:* If, during the performance of the Contract, Seller discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents or between the Contract Documents and any provision of

any Law or Regulation applicable to the performance of the Contract, any standard, specification, manual or code, or of any instruction of any Supplier, Seller shall promptly report it to Engineer in writing. Seller shall not proceed with the furnishing of the Goods and Special Services affected thereby until an amendment to or clarification of the Contract Documents has been issued.

- 3. Seller shall not be liable to Buyer or Engineer for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless Seller had actual knowledge thereof.

- B. *Resolving Discrepancies:* Except as may be otherwise specifically stated in the Contract Documents, the provisions of the Contract Documents shall take precedence in resolving any conflict, error, ambiguity, or discrepancy between the provisions of the Contract Documents and:

- 1. the provisions of any standard, specification, manual, code, or instruction (whether or not specifically incorporated by reference in the Contract Documents); or
- 2. the provisions of any Laws or Regulations applicable to the furnishing of the Goods and Special Services (unless such an interpretation of the provisions of the Contract Documents would result in violation of such Law or Regulation).

3.04 *Amending and Clarifying Contract Documents*

- A. The Contract Documents may be amended to provide for additions, deletions, and revisions to the Goods and Special Services or to modify contractual terms and conditions by a Change Order.
- B. Buyer may issue a Work Change Directive providing for additions, deletions, or revisions to the Goods and Special Services, in which case (1) the Contract Price shall be equitably adjusted to account for any reasonable and necessary credits to Buyer for any such deletion, or for costs (including reasonable overhead and profit) incurred by Seller to accommodate such an addition or revision and (2) the Contract Times shall be equitably adjusted to account for any impact on progress and completion of performance. Such adjustments

subsequently shall be duly set forth in a Change Order.

- C. The requirements of the Contract Documents may be supplemented, and minor variations and deviations in the Goods and Special Services may be authorized, by one or more of the following ways:

1. A Field Order;
2. Engineer's approval of a Shop Drawing or Sample (subject to the provisions of Paragraph 5.06.D.3); or
3. Engineer's written interpretation or clarification.

#### **ARTICLE 4 - BONDS AND INSURANCE**

##### **4.01 Bonds**

- A. Seller shall furnish to Buyer performance and payment bonds, each in an amount at least equal to the Contract Price, as security for the faithful performance and payment of all of Seller's obligations under the Contract Documents. These bonds shall remain in effect until 1) one year after the date when final payment becomes due or 2) completion of the correction period specified in Paragraph 8.03, whichever is later, except as provided otherwise by Laws or Regulations or by the Contract Documents. Seller shall also furnish such other bonds as are required by the Contract Documents.
- B. All bonds shall be in the form prescribed by the Contract Documents except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. All bonds signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual's authority to bind the surety. The evidence of authority shall show that it is effective on the date the agent or attorney-in-fact signed each bond.
- C. If the surety on any bond furnished by Seller is declared bankrupt or becomes insolvent or its right to do business is terminated in any state where any part of the Project is located or it ceases to meet the

requirements of Paragraph 4.01.B, Seller shall promptly notify Buyer and Engineer and shall, within 20 days after the event giving rise to such notification, provide another bond and surety, both of which shall comply with the requirements of Paragraphs 4.01.B and 4.02.

##### **4.02 Insurance**

- A. Seller shall provide insurance of the types and coverages and in the amounts stipulated in the Supplementary Conditions.
- B. Failure of Buyer to demand certificates of insurance or other evidence of Seller's full compliance with these insurance requirements or failure of Buyer to identify a deficiency in compliance from the evidence provided shall not be construed as a waiver of Seller's obligation to maintain such insurance.
- C. Upon assignment of this Contract, Seller shall comply with the written request of assignee to provide certificates of insurance to assignee.
- D. Buyer does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect Seller.
- E. The insurance and insurance limits required herein shall not be deemed as a limitation on Seller's liability under the indemnities granted to Buyer in the Contract Documents.

##### **4.03 Licensed Sureties and Insurers**

- A. All bonds and insurance required by the Contract Documents to be purchased and maintained by Buyer or Seller shall be obtained from surety or insurance companies that are duly licensed or authorized in the jurisdiction in which the Project is located to issue bonds or insurance policies for the limits and coverages so required. Such surety and insurance companies shall also meet such additional requirements and qualifications as may be provided in the Supplementary Conditions.

#### **ARTICLE 5 - SELLER'S RESPONSIBILITIES**

##### **5.01 Supervision and Superintendence**

- A. Seller shall supervise, inspect, and direct the furnishing of the Goods and Special Services competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform its

obligations in accordance with the Contract Documents. Seller shall be solely responsible for the means, methods, techniques, sequences, and procedures necessary to perform its obligations in accordance with the Contract Documents. Seller shall not be responsible for the negligence of Buyer or Engineer in the design or specification of a specific means, method, technique, sequence, or procedure that is shown or indicated in and expressly required by the Contract Documents.

#### 5.02 *Labor, Materials and Equipment*

- A. Seller shall provide competent, qualified and trained personnel in all aspects of its performance of the Contract.
- B. All Goods, and all equipment and material incorporated into the Goods, shall be as specified, and unless specified otherwise in the Contract Documents, shall be:
  - 1. new, and of good quality;
  - 2. protected, assembled, connected, cleaned, and conditioned in accordance with the original manufacturer's instructions; and
  - 3. shop assembled to the greatest extent practicable.

#### 5.03 *Laws and Regulations*

- A. Seller shall give all notices required by and shall comply with all Laws and Regulations applicable to the performance of its obligations in accordance with the Contract Documents. Except where otherwise expressly required by such Laws and Regulations, neither Buyer nor Engineer shall be responsible for monitoring Seller's compliance with any Laws or Regulations.
- B. If Seller furnishes Goods and Special Services knowing or having reason to know that such furnishing is contrary to Laws or Regulations, Seller shall bear all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such performance. It shall not be Seller's responsibility to make certain that the Specifications and Drawings are in accordance with Laws and Regulations, but this provision shall not relieve Seller of Seller's obligations under Paragraph 3.03.

- C. Changes in Laws or Regulations not known at the time of opening of Bids (or, on the Effective Date of the Agreement if there were no Bids) having an effect on the cost or time of performance shall be the subject of an adjustment in Contract Price or Contract Times. If Buyer and Seller are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment, a Claim may be made therefor as provided in Paragraph 9.06.

#### 5.04 *Or Equals*

- A. Whenever the Goods, or an item of material or equipment to be incorporated into the Goods, are specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular supplier or manufacturer, the specification or description is intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or is followed by words reading that no like, equivalent, or "or-equal" item is permitted, other items of material or equipment or material or equipment of other suppliers or manufacturers may be submitted to Buyer for Engineer's review.
  - 1. If in Engineer's sole discretion, such an item of material or equipment proposed by Seller is functionally equal to that named and sufficiently similar so that no change in related work will be required, it may be considered by Engineer as an "or-equal" item.
  - 2. For the purposes of this paragraph, a proposed item of material or equipment may be considered functionally equal to an item so named only if:
    - a. in the exercise of reasonable judgment, Engineer determines that:
      - 1) it is at least equal in quality, durability, appearance, strength, and design characteristics; 2) it will reliably perform at least equally well the function imposed by the design concept of the completed Project as a functioning whole; 3) it has an acceptable record of performance and availability of responsive service; and
    - b. Seller certifies that if approved: 1) there will be no increase in any cost, including capital, installation or operating costs, to Buyer; and 2) the proposed item will conform

substantially to the detailed requirements of the item named in the Contract Documents.

- B. *Engineer's Evaluation:* Engineer will be allowed a reasonable time within which to evaluate each proposal or submittal made pursuant to Paragraph 5.04.A. Engineer will be the sole judge of whether to accept or reject such a proposal or submittal. No "or-equal" will be ordered, manufactured or utilized until Engineer's review is complete, which will be evidenced by an approved Shop Drawing. Engineer will advise Buyer and Seller in writing of any negative determination. Notwithstanding Engineer's approval of an "or-equal" item, Seller shall remain obligated to comply with the requirements of the Contract Documents.
- C. *Special Guarantee:* Buyer may require Seller to furnish at Seller's expense a special performance guarantee or other surety with respect to any such proposed "or-equal."
- D. *Data:* Seller shall provide all data in support of any such proposed "or-equal" at Seller's expense.

#### 5.05 *Taxes*

- A. Seller shall be responsible for all taxes and duties arising out of the sale of the Goods and the furnishing of Special Services. All taxes are included in the Contract Price, except as noted in the Supplementary Conditions.

#### 5.06 *Shop Drawings and Samples*

- A. Seller shall submit Shop Drawings and Samples to Buyer for Engineer's review and approval in accordance with the schedule required in Paragraph 2.06.A. All submittals will be identified as required and furnished in the number of copies specified in the Contract Documents. The data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show Engineer the services, materials, and equipment Seller proposes to provide.
- B. Where a Shop Drawing or Sample is required by the Contract Documents, any related work performed prior to Engineer's approval of the pertinent submittal will be at the sole expense and responsibility of Seller.

#### C. *Submittal Procedures:*

1. Before submitting each Shop Drawing or Sample, Seller shall have determined and verified:
  - a. all field measurements (if required), quantities, dimensions, specified performance criteria, installation requirements, materials, catalog numbers, and similar information with respect thereto; and
  - b. that all materials are suitable with respect to the indicated application, fabrication, shipping, handling, storage, assembly, and installation pertaining to the furnishing of Goods and Special Services.
2. Seller shall also have reviewed and coordinated each Shop Drawing or Sample with the Contract Documents.
3. Each submittal shall bear a stamp or include a written certification from Seller that Seller has reviewed the subject submittal and confirmed that it is in compliance with the requirements of the Contract Documents. Both Buyer and Engineer shall be entitled to rely on such certification from Seller.
4. With each submittal, Seller shall give Buyer and Engineer specific written notice of any variations that the Shop Drawing or Sample may have from the requirements of the Contract Documents. This notice shall be both in a written communication separate from the submittal and by specific notation on each Shop Drawing or Sample.

#### D. *Engineer's Review:*

1. Engineer will provide timely review of Shop Drawings and Samples.
2. Engineer's review and approval will be only to determine if the Goods and Special Services covered by the submittals will, after installation or incorporation in the Project, conform to the information given in the Contract Documents and be compatible with the design concept of the completed Project as a functioning whole.

3. Engineer's review and approval shall not relieve Seller from responsibility for any variation from the requirements of the Contract Documents unless Seller has complied with the requirements of Paragraph 5.06.C.4 and Engineer has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample. Engineer's review and approval shall not relieve Seller from responsibility for complying with the requirements of Paragraph 5.06.C.1.

E. *Resubmittal Procedures:*

1. Seller shall make corrections required by Engineer and shall return the required number of corrected copies of Shop Drawings and submit, as required, new Samples for review and approval. Seller shall direct specific attention in writing to any revisions other than the corrections called for by Engineer on previous submittals.

5.07 *Continuing Performance*

- A. Seller shall adhere to the progress schedule established in accordance with Paragraph 2.06.A., and the Goods shall be delivered and the Special Services furnished within the Contract Times specified in the Agreement.
- B. Seller shall carry on furnishing of the Goods and Special Services and adhere to the progress schedule during all disputes or disagreements with Buyer. No furnishing of Goods and Special Services shall be delayed or postponed pending resolution of any disputes or disagreements, except as permitted by Paragraphs 11.03 or 11.04, or as Buyer and Seller may otherwise agree in writing.

5.08 *Seller's Warranties and Guarantees*

- A. Seller warrants and guarantees to Buyer that the title to the Goods conveyed shall be proper, its transfer rightful, and free from any security interest, lien, or other encumbrance. Seller shall defend, indemnify, and hold Buyer harmless against any liens, claims, or demands contesting or affecting title of the Goods conveyed.
- B. Seller warrants and guarantees to Buyer that all Goods and Special Services will conform with the

Contract Documents, and with the standards established by any Samples approved by Engineer. Engineer shall be entitled to rely on Seller's warranty and guarantee. If the Contract Documents do not otherwise specify the characteristics or the quality of the Goods, the Goods shall comply with the requirements of Paragraph 5.02.B.

- C. Seller's warranty and guarantee hereunder excludes defects or damage caused by:

1. abuse, improper modification, improper maintenance, or improper operation by persons other than Seller; or
2. corrosion or chemical attack, unless corrosive or chemically-damaging conditions were disclosed by Buyer in the Contract Documents and the Contract Documents required the Goods to withstand such conditions;
3. use in a manner contrary to Seller's written instructions for installation, operation, and maintenance; or
4. normal wear and tear under normal usage.

- D. Seller's obligation to furnish the Goods and Special Services in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of Goods and Special Services that are non-conforming, or a release of Seller's obligation to furnish the Goods and Special Services in accordance with the Contract Documents:

1. observations by Buyer or Engineer;
2. recommendation by Engineer or payment by Buyer of any progress or final payment;
3. use of the Goods by Buyer;
4. any acceptance by Buyer (subject to the provisions of Paragraph 8.02.D.1) or any failure to do so;
5. the issuance of a notice of acceptance by Buyer pursuant to the provisions of Article 8;
6. any inspection, test or approval by others; or

7. any correction of non-conforming Goods and Special Services by Buyer.

- E. Buyer shall promptly notify Seller of any breach of Seller's warranties or guarantees.
- F. Seller makes no implied warranties under this Contract.

#### 5.09 Indemnification

- A. To the fullest extent permitted by Laws and Regulations, Seller shall indemnify and hold harmless Buyer and Engineer, and the officers, directors, members, partners, employees, agents, consultants, contractors, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the performance of Seller's obligations under the Contract Documents, provided that any such claim, cost, loss, or damages attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Goods themselves), including the loss of use resulting therefrom, but only to the extent caused by any negligent act or omission of Seller, or any individual or entity directly or indirectly employed by Seller or anyone for whose acts Seller may be liable.
- B. In any and all claims against Buyer or Engineer or any of their respective assignees, consultants, agents, officers, directors, members, partners, employees, agents, consultants, contractors, or subcontractors, by any employee (or the survivor or personal representative of such employee) of Seller, any subcontractor, any supplier, or any individual or entity directly or indirectly employed by any of them to furnish any of the Goods and Special Services, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 5.09.A shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for seller or any such subcontractor, supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.
- C. The indemnification obligations of Seller under Paragraph 5.09.A shall not extend to the liability of Engineer and Engineer's officers, directors,

partners, employees, agents, and consultants arising out of:

- 1. the preparation or approval of, or the failure to prepare or approve, maps, Drawings, opinions, reports, surveys, Change Orders, designs, or Specifications; or
- 2. giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage.

#### 5.10 Delegation of Professional Design Services

- A. Seller will not be required to provide professional design services unless such services are specifically required by the Contract Documents or unless such services are required to carry out Seller's responsibilities for furnishing the Goods and Special Services. Seller shall not be required to provide professional services in violation of applicable law.
- B. If professional design services or certifications by a design professional related to the Goods and Special Services are specifically required of Seller by the Contract Documents, Buyer and Engineer will specify all performance and design criteria that such services must satisfy. Seller shall cause such services or certifications to be provided by a properly licensed professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings and other submittals prepared by such professional. Shop Drawings and other submittals related to the Goods and Special Services designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to Engineer.
- C. Buyer and Engineer shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals, provided Buyer and Engineer have specified to Seller all performance and design criteria that such services must satisfy.
- D. Pursuant to this Paragraph 5.10, Engineer's review and approval of design calculations and design drawings will be only for the limited purpose of checking for conformance with performance and design criteria given and the design concept expressed in the Contract Documents. Engineer's review and approval of Shop Drawings and other submittals (except design calculations and design



drawings) will be only for the purpose stated in Paragraph 5.06.D.2.

- E. Seller shall not be responsible for the adequacy of the performance or design criteria required by the Contract Documents.

## ARTICLE 6 - SHIPPING AND DELIVERY

### 6.01 *Shipping*

- A. Seller shall select the carrier and bear all costs of packaging, transportation, insurance, special handling and any other costs associated with shipment and delivery.

### 6.02 *Delivery*

- A. Seller shall deliver the Goods F.O.B. the Point of Destination in accordance with the Contract Times set forth in the Agreement, or other date agreed to by Buyer and Seller.
- B. Seller shall provide written notice to Buyer at least 10 days before shipment of the manner of shipment and the anticipated delivery date. The notice shall also include any instructions concerning special equipment or services required at the Point of Destination to unload and care for the Goods. Seller shall also require the carrier to give Buyer at least 24 hours' notice by telephone prior to the anticipated time of delivery.
- C. Buyer will be responsible and bear all costs for unloading the Goods from carrier.
- D. Buyer will assure that adequate facilities are available to receive delivery of the Goods during the Contract Times for delivery set forth in the Agreement, or another date agreed by Buyer and Seller.
- E. No partial deliveries shall be allowed, unless permitted or required by the Contract Documents or agreed to in writing by Buyer.

### 6.03 *Risk of Loss*

- A. Risk of loss and insurable interests transfer from Seller to Buyer upon Buyer's receipt of the Goods.
- B. Notwithstanding the provisions of Paragraph 6.03.A, if Buyer rejects the Goods as non-conforming, the risk of loss on such Goods shall remain with Seller until Seller corrects the non-conformity or Buyer accepts the Goods. If rejected

Goods remain at the Point of Destination pending modification and acceptance, then Seller shall be responsible for arranging adequate protection and maintenance of the Goods at Seller's expense.

### 6.04 *Progress Schedule*

- A. Seller shall adhere to the progress schedule established in accordance with Paragraph 2.06 as it may be adjusted from time to time as provided below.
  - 1. Seller shall submit to Engineer for acceptance (to the extent indicated in Paragraph 2.06) proposed adjustments in the progress schedule that will not result in changing the Contract Times. Such adjustments will comply with any provisions of the General Requirements applicable thereto.
  - 2. Proposed adjustments in the progress schedule that will change the Contract Times shall be submitted in accordance with the requirements of Article 7. Adjustments in Contract Times may only be made by a Change Order.

## ARTICLE 7 - CHANGES: SCHEDULE AND DELAY

### 7.01 *Changes in the Goods and Special Services*

- A. Buyer may at any time, without notice to any surety, make an addition, deletion, or other revision to the Contract Documents with respect to the Goods and Services, within the general scope of the Contract, by a Change Order or Work Change Directive. Upon receipt of any such document, Seller shall promptly proceed with performance pursuant to the revised Contract Documents (except as otherwise specifically provided).
- B. If Seller concludes that a Work Change Directive issued by Buyer affects the Contract Price or Contract Times, then Seller shall notify Buyer within 15 days after Seller has received the Work Change Directive, and submit written supporting data to Buyer within 45 days after such receipt. If Seller fails to notify Buyer within 15 days, Seller waives any Claim for such adjustment. If Buyer and Seller are unable to agree on entitlement to, or on the amount or extent, if any, of an adjustment in the Contract Price or Contract Times, or both, that should be allowed as a result of a Work Change Directive, a Claim may be made therefor as provided in Paragraph 9.06.

- C. Seller shall not suspend performance while Buyer and Seller are in the process of making such changes and any related adjustments to Contract Price or Contract Times.

#### 7.02 *Changing Contract Price or Contract Times*

- A. The Contract Price or Contract Times may only be changed by a Change Order.
- B. Any Claim for an adjustment in the Contract Price or Contract Times shall be based on written notice submitted by the party making the Claim to the Engineer and the other party to the Contract in accordance with the provisions of Paragraph 9.06.
- C. If Seller is prevented from delivering the Goods or performing the Special Services within the Contract Times for any unforeseen reason beyond its control and not attributable to its actions or inactions, then Seller shall be entitled to an adjustment of the Contract Times to the extent attributable to such reason. Such reasons include but are not limited to acts or neglect by Buyer, inspection delays, fires, floods, epidemics, abnormal weather conditions, acts of God, and other like matters. If such an event occurs and delays Seller's performance, Seller shall notify Buyer in writing within 15 days of knowing or having reason to know of the beginning of the event causing the delay, stating the reason therefor.
- D. Seller shall not be entitled to an adjustment in Contract Price or Contract Times for delays within the control of Seller. Delays attributable to and within the control of Seller's subcontractors or suppliers shall be deemed to be delays within the control of Seller.
- E. If Seller is prevented from delivering the Goods or furnishing the Special Services within the Contract Times due to the actions or inactions of Buyer, Seller shall be entitled to any reasonable and necessary additional costs arising out of such delay to the extent directly attributable to Buyer.
- F. Neither Buyer nor Seller shall be entitled to any damages arising from delays which are beyond the control of both Buyer and Seller, including but not limited to fires, floods, epidemics, abnormal weather conditions, acts of God, and other like matters.

## ARTICLE 8 - BUYER'S RIGHTS

### 8.01 *Inspections and Testing*

#### A. General:

1. The Contract Documents specify required inspections and tests. Buyer shall have the right to perform, or cause to be performed, reasonable inspections and require reasonable tests of the Goods at Seller's facility, and at the Point of Destination. Seller shall allow Buyer a reasonable time to perform such inspections or tests.
2. Seller shall reimburse Buyer for all expenses, except for travel, lodging, and subsistence expenses of Buyer's and Engineer's representatives, for inspections and tests specified in the Contract Documents. If as the result of any such specified testing the Goods are determined to be non-conforming, then Seller shall also bear the travel, lodging, and subsistence expenses of Buyer's and Engineer's representatives, and all expenses of re-inspection or retesting.
3. Buyer shall bear all expenses of inspections and tests that are not specified in the Contract Documents (other than any re-inspection or retesting resulting from a determination of non-conformity, as set forth in Paragraph 8.01.A.2 immediately above); provided, however, that if as the result of any such non-specified inspections or testing the Goods are determined to be non-conforming, then Seller shall bear all expenses of such inspections and testing, and of any necessary re-inspection and retesting.
4. Seller shall provide Buyer timely written notice of the readiness of the Goods for all inspections, tests, or approvals which the Contract Documents specify are to be observed by Buyer prior to shipment.
5. Buyer will give Seller timely notice of all specified tests, inspections, and approvals of the Goods which are to be conducted at the Point of Destination.
6. If, on the basis of any inspections or testing, the Goods appear to be conforming, Buyer will give Seller prompt

notice thereof. If on the basis of said inspections or testing, the Goods appear to be non-conforming, Buyer will give Seller prompt notice thereof and will advise Seller of the remedy Buyer elects under the provisions of Paragraph 8.02.

7. Neither payments made by Buyer to Seller prior to any tests or inspections, nor any tests or inspections shall constitute acceptance of non-conforming Goods, or prejudice Buyer's rights under the Contract.

B. Inspection on Delivery:

1. Buyer or Engineer will visually inspect the Goods upon delivery solely for purposes of identifying the Goods and general verification of quantities and observation of apparent condition in order to provide a basis for a progress payment. Such visual inspection will not be construed as final or as receipt of any Goods and Special Services that, as a result of subsequent inspections and tests, are determined to be non-conforming.
2. Within ten days of such visual inspection, Buyer shall provide Seller with written notice of Buyer's determination regarding conformity of the Goods. In the event Buyer does not provide such notice, it will be presumed that the Goods appear to be conforming and that Buyer has acknowledged their receipt upon delivery.
3. If, on the basis of the visual inspection specified in Paragraph 8.01.B.1, the Goods appear to be conforming, Buyer's notice thereof to Seller will acknowledge receipt of the Goods.

C. Final Inspection:

1. After all of the Goods have been incorporated into the Project, tested in accordance with such testing requirements as are specified, and are functioning as indicated, Buyer or Engineer will make a final inspection.
2. If, on the basis of the final inspection, the Goods are conforming, Buyer's notice thereof will constitute Buyer's acceptance of the Goods.

3. If, on the basis of the final inspection, the Goods are non-conforming, Buyer will identify the non-conformity in writing.

8.02 *Non-Conforming Goods and Special Services*

- A. If, on the basis of inspections and testing prior to delivery, the Goods and Special Services are found to be non-conforming, or if at any time after Buyer has acknowledged receipt of delivery and before the expiration of the correction period described in Paragraph 8.03, Buyer determines that the Goods and Special Services are non-conforming, then Seller shall promptly, without cost to Buyer and in response to written instructions from Buyer, either correct such non-conforming Goods and Special Services, or, if Goods are rejected by Buyer, remove and replace the non-conforming Goods with conforming Goods, including all work required for reinstallation.

B. Buyer's Rejection of Non-Conforming Goods:

1. If Buyer elects to reject the Goods in whole or in part, Buyer's notice to Seller will describe in sufficient detail the non-conforming aspect of the Goods. If Goods have been delivered to Buyer, Seller shall promptly, and within the Contract Times, remove and replace the rejected Goods.
2. Seller shall bear all costs, losses and damages attributable to the removal and replacement of the non-conforming Goods as provided in Paragraph 8.02.E.
3. Upon rejection of the Goods, Buyer retains a security interest in the Goods to the extent of any payments made and expenses incurred in their testing and inspection.

C. Remedying Non-Conforming Goods and Special Services:

1. If Buyer elects to permit the Seller to modify the Goods to correct the non-conformance, then Seller shall promptly provide a schedule for such modifications and shall make the Goods conforming within a reasonable time.
2. If Buyer notifies Seller in writing that any of the Special Services are non-conforming, Seller shall promptly provide conforming services acceptable to Buyer.

If Seller fails to do so, Buyer may delete the Special Services and reduce the Contract Price a commensurate amount.

D. *Buyer's Acceptance of Non-Conforming Goods:*

1. Instead of requiring correction or removal and replacement of non-conforming Goods discovered either before or after final payment, Buyer may accept the non-conforming Goods. Seller shall bear all reasonable costs, losses, and damages attributable to Buyer's evaluation of and determination to accept such non-conforming Goods as provided in Paragraph 8.02.E.

- E. Seller shall pay all claims, costs, losses, and damages, including but not limited to all fees and charges for re-inspection, retesting and for any engineers, architects, attorneys and other professionals, and all court or arbitration or other dispute resolution costs arising out of or relating to the non-conforming Goods and Special Services. Seller's obligations shall include the costs of the correction or removal and replacement of the non-conforming Goods and the replacement of property of Buyer and others destroyed by the correction or removal and replacement of the non-conforming Goods, and obtaining conforming Special Services from others.

F. *Buyer's Rejection of Conforming Goods:*

1. If Buyer asserts that Goods and Special Services are non-conforming and such Goods and Special Services are determined to be conforming, or if Buyer rejects as non-conforming Goods and Special Services that are later determined to be conforming, then Seller shall be entitled to reimbursement from Buyer of costs incurred by Seller in inspecting, testing, correcting, removing, or replacing the conforming Goods and Special Services, including but not limited to fees and charges of engineers, architects, attorneys and other professionals, and all court or arbitration or other dispute resolution costs associated with the incorrect assertion of non-conformance or rejection of conforming Goods and Special Services.

8.03 *Correction Period*

- A. Seller's responsibility for correcting all non-conformities in the Goods and Special Services will extend for a period of one year after the earlier of the date on which Buyer has placed the Goods in continuous service or the date of final payment, or for such longer period of time as may be prescribed by Laws or Regulations or by the terms of any specific provisions of the Contract Documents.

**ARTICLE 9 - ROLE OF ENGINEER**

9.01 *Duties and Responsibilities*

- A. The duties and responsibilities and the limitations of authority of Engineer are set forth in the Contract Documents.

9.02 *Clarifications and Interpretations*

- A. Engineer will issue with reasonable promptness such written clarifications or interpretations of the Contract Documents as Engineer may determine necessary, which shall be consistent with or reasonably inferable from the overall intent of the Contract Documents. Such written clarifications and interpretations will be binding on Buyer and Seller. If either Buyer or Seller believes that a written clarification or interpretation justifies an adjustment in the Contract Price or Contract Times, either may make a Claim therefor.

9.03 *Authorized Variations*

- A. Engineer may authorize minor deviations or variations in the Contract Documents by: 1) written approval of specific variations set forth in Shop Drawings when Seller has duly noted such variations as required in Paragraph 5.06.C.4, or 2) a Field Order.

9.04 *Rejecting Non-Conforming Goods and Special Services*

- A. Engineer will have the authority to disapprove or reject Goods and Special Services that Engineer believes to be non-conforming. Engineer will also have authority to require special inspection or testing of the Goods or Special Services as provided in Paragraph 8.01 whether or not the Goods are fabricated or installed, or the Special Services are completed.

#### 9.05 *Decisions on Requirements of Contract Documents*

- A. Engineer will be the initial interpreter of the Contract Documents and judge of the acceptability of the Goods and Special Services. Claims, disputes and other matters relating to the acceptability of the Goods and Special Services or the interpretation of the requirements of the Contract Documents pertaining to Seller's performance will be referred initially to Engineer in writing with a request for a formal decision in accordance with this paragraph.
- B. When functioning as interpreter and judge under this Paragraph 9.05, Engineer will not show partiality to Buyer or Seller and will not be liable in connection with any interpretation or decision rendered in good faith in such capacity. The rendering of a decision by Engineer pursuant to this Paragraph 9.05 with respect to any such Claim, dispute, or other matter (except any which have been waived by the making or acceptance of final payment as provided in Paragraph 10.07) will be a condition precedent to any exercise by Buyer or Seller of such rights or remedies as either may otherwise have under the Contract Documents or by Laws or Regulations in respect of any such Claim, dispute, or other matter.

#### 9.06 *Claims and Disputes*

- A. *Notice:* Written notice of each Claim relating to the acceptability of the Goods and Special Services or the interpretation of the requirements of the Contract Documents pertaining to either party's performance shall be delivered by the claimant to Engineer and the other party to the Agreement within 15 days after the occurrence of the event giving rise thereto, and written supporting data shall be submitted to Engineer and the other party within 45 days after such occurrence unless Engineer allows an additional period of time to ascertain more accurate data.
- B. *Engineer's Decision:* Engineer will review each such Claim and render a decision in writing within 30 days after receipt of the last submittal of the claimant or the last submittal of the opposing party, if any.
- C. If Engineer does not render a formal written decision on a Claim within the time stated in Paragraph 9.06.B., Engineer shall be deemed to have issued a decision denying the Claim in its entirety 31 days after receipt of the last submittal of

the claimant or the last submittal of the opposing party, if any.

- D. Engineer's written decision on such Claim or a decision denying the Claim in its entirety that is deemed to have been issued pursuant to Paragraph 9.06.C, will be final and binding upon Buyer and Seller 30 days after it is issued unless within 30 days of issuance Buyer or Seller appeals Engineer's decision by initiating the mediation of such Claim in accordance with the dispute resolution procedures set forth in Article 13.
- E. If Article 13 has been amended to delete the mediation requirement, then Buyer or Seller may appeal Engineer's decision within 30 days of issuance by following the alternative dispute resolution process set forth in Article 13, as amended; or if no such alternative dispute resolution process has been set forth, Buyer or Seller may appeal Engineer's decision by 1) delivering to the other party within 30 days of the date of such decision a written notice of intent to submit the Claim to a court of competent jurisdiction, and 2) within 60 days after the date of such decision instituting a formal proceeding in a court of competent jurisdiction.
- F. No Claim for an adjustment in Contract Price or Contract Times will be valid if not submitted in accordance with this Paragraph 9.06.
- G. The parties agree to endeavor to avoid or resolve Claims through direct, good faith discussions and negotiations whenever practicable. Such discussions and negotiations should at the outset address whether the parties mutually agree to suspend the time periods established in this Paragraph 9.06; if so, a written record of such mutual agreement should be made and jointly executed.

### ARTICLE 10 - PAYMENT

#### 10.01 *Applications for Progress Payments*

- A. Seller shall submit to Buyer for Engineer's review Applications for Payment filled out and signed by Seller and accompanied by such supporting documentation as is required by the Contract Documents and also as Buyer or Engineer may reasonably require. The timing and amounts of progress payments shall be as stipulated in the Agreement.

1. The first application for Payment will be submitted after review and approval by Engineer of all Shop Drawings and of all Samples required by the Contract Documents.
2. The second Application for Payment will be submitted after receipt of the Goods has been acknowledged in accordance with Paragraph 8.01.B and will be accompanied by a bill of sale, invoice, or other documentation reasonably satisfactory to Buyer warranting that Buyer has rightfully received good title to the Goods from Seller and that, upon payment, the Goods will be free and clear of all liens. Such documentation will include releases and waivers from all parties with viable lien rights. In the case of multiple deliveries of Goods, additional Applications for Payment accompanied by the required documentation will be submitted as Buyer acknowledges receipt of additional items of the Goods.

#### 10.02 *Review of Applications for Progress Payments*

- A. Engineer will, within ten days after receipt of each Application for Payment, either indicate in writing a recommendation of payment and present the Application to Buyer, or return the Application to Seller indicating in writing Engineer's reasons for refusing to recommend payment. In the latter case, Seller may make the necessary corrections and resubmit the Application.

1. Engineer's recommendation of payment requested in the first Application for Payment will constitute a representation by Engineer, based on Engineer's review of the Application for Payment and the accompanying data, that the Shop Drawings and Samples have been reviewed and approved as required by the Contract Documents and Seller is entitled to payment of the amount recommended.
2. Engineer's recommendation of payment requested in the Application for Payment submitted upon Buyer's acknowledgment of receipt of the Goods will constitute a representation by Engineer, based on Engineer's review of the Application for Payment and the accompanying data Seller is entitled to payment of the amount recommended. Such recommendation

will not constitute a representation that Engineer has made a final inspection of the Goods, that the Goods are free from non-conformities, acceptable or in conformance with the Contract Documents, that Engineer has made any investigation as to Buyer's title to the Goods, that exhaustive or continuous inspections have been made to check the quality or the quantity of the Goods beyond the responsibilities specifically assigned to Engineer in the Contract Documents or that there may not be other matters or issues between the parties that might entitle Seller to additional payments by Buyer or Buyer to withhold payment to Seller.

3. Engineer may refuse to recommend that all or any part of a progress payment be made, or Engineer may nullify all or any part of any payment previously recommended if, in Engineer's opinion, such recommendation would be incorrect or if on the basis of subsequently discovered evidence or subsequent inspections or tests Engineer considers such refusal or nullification necessary to protect Buyer from loss because the Contract Price has been reduced, Goods are found to be non-conforming, or Seller has failed to furnish acceptable Special Services.

#### 10.03 *Amount and Timing of Progress Payments*

- A. Subject to Paragraph 10.02.A., the amounts of the progress payments will be as provided in the Agreement. Buyer shall within 30 days after receipt of each Application for Payment with Engineer's recommendation pay Seller the amount recommended; but, in the case of the Application for Payment upon Buyer's acknowledgment of receipt of the Goods, said 30-day period may be extended for so long as is necessary (but in no event more than 60 days) for Buyer to examine the bill of sale and other documentation submitted therewith. Buyer shall notify Seller promptly of any deficiency in the documentation and shall not unreasonably withhold payment.

#### 10.04 *Suspension of or Reduction in Payment*

- A. Buyer may suspend or reduce the amount of progress payments, even though recommended for

payment by Engineer, under the following circumstances:

1. Buyer has reasonable grounds to conclude that Seller will not furnish the Goods or the Special Services in accordance with the Contract Documents, and
2. Buyer has requested in writing assurances from Seller that the Goods and Special Services will be delivered or furnished in accordance with the Contract Documents, and Seller has failed to provide adequate assurances within ten days of Buyer's written request.

- B. If Buyer refuses to make payment of the full amount recommended by Engineer, Buyer will provide Seller and Engineer immediate written notice stating the reason for such action and promptly pay Seller any amount remaining after deduction of the amount withheld. Buyer shall promptly pay Seller the amount withheld when Seller corrects the reason for such action to Buyer's satisfaction.

#### 10.05 *Final Application for Payment*

- A. After Seller has corrected all non-conformities to the reasonable satisfaction of Buyer and Engineer, furnished all Special Services, and delivered all documents required by the Contract Documents, Engineer will issue to Buyer and Seller a notice of acceptance. Seller may then make application for final payment following the procedure for progress payments. The final Application for Payment will be accompanied by all documentation called for in the Contract Documents, a list of all unsettled Claims, and such other data and information as Buyer or Engineer may reasonably require.

#### 10.06 *Final Payment*

- A. If, on the basis of final inspection and the review of the final Application for Payment and accompanying documentation, Engineer is reasonably satisfied that Seller has furnished the Goods and Special Services in accordance with the Contract Documents, and that Seller's has fulfilled all other obligations under the Contract Documents, then Engineer will, within ten days after receipt of the final Application for Payment, recommend in writing final payment subject to the provisions of Paragraph 10.07 and present the Application to Buyer. Otherwise, Engineer will return the Application to Seller, indicating the

reasons for refusing to recommend final payment, in which case Seller shall make the necessary corrections and resubmit the Application for payment. If the Application and accompanying documentation are appropriate as to form and substance, Buyer shall, within 30 days after receipt thereof, pay Seller the amount recommended by Engineer, less any sum Buyer is entitled to set off against Engineer's recommendation, including but not limited to liquidated damages to which Buyer is entitled.

#### 10.07 *Waiver of Claims*

- A. The making and acceptance of final payment will constitute:
1. a waiver of all Claims by Buyer against Seller, except Claims arising from unsettled liens from non-conformities in the Goods or Special Services appearing after final payment, from Seller's failure to comply with the Contract Documents or the terms of any special guarantees specified therein, or from Seller's continuing obligations under the Contract Documents; and
  2. a waiver of all Claims by Seller against Buyer (other than those previously made in accordance with the requirements herein and listed by Seller as unsettled as required in Paragraph 10.05.A, and not resolved in writing).

### **ARTICLE 11 - CANCELLATION, SUSPENSION, AND TERMINATION**

#### 11.01 *Cancellation*

- A. Buyer has the right to cancel the Contract, without cause, at any time prior to delivery of the Goods by written notice. Cancellation pursuant to the terms of this paragraph shall not constitute a breach of contract by Buyer. Upon cancellation:
1. Buyer shall pay Seller for the direct costs incurred in producing any Goods that Seller has specially manufactured for the Project, plus a fair and reasonable amount for overhead and profit.
  2. For Goods that are not specially manufactured for the Project, Seller shall be entitled to a restocking charge of 10

percent of the unpaid Contract Price of such Goods.

remedies provided by Laws and Regulations.

11.02 *Suspension of Performance by Buyer*

- A. Buyer has the right to suspend performance of the Contract for up to a maximum of ninety days, without cause, by written notice. Upon suspension under this paragraph, Seller shall be entitled to an increase in the Contract Times and Contract Price caused by the suspension, provided that performance would not have been suspended or delayed for causes attributable to Seller.

11.03 *Suspension of Performance by Seller*

- A. Subject to the provisions of Paragraph 5.07.B, Seller may suspend the furnishing of the Goods and Special Services only under the following circumstance:
1. Seller has reasonable grounds to conclude that Buyer will not perform its future payment obligations under the Contract; and,
  2. Seller has requested in writing assurances from Buyer that future payments will be made in accordance with the Contract, and Buyer has failed to provide such assurances within ten days of Seller's written request.

11.04 *Breach and Termination*

A. Buyer's Breach:

1. Buyer shall be deemed in breach of the Contract if it fails to comply with any material provision of the Contract Documents, including but not limited to:
  - a. wrongful rejection or revocation of Buyer's acceptance of the Goods,
  - b. failure to make payments in accordance with the Contract Documents, or
  - c. wrongful repudiation of the Contract.
2. Seller shall have the right to terminate the Contract for cause by declaring a breach should Buyer fail to comply with any material provisions of the Contract. Upon termination, Seller shall be entitled to all

- a. In the event Seller believes Buyer is in breach of its obligations under the Contract, Seller shall provide Buyer with reasonably prompt written notice setting forth in sufficient detail the reasons for declaring that it believes a breach has occurred. Buyer shall have seven days from receipt of the written notice declaring the breach (or such longer period of time as Seller may grant in writing) within which to cure or to proceed diligently to cure such alleged breach.

B. Seller's Breach:

1. Seller shall be deemed in breach of the Contract if it fails to comply with any material provision of the Contract Documents, including, but not limited to:
  - a. failure to deliver the Goods or perform the Special Services in accordance with the Contract Documents,
  - b. wrongful repudiation of the Contract, or
  - c. delivery or furnishing of non-conforming Goods and Special Services.
2. Buyer may terminate Seller's right to perform the Contract for cause by declaring a breach should Seller fail to comply with any material provision of the Contract Documents. Upon termination, Buyer shall be entitled to all remedies provided by Laws and Regulations.
  - a. In the event Buyer believes Seller is in breach of its obligations under the Contract, and except as provided in Paragraph 11.04.B.2.b, Buyer shall provide Seller with reasonably prompt written notice setting forth in sufficient detail the reasons for declaring that it believes a breach has occurred. Seller shall have seven days from receipt of the written notice declaring the breach (or such longer period of time as Buyer may grant in



writing) within which to cure or to proceed diligently to cure such alleged breach.

- b. If and to the extent that Seller has provided a performance bond under the provisions of Paragraph 4.01, the notice and cure procedures of that bond, if any, shall supersede the notice and cure procedures of Paragraph 11.04.B.2.a.

## ARTICLE 12 - LICENSES AND FEES

### 12.01 *Intellectual Property and License Fees*

- A. Unless specifically stated elsewhere in the Contract Documents, Seller is not transferring any intellectual property rights, patent rights, or licenses for the Goods delivered. However, in the event the Seller is manufacturing to Buyer's design, Buyer retains all intellectual property rights in such design.
- B. Seller shall pay all license fees and royalties and assume all costs incident to the use or the furnishing of the Goods, unless specified otherwise by the Contract Documents.

### 12.02 *Seller's Infringement*

- A. Subject to Paragraph 12.01.A, Seller shall indemnify and hold harmless Buyer, Engineer and their officers, directors, members, partners, employees, agents, consultants, contractors, and subcontractors from and against all claims, costs, losses, damages, and judgments (including but not limited to all reasonable fees and charges of engineers, architects, attorneys and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement or alleged infringement of any United States or foreign patent or copyright by any of the Goods as delivered hereunder.
- B. In the event of suit or threat of suit for intellectual property infringement, Buyer will promptly notify Seller of receiving notice thereof.
- C. Seller shall promptly defend the claim or suit, including negotiating a settlement. Seller shall have control over such claim or suit, provided that Seller agrees to bear all expenses and to satisfy any adverse judgment thereof.

- 1. If Seller fails to defend such suit or claim after written notice by Buyer, Seller will be bound in any subsequent suit or claim against Seller by Buyer by any factual determination in the prior suit or claim.
- 2. If Buyer fails to provide Seller the opportunity to defend such suit or claim after written notice by Seller, Buyer shall be barred from any remedy against Seller for such suit or claim.

- D. If a determination is made that Seller has infringed upon intellectual property rights of another, Seller may obtain the necessary licenses for Buyer's benefit, or replace the Goods and provide related design and construction as necessary to avoid the infringement at Seller's own expense.

### 12.03 *Buyer's Infringement*

- A. Buyer shall indemnify and hold harmless Seller, and its officers, directors, partners, employees, agents, consultants, contractors, and subcontractors from and against all claims, costs, losses, damages, and judgments (including but not limited to all reasonable fees and charges of engineers, architects, attorneys and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement or alleged infringement of any United States or foreign patent or copyright caused by Seller's compliance with Buyer's design of the Goods or Buyer's use of the Goods in combination with other materials or equipment in any process (unless intent of such use was known to Seller and Seller had reason to know such infringement would result).
- B. In the event of suit or threat of suit for intellectual property infringement, Seller must after receiving notice thereof promptly notify Buyer.
- C. Upon written notice from Seller, Buyer shall be given the opportunity to defend the claim or suit, including negotiating a settlement. Buyer shall have control over such claim or suit, provided that Buyer agrees to bear all expenses and to satisfy any adverse judgment thereof.
  - 1. If Buyer fails to defend such suit or claim after written notice by Seller, Buyer will be bound in any subsequent suit or claim against Buyer by Seller by any factual determination in the prior suit or claim.

2. If Seller fails to provide Buyer the opportunity to defend such suit or claim after written notice by Buyer, Seller shall be barred from any remedy against Buyer for such suit or claim.

#### 12.04 *Reuse of Documents*

- A. Neither Seller nor any other person furnishing any of the Goods and Special Services under a direct or indirect contract with Seller shall: (1) acquire any title to or ownership rights in any of the Drawings, Specifications, or other documents (or copies of any thereof) prepared by or bearing the seal of Engineer or its consultants, including electronic media versions; or (2) reuse any of such Drawings, Specifications, other documents, or copies thereof on any other project without written consent of Buyer and Engineer and specific written verification or adaptation by Engineer. This prohibition will survive termination or completion of the Contract. Nothing herein shall preclude Seller from retaining copies of the Contract Documents for record purposes.

#### 12.05 *Electronic Data*

- A. Unless otherwise stated in the Supplementary Conditions, copies of data furnished by Buyer or Engineer to Seller, or by Seller to Buyer or Engineer that may be relied upon are limited to the printed copies (also known as hard copies). Files in electronic media format of text, data, graphics, or other types are furnished only for the convenience of the receiving party. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.
- B. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within 60 days, after which the receiving party shall be deemed to have accepted the data thus transferred. The transferring party will correct any errors detected within the 60-day acceptance period.
- C. When transferring documents in electronic media format, the transferring party makes no representations as to long term compatibility, usability, or readability of documents resulting from the use of software application packages,

operating systems, or computer hardware differing from those used by the data's creator.

### ARTICLE 13 - DISPUTE RESOLUTION

#### 13.01 *Dispute Resolution Method*

- A. Either Buyer or Seller may initiate the mediation of any Claim decided in writing by Engineer under Paragraph 9.06.B or 9.06.C before such decision becomes final and binding. The mediation will be governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect as of the Effective Date of the Agreement. The request for mediation shall be submitted in writing to the American Arbitration Association and the other party to the Contract. Timely submission of the request shall stay the Engineer's decision from becoming final and binding.
- B. Buyer and Seller shall participate in the mediation process in good faith. The process shall be concluded within 60 days of filing of the request. The date of termination of the mediation shall be determined by application of the mediation rules referenced above.
- C. If the mediation process does not result in resolution of the Claim, then Engineer's written decision under Paragraph 9.06.B or a denial pursuant to Paragraph 9.06.C shall become final and binding 30 days after termination of the mediation unless, within that time period, Buyer or Seller:
  1. elects in writing to invoke any dispute resolution process provided for in the Supplementary Conditions, or
  2. agrees with the other party to submit the Claim to another dispute resolution process, or
  3. if no dispute resolution process has been provided for in the Supplementary Conditions, delivers to the other party written notice of the intent to submit the Claim to a court of competent jurisdiction, and within 60 days of the termination of the mediation institutes such formal proceeding.

## ARTICLE 14 - MISCELLANEOUS

### 14.01 *Giving Notice*

- A. Whenever any provision of the Contract Documents requires the giving of written notice, it will be deemed to have been validly given if: 1) delivered in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended, or 2) if delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the giver of the notice.

### 14.02 *Controlling Law*

- A. This Contract is to be governed by the law of the state in which the Point of Destination is located.
- B. In the case of any conflict between the express terms of this Contract and the Uniform Commercial Code, as adopted in the state whose law governs, it is the intent of the parties that the express terms of this Contract shall apply.

### 14.03 *Computation of Time*

- A. When any period of time is referred to in the Contract Documents by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day shall be omitted from the computation.

### 14.04 *Cumulative Remedies*

- A. The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee, or by other provisions of the Contract Documents, and the provisions of this paragraph will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right, and remedy to which they apply.

### 14.05 *Survival of Obligations*

- A. All representations, indemnifications, warranties and guarantees made in, required by, or given in accordance with the Contract Documents, as well as all continuing obligations indicated in the Contract Documents, will survive final payment, completion, and acceptance of the Goods and Special Services and termination or completion of the Agreement.

### 14.06 *Entire Agreement*

- A. Buyer and Seller agree that this Agreement is the complete and final agreement between them, and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may not be altered, modified, or amended except in writing signed by an authorized representative of both parties.



**SUPPLEMENTARY CONDITIONS**

These Supplementary Conditions amend or supplement the Standard General Conditions for Procurement Contracts and other provisions of the Contract Documents as indicated below. All provisions that are not so amended or supplemented remain in full force and effect.

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

SC-1.01.A. Add the following new paragraph immediately after Paragraph 1.01.A.36:

1.01.A.37. *Unit Price Goods and Special Services*—Goods and Special Services to be paid for on the basis of unit prices.

SC-2.03. Amend the first sentence of Paragraph 2.03.A. to read as follows:

Buyer will furnish Seller an electronic copy (PDF format) of the Contract Documents.

SC-3.02.C Add the following new paragraph immediately after Paragraph 3.02.B.

3.02.C American Iron and Steel Requirement. The Contractor acknowledges that it understands the goods and services provided in the performance of the Work are being funded with monies made available by the Clean Water State Revolving Fund that has statutory requirements commonly known as “American Iron and Steel;” that requires all of the iron and steel products used in the project to be produced in the United States (“American Iron and Steel Requirement”) including iron and steel products provided by the Contractor pursuant to these Contract Documents. The Contractor hereby represents and warrants to and for the benefit of the Owner and the State that (a) the Contractor has reviewed and understands the American Iron and Steel Requirement, (b) all of the iron and steel products used in the Project will be and/or have been produced in the United States in a manner that complies with the American Iron and Steel Requirement, unless a waiver of the requirement is approved, and (c) the Contractor will provide any further verified information, certification or assurance of compliance with this paragraph, or information necessary to support a waiver of the American Iron and Steel Requirement, as may be requested by the Owner or the State. Notwithstanding any other provision of these Contract Documents, any failure to comply with this paragraph by the Contractor shall permit the Owner or State to recover as damages against the Contractor any loss, expense, or cost incurred by the Owner or State resulting from any such failure (including without limitation any impairment or loss of funding, whether in whole or in part, from the State or any damages owed to the State by the Owner). While the Contractor has no direct contractual privity with the State, as a lender to the Owner for the funding of its Project, the Owner and the Contractor agree that the State is a third-party beneficiary and neither this paragraph (nor any other provision of the Contract Documents

necessary to give this paragraph force or effect) shall be amended or waived without the prior written consent of the State.

Failure to comply with any or all of the requirements of 3.02.C shall be a material breach of the Contract and constitute grounds for Contract termination. Damages or costs resulting from such noncompliance shall be the responsibility of Contractor.

SC-2.06. Amend the first sentence of Paragraph 2.06.A to read as follows:

Within 7 days after the Contract Times begin to run, Seller shall submit to Buyer and Engineer an acceptable progress schedule of activities, including at a minimum, Shop Drawing and Sample submittals, tests, and deliveries as required by the Contract Documents.

SC-4.01 Delete Paragraph 4.01 in its entirety.

SC-4.02. Add the following new paragraphs immediately after Paragraph 4.02.E:

4.02.F. Seller shall purchase and maintain such liability and other insurance as is appropriate for the furnishing of Goods and Special Services and as will provide protection from claims set forth below which may arise out of or result from Seller's furnishing of the Goods or Special Services and Seller's other obligations under the Contract Documents, whether the furnishing of Goods and Special Services, or other obligations are to be performed by Seller, any subcontractor or supplier, or by anyone directly or indirectly employed by any of them to furnish the Goods and Special Services, or by anyone for whose acts any of them may be liable:

4.02.F.1. Claims under workers' compensation, disability benefits, and other similar employee benefit acts;

4.02.F.2. Claims for damages because of bodily injury, occupational sickness or disease, or death of Seller's employees;

4.02.F.3. Claims for damages because of bodily injury, sickness or disease, or death of any person other than Seller's employees;

4.02.F.4. Claims from damages insured by reasonably available personal injury liability coverage which are sustained: (i) by any person as a result of an offense directly or indirectly related to the employment of such person by Seller, or (ii) by any other person for any other reason;

4.02.F.5. Claims for damages, other than to the Goods, because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom; and

4.02.F.6. Claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance, or use of any motor vehicle.

4.02.G. The policies of insurance required by this Paragraph 4.02 to be purchased and maintained shall:

4.02.G.1. With respect to insurance required by Paragraphs SC-4.02.F.3 through SC-4.02.F.6 inclusive, include as additional insured (subject to any customary exclusion in respect of professional liability):

4.02.G.1.a. City of The Dalles, 313 Court St., The Dalles, OR 97058

4.02.G.1.b. Jacobs Engineering Group Inc., 2020 Southwest Fourth Ave, #300, Portland, Oregon 97201

All of whom shall be listed as additional insured, and include coverage for the respective officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of all such additional insureds, and the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby;

4.02.G.2. Include at least the specific coverages and be written for not less than limits of liability provided below or required by Laws or Regulations, whichever is greater;

4.02.G.3. Include completed operations insurance;

4.02.G.4. Include contractual liability insurance covering Seller's indemnity obligations under Paragraphs 5.09 and 12.02;

4.02.G.5. Contain a provision or endorsement that the coverage afforded will not be canceled, materially changed, or renewal refused until at least 30 days prior written notice has been given to Buyer and Seller, and to each other additional insured identified in these Supplementary Conditions to whom a certificate of insurance has been issued (and the certificates of insurance furnished by Seller pursuant to Paragraph SC-4.02.I will so provide);

4.02.G.6. Remain in effect at least until final payment and at all times thereafter when Seller may be correcting, removing, or replacing nonconforming Goods in accordance with Paragraph 8.03;

4.02.G.7. With respect to completed operations insurance, and any insurance coverage written on a claims-made basis, remain in effect for at least 2 years after final payment (and Seller shall furnish Buyer and each other additional insured identified in these Supplementary Conditions, to whom a certificate of

insurance has been issued, evidence satisfactory to Buyer and any such additional insured of continuation of such insurance at final payment and 1 year thereafter); and

4.02.G.8. With respect to any delegation of professional design services to Seller pursuant to Paragraph 5.10 of the General Conditions, include professional liability coverage by endorsement or otherwise.

4.02.H. The limits of liability for the insurance required by Paragraph SC-4.02.F shall provide coverage for not less than the following amounts or greater where required by Laws and Regulations:

4.02.H.1. Workers' Compensation, and related coverage under Paragraphs SC-4.02.F.1 and SC-4.02.F.2:

4.02.H.1.a. State: Statutory.

4.02.H.1.b. Applicable Federal (e.g. Longshoreman's): Statutory.

4.02.H.1.c. Employer's Liability: \$500,000 CSL, \$1,000,000 aggregate.

4.02.H.2. Seller's General Liability under Paragraphs SC-4.02.F.3 through SC-4.02.F.6 which shall include completed operations and product liability coverages and eliminate the exclusion with respect to property under the care, custody, and control of Seller:

4.02.H.2.a. General Aggregate: \$2,000,000

4.02.H.2.b. Products (Completed Operations Aggregate): \$2,000,000

4.02.H.2.c. Personal and Advertising:

Injury: \$500,000  
per occurrence

Each Occurrence  
(Bodily Injury and Property Damage): \$1,000,000

4.02.H.2.d. Property Damage liability insurance will provide Explosion, Collapse, and Underground coverages where applicable.

4.02.H.2.e. Excess or Umbrella Liability:

General Aggregate: \$1,000,000  
Each Occurrence: \$500,000



## 4.02.H.3. Automobile Liability under Paragraph SC-4.02.F.6:

## 4.02.H.3.a. Bodily Injury:

|                |             |
|----------------|-------------|
| Each person:   | \$500,000   |
| Each Accident: | \$1,000,000 |

## 4.02.H.3.b. Property Damage:

|                           |             |
|---------------------------|-------------|
| Each Person:              | \$500,000   |
| Combined Single Limit of: | \$1,000,000 |

## 4.02.H.4. Professional Liability (if professional services have been delegated to Seller pursuant to Paragraph 5.10):

Each Claim \$1,000,000

Annual Aggregate \$2,000,000

4.02.I. Seller shall deliver to Buyer, with copies to each additional insured identified in these Supplementary Conditions, certificates of insurance (and other evidence requested by Buyer or any other additional insured) which Seller is required to purchase and maintain.

4.02.J. If Buyer has any objection to the coverage afforded by or other provisions of the insurance required to be purchased and maintained on the basis of nonconformance with the Contract Documents, Buyer shall notify Seller in writing within 10 days after receipt of the certificates or other evidence required by Paragraph SC-4.02.K. Seller shall provide such additional information in respect to insurance as Buyer shall reasonably request.

## SC-5.05. Add a new paragraph immediately after Paragraph 5.05.A:

5.05.B. Buyer is exempt from payment of sales and compensating use taxes of the State of Oregon and of cities and counties thereof on materials and equipment to be incorporated into the Project.

5.05.B.1. Buyer will furnish required certificates of tax exemption to Seller with respect to materials and equipment to be incorporated into Project.

5.05.B.2. Buyer's exemption does not apply to construction tools, machinery, equipment, or other property purchased by or leased by Seller, or to supplies or materials not incorporated into the Project.

5.05.B.3. Contract Price does not include the cost of sales or compensating use taxes to the extent such are exempted by this paragraph.

SC-5.06. Add the following new paragraphs immediately after Paragraph 5.06.E:

SC-5.06.F. Seller shall furnish required submittals with sufficient information and accuracy in order to obtain required approval of an item with no more than two submittals. Engineer will record Engineer's time for reviewing subsequent submittals of Shop Drawings, samples, or other items requiring approval and Seller shall reimburse Buyer for Engineer's charges for such time.

SC-5.06.G. In the event that Seller requests a change of a previously approved item, Seller shall reimburse Buyer for Engineer's charges for its review time unless the need for such change is beyond the control of Seller.

SC-9.07. Add the following new paragraph immediately after Paragraph 9.06:

SC-9.07. Determinations of Unit Price Quantities:

Engineer will determine the actual quantities and classifications of Unit Price Goods and Special Services furnished by Seller, and the written decisions of Engineer on such matters will be final and binding upon Buyer and Seller (except as modified by Engineer to reflect changed factual conditions or more accurate information, subject to provisions of Paragraph 9.06.

SC-10.08. Add the following new paragraphs immediately after Paragraph 10.07:

10.08. Unit Price Goods and Special Services:

10.08.A. Where the Contract Documents provide that all or part of the furnishing of Goods or Special Services is to be paid for with unit prices, initially the Contract Price will be deemed to include, for all Unit Price Goods and Special Services, an amount equal to the sum of the products resulting from multiplication of the unit price for each separately identified item of Unit Price Goods and Special Services by the estimated quantity of each such item as indicated in the Agreement.

10.08.B. The estimated quantities of items of Unit Price Goods and Special Services are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Determinations of the actual quantities and classifications of Unit Price Goods and Special Services furnished by Seller will be made by Engineer subject to the provisions of Paragraph SC-9.07.

10.08.C. Each unit price will be deemed to include an amount considered by Seller to be adequate to cover Seller's overhead and profit for each separately identified item.

10.08.D. Buyer or Seller may make a Claim for an adjustment in the Contract Price in accordance with Paragraph 9.06 if:

10.08.D.1. The quantity of any item of Unit Price Goods and Special Services furnished by Seller differs by more than 15 from the estimated quantity of such item indicated in the Agreement; and

10.08.D.2. There is no corresponding adjustment with respect to any other item of Unit Price work; and

10.08.D.3. Seller believes that Seller is entitled to an increase in Contract Price as a result of having incurred additional expense or Buyer believes that Buyer is entitled to a decrease in Contract Price and the parties are unable to agree as to the amount of any such increase or decrease.

**END OF SECTION**



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## **PART 4**

## **SPECIFICATIONS**

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**SECTION 01 11 19  
PURCHASE CONTRACTS**

**PART 1 GENERAL**

**1.01 WORK COVERED BY CONTRACT DOCUMENTS**

**A. Summary of Goods:**

1. Furnishing 13,250 feet of 30-inch DR 26 Ductile Iron Pipe Size (DIPS) High Density Polyethylene (HDPE) pipe per AWWA C906. (50 foot pipe lengths).
2. Furnishing 26 fabricated 30-inch HDPE fittings Ductile Iron Pipe Size (DIPS) High Density Polyethylene (HDPE) pipe per AWWA C906.
3. All products shall be delivered to the site indicated in The Dalles, Oregon.

**1.02 SUMMARY OF CONTRACTS**

- A.** The City anticipates issuing a contract for construction of the Dog River Pipeline Replacement, incorporating materials procured under this Contract. Delivery of the materials specified herein is critical to the performance of the construction contract.

**PART 2 PRODUCTS (NOT USED)**

**PART 3 EXECUTION (NOT USED)**

**END OF SECTION**





**SECTION 01 20 01  
PRICE AND PAYMENT PROCEDURES**

**PART 1      GENERAL**

1.01      DEFINITIONS

- A.    Person-Day: One person for 8 hours within regular working hours.

1.02      UNIT PRICE MEASUREMENT

- A.    Weighing, measuring, and metering devices used to measure quantity of materials shall be suitable for purpose intended and conform to tolerances and specifications in National Institute of Standards and Technology, Handbook 44.

1.03      UNIT PRICE ITEM DESCRIPTION

- A.    Bid Item 1. Furnishing 13,250 feet of 30-inch DR 26 Ductile Iron Pipe Size (DIPS) High Density Polyethylene (HDPE) pipe per AWWA C906. (50 foot pipe lengths). Delivery to the specified site in The Dalles, Oregon is incidental.
- B.    Bid Item 2. Furnishing 26 fabricated 30-inch HDPE fittings Ductile Iron Pipe Size (DIPS) High Density Polyethylene (HDPE) pipe per AWWA C906. Fitting requirements are as specified and are custom designed for project needs. Delivery to the specified site in The Dalles, Oregon is incidental.

**PART 2      PRODUCTS (NOT USED)**

**PART 3      EXECUTION (NOT USED)**

**END OF SECTION**



**SECTION 01 26 01**  
**CONTRACT MODIFICATION PROCEDURES**

**PART 1      GENERAL**

**1.01      CONTRACT MODIFICATION PROCEDURES**

**A.      Change Orders:**

1.      Procedure:
  - a.      Engineer will prepare proposed Change Order electronically and transmit such with Engineer's written recommendation (Change Order only) and request to Seller for signature.
  - b.      Seller shall, upon receipt, either: (i) promptly sign and return to Engineer for Buyer's signature, or (ii) return unsigned with written justification for not executing Change Order.
  - c.      Engineer will, upon receipt of Seller signed copy, promptly forward Engineer's written recommendation and partially executed copy for Buyer's signature, or if Seller fails to execute Change Order, Engineer will promptly so notify Buyer and transmit Seller's justification to Buyer.
  - d.      Upon receipt of Seller-executed Change Order, Buyer will promptly either:
    - 1)      Execute Change Order, and return copy to Engineer, or
    - 2)      Return to Engineer unsigned copy with written justification for not executing Change Order.
  - e.      Upon receipt of Buyer-executed Change Order, Engineer will transmit copy to Seller, or if Buyer fails to execute Change Order, Engineer will promptly so notify Seller and transmit Buyer's justification to Seller.
  - f.      Upon receipt of Buyer-executed Change Order, Seller shall:
    - 1)      Perform work covered by Change Order.
    - 2)      Revise progress schedule to reflect changes in Contract Times, if any, and to adjust times for other items of Project affected by change.
2.      In signing a Change Order, Buyer and Seller acknowledge and agree that:
  - a.      Stipulated compensation (Contract Price or Contract Times, or both) set forth includes payment for (i) cost of the work covered by Change Order, (ii) Seller's fee for overhead and profit, (iii) interruption of progress schedule, (iv) delay and impact, including cumulative impact, on other work under the Contract Documents, and (v) extended overheads.

- b. Change Order constitutes full mutual accord and satisfaction for the change to the Goods or Special Services.
- c. Unless otherwise stated in Change Order, all requirements of the original Contract Documents apply to the Goods or Special Services covered by Change Order.

B. Work Change Directive:

- 1. Engineer will:
  - a. Initiate, including a description of the Work involved and any attachments.
  - b. Affix signature, demonstrating Engineer's recommendation.
  - c. Transmit copy to Owner for authorization.
- 2. Buyer will:
  - a. Affix signature, demonstrating approval of the changes involved.
  - b. Return copy to Engineer, who will send copy to the Resident Project Representative or other field representative, and forward copy to Seller.
- 3. Upon completion of Work covered by the Work Change Directive or when final Contract Times and Contract Price are determined, Seller shall submit documentation for inclusion in a Change Order.
- 4. Seller's documentation shall include but not be limited to:
  - a. Appropriately detailed records of Work performed to enable determination of value of the Work.
  - b. Full information required to substantiate resulting change in Contract Times and Contract Price for Work. On request of Engineer, provide additional data necessary to support documentation.
  - c. Support data for Work performed on a unit price or Cost of the Work basis with additional information, such as:
    - 1) Dates Work was performed, and by whom.
    - 2) Time records, wage rates paid, and equipment rental rates.
    - 3) Invoices and receipts for materials, equipment, and subcontracts, all similarly documented.
- 5. Effective Date of Work Change Directive: Date of signature by Owner, unless otherwise indicated thereon.

1.02 CLAIMS

A. Include, at a minimum:

- 1. Specific references including (i) Drawing numbers, (ii) Specification section and article/paragraph number, and (iii) Submittal number, date reviewed, Engineer's comment, as applicable, with appropriate attachments.

2. Stipulated facts and pertinent documents, including photographs and statements.
3. Interpretations relied upon.
4. Description of (i) nature and extent of claim, (ii) who or what caused situation, (iii) impact to work and work of others, and (iv) discussion of claimant's justification for requesting change to price or times or both.
5. Estimated adjustment in price claimant believes it is entitled to with full documentation and justification.
6. Requested Change in Contract Times: Include at least (i) progress schedule documentation showing logic diagram for request, (ii) documentation that float times available for work have been used, and (iii) revised activity logic with durations including sub-network logic revisions, duration changes, and other interrelated schedule impacts, as appropriate.

**PART 2      PRODUCTS (NOT USED)**

**PART 3      EXECUTION (NOT USED)**

**END OF SECTION**



**SECTION 01 30 00**  
**ADMINISTRATIVE REQUIREMENTS**

**PART 1      GENERAL**

**1.01      DEFINITIONS**

- A.    Action Submittal: Written and graphic information submitted by Seller that requires Engineer's approval.
- B.    Final O&M Data: Engineer-accepted data, submitted as specified herein.
- C.    Informational Submittal: Information submitted by Seller that does not require Engineer's approval.
- D.    Maintenance Operation: As used on Maintenance Summary Form is defined to mean any routine operation required to ensure satisfactory performance and longevity of Goods. Examples of typical maintenance operations are cleaning, lubrication, belt tensioning, adjustment of pump packing glands, and routine adjustments.
- E.    Preliminary Operation and Maintenance (O&M) Data: Initial and subsequent submissions for Engineer's review.

**1.02      PROJECT COORDINATION**

- A.    Onsite Coordination:
  - 1.    Buyer will coordinate the activities at the Point of Destination related to the Goods furnished under this Contract.
  - 2.    Seller shall fully coordinate its activities with Buyer and other contractors. This includes promptly bringing to Buyer's attention any conflict or coordination problem.

**1.03      CONTRACT PROGRESS REPORTING**

- A.    Progress Schedule:
  - 1.    Bar chart schedule demonstrating Seller's plan for fulfilling Contract requirements.
  - 2.    Information shall be comprehensive and shall represent all activities, including submittals and procurement necessary to complete Contract.
  - 3.    Typical minimum detail on the schedule shall include, but not be limited to, the following:
    - a.    Delivery date(s) of Shop Drawings and Sample submittals.
    - b.    Delivery date(s) of Operation and Maintenance Data.

- c. Date Seller places purchase orders with major subcontractors and suppliers.
  - d. Date Seller orders castings and forgings.
  - e. Date of starting assembly of specified Goods.
  - f. Date of finishing assembly of specified Goods.
  - g. Date of testing at plant.
  - h. Date of shipment from Seller.
  - i. Date of arrival at Point of Destination.
4. Assist Buyer in determining the most current schedule information on the Contract items, including whether Seller is on schedule or delayed. These requirements apply fully to telephone inquiries, personal visits, letters, or other communication.
5. Schedule Reporting: Submit Notice of Schedule Impact at any time that a Progress Schedule activity is delayed by 5 or more days.
  - a. Complete and submit to party named on the form attached.
  - b. Transmit completed form either in e-mail, or mail via registered overnight mail service.

#### 1.04 SUBMITTAL PROCEDURES

- A. Direct submittals to Engineer at the following address, unless specified otherwise:
  1. Jacobs Engineering Group, Inc.  
Attn: Brady Fuller ([brady.fuller@jacobs.com](mailto:brady.fuller@jacobs.com));  
Matt Baldwin ([Matthew.Baldwin@jacobs.com](mailto:Matthew.Baldwin@jacobs.com)).  
Cc: Dave Anderson ([danderson@ci.the-dalles.or.us](mailto:danderson@ci.the-dalles.or.us))
  2. E-mail: 20 MB maximum size of sum of attachments.
- B. Electronic Submittals: Submittals shall, unless specifically accepted, be made in electronic format.
  1. Each submittal shall be an electronic file in Adobe Acrobat Portable Document Format (PDF). Use the latest version available at time of execution of the Agreement.
  2. Electronic files that contain more than 10 pages in PDF format shall contain internal book marking from an index page to major sections of the document.
  3. PDF files shall be set to open "Bookmarks and Page" view.
  4. Add general information to each PDF file, including title, subject, author, and keywords.
  5. PDF files shall be set up to print legibly at 8.5-inch by 11-inch, 11-inch by 17-inch, or 22-inch by 34-inch. No other paper sizes will be accepted.
  6. Submit new electronic files for each resubmittal.



7. Include a copy of the Transmittal of Contractor's Submittal form, located at end of section, with each electronic file.
8. Engineer will reject submittal that is not electronically submitted, unless specifically accepted.
9. Provide Engineer with authorization to reproduce and distribute each file as many times as necessary for Project documentation.
10. Detailed procedures for handling electronic submittals will be discussed at the preconstruction conference.

C. Transmittal of Submittal:

1. Review each submittal and check for compliance with Contract Documents.
2. Stamp each submittal with uniform approval stamp before submitting; stamp to include Project name, submittal number, specification number, Seller's reviewer name, date of Seller's approval, and statement certifying that submittal has been reviewed, checked, and approved for compliance with Contract Documents. Engineer will not review submittals that do not bear Seller's certification as required by the General Conditions, and will return them without action.
3. Complete, sign, and transmit with each submittal package, one Transmittal of Seller's Submittal form attached at end of this section.
4. Identify each submittal with the following:
  - a. Numbering and Tracking System:
    - 1) Sequentially number each submittal.
    - 2) Resubmission of submittal shall have original number with sequential alphabetic suffix.
  - b. Specification section and paragraph to which submittal applies.
  - c. Project title and Engineer's project number.
  - d. Date of transmittal.
  - e. Names of Seller, Subcontractor or Supplier, and manufacturer as appropriate.
5. Identify and describe each deviation or variation from Contract Documents.

D. Format:

1. Do not base Shop Drawings on reproductions of Contract Documents.
2. Present in a clear and thorough manner and in sufficient detail to show kind, size, arrangement, and function of components, materials, and devices, and compliance with Contract Documents.
3. Index with labeled tab dividers in orderly manner.

E. Timeliness of Submittal: Schedule and submit in accordance with the Seller's Progress Schedule, and requirements of individual Specification sections.

## F. Processing Time:

1. Time for review shall commence on Engineer's receipt of submittal.
2. Engineer will act upon Seller's submittal and transmit response to Seller not later than 20 days after receipt, unless otherwise specified.
3. Resubmittals will be subject to same review time.
4. No adjustment of Contract Times or Price will be allowed due to delays in providing Goods or Special Services caused by rejection and subsequent resubmittals.

## G. Resubmittals: Clearly identify each correction or change made.

## H. Incomplete Submittals:

1. Engineer will return entire submittal for Seller's revision if preliminary review deems it incomplete.
2. When any of the following are missing, submittal will be deemed incomplete:
  - a. Seller's certification as required by the General Conditions.
  - b. Transmittal of Seller's Submittal, completed and signed.
  - c. Insufficient number of copies.

## I. Submittals not required by Contract Documents:

1. Will not be reviewed and will be returned stamped "Not Subject to Review."
2. Engineer will keep one copy and return all remaining copies to Seller.

## J. Action Submittals:

1. Prepare and submit as required by individual Specification sections.
2. Shop Drawings:
  - a. Identify and Indicate:
    - 1) Applicable Contract Drawing and Detail number, products, units and assemblies, and system or equipment identification or tag numbers.
    - 2) Goods and Component Title: Identical to title shown on Drawings.
    - 3) Critical field dimensions and relationships to other critical features. Note dimensions established by field measurement.
    - 4) Project-specific information drawn accurately to scale.
  - b. Manufacturer's standard schematic drawings and diagrams as follows:
    - 1) Modify to delete information that is not applicable.
    - 2) Supplement standard information to provide information specifically applicable.

- c. Product Data: Provide as specified in individual Specifications.
  - d. Foreign Manufacturers:
    - 1) When proposed, include following additional information:
      - a) Names and addresses of at least two companies that maintain technical service representatives close to Project.
      - b) Complete list of spare parts and accessories for each piece of equipment.
3. Samples:
- a. Quantity: Two, unless otherwise specified in individual Specifications.
  - b. Preparation: Mount, display, or package Samples in manner specified to facilitate review of quality. Attach label on unexposed side that includes the following:
    - 1) Manufacturer name.
    - 2) Model number.
    - 3) Material.
    - 4) Sample source.
  - c. Manufacturer's Color Chart: Units or sections of units showing full range of colors, textures, and patterns available.
  - d. Full-size Samples:
    - 1) Size as indicated in individual Specification section.
    - 2) Cured and finished in manner specified.
    - 3) Physically identical with Goods proposed for use.
- K. Action Submittal Dispositions:
- 1. Engineer will review, mark, and stamp as appropriate, and distribute marked-up copies as noted:
    - a. Approved:
      - 1) Seller may provide Goods or Special Services covered by submittal.
      - 2) Distribution: Electronic.
        - a) One copy retained in Engineer's file.
        - b) Remaining copies returned to Seller appropriately annotated.
    - b. Approved as Noted:
      - 1) Seller may provide Goods or Special Services covered by submittal, in accordance with Engineer's notations.
      - 2) Distribution: Electronic.
        - a) One copy retained in Engineer's file.
        - b) Remaining copies returned to Seller appropriately annotated.

- c. Partial Approval, Resubmit as Noted:
  - 1) Make corrections or obtain missing portions, and resubmit.
  - 2) Except for portions indicated, Seller may begin to provide Goods or Special Services covered by submittal, in accordance with Engineer's notations.
  - 3) Distribution: Electronic.
    - a) One copy retained in Engineer's file.
    - b) Remaining copies returned to Seller appropriately annotated.
- d. Revise and Resubmit:
  - 1) Seller may not provide Goods or Special Services covered by submittal.
  - 2) Distribution: Electronic.
    - a) One copy retained in Engineer's file.
    - b) Remaining copies returned to Seller appropriately annotated.

L. Informational Submittals:

- 1. Copies: Electronic.
- 2. Refer to individual Specification sections for specific submittal requirements.
- 3. Engineer will review each submittal. If submittal meets conditions of the Contract, Engineer will forward submittal to appropriate parties. If Engineer determines submittal does not meet conditions of the Contract and is therefore considered unacceptable, Engineer will return with review comments to Seller, and require that submittal be corrected and resubmitted.

1.05 OPERATION AND MAINTENANCE (O&M) DATA

A. Format and Scheduling:

- 1. Preliminary Data:
  - a. Format: Instructional Manual.
  - b. Submit subsequent to Engineer approval of Shop Drawings, but prior to shipment date.
  - c. Submit for Engineer's review.
    - 1) If data meets conditions of the Contract:
      - a) Submittal response will be transmitted to Seller noting that Submittal Meets Project Criteria.

- 2) If data does not meet conditions of the Contract:
      - a) Submittal response will be transmitted to Seller with Engineer comments, noting that Submittal Does Not Meet Project Criteria, and revision will be required.
      - b) Resubmit revised in accordance with Engineer's comments.
  2. Final Data:
    - a. Submit at the time of shipment of Goods.
    - b. Format: Electronic Media.
- B. Instructional Manual Format:
1. Binder: Commercial quality, permanent, three-ring or three-post binders with durable plastic cover.
  2. Size: 8-1/2 inches by 11 inches, minimum.
  3. Cover:
    - a. Identify manual with typed or printed title "OPERATION AND MAINTENANCE DATA" and list:
      - 1) Project title.
      - 2) Designate applicable system, equipment, material, or finish.
      - 3) Identity of separate structure as applicable.
      - 4) Identity of general subject matter covered in manual.  
Identity of equipment number, if applicable, and  
Specification section.
  4. Title Page:
    - a. Seller's name, address, and telephone number.
    - b. Subcontractor, supplier, or maintenance contractor's name, address, and telephone number, as appropriate.
      - 1) Identify area of responsibility of each.
      - 2) Provide name and telephone number of local source of supply for parts and replacement.
  5. Table of Contents:
    - a. Neatly typewritten and arranged in systematic order with consecutive page numbers.
    - b. Identify each product by product name and other identifying numbers or symbols as set forth in Contract Documents.
  6. Paper: 20-pound minimum, white for typed pages.
  7. Text: Manufacturer's printed data, or neatly typewritten.
  8. Three-hole punch data for binding and composition; arrange printing so that punched holes do not obliterate data.
  9. Material shall be suitable for reproduction, with quality equal to original. Photocopying of material will be acceptable, except for material containing photographs.

## C. Electronic Media Format:

1. Portable Document Format (PDF):
  - a. After all preliminary data has been found to be acceptable to Engineer, submit Operation and Maintenance data in PDF format on CD.
  - b. Files to be exact duplicates of Engineer-accepted preliminary data. Arrange by specification number and name.
  - c. Files to be fully functional and viewable in most recent version of Adobe Acrobat.

## D. Data Content:

1. Product Data:
  - a. Include only those sheets that are pertinent to specific product.
  - b. Clearly annotate each sheet to:
    - 1) Identify specific product or part installed.
    - 2) Identify data applicable to installation.
    - 3) Delete references to inapplicable information.
  - c. Function, normal operating characteristics, and limiting conditions.
  - d. Complete nomenclature and commercial number of replaceable parts.
  - e. Original manufacturer's parts list, illustrations, detailed assembly drawings showing each part with part numbers and sequentially numbered parts list, and diagrams required for maintenance.
  - f. Spare parts ordering instructions.
  - g. Where applicable, identify installed spares and other provisions for future work (for example, reserved panel space, unused components, wiring, terminals).
2. Drawings:
  - a. Supplement product data with Drawings as necessary to clearly illustrate:
    - 1) Format:
      - a) Portable Document Format
      - b) Pages formatted to 8-1/2 inches by 11 inches, or 11 inches by 17 inches.
      - c) Identify Specification section and product on Drawings and envelopes.

## E. Maintenance Summary:

1. Compile individual Maintenance Summary for each applicable item, respective unit or system, and for components or sub-units.

2. Format:
  - a. Use Maintenance Summary Form bound with this section or electronic facsimile of such.
  - b. Each Maintenance Summary may take as many pages as required.
  - c. Use only 8-1/2-inch by 11-inch size paper.
  - d. Complete using typewriter or electronic printing.
3. Include detailed lubrication instructions and diagrams showing points to be greased or oiled; recommend type, grade, and temperature range of lubricants and frequency of lubrication.
4. Recommended Spare Parts:
  - a. Data to be consistent with manufacturer's Bill of Materials/Parts List furnished in O&M manuals.
  - b. "Unit" is the unit of measure for ordering the part.
  - c. "Quantity" is the number of units recommended.
  - d. "Unit Cost" is the current purchase price.

#### 1.06 SUPPLEMENTS

- A. The Supplements listed below, following "End of Section", are part of this Specification:
  1. Notice of Schedule Impact.
  2. Transmittal of Seller's Submittal Form.
  3. Maintenance Summary Form.

#### **PART 2 PRODUCTS (NOT USED)**

#### **PART 3 EXECUTION (NOT USED)**

#### **END OF SECTION**





**NOTICE OF SCHEDULE IMPACT**

(Send this form as addressed if delay is over 5 days. Send either via fax, e-mail, or registered, overnight mail.)

To: City of The Dalles, Oregon  
Attention: Dave Anderson, Public Works Director  
Address: Public Works Department, City of The Dalles Public Works,  
1215 W. 1st Street. The Dalles, OR 97058  
E-mail: danderson@ci.the-dalles.or.us

RE: Contract No.: \_\_\_\_\_

Name of Contract: Water Pipeline Materials and Appurtenances for the Dog River  
Pipeline Replacement Project

Type of Goods: \_\_\_\_\_

Nature of Delay: \_\_\_\_\_

New Estimated Date for Final Shop Drawings: \_\_\_\_\_

New Estimated Date for Start of Manufacture: \_\_\_\_\_

New Estimated Date for Finish of Manufacture: \_\_\_\_\_

New Estimated Date for Shipment: \_\_\_\_\_

New Estimated Date for Arrival at Point of Destination: \_\_\_\_\_

**SELLER:**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_ Telephone: \_\_\_\_\_

E-mail: \_\_\_\_\_

By (Name/Title): \_\_\_\_\_ Date: \_\_\_\_\_




**TRANSMITTAL OF SELLER'S SUBMITTAL**  
 (ATTACH TO EACH SUBMITTAL)

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

TO: \_\_\_\_\_

Submittal No.: \_\_\_\_\_

☐ New Submittal      ☐ Resubmittal

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

Project No.: \_\_\_\_\_

Specification Section No.: \_\_\_\_\_

**(Cover only one section with each transmittal)**

FROM: \_\_\_\_\_

Schedule Date of Submittal: \_\_\_\_\_

Seller

 SUBMITTAL TYPE:      ☐ Shop Drawing      ☐ Sample      ☐ Informational
**The following items are hereby submitted:**

| Number of Copies | Description of Item Submitted (Type, Size, Model Number, Etc.) | Spec. and Para. No. | Drawing or Brochure Number | Contains Variation to Contract |     |
|------------------|--|---------------------|----------------------------|--------------------------------|-----|
|                  |  |                     |                            | No                             | Yes |
|                  |  |                     |                            |                                |     |
|                  |  |                     |                            |                                |     |
|                  |  |                     |                            |                                |     |
|                  |  |                     |                            |                                |     |
|                  |  |                     |                            |                                |     |
|                  |  |                     |                            |                                |     |
|                  |  |                     |                            |                                |     |
|                  |  |                     |                            |                                |     |

SELLER hereby certifies that (i) SELLER has complied with the requirements of Contract Documents in preparation, review, and submission of designated Submittal and (ii) the Submittal is complete and in accordance with the Contract Documents and requirements of laws and regulations and governing agencies.

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

SELLER (Authorized Signature)



**MAINTENANCE SUMMARY FORM**

PROJECT: \_\_\_\_\_ CONTRACT NO.: \_\_\_\_\_

1. ITEM \_\_\_\_\_

2. MANUFACTURER \_\_\_\_\_

3. TAG NUMBER(S) \_\_\_\_\_

4. WEIGHT OF INDIVIDUAL COMPONENTS (OVER 100 POUNDS) \_\_\_\_\_

5. NAMEPLATE DATA (hp, voltage, speed, etc.) \_\_\_\_\_

6. SELLER'S LOCAL REPRESENTATIVE \_\_\_\_\_

a. Name \_\_\_\_\_ Telephone No. \_\_\_\_\_

b. Address \_\_\_\_\_

## 7. MAINTENANCE REQUIREMENTS

| Maintenance Operation<br>Comments   | Frequency  | Lubricant<br>(If Applicable)           |
|---|--|--|
| List briefly each maintenance operation required and refer to specific information in manufacturer's standard maintenance manual, if applicable. (Reference to manufacturer's catalog or sales literature is not acceptable.) | List required frequency of each maintenance operation. | Refer by symbol to lubricant required. |
|   |  |  |
|   |  |  |
|   |  |  |
|   |  |  |
|   |  |  |
|   |  |  |
|   |  |  |
|   |  |  |

8. LUBRICANT LIST – NOT USED

9. RECOMMENDED SPARE PARTS FOR BUYER'S INVENTORY – NOT USED

**SECTION 01 40 00  
QUALITY REQUIREMENTS**

**PART 1      GENERAL**

1.01      REGULATORY REQUIREMENTS

- A.      All products shall comply with NSF 61, as applicable, for use in potable water pipelines.

1.02      REFERENCES

- A.      NSF/ANSI 61 – 2020: Drinking Water System Components – Health Effects.

1.03      QUALITY ASSURANCE

- A.      Perform manufacturer's standard quality control procedures, and specified quality control procedures required by the reference standards (AWWA C906) for all products.

1.04      QUALITY CONTROL

- A.      Source Quality Control: Where specified for Goods, factory test results shall be reviewed and accepted before such Goods are shipped.

**PART 2      PRODUCTS (NOT USED)**

**PART 3      EXECUTION (NOT USED)**

**END OF SECTION**





**SECTION 01 43 34  
SPECIAL SERVICES**

**PART 1      GENERAL**

**1.01      DEFINITIONS**

- A.    Functional Testing: Tests necessary to demonstrate that installed Goods function as specified and operate in the manner intended. Functional testing is a prerequisite to performance testing for Goods specified to have a performance test.
- B.    Installing Contractor: The entity, under separate contract with the Buyer, whose responsibilities include the installation of the Goods provided under this Contract.
- C.    Performance Testing: Tests necessary to demonstrate, after successful functional testing, that Goods meet specified performance requirements.

**1.02      MANUFACTURER'S REPRESENTATIVE**

- A.    Where Special Services are specified, Seller shall furnish a qualified Representative of manufacturer.
- B.    If manufacturer's Representative is found deficient in training or experience by Buyer or Engineer, furnish replacement representative after acceptance of resume and other qualification documentation of proposed Representative.

**1.03      INSTALLATION ASSISTANCE**

- A.    None.

**1.04      COMMISSIONING ASSISTANCE**

- A.    Functional Testing: Not required.
- B.    Performance Testing: Not required.
- C.    Startup Assistance: Not required.

**1.05      MANUFACTURER'S CERTIFICATE OF PROPER INSTALLATION**

- A.    Not required.

1.06 DEMONSTRATION AND TRAINING

A. None required.

**PART 2 PRODUCTS (NOT USED)**

**PART 3 EXECUTION (NOT USED)**

**END OF SECTION**

**SECTION 01 61 01**  
**PRODUCT REQUIREMENTS**

**PART 1      GENERAL**

**1.01      PREPARATION FOR SHIPMENT**

- A. Where specified, factory test results shall be reviewed and accepted by Buyer or Engineer before Goods are shipped.
- B. When practical, Goods shall be factory assembled. When impractical:
  - 1. Furnish assembly instructions.
  - 2. Mark or tag the separate parts and assemblies for field assembly.
  - 3. Cover machined and unpainted parts that may be damaged by elements with a strippable protective coating.
- C. Package or crate Goods to provide protection from damage during shipping, handling, and storage.
- D. Marking:
  - 1. Mark or tag outside of each package or crate to indicate its purchase order number, bill of lading number, contents by name, name of project and Seller, equipment number, and approximate weight.
  - 2. Mark individual pipes and fittings as specified.
- E. Spare Parts and Special Tools:
  - 1. Deliver at same time as Goods delivery.
  - 2. Mark to identify associated products by name, equipment, and part number.
  - 3. Package parts for protection against damage from elements during shipping, handling, and storage.
  - 4. Ship in boxes or containers marked to indicate contents and as stated above.
- F. For pipe, provide written notice to Buyer of bundle size, weight, and configuration 15 days prior to shipment of Goods.
- G. Accessories:
  - 1. Deliver at same time as Goods delivery.
  - 2. Furnish accessories required to place each item of equipment in full operation.

3. Accessories include, but are not limited to, adequate oil and grease as required for first lubrication of equipment (after field testing), light bulbs, fuses, hydrant wrenches, valve keys, chain operators, special tools, and other items as required for initial operation.

#### 1.02 DELIVERY OF GOODS

- A. Notify Buyer, on Seller's Notice of Shipment of Goods form attached to this section, 10 days prior to shipment of Goods in accordance with Article 6 of General Conditions. Provide all applicable information requested on form.
- B. In accordance with Article 6 of the General Conditions, provide 24-hour telephone notice prior to expected delivery time at the Point of Destination. Notice shall include approximate hour of delivery.
- C. Delivery of Goods shall be made during regular daytime working hours, Monday through Friday, unless other arrangements have been made previously with the Buyer.
- D. Time of Delivery of Goods shall be made in a series of consecutive daytime working hours Monday through Friday to facilitate efficient Buyer unloading. Buyer anticipates contracting with a third party to perform unloading on Buyer's behalf.
- E. Railroads Serving Point of Destination:
  1. Union Pacific Railroad has track located within the City of The Dalles.
  2. A spur track is not available at the delivery location.
- F. Inspection on Delivery:
  1. Buyer or Engineer will record receipt of Goods at the Point of Destination.
  2. Upon receipt of Goods at the Point of Destination, Buyer or Engineer will inspect for completeness and evidence of damage during shipment.
  3. Seller shall be present for inspection.
  4. Should there appear to be damage, Buyer or Engineer will immediately inform the transportation carrier.
  5. Damaged or incomplete Goods to be returned to Seller for replacement will not be unloaded, except as necessary to expedite return shipment.
  6. Seller shall expedite replacement of damaged, incomplete, or lost items.

1.03 UNLOADING OF GOODS

- A. After acceptance by inspecting party, Goods will be unloaded by Buyer or Buyer's authorized representative in accordance with manufacturer's instructions, or as specified.
- B. Buyer anticipates ability to unload minimum of three trucks per day and maximum of five trucks per day of six 50 foot pipe segments if multiple loads are available for consecutive unloading.

1.04 SUPPLEMENTS

- A. The Supplements listed below, following "End of Section," are part of this Specification:
  - 1. Seller's Notice of Shipment of Goods.
  - 2. Manufacturer's Certificate of Compliance.

**PART 2 PRODUCTS (NOT USED)**

**PART 3 EXECUTION (NOT USED)**

**END OF SECTION**



**SELLER'S NOTICE OF SHIPMENT OF GOODS**

**Delivery of this notice should be either via e-mail, or registered overnight mail.**

To: City of The Dalles, Oregon

Attention: Dave Anderson, Public Works Director

Address: Public Works Department, City of The Dalles Public Works,  
1215 W. 1st Street, The Dalles, OR 97058

E-mail: danderson@ci.the-dalles.or.us

RE: Contract No.: \_\_\_\_\_

Name of Contract: Water Pipeline Materials and Appurtenances for the Dog River  
Pipeline Replacement Project

Goods to be Shipped: \_\_\_\_\_

**ATTACH BILL(S) OF LADING FOR ALL SHIPMENTS TO THIS FORM.**

Date of Shipment: \_\_\_\_\_

Manner of Shipment/Name of Carrier: \_\_\_\_\_

Anticipated Date of Delivery: \_\_\_\_\_

Special Equipment or Services Required for Unloading/Storage: \_\_\_\_\_

**SELLER:**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_ Telephone: \_\_\_\_\_

E-mail: \_\_\_\_\_

By (Name/Title): \_\_\_\_\_ Date: \_\_\_\_\_





**MANUFACTURER'S CERTIFICATE OF COMPLIANCE**

OWNER: City of The Dalles, Oregon

PRODUCT, MATERIAL, OR SERVICE  
SUBMITTED: \_\_\_\_\_

PROJECT NAME: Water Pipeline  
Materials and Appurtenances for the Dog  
River Pipeline Replacement Project

PROJECT NO: \_\_\_\_\_

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I hereby certify that the above-referenced product, material, or service called for by the Contract for the named Project will be furnished in accordance with all applicable requirements. I further certify that the product, material, or service are of the quality specified and conform in all respects with the Contract requirements, and are in the quantity shown.

Date of Execution: \_\_\_\_\_, 20\_\_\_\_

Manufacturer: \_\_\_\_\_

Manufacturer's Authorized Representative (*print*): \_\_\_\_\_

\_\_\_\_\_  
(Authorized Signature)



**SECTION 33 05 01.10**  
**HIGH-DENSITY POLYETHYLENE (HDPE) PRESSURE PIPE AND FITTINGS**

**PART 1      GENERAL**

**1.01      REFERENCES**

A.    The following is a list of standards that may be referenced in this section:

1.    American Water Works Association (AWWA):
  - a.    C906, Polyethylene (PE) Pressure Piping and Fittings, 4 in. through 65 in. for Waterworks.
  - b.    Manual M55, PE Pipe - Design and Installation.
  - c.    D3035, Standard Specification for Polyethylene (PE) Plastic Pipe (DR-PR) Based on Controlled Outside Diameter.
  - d.    D3261, Standard Specification for Butt Heat Fusion Polyethylene (PE) Plastic Fittings for Polyethylene (PE) Plastic Pipe and Tubing.
  - e.    D3350, Standard Specification for Polyethylene Plastics Pipe and Fittings Materials.
  - f.    F714, Standard Specification for Polyethylene (PE) Plastic Pipe (DR-PR) Based on Outside Diameter.
  - g.    F2620, Standard Practice for Heat Fusion Joining of Polyethylene Pipe and Fittings.
2.    Code of Federal Regulations (CFR): Title 49 Part 192.285, Plastic Pipe: Qualifying Persons to Make Joints.
3.    NSF International (NSF): 61, Drinking Water System Components - Health Effects.
4.    Plastics Pipe Institute (PPI):
  - a.    Handbook of PE Pipe.
  - b.    TR-33, Generic Butt Fusion Joining Procedure for Field Joining of Polyethylene Pipe.

**1.02      SUBMITTALS**

A.    Action Submittals:

1.    Shop Drawings:
  - a.    Catalog information confirming pipe, fittings, and other materials conform to requirements of this section.
  - b.    Dimensional shop drawings for each fabricated fitting.
  - c.    Handling instructions.

- B. Informational Submittals: Manufacturer's Certificate of Compliance, in accordance with Section 01 61 01, Product Requirements.

### 1.03 QUALITY ASSURANCE

#### A. Qualifications:

1. Pipe Manufacturer: Listed with Plastic Pipe Institute.
2. Experienced in fabricating pipe of similar diameters and wall thickness required for the Work.
3. Successful fabrication of at least 1,000 linear feet of 30-inch diameter or larger pipe within past 5-year period.

### 1.04 DELIVERY, STORAGE, AND HANDLING

- A. Shipping: Do not cut, kink, or otherwise damage pipe during transportation.

#### B. Storage and Handling:

1. Pipe interiors are to be inspected and all debris removed prior to storage.
2. Limit stacking of pipe to a height that will not cause excessive deformation of bottom layers of pipes under anticipated temperature conditions.
3. Do not exceed the stacking heights stated in AWWA Manual M55.
4. Where necessary, because of ground conditions, store pipe on wooden sleepers, spaced suitably and of such widths as not to allow deformation of pipe at point of contact with sleeper or between supports.

- C. Special delivery time requirements apply. See Agreement.

### 1.05 MEASUREMENT AND PAYMENT

#### A. Bid Item Description:

1. 13,250 feet; 30-inch DR 26 DIPS HDPE Pipe per AWWA C906 (Section 33 05 01.10).
2. HDPE Fittings; 30-inch DIPS HDPE Pipe Per AWWA C906 (Section 33 05 01.10). See list below for summary of fittings included in Bid item.

## B. Bid Item Summary:

| Bid Item No. | Item | Station Location | Description: 30-inch Diameter DIPS Pipe OR (degree) Elbow | Quantity    |
|--------------|------|------------------|---|-------------|
| 1            | NA   | NA               | DR 26 Pipe  | 13,250 feet |
| 2            | 1    | 25+22.81         | 33.6 degree elbow   | 1           |
|              | 2    | 26+39.21         | 46.4 degree elbow   | 1           |
|              | 3    | 31+77.98         | 11.3 degree elbow   | 1           |
|              | 4    | 32+03.14         | 21.0 degree elbow   | 1           |
|              | 5    | 32+34.89         | 27.7 degree elbow   | 1           |
|              | 6    | 32+50.16         | 31.9 degree elbow   | 1           |
|              | 7    | 34+71.39         | 4.5 degree elbow  | 1           |
|              | 8    | 35+01.30         | 22.8 degree elbow   | 1           |
|              | 9    | 35+39.07         | 18.4 degree elbow   | 1           |
|              | 10   | 35+62.50         | 21.6 degree elbow   | 1           |
|              | 11   | 102+43.07        | 14.8 degree elbow   | 1           |
|              | 12   | 102+59.97        | 11.3 degree elbow   | 1           |
|              | 13   | 102+76.06        | 8.3 degree elbow  | 1           |
|              | 14   | 138+32.46        | 38.9 degree elbow   | 1           |
|              | 15   | 145+92.73        | 15.9 degree elbow   | 1           |
|              | 16   | 150+16.84        | 25.9 degree elbow   | 1           |
|              | 17   | 150+54.12        | 17.0 degree elbow   | 1           |
|              | 18   | 170+13.90        | 88.5 degree elbow   | 1           |
|              | 19   | 178+00.94        | 26.5 degree elbow   | 1           |
|              | 20   | 178+55.98        | 23.9 degree elbow   | 1           |
|              | 21   | 193+58.12        | 37.3 degree elbow   | 1           |
|              | 22   | 193+79.06        | 37.5 degree elbow   | 1           |
|              | 23   | 194+37.17        | 22.8 degree elbow   | 1           |
|              | 24   | 194+95.18        | 19.5 degree elbow   | 1           |
|              | 25   | 195+17.29        | 19.5 degree elbow   | 1           |
|              | 26   | 195+83.28        | 13.0 degree elbow   | 1           |

**PART 2 PRODUCTS****2.01 MATERIALS****A. Pipe and Fittings:**

1. New, unused pipe.
2. Conform to requirements of AWWA C906.
3. In compliance with NSF 61.
4. Resin:
  - a. Potable Water Transmission and Distribution Systems: Polyethylene resin shall meet or exceed requirements of ASTM D3350 for PE 4710 material with cell classification of 445474C, or better. PE 4710 HDPE pipe and fittings shall be manufactured from bimodal resins. Pressure rating shall be based on hydrostatic design stress of 1,000 psi at 73.4 degrees F.
  - b. Resin shall contain a minimum of 2 percent carbon black for UV stability.
5. Pressure Rating: 80 psi and nominal DR of 26.
6. Outside Diameter Basis: DIPS (Ductile Iron Pipe Size).
7. Pipe Size: 30-inch diameter.
8. Pipe Segment Length: 50 feet.
9. Pipe lengths, fittings, and flanged connections to be joined by thermal butt-fusion shall be of a compatible resin mix for the fusion process.
10. Fittings:
  - a. Polyethylene fittings shall have same or higher pressure rating as pipe.
  - b. Sizes Larger than 12 Inches: Thermal butt-fused fabricated.
  - c. Unless noted otherwise, provide fittings with a factory fused 4-foot-long spool on each end to facilitate onsite fusion.
  - d. Mark each fitting with durable marker and machined stamp or grooved marking, identifying station location, and degree angle of elbow fitting specified.

**PART 3 EXECUTION (NOT USED)****END OF SECTION**