

Request for Proposal

for

Progressive Design Build Services for Wastewater Treatment
Plant 1 Improvement Project

As Requested by

THE CITY OF RIO RANCHO, NEW MEXICO



RFP 17-UT-006

RFP SUBMITTAL DUE DATE

10:00 AM February 9, 2017

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Section 1. Background

1.1 Introduction

This request for proposals (RFP) for the Wastewater Treatment Plant 1 (WWTP1) improvement project (Project) invites proposals from the short-listed Respondents listed in Section 1.4, according to the requirements set forth in this RFP, including the format and content guidelines in Section 5. The proposals will be reviewed and evaluated using the best-value selection process described in Section 6.

The Project is to be designed and constructed in two phases using the progressive design-build delivery method:

- Phase One: Prepare design to 60% complete, as defined in Attachment B (Scope of Design-Builder Services), and a guaranteed maximum price (GMP) proposal
- Phase Two: Complete design, construction and post-construction tasks, including performance testing, startup and commissioning, and operator training and support in GMP is approved in Phase One.

At completion of the evaluation process, the City of Rio Rancho will select the highest ranked Respondent to enter into negotiation for award of the Progressive Design-Build Contract [see Attachment C (Draft Progressive Design-Build Contract)].

In no event will the City be liable for any costs incurred by any Respondent or any other party in developing or submitting a proposal.

1.2 RFP Organization

This RFP consists of seven Sections and six Attachments:

- Section 1: Background
- Section 2: Project Overview
- Section 3: Progressive Design-Build Services
- Section 4: Procurement Process
- Section 5: Proposal Submission Requirements
- Section 6: Proposal Evaluation and Selection
- Section 7: Conditions for Respondents
- Attachment A: Definition of Terms
- Attachment B: Scope of Design-Builder Services
- Attachment C: Draft Progressive Design-Build Contract
- Attachment D: Project Background Documents
- Attachment E: Project Technical Requirements
- Attachment F: Fee and Rate Proposal Form

The contents of the RFP Attachments take priority over any conflicting statements in the RFP Sections.

Certain project background documents were available during the RFQ phase of the two-step procurement process and have been included as Attachment D (Project Background Documents) for the purpose of preparing proposals. The City of Rio Rancho is providing these documents only for the purpose of obtaining proposals for the Project and does not confer a license or grant for any other use. The extent to which the Design-Builder may rely on such background documents is set forth in Attachment C (Draft Progressive Design-Build Contract).

1.3 Rio Rancho's Objectives

The City of Rio Rancho's objectives for delivery of the Project are as follows:

- **Single Point of Accountability:** To have the Design-Builder provide the City with a single point of contract accountability for design, construction, commissioning and project performance. The single point of accountability is responsible for providing the City with complete resolutions to design and construction issues that may arise during all phases of project execution.
- **Quality:** Provide treatment facilities and equipment that will be sustainable and will reliably produce treated effluent in full compliance with federal and state regulations and contractual standards that meets the contractual standards defined for the project over the range of raw water quality conditions set forth in Attachment E (Project Technical Requirements).
- **Life-cycle Costs:** Optimize life-cycle costs including operation requirements.
- **Schedule:** Achieve the scheduled completion date within 18 months of contract execution of the design build contract for design, construction and performance testing of the Project.
- **Minimizing Risk for Change Orders:** Achieve an optimal balance of risk allocation between the City of Rio Rancho and the Design-Builder and manage risk to reduce the likelihood of change orders.
- **Safety:** Implement an effective safety program incorporating best industry practices.
- **Selection of Qualified Design Builders:** Selection of an experienced design-build team that understands City objectives, has experience in the design-build marketplace, and can design and construct the project at or under the prescribed budget.
- **Innovative Solutions:** Opportunities to provide innovative solutions for accelerated project scheduling, maximum cost control, improved constructability and minimization of operations and maintenance costs to ensure the project fits within the Owner's \$22 million budget.
- **Guaranteed Project Cost:** Design & construction of the project at an agreed price within the Owner's \$22 million budget.
- **Competitive Bidding of Qualified Subcontractors & Equipment Suppliers:** To have the ability to select or reject Subcontractors and Equipment Vendors bids based on cost or non-cost factors.
- **Collaboration with Design Elements:** Review and participate with Design-Builder's section of design elements that will minimize overall future operation concerns & maintenance costs.

By selecting the progressive design-build delivery method for the Project, Rio Rancho is committed to working in close collaboration with the Design-Builder during Phase One to develop the Project's design to achieve the Project objectives and to obtain a mutually-agreeable GMP for construction of the Project in Phase 2.

As set forth in Attachment E (Project Technical Requirements), Rio Rancho has specific technical requirements and standards that will apply to the Project's design.

1.4 Respondents

The Respondents invited to respond to this RFP in alphabetical order include:

CDM Constructors, Inc.

HDR Constructors, Inc.

MWH Constructors, Inc.

PCL Construction New Mexico, Inc.

Section 2. Project Overview

2.1 Project Scope

The Project scope, design standards and performance requirements are described in more detail in Attachment E (Project Technical Requirements).

2.2 Project Budget and Funding

The cost for design and construction of the Project is budgeted at \$22 million including New Mexico Gross Receipt Tax. Such budget does not include Rio Rancho's other project costs, such as professional advisory services, property or access rights. It is the expectation of the City that the project will be delivered for this budget. Project funding will be through the New Mexico Finance Authority Public Project Revolving Fund.

2.3 Project Schedule

As indicated in Section 4, it is anticipated that the Progressive Design-Build Contract will be executed on or about April 2017. The design, permitting, construction and performance testing of Project are expected to be completed within 18 months of executed contract.

Section 3. Progressive Design-Build Services

3.1 General

As noted in Section 1 and more fully described in Attachment B (Scope of Design-Builder Services), the Design-Builder will provide services in two distinct phases.

Phase One services generally consist of preliminary engineering, surveying, geotechnical investigations, preparation of construction documents and development of the Project GMP. All this work shall be performed in close collaboration and communication with the City. The proposed GMP and schedule includes the Project's design developed to City's required level of completion, project schedule, and supporting documentation, such as detailed open-book costing for the GMP. The City is requesting that the design be progressed to the 60% design before execution of the GMP. However, the City is willing to consider execution of the GMP at an earlier design completion phase if the design has progressed sufficiently such that the City has good understanding of the outstanding design issues and confidence in the GMP at the agreed upon design submittal. Multiple phased GMP's may also be considered.

Phase Two services generally encompass completing the Project's final design, construction and performance testing, start up and commissioning. Permitting activities are included in each Phase.

Phase One services:

- Develop the Project execution plan, including Project schedule.
- Produce the basis-of-design report.
- Develop the engineering design (including preparing and submitting intermediate design review packages) and value-engineering activities in conjunction with Owner.
- Prepare a project cost model and provide detailed cost estimates as the design and design alternatives are advanced.
- Submit and negotiate a GMP or lump-sum price to complete the Phase Two services.
- Perform engineering studies (such as subsurface investigations, pilot studies, raw water/ wastewater analyses, etc.) to support design and cost estimating.
- Identify Project permitting requirements and initiate certain permitting activities.

Phase Two Services include:

- Complete the final design.
- Procure equipment and subcontractors.
- Secure necessary permits.
- Construct Project.
- Conduct startup, commissioning and performance testing.
- Provide operator training.
- Provide warranty coverage.

3.2 Roles and Responsibilities

City of Rio Rancho: The City of Rio Rancho will cooperate with the Design-Builder and will fulfill its responsibilities in a timely manner to facilitate the Design-Builder's timely and efficient performance of services. Rio Rancho's responsibilities include:

- Review submissions and provide comments to Design-Builder.
- Furnish existing studies and provide data and information regarding the Project, including record drawings, and preliminary studies. *Note: The City is providing these documents only for the informational purpose only and does not confer a license or grant for any other use. The Respondent shall not solely rely on the background information for project development. In addition, the City may not have all records for the existing facilities, and the information contained with any existing records may be incorrect or inadequate. It is the Respondent's responsibility to check the validity of all information provided.*
- Provide adequate funding equal to the mutually-agreed upon contract price.
- Provide access to the Project site.
- Provide necessary data for project design and to establish contract performance standards (e.g. influent characteristics, effluent permit limits to support project start-up and performance testing).
- Provide potable or reclaimed water for Project start-up and performance testing.
- Direct its current contract operator to provide operability input and operational data, and other collaboration as required to support the progressive design-build approach.

City of Rio Rancho's Owner's Agent: The Owner Agent will support Rio Rancho to fulfill its responsibilities in a timely manner to facilitate the Design-Builder's timely and efficient performance of services.

City of Rio Rancho's Contract Operator: The Contract Operator will cooperate with the Design-Builder and will fulfill its responsibilities in a timely manner to facilitate the Design-Builder's timely and efficient performance of services as directed by the City.

Design-Builder: The Design-Builder will cooperate with Rio Rancho and will provide, in a timely manner the Phase One and Phase Two services necessary to complete the Project scope specified in this RFQ. Design-Builder responsibilities include:

- The Design-Builder shall provide proof of proper licensure for itself and all subcontractors at the time of the RFP submission pursuant to all City, State and Federal requirements. Registration with the New Mexico Department of Workforce Solutions shall be required for both the Design-Builder and all subcontractors prior to the RFP submission.
- Prepare design and construction documents.
- Perform all construction related activities
- Supervise subcontractors and Design-Builder personnel.
- Obtain all construction related governmental approvals and permits unless specifically excluded from the Design-Builder scope of work.
- Maintain security of the construction site.

- Conduct performance testing, commissioning and startup.
- Implement and maintain all quality control requirements and activities
- Implementation of an active safety program
- Allow for operation of the existing WWTP1 at all times during the construction on-going activities
- Be responsible for warranty management and completion
- Construct the work within the limits of the GMP

Section 4. Procurement Process

4.1 Acknowledgement of RFP

Each Respondent must provide the City of Rio Rancho with a completed Acknowledgement Form, Appendix 1 included in the RFP document, acknowledging receipt of this RFP no later than 5:00 PM on November 9, 2016. This completed acknowledgement form must be sent electronically to the City's contact.

4.2 Communications and City of Rio Rancho Contact

Shonna Ybarra will be the sole point of contact for this RFP and shall administer the RFP process. All communications shall be submitted by email, and shall specifically reference this RFP. All questions or comments should be directed to the City Contact as follows:

Shonna Ybarra, Purchasing and Contracts Manager
City of Rio Rancho – Purchasing Division
3200 Civic Center Circle NE - Ste. 300
Rio Rancho, NM 87144
(505)891-5044
sybarra@rrnm.gov

No oral communications from Rio Rancho's contact or other individual is binding. No contact with Rio Rancho's staff, Owner's Agent, Contract Operator, Council Members or any public official concerning the Project during the procurement process is allowed. A violation of this provision will result in disqualification of Respondent.

4.3 Procurement Schedule

The current procurement schedule is as follows:

- | | |
|--|----------------------------|
| • Issue RFP to shortlisted teams | December 7, 2016 |
| • RFP Receipt Acknowledgement | December 9, 2016 |
| • Interview and priority meetings with Teams | January 9 through 12, 2017 |
| • Question deadline | January 30, 2017 |
| • Addendum | February 2, 2017 |
| • Submit Proposal | February 9, 2017 |
| • Proposal evaluation/selection | Early March 2017 |
| • Contract negotiations | March 2017 |
| • Council Approval | March 2017 |
| • Execute Progressive Design-Build Contract | April 2017 |

4.4 Confidential Technical and Contract Interviews

The City of Rio Rancho will conduct two (2) individual, confidential meetings with the Respondents. The first meeting will be focused on technical aspects of the project. This will provide an opportunity for the Respondent to address technical related question to further their understanding of the project and approach to the project. The second meeting will focus on contractual related questions. Each Respondent will be contacted by the City to schedule these meetings. It is each Respondent's responsibility to be available January 9, 2017 through January 12, 2017 and each Respondent's meeting will be scheduled from 10:00 AM to 3:00 PM. Each Respondent should bring their key staff members identified in their proposal (limit of 7 maximum attendees).

Section 5. Proposal Submission Requirements

5.1 Submittal Place and Deadline

All Respondents proposals must be received by the City no later than the date and time specified below. Proposals received after this deadline will not be accepted. The date and time of receipt will be recorded on each proposal. Proposals must be hand delivered or mailed and be received no later than February 9, 2017, at 10:00 AM, Mountain Time, addressed to:

City of Rio Rancho – City Clerk’s Office
Attention: Shonna Ybarra, Purchasing and Contracts Manager
3200 Civic Center Circle Suite 150
Rio Rancho, New Mexico 87144

The City shall not be responsible for proposals that are mailed and not received by the opening date and time specified in this section. Receipts for hand delivered proposals may be issued by the City Clerk’s Office.

Delayed Opening or Closing of City Offices: In the event that City Hall is officially on a delayed opening for any reason (for example, inclement weather) and City Hall is not open at least two (2) hours prior to bid opening, the deadline for bid and proposal submissions will be delayed for exactly the amount of time indicated in the official City announcement. For example, if City Hall is on a two (2) hour delay, deadline for receipt of bids and proposals due prior to 12:00 p.m. will be delayed by two (2) hours and bids due after 12:00 p.m. will be due at their regularly scheduled time. Also, if City Hall is officially closed for any reason (such as inclement weather) for all or part of the day that submission of bids is due (other than an official, announced delayed opening), bids will be due at the same time on the following business day. Any delayed opening or closing of City Hall will be announced on the City's website, <http://www.rnm.gov>.

Each Respondent assumes full responsibility for on-time delivery of its proposal at the required location. Any proposal received after the submittal deadline will be deemed non-responsive and returned. Proposals must be submitted in a sealed package or envelope listing the following information on the outside:

RFP Title: Progressive Design Build Services for Wastewater Treatment Plant 1 Improvement Project
RFP 17-UT-006

5.2 Submission Format

The Proposal shall not exceed 20 total pages (most or all 8½ x 11 inch with 1-inch or greater margins), excluding the transmittal letter, index or table of contents, front and back covers, title pages/separation tabs, and appendices. A maximum of 5 of the total pages may be 11 x 17-inch tri-fold format. 10-point font or larger must

be used in Proposal and will not be included in the total proposal page count. Six (6) paper documents (one original and 5 copies), as well as 1 electronic version of the proposal on CD-ROMs/thumb drive in PDF format.

Please note: The fee and rate proposal (including the completed Fee and Rate Proposal Form and the Part 7 description of the Fee and Rate Proposal) must be presented in a separate sealed envelope.

5.3 Submission Content

The content requirements set forth in this RFP represent the minimum content requirements for the proposal. It is the Respondent's responsibility to include information in its proposal to present all relevant qualifications and other materials in order to accurately and succinctly communicate Respondents understanding and approach to the Project. The proposal, however, should not contain standard marketing or other general materials. It is the Respondent's responsibility to modify such materials so that only directly relevant information is included in the proposal.

Each Proposal must include the following information in the order listed:

- Transmittal Letter
- Part 1 – Executive Summary
- Part 2 – Project Approach
- Part 3 – Updated SOQ
- Appendix A – Progressive Design-Build Contract Markup
- Appendix B – Fee and Rate Proposal (separate envelope)
- Appendix C – Additional Resumes (if required)
- Part 4 – Preference and Required Information Forms

5.3.1 Transmittal Letter

Respondent must submit a transmittal letter (maximum two pages) on the Respondent's letterhead. It must be signed by a representative of the Respondent who is authorized to sign such material and to commit the Respondent to the obligations contained in the proposal. The transmittal letter must include the name, address, phone number and e-mail address for the Respondent's Contact and must specify who would be the Design-Builder's signatory to any contract documents executed with the City. The transmittal letter may include other information deemed relevant by the Respondent.

5.3.2 Part 1 – Executive Summary

The executive summary (maximum three pages) must include a concise overview of the key elements of the proposal that differs from the Executive Summary provided in the Statement of Qualifications. The executive summary shall not be used to convey additional information not found elsewhere in the Proposal.

5.3.3 Part 2 – Project Approach

The project approach shall provide a conceptual description of the Design-Builder’s approach for managing, and performing its services during Phase One and Phase Two of the Project including innovation to meet the City’s vision for the project while conforming to the City’s budget and project schedule. The following items should be addressed:

- Discuss how a collaborative relationship with the City of Rio Rancho would be established during Phase One design development, scheduling and cost estimating.
- Discuss how the design and construction processes will interface (including how value analysis and constructability issues will be performed).
- Identify the work components critical to the Project’s success and how these components would be achieved.
- Describe the process for developing the GMP proposal (including the amount of cost contingency).
- Discuss how key risk factors will be identified and addressed.
- Discuss innovative concepts, technology and construction methods to meet the City’s vision, budget and schedule
- Provide preliminary concepts of the proposed treatment processes and layouts, including a process flow diagram of your proposed treatment process.
- Project specific safety plan as to how this plan considers Respondents personnel, sub-consultants, sub-contractors, City staff and the public.
- Project specific quality plan to ensure quality in the design and construction phases of the Project, how quality will be measured and how the plan integrates Respondents personnel, sub-consultants, sub-contractors and City staff.
- Provide schedule in detail sufficient for Respondent to identify the critical path throughout the Project and how conformance with the planned substantial and final completion dates will be achieved.
- Identify the Respondent’s field and office principals assigned to both phases of the project. Provide the names, titles, and home office locations for each individual identified. If the principals vary between phases of the project, Respondent shall provide an explanation why this variance is beneficial to the City of Rio Rancho.

5.3.4 Part 3 – Updated SOQ

This part of the proposal confirms that the statement of qualifications (SOQ) submitted in response to the Request for Qualifications is incorporated as part of the proposal; it should include any proposed changes to the SOQ, including team members. The City of Rio Rancho will have to approve all requested team member changes prior to execution of contract. Proposal Appendix C (Resumes) should include resumes for any additional or new personnel that may be proposed. Any such changes to the SOQ, however, are subject to acceptance or rejection by the City.

The Respondent will agree to retain the listed Key Personnel through Project design completion. Any replacement for key individuals must be approved in advance and agreed to in writing by the City of Rio Rancho. A change in the Key Personnel without pre-approval in writing may result in the City of Rio Rancho terminating the Respondents contract for convenience, require the Consultant to pay the City of Rio Rancho a one-time amount

of \$75,000.00 (Key Personnel), to be withheld from progress payment, and/or allow the City of Rio Rancho to select the key personnel's replacement. This provision shall not apply if a medical or personal emergency requires a key personnel's individual release from the Project, or if the key personnel leaves the employment of the Respondent or its affiliates.

5.3.5 Appendix A – Progressive Design-Build Contract Markup

The proposal must include in Appendix A (Progressive Design-Build Contract Markup) a detailed markup of the Draft Progressive Design-Build Contract (including its attachments), setting forth any and all revisions requested by the Respondent. Although it is likely that the City of Rio Rancho will undertake negotiations of the Progressive Design-Build Contract, the Progressive Design-Build Contract Markup will be treated as a *de facto* offer that the City can accept as is, resulting in a binding contract between the Design-Builder and City without further negotiations or revision.

Part 3 of the proposal must describe the significant revisions included in Appendix A (Progressive Design-Build Contract Markup) and explain the rationale for such revisions and the associated benefits to the City. Respondents are encouraged to suggest revisions that would more efficiently allocate risk, improve the parties' understanding of risk allocation, and improve clarity of any terms of the Draft Progressive Design-Build Contract where ambiguities or uncertainties may arise in their application or interpretation.

The City is not obligated to accept any of the requested exceptions, modifications, additions, etc. submitted by the Respondent in the Progressive Design-Build Contract Markup when negotiating and finalizing the Progressive Design-Build Contract. Furthermore, the City may request additional revisions during negotiations and before finalizing the Progressive Design-Build Contract.

Respondents are encouraged to carefully review RFP Attachment C (Draft Progressive Design-Build Contract) and present questions and solutions during the confidential meeting proposed in Section 4.5 to review contract language. The Respondent is also encouraged to submit written questions and comments by the deadline specified in Section 4. The City expects that this review and comment process will substantially reduce the need for extensive post-selection negotiation.

5.3.6 Appendix B – Fee and Rate Proposal

The Respondent must complete the RFP Attachment F (Fee and Rate Proposal Form) – with all required pricing information – and include it as Proposal Appendix B (Fee and Rate Proposal). The scope of Design-Builder services for which pricing is required is defined in RFP Attachment B (Scope of Design-Builder Services).

Part 4 of the proposal should describe the basis for the fee and rate proposal and discuss its viability from the Design-Builder's perspective.

Please be advised that the City of Rio Rancho is not interested in proposed fees or rates that provide excessive discounts from the Design-Builder's anticipated actual costs for the Phase One, off-ramp or Phase Two services. If City determines that the fees and rates for Phase One, off-ramp or Phase Two services included in a proposal are unacceptably below industry norms or that a Respondent's fees and rates are substantially or unacceptably below

other Proposals, the City may declare that proposal to be nonresponsive or seek additional detailed information from that Respondent concerning the cost basis for its fee and rate proposal prior to rendering a decision on the proposal's responsiveness.

5.3.7 Part 4 – Applicable Preference and Information Required Forms

Preference Forms

Respondents may apply of Resident, Veteran, Local, Area, and Recycled Content Goods Preference. Respondents must complete and submit the Preference Forms (attached herein as Appendix 3) and certificate issued by NM Taxation and Revenue Department. Detailed Instructions for preference application are below:

- In all invitations for bid and requests for proposals, the Statutory Preferences shall be applied in the manner set forth in NMSA 1978 §§ 13-1-21 or 13-4-5, as amended from time to time.
- A copy of a valid Resident Business Certificate, Resident Veteran Business, Resident Veteran Contractor or Resident Contractor Certificate issued by the New Mexico Taxation & Revenue Department. Information regarding resident preference can be obtained by contacting the Point of Contact as listed herein.
- In addition to the Statutory Preferences, a preference for Local Businesses and Area Businesses shall be administered in the same manner as the Statutory Preferences, as follows:
 - (1) in the event a Local Business submits a qualifying bid or proposal and one or more Qualifying Companies also submits a bid or proposal, the Local Business shall receive a two percent (2%) preference in addition to (and not in lieu of) the Statutory Preference; and
 - (2) in the event an Area Business submits a qualifying bid or proposal and one or more Qualifying Companies also submits a bid or proposal, the Area Business shall receive a one percent (1%) preference in addition to (and not in lieu of) the Statutory Preference.
- A Respondent or bidder can only qualify as either a Local Business or an Area Business, not both.
- In addition to the definitions and criteria set forth in this section, the central purchasing office may impose additional requirements regarding the nature, size and/or location of Respondents or bidders in any request for proposals or invitation for bids. As a result, companies responding to such solicitations should review the solicitation documents thoroughly.
- Information regarding the City's Procurement Code and the application of the local and resident preference can be obtained by contacting the Point of Contact as listed herein.
- For consideration for the Area, Local, and Recycled Content Goods preference, the Respondent must complete the Preference Certification Form, attached hereto as Appendix E, in accordance with the instructions and return the form with its Technical Proposal.
- In addition to the definitions and criteria set forth in the section, when a joint bid or joint proposal is submitted by both resident and non-resident businesses, the resident business preference provided pursuant to Subsection B or C of the NMSA 1978 §§ 13-1-21 or 13-4-5, as amended from time to time, shall be reduced in proportion to the percentage of the contract, based on the dollar amount of the goods or services provided under the contract, that will be performed by a non-resident business as specified in the join bid or proposal.

PREFERENCE DEFINITIONS:

- LOCAL BUSINESS means a Resident Business or Resident Contractor which:
 - (a) Is authorized to do and is doing business under the laws of the State of New Mexico;

(b) Possesses a current city business registration;

(c) Maintains its principal place of business within the corporate limits of the city; and

(d) Agrees to furnish evidence, in a form suitable to the city, of its payment of New Mexico Gross Receipts Tax.

- AREA BUSINESS means a Resident Business or Resident Contractor which:

(a) Is authorized to do and is doing business under the laws of the State of New Mexico;

(b) Possesses a current city business registration;

(c) Maintains a bona fide place of business within the corporate limits of the city, and agrees to conduct its activities pursuant to the contract for which it is bidding or proposing, to the extent practicable, from that place of business; and

(d) Agrees to furnish evidence, in a form suitable to the city, of its payment of New Mexico Gross Receipts Tax.

- RECYCLED CONTENT GOODS has the meaning set forth in NMSA 1978 § 13-1-21(A)(6), as amended from time to time.

- RESIDENT BUSINESS has the meaning set forth in NMSA 1978 § 13-1-21(A)(5), as amended from time to time.

- RESIDENT CONTRACTOR has the meaning set forth in NMSA 1978 § 13-4-2(A)(5), as amended from time to time.

- RESIDENT VETERAN BUSINESS has the meaning set forth in NMSA 1978 § 13-1-22(A)(7), as amended from time to time.

- RESIDENT VETERAN CONTRACTOR has the meaning set forth in NMSA 1978 § 13-4-2(A)(6), as amended from time to time.

- STATUTORY PREFERENCE means the preference for Resident Businesses, Resident Contractors, Resident Veteran Businesses, Resident Veteran Contractors, and Recycled Content Goods provided in NMSA 1978 §§ 13-1-21 or 13-4-5, as amended from time to time.

- QUALIFYING COMPANY means a company that qualifies for a Statutory Preference under NMSA 1978 §§ 13-1-21 or 13-4-5, as amended from time to time.

Required Information Form

Respondents must submit a completed Required Information Form (attached herein as Appendix 2) signed by party authorized to bind the entity submitting the proposal. This form should include the following items:

- The Identity of Respondent including the name of the firm, central address, email address, telephone number, fax number, etc.

- Disclosure of any Potential Conflicts of Interest. A conflict of interest shall be cause for disqualifying an Offeror from consideration. A potential conflict of interest includes, but is not limited to: (1) Accepting an assignment where duty to the client would conflict with the Offeror’s personal interest, or interest of another client. (2) Performing work for a client or having an interest which conflicts with this contract.

- This page has been signed by a signatory with the authority to bind the Respondent. By signing this Signature Page, through the undersigned representative who has the authority to bind the Respondent, and by submitting a proposal in response to this RFP, the Respondent agrees to perform the services required by such RFP and to adhere to all requirements, specifications, terms and conditions of the RFP. Respondent further agrees to be bound by this proposal for a minimum of 90 days from the date proposals were due.

Collusion Form

All Respondents must submit an affidavit of non-collusion (attached herein as Appendix 4) and certify that the proposal submitted was arrived at without resorting to any collusive practices. Collusion is defined as any activity that artificially affects prices when bidding/proposing on a contract or activity that restricts competition among Respondents or potential Respondents by exchanging or sharing information with firms presumed to be competing for the same contract.

Any person with knowledge of collusive practices or other misconduct is encouraged to report possible violations to the City Purchasing Manager.

Section 6. Proposal Evaluation and Selection

6.1 General

The proposals will be reviewed and evaluated by the City of Rio Rancho's selection committee (with assistance provided by outside advisors if desired by the City) according to the requirements and criteria outlined in this Section 6. During the proposal evaluation process, written questions or requests for clarification may be submitted to one or more Respondents regarding its proposal or related matters. Failure to respond in a timely manner to any such questions or requests may be grounds for elimination of the Proposer from further consideration.

6.2 Responsiveness

Each proposal will be reviewed to determine whether it is responsive to the RFP. Failure to comply with the requirements of this RFP may result in a Proposal being rejected as non-responsive. The selection committee may request clarification or additional information.

6.3 Comparative Evaluation Criteria

The selection committee will evaluate and rank the responsive Proposals by applying the weighted comparative evaluation criteria set forth below:

In ranking the proposals, the selection committee will utilize a 100-point scale whereby the maximum points awarded for each of the evaluation criteria will be based on the percentage weight set forth above. The selection committee will apply the non-price evaluation and complete its awarding of the non-price criteria points before opening the sealed envelope containing the fee and rate proposal.

PROPOSAL CONTENT AND EVALUATION CRITERIA		
Proposal Section	Proposal Content	Evaluation Criteria
Transmittal Letter	Respondent must submit a transmittal letter (maximum two pages) on the Respondent’s letterhead. It must be signed by a representative of the Respondent who is authorized to sign such material and to commit the Respondent to the obligations contained in the proposal. The transmittal letter must include the name, address, phone number and e-mail address for the Respondent’s Contact and must specify who would be the Design-Builder’s signatory to any contract documents executed with the City. The transmittal letter may include other information deemed relevant by the Respondent.	<p>Mandatory Submission Requirement: Pass/Fail</p> <p>Must be signed by authorized representative(s) of Respondent.</p> <p>Must include a Respondent point of contact.</p> <p>Must identify Respondent Contract Signatory.</p>
Part 1 Executive Summary	<p>The executive summary (maximum three pages) must include a concise overview of the key elements of the proposal. The executive summary shall not be used to convey additional information not found elsewhere in the Proposal.</p> <p>Include a brief summary of your team’s approach to the project, key features and differentiators of your approach, and your technical solutions.</p> <p>The Executive Summary should function as a stand-alone, printed piece that may be distributed to staff, Board Members, and the media. Do not include additional marketing materials, brochures, or multi-media.</p>	<p>Mandatory Submission Requirement: Pass/Fail</p> <p>Must not include material information not otherwise included in the Submission.</p> <p>Must not include extraneous marketing material; Must not exceed page limits.</p>
Part 2 – Project Approach	The project approach shall provide a conceptual description of the Design-Builder’s approach for managing, and performing its services during Phase One and Phase Two of the Project including innovation to meet the City’s vision for the project while conforming to the City’s budget and project schedule. The following items should be addressed:	Part 2 Total Point allocation: 80

<p>2.1. Design-Build Delivery Approach</p>	<p>Discuss how a collaborative relationship with the City of Rio Rancho would be established during Phase One design development, scheduling and cost estimating, as well as Phase 2 construction.</p> <p>Discuss how the design and construction processes will interface (including how constructability issues will be addressed).</p>	<p>Point Allocation: 5</p> <p>A clear plan that supports collaboration throughout the project will be rated highly.</p> <p>A clear statement affirming that the design-builder will work to resolve design issues, changes, and omissions with City, its consultants, regulators and stakeholders will also be evaluated.</p>
<p>2.2 Critical Work Elements</p>	<p>Identify the work components critical to the Project’s success and how these components would be achieved, focusing on the following items:</p> <p>Treatment Process: Explain the Respondent’s proposed wastewater treatment process and highlight the lifecycle cost analyses performed to validate the selected technology. Include a process flow diagram and identify procurement of long-lead items, if any. Identify currently operational facilities where the Respondent has successfully designed, constructed, and commissioned similar technology.</p> <p>Pipeline Route: Identify the proposed pipeline route and explain the reasoning behind this alignment. Describe the outreach process for notifying adjacent residents, businesses. Provide anticipated pipeline production rates, maintenance of traffic strategies, and methods for restoration of roadways.</p> <p>Construction Approach: Describe the anticipated entry and exit points from the project site and identify how construction activities will be managed and staged to allow for full plant operations throughout the project.</p>	<p>Point Allocation: 15</p> <p>The quality of the lifecycle cost analysis and successful installation of similar technology will be evaluated.</p> <p>Pipeline alignments which minimize disruption to the public are preferred, along with a proactive approach to public information and traffic management.</p> <p>A clear description of how the Respondent will work with Plant operations staff to maintain treatment capabilities during construction.</p>
<p>2.3 GMP Development</p>	<p>Describe the process for developing the GMP Proposal (including the amount of cost contingency). Identify the Respondent’s approach to cost estimating, scope management, and procurement activities which will result in a timely and accurate GMP submittal to the City.</p>	<p>Point Allocation: 10</p> <p>Narrative to highlight Respondent’s approach to developing a project design and corresponding GMP that meets the City’s project budget. Preference given to a collaborative GMP development process.</p>

<p>2.4 Risk Management</p>	<p>Discuss how key risk factors will be identified and addressed.</p>	<p>Point Allocation: 10 Respondents evaluated on the identification of project-specific risks and potential mitigation strategies.</p>
<p>2.5 Opportunities for Innovation</p>	<p>Discuss any innovative approach to meet the City’s vision, budget, and schedule.</p>	<p>Point Allocation: 10 Respondents are encouraged to propose options for innovation that benefit the project in Phases 1 and 2 of delivery.</p>
<p>2.6 Safety</p>	<p>Provide an outline of your health and safety plan. Identify specific issues related to the scope of this project and how you propose to mitigate them.</p> <p>Describe the project staffing dedicated to the safety program.</p>	<p>Point Allocation: 5 Identification of specific project safety plan elements to achieve a zero injury rate will be rated highly.</p> <p>The adequacy of proposed safety staff and resources; the integration of safety across all design and construction functions, including subcontractors and suppliers; and the commitment to safety requirements at all levels will also be evaluated.</p>
<p>2.7 Quality</p>	<p>Provide an outline of your quality plan for both design and construction.</p> <p>Describe how your approach is specifically applied to the requirements for this type of conveyance project. Describe project staffing dedicated to the quality program.</p>	<p>Point Allocation: 10 Identification of specific project quality plan elements to achieve the highest design and construction quality will be rated highly.</p> <p>The adequacy of proposed staff and resources to manage quality for conveyance-specific scope will also be evaluated.</p>

<p>2.8 Schedule</p>	<p>Provide a narrative description to accompany an overall project schedule</p> <p>Narrative should provide an overview of the overall sequence for permitting design, mobilization, construction, commissioning, demobilization, and the warranty period. The narrative should discuss the degree of float embedded in the schedule, key activity dependencies, and the resulting the critical path.</p> <p>A summary of key milestones and durations for each element of the Project should be included. Provide a discussion of potential schedule risks and schedule recovery mitigation strategies.</p>	<p>Point allocation 15</p> <p>The level of detail included to demonstrate schedule reasonableness and ability to complete project on or before the targeted completion date will be rated highly.</p> <p>Amount of float and robustness of schedule recovery planning will also be evaluated.</p>
<p>Part 3 – Progressive DB Markup</p>	<p>Detailed markup of the Draft Progressive Design-Build Contract setting forth any and all revisions requested by the Respondent</p>	<p>Not scored</p> <p>Describe the significant revisions included in Appendix A (Progressive Design-Build Contract Markup) and explain the rationale for such revisions and the associated benefits to the City. Respondents are encouraged to suggest revisions that would more efficiently allocate risk, improve the parties’ understanding of risk allocation, and improve clarity of any terms of the Draft Progressive Design-Build Contract where ambiguities or uncertainties may arise in their application or interpretation.</p>
<p>Part 4 Fee and Rate Proposal</p>	<p>Overall budget validation</p>	<p>20% as follows:</p> <p>Overall Budget Validation:</p> <p>Preconstruction Services: Lump Sum consisting of: (5% eval) Conveyance Scope: \$ _____ (5% eval) Balance of Project: \$ _____</p> <p>Construction: % fee markup consisting of:</p> <p>(5% eval) Self-performed Scope: _____ % (5% eval) Subcontracted Scope: _____ %</p>

<p>Part 5 Updated SOQ</p>	<p>Confirms that the statement of qualifications (SOQ) submitted in response to the Request for Qualifications is incorporated as part of the proposal; it should include any proposed changes to the SOQ, including team members. Proposal Appendix C (Resumes) should include resumes for any additional or new personnel that may be proposed. Any such changes to the SOQ, however, are subject to acceptance or rejection by the City.</p>	<p>Mandatory Submission Requirement: Pass/Fail</p> <p>Material changes to a Respondent’s team member firms or previously proposed personnel may be grounds for disqualification. Pre-approval of any changes should be obtained from City in advance of submitting a proposal.</p>
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6.4 Selection

After the evaluation process is complete, the City of Rio Rancho will notify Respondents of the rankings. The top-ranked Respondent will be either selected for contract award on the basis of its Progressive Design-Build Contract Markup or offered the opportunity to negotiate the final terms of the Progressive Design-Build Contract. However, if the City of Rio Rancho determines that the top-ranked Respondent's Progressive Design-Build Contract Markup may require protracted negotiations, the City may choose to either select or negotiate with the next-ranked Respondent. If negotiations with any selected Respondent are not successful, the City may either select the next-ranked Respondent for award on the basis of its Progressive Design-Build Contract Markup or offer it the opportunity to negotiate the final terms of the Progressive Design-Build Contract (and so on for lower-ranked Respondents).

Section 7. Conditions for Respondents

7.1 Ineligible Firms and Individuals

CH2M HILL Engineers, Inc. is serving in an advisory capacity to the City of Rio Rancho for this Project and is therefore not eligible to assist or participate with any Respondent that submits a proposal for the Project.

7.3 Conflict of Interest

The following laws mandate the public disclosure of certain information concerning persons doing business or seeking to do business with the City, including affiliations and business and financial relationships such persons may have with City's officers.

7.4 Proprietary Information

All materials submitted to Rio Rancho become public property. If the proposal contains proprietary information that the Respondent does not want disclosed, each page containing such information must be identified and marked "PROPRIETARY" at the time of submittal. Rio Rancho will, to the extent provided by law, endeavor to protect such information from disclosure. The final decision as to what information must be disclosed, however, lies with the City of Rio Rancho's legal department. Failure to identify proprietary information will result in all unmarked sections being deemed non-proprietary and available upon public request. Respondents shall not be permitted to mark the entire proposal as proprietary.

7.5 Rights of the Owner

In connection with this procurement process, including the receipt and evaluation of proposals and award of the Progressive Design-Build Contract, City of Rio Rancho reserves to itself all rights available to it under applicable law, including without limitation, with or without cause and with or without notice, the right to:

- Cancel, withdraw, postpone, or extend this RFP, in whole or in part, at any time prior to the execution of the Progressive Design-Build Contract, without incurring any obligations or liabilities.
- Modify the procurement schedule.
- Suspend and terminate the procurement process or terminate evaluations of Proposals received.
- Permit corrections to data submitted with any proposal.
- Hold meetings and interviews, and conduct discussions and correspondence, with one or more of the Respondents to seek an improved understanding of any information contained in a proposal.
- Seek or obtain, from any source, data that has the potential to improve the understanding and evaluation of the proposals.
- Seek clarification from any Respondent to fully understand information provided in the proposal and to help evaluate and rank the Respondents.

- Reject a proposal containing exceptions, additions, qualifications or conditions not called for in the RFP or otherwise not acceptable to the City of Rio Rancho.
- Conduct an independent investigation of any information, including prior experience, included in a proposal by contacting project references, accessing public information, contacting independent parties, or any other means.
- Request additional information from a Respondent during the evaluation of its proposal.

7.6 Obligation to Keep Project Team Intact

Respondents are advised that all firms and Key Personnel identified in the proposal shall remain on the Project Team for the duration of the procurement process and execution of the Project. (The anticipated dates for award of the Progressive Design-Build Contract and for completion of the Project are set forth in Section 2.3 of this RFP.) If extraordinary circumstances require a change, it must be submitted in writing to the City's Contact, who, at his or her sole discretion, will determine whether to authorize a change, recognizing that certain circumstances (such as termination of employment) may occur that are beyond the Design-Builder's control. Unauthorized changes to the Project Team at any time during the procurement process may result in elimination of the Respondent from further consideration. A change in the Key Personnel without pre-approval in writing may result in the City of Rio Rancho terminating the Respondents contract for convenience, require the Consultant to pay the City of Rio Rancho a one-time amount of \$75,000.00 (Key Personnel), to be withheld from progress payment, and/or allow the City of Rio Rancho to select the key personnel's replacement. This provision shall not apply if a medical or personal emergency requires a key personnel's individual release from the Project, or if the key personnel leaves the employment of the Respondent or its affiliates.

7.7 Addenda

If any revisions to the RFP or procurement process become necessary or desirable Rio Rancho may issue written addenda. Rio Rancho will post all addenda on the City's website at the following address: (www.rnm.gov/bids). It is Respondent's responsibility to obtain all addenda prior to submitting its proposal.

Attachment A

Definition of Terms

The definitions of some of the capitalized terms used in this RFP are presented below:

Builder – The Design-Builder or other firm (such as a subcontractor or joint-venture partner) that will provide construction services and have responsible charge of construction of the Project.

City – City of Rio Rancho

Designer – The Design-Builder or other firm (such as a subconsultant or joint-venture partner) that will provide professional design services and have responsible charge of the design, including preparation of the construction documents.

Design-Builder – The entity that is selected to enter into the Progressive Design-Build Contract with the City of Rio Rancho and that will be the single point of accountability to the City for delivery of the services and the Project.

Draft Progressive Design-Build Contract – The draft contract, including the agreement and all of its attachments, presented as RFP Attachment C (Draft Progressive Design-Build Contract).

Key Personnel – The individuals, employed by Design-Builder or other firms included on the Project Team, who would fill certain key roles in delivery of the Project and related services by the Design-Builder.

Owner – City of Rio Rancho

Project – WWTP1

Project Team – The Design-Builder, Key Personnel and any additional firms (such as subcontractors and subconsultants) included in the Proposal.

Respondent - The entity responding to this RFP by submitting the proposal

30, 60, and 90% Design criteria: Design criteria check list for each level of design is included in the scope of work in Attachment B

Final design: Design documents prepared to a level of completion whereby all required systems, equipment, controls and componentry to be incorporated into the Project are adequately represented in the documents and design development is near completion except for the final QA/QC review and approval.

Attachment B

Scope of Design-Builder Services

The Scope of Services described in this Attachment B pertain to services to be provided under Phase 1 as part of the Progressive Design Build delivery of the City of Rio Rancho WWTP1 Project. As such, the Phase 1 services shall be performed collaboratively with the City and the Design-Builder (DB), and the scope of services during Phase 1 shall incorporate workshops, meetings, and other forms of communication to facilitate the collaborative approach intended.

Phase 1 includes:

- Develop the Project execution plan, including Project schedule.
- Produce the basis-of-design report.
- Develop the engineering design (including preparing and submitting intermediate design review packages) and value-engineering activities in conjunction with Owner.
- Prepare a project cost model and provide detailed cost estimates as the design and design alternatives are advanced.
- Submit and negotiate a GMP or lump-sum price to complete the Phase Two services.
- Perform engineering studies (such as subsurface investigations, pilot studies, raw water/ wastewater analyses, etc.) to support design and cost estimating.
- Identify Project permitting requirements and initiate certain permitting activities.

Technical evaluations, investigations, design services, planning and estimating, as required to define the WWTP1 Project that best meet the City's goals, considering the priorities listed in the Request for Qualifications (RFQ), and the available funding. Phase 1 services shall conclude with a partial design of the project and a Guaranteed Maximum Price (GMP) for final design and construction of the defined project scope that the Design-Builder and City agree provide the best value for City.

Shortlisted Proponents will be provided a detailed scope of work in the RFP for Phase 1 services on which to base their proposal.

The general scope of services as outlined below and as further detailed in the following pages include the following:

1. WORKSHOPS - Workshops to further advance current concepts, evaluate new concepts, and assist in finalizing the Basis of Design Report (BODR), as more clearly defined in Section 8 below.
2. PHASE 1 DESIGN - Phase 1 Design Services are included, which shall provide engineering evaluations for each of the project components as listed in the RFQ as follows:
 - New plant at WWTP1 site to replace existing facility, as defined in Attachment E, Technical Requirements.
 - Recycled water pipeline to deliver effluent from WWTP1 to the AWTF using one of the routes evaluated in the Rio Rancho Reuse Alignment Update, Huitt-Zollars, September 18, 2015 (see Attachment D) or an alternative route as determined by the DB.
 - System for monitoring and control of the new Plant and Pipeline that is fully integrated into Rio Rancho's existing Supervisory Control and Data Acquisition (SCADA) system.

- WWTP1 Sara Road entrance widening to allow for trucks entrance off the roadway and to keep truck drivers from impacting oncoming traffic.
 - Incorporation of the drainage improvements design at new WWTP 1 site to eliminate adjacent cemetery property flooding as detailed in the Storm Drainage Improvement Project at WWTP 1 Plans; Huitt-Zollars, February 19, 2015 (see Attachment D).
 - Demolition of existing plant (budget permitting)
 - Administration Building (budget permitting)
3. As part of the project design development, the DB shall review City-Furnished Documents, including the preliminary engineering report, drainage report, alignment study, and other documents that pertinent to this project.
 4. PERMITTING – As part of the Phase 1 services, the DB shall prepare the proper forms and accompanying information for required construction, building and right-of-way permits on the Owner’s behalf..
 5. PUBLIC INFORMATION – The DB shall provide project support for the City during Phase 1 as it relates to public communication for the project.
 6. PHASE 1 GMP DEVELOPMENT AND SCHEDULE – As part of the DB scope of services for Phase 1, preliminary GMP shall be developed. The preliminary budget shall be established as the benchmark for the project, and will ultimately evolve into the GMP as design decisions are made and the ultimate Phase 1 design is completed. The preliminary budget shall include the preliminary overall project schedule which will be developed by the DB. The schedule will also evolve as the preliminary design and pricing progresses during Phase 1, and a GMP Overall Project Schedule shall be developed and submitted as part of the GMP.
 7. OTHER SERVICES INCLUDED IN PHASE 1 – As part of this Phase 1, other requirements to be included, but not limited to, include geotechnical, surveying, coordination for right of way acquisition, and competitive procurement materials, subcontractors and equipment.
 8. WORKSHOPS: The City requires a series of workshop to discuss the following topics:
 - Project Partnering and Chartering Workshop – The workshop should include the costs of the design-builder’s approach to formal partnering and chartering as outlined in the design-builder’s proposal. The initial workshop will establish the communication protocol, the team’s guidelines and expectations for the project and meetings and provide an opportunity for the City and the DB to review work provided to date and discuss the general design concepts for the project. The discussions and work product from this initial workshop will allow the DB team to further advance current concepts and provide a basis for the more detailed workshops
 - Project Scoping Workshop – This workshop will be held to discuss the DB’s anticipated overall scope for the project, and determine the required work breakdown structure necessary to align cost tracking for the design-builder with the City’s obligations to other stakeholders.
 - Process Workshop - This workshop will provide the collaborative environment by which the DB will discuss the treatment process, including technology, building layout, site location and other facility considerations including operational considerations, maintenance and other lifecycle cost considerations with the City and the City’s Owner’s Agent. Where appropriate, a comparative evaluation tool should be used to further refine options and provide the team with a clear understanding of options. This workshop will also include constructability review discussions for further evaluation and determination of opportunities to offer time and/or cost savings, or other best value considerations.

- Weekly collaboration meetings and/or conference calls to update the project team, including City and City's Owner's Agent, on the progress of the design, updated schedule and cost model, and the near term decisions needed to advance the project progress.

9. PHASE 1 DESIGN

- The Phase 1 design effort will include interim deliverables as well as the final BODR for the design of the project scope as generally outlined in the RFQ Section 2, and technical specifications, and preliminary design checklist outlined in Attachment C, D and E. As part of the workshop efforts outlined above, the Phase 1 design includes the following detailed elements as part of the design effort:
 - i. A **Project Execution Plan (PXP)** will be prepared by the DB for review and concurrence by the City. The PXP will include the following elements:
 1. Project description and scope of work
 2. Project organization
 3. Project contacts and lines of communication
 4. Code requirements
 5. Special client requirements
 6. Filing system
 7. Project workflow model
 8. Project quality assurance and quality control plan
 9. Project budget
 10. Project schedule
 11. Writing, CADD and drafting standards
 12. Electronic File Protocol
 - ii. Complete designs to the 60% level to produce a GMP based on competitive market pricing. Please refer to C for complete Preliminary Design Checklist for each percentage of design package requirements.
 1. Scalable drawings
 2. Equipment specifications
 3. Control Narratives
 4. Facility Safety assessments
 5. Preliminary Traffic control plan
 6. Preliminary Erosion control plan
 7. Prepare, submit and discuss progression of design advancement at regularly scheduled time and/or progress intervals during Phase 1 (assumed approximately 30%, and Pre-GMP).
 - iii. Prepare Overall BODR for review and agreement with City for the Facilities and the Pipeline and submittal to required permitting agencies. The BODR must include Project design data which will be utilized in the development of drawings and specifications. This includes quantities, capacities, rates, and all other pertinent design criteria including

redundancy and operational information and criteria. This information must be presented in an organized, easy to read tabular or outline format. Generally, minimal full sentence text is to be used except for introductory explanations, or for sections not conducive to tabular or outline presentation format. The deliverables for this proposal are assumed, but are not limited to, as follows:

1. WWTP1

- a. Treatment process and facility layout including equipment selection
- b. General project scope and background references
- c. Applicable codes and standards, including fire and safety codes including code review and approval process
- d. CID building, planning, and zoning department requirements including code review and approval process
- e. Site considerations, including subsurface conditions, flood elevations, and drainage requirements
- f. Allowance in site planning for future contingencies such as plant expansion
- g. Process Design Criteria, including a description of redundancy
- h. Discipline Design Criteria
- i. Preliminary Process Flow Diagram
- j. Preliminary Hydraulic Profile and Surge Analysis
- k. Site Arrangement
- l. Process Building General Arrangement Drawings
- m. Preliminary Equipment List
- n. Materials of construction
- o. Preliminary control systems block diagrams. Note that SCADA will be coordinated with the City's Contract Operator such that the SCADA for the new WWTP#1 will communicate with City's existing SCADA.
- p. HVAC and plumbing systems descriptions
- q. Electrical systems descriptions
- r. Preliminary electrical load table
- s. Tagging convention
- t. Preliminary major process P&IDs; P&ID drawings shall indicate pipe sizing, materials of construction, valves, pumps, as well as instrumentation, following ISA conventions in preparation of P&ID drawings. Local and remote control methods shall be indicated. Discrete and analog input/outs shall be identified
- u. Preliminary I/O list for the instrumentation and control system
- v. Instrument schedule listing field devices/instruments, a description, ranges, quantity, model numbers, and manufacturers

- w. Approach to process control descriptions emphasizing reliability, flexibility, operator input, minimizing equipment start/stop cycles, and minimizes energy consumption
- x. Code Classification Table
- y. Power distribution functional diagram
- z. Process facility sections
- aa. Structural design criteria
- bb. Architectural plan and elevations
- cc. Facility architectural renderings
- dd. Communications systems
- ee. Control System Description and Architecture, coordinated with the City's contract operator for integration into the City's current SCADA system
 - i. Requirements for communication protocols and points of demarcation.
 - ii. Follow City's SCADA specifications and design guidelines (Hardware and software requirements)
- ff. Miscellaneous support systems
- gg. Security systems
- hh. Utility requirements
- ii. Internal quality control review and refinement before submitting to City
- jj. Preliminary cost model
- kk. Project schedule update

2. **Recycled Water Pipeline**

- a. General project scope and background references
- b. Preliminary pipeline alignment
- c. Design criteria
- d. Pipeline materials of construction
- e. Basis of pipe design, design standards, internal pressures, external loads, cover depth, trench width, embedment class, and backfill requirements
- f. Hydraulic analysis and profile
- g. Anchorage of pipelines against hydraulic forces, including thrust blocks and restrained joints
- h. Crossings including utilities and streets
- i. Corrosion and cathodic protection requirements
- j. Pipeline appurtenances types and locations, including isolation valves, air release/vacuum relief facilities, blow off facilities, fire hydrants, access openings, outlets/taps, connections, metering, groundwater barriers, and marker posts

- k. Control System Description and Architecture, coordinated with the City's contract operator for integration into the City's current SCADA system
 - i. Requirements for communication protocols and points of demarcation.
 - ii. Follow City's SCADA specifications and design guidelines (Hardware and software requirements)
 - l. Pressure testing and disinfection requirements and procedures
 - m. Surface restoration requirements
 - n. Applicable codes and standards
 - o. Local and state regulatory and jurisdictional agency's requirements, including permitting requirements
 - p. Surveying services, including horizontal and vertical controls and datum
 - q. Easement and rights-of-way requirements
3. **On Site Drainage Improvements:** In accordance with Huitt-Zollar's previously prepared design supplemented as needed by the Design Builder.
4. **Sara Road Revised Access Entrance**
- a. Remove and relocate gate access
 - b. Surface restoration requirements
- iv. Submit four (4) hard copies and one electronic copy of the preliminary drawings and final BODR to City for review.
 - v. Meet with City to obtain City's comments on the submittal. Resolve any questions and revise documents, if necessary.

10. GMP LEVEL DESIGN

- The GMP will be executed at the 60% design milestone. If however the City is satisfied with the design at an earlier design milestone and the accompanying cost model, at its discretion the City may elect to accept the GMP at an earlier design milestone, or phased milestones. The DB will prepare design and procurement package documents for solicitation of key equipment suppliers, vendors, and construction subcontractors on an open book competitive proposal basis based on the GMP level design deliverables, which are as follows:
 - i. Site arrangement drawing with horizontal and vertical control
 - ii. Incorporation of recommendations from the geotechnical investigation report
 - iii. Site grading and yard piping drawings
 - iv. Process flow diagrams
 - v. Hydraulic profiles
 - vi. P&ID drawings; P&ID drawings shall indicate pipe sizing, materials of construction, valves, pumps, as well as instrumentation, following ISA conventions in preparation of P&ID drawings. Local and remote control methods shall be indicated. Discrete and analog input/outs shall be identified
 - vii. Equipment list

- viii. Valve list
 - ix. Instrument device list
 - x. I/O list
 - xi. Control System description and block diagram
 - xii. Control Narratives
 - xiii. Pipe schedules
 - xiv. Equipment control descriptions
 - xv. Chemical feed system P&ID drawings
 - xvi. Structural plans and sections
 - xvii. Architectural drawings and schedules
 - xviii. Mechanical plans and sections
 - xix. Preliminary HVAC and plumbing plans
 - xx. Commodity materials specifications
 - xxi. Process equipment specifications and/or data sheets
 - xxii. Architectural renderings
 - xxiii. Power distribution one lines
 - xxiv. Motor Control Center one lines
 - xxv. Power plans
 - xxvi. Lighting plans and schedules
 - xxvii. Plan and Profile pipeline drawings, with detailed profile sheets where needed for major crossings
 - xxviii. Details of pipeline structures and accessories
 - xxix. Scope descriptions for all equipment packages
 - xxx. Scope descriptions for all subcontract packages
 - xxxi. Internal quality control review and refinement before solicitation of proposals and/or submittal to City
 - xxxii. Update quality assurance and quality control plan and log
 - xxxiii. Project schedule update
- Four (4) hard copy sets and one electronic copy of drawings and specifications shall be provided to the City.

11. PRELIMINARY PRICING AND GMP

- As discussed above, to be developed concurrently with the workshop efforts to develop the preliminary estimate for the project, which shall establish the budgeting benchmark for the project for each of the areas of work under Phase 2.
- The preliminary budget shall include a well-defined work breakdown structure, and shall identify the preliminary cost elements of the Phase 2 work based on the known scope of work developed early in the design process. As elements of work are progressed, the preliminary budget shall be

- refined, and shall include subcontractor and vendor input in order to continue refinement of the preliminary budget. This shall include constructability reviews as part of the Phase 1 design process. The status of the budget shall be discussed during the progression of the design at regularly scheduled intervals agreed upon in writing between the City and the Design Builder after execution of the contract. Additionally, the updates shall include vendor pricing efforts, scopes and other supporting documents, along with the estimate and quantities for the pricing effort for City review, comment and approval.
- The preliminary budgeting and pricing shall include the following:
 - i. Prepare preliminary conceptual estimate for the cost of Work under Phase 2
 - ii. Prepare a preliminary PXP for Phase 2, including the preliminary schedule for the project
 - iii. Meet with City to evaluate scope, cost and budget based on the scope of work developed, and evaluation of options based on current pricing
 - iv. Produce bid packages for major equipment, pumps, and other major commodity items, and subcontract work and solicit competitive proposals from suppliers and constructors using an “open book” approach that is shared with City.
 - As the preliminary design evolves into the BODR, the preliminary budget (progressed and refined) shall be converted into a GMP with the following information provided as backup for the basis of the GMP.
 - i. Finalize detailed scopes of supply for all major equipment purchases.
 - ii. Finalize the detailed overall project schedule.
 - iii. Develop detailed scopes of supply for all major subcontracts for construction services.
 - iv. Develop specifications in one of several formats for attachment to each equipment package and subcontract request for proposals (RFP). Specification formats include bulleted requirements, performance specifications, detailed prescriptive specifications, or manufacturer’s standard specifications depending on what is required to quantify and establish the appropriate quality for the procurement in which it will be used. Appropriate formats will be determined in consultation with City to match City’s definition of Best Value.
 - v. Develop design drawings to appropriate levels to define quantities of materials and construction.
 - vi. Distribute RFPs including the following list of items, as deemed appropriate and where practical, to a minimum of three (3) suppliers or subcontractors as for each procurement, soliciting priced proposals for each major procurement or subcontract: 1) invitation to bid, 2) scope of supply, 3) Terms & Conditions, 4) specifications, and 5) drawings.
 - vii. Receive and review proposals and seek clarifications as required.
 - viii. Assist City with updating the generation estimates based on the guaranteed equipment performance.
 - ix. Prepare bid tabs with exceptions noted and recommendations.
 - x. Meet with City to review bid tabs and recommendations. Adjust if required to meet City’s definition of Best Value.
 - xi. Produce construction quantities based on the GMP level design drawings and specifications.

- xii. Prepare detailed cost estimate for complete execution of the remaining engineering, procurement and construction necessary to complete the project.

Submit GMP to City, including the backup information and the draft Phase 2 contract, which will include the terms and conditions based on the current understanding between the DB and the City.

Preliminary Design Package Checklist

30% Preliminary Design Package Contents

Process

- Process Design Criteria
- Flow rates
- Influent quality
- Effluent quality requirements
- Expansion requirements
- Process and major equipment selection maximizing the use of available standard modules and previous designs
- Phasing schedule
- Redundancy Requirements
- Overall process flow diagram
- Process narratives (brief descriptions)
- Mass/energy balances
- Provide preliminary estimate of consumable quantities (energy, chemicals) and residuals for minimum, average and maximum operating conditions

Deliverables:

- Document design approach and criteria in Schematic Design BODR.
- Overall process flow diagrams and individual unit process flow diagrams.
- Prepare process narratives.
- Major process equipment list

Mechanical

- Define process flow streams, legends and abbreviations
- Hydraulic profiles
- Equipment list/data sheets

- Pipe materials and valve types
- Identify all equipment redundancy requirements
- Coating and lining requirements
- Material selection
- Vendor drawings and information as required
- Draft of major equipment specification

Deliverables:

- Preliminary mechanical drawing list and specification list
- Equipment List
- Major process equipment list

Civil

- Site/civil and site utility plans
- Site drainage plan
- Define limits of flood plain/ issues
- Zoning and local site development requirements
- Identify environmentally sensitive areas such as wetlands and hazardous waste areas
- Roadway and paving sketches and preliminary traffic plan
- Defined survey, mapping and geotechnical needs for final design

Deliverables:

- Document design approach and criteria in Schematic Design BODR
- Preliminary civil drawing list and specification list

Architectural

- List of applicable codes and life safety issues
- List of controlling regulatory agencies and contacts
- Sketches of building floor plans showing rooms and major equipment
- Building elevations, building finishes and architectural details
- Building classification list and HVAC R-values
- Vendor drawings and information as required

Deliverables:

- Document design approach and criteria in Schematic Design BODR
- Schematic design level drawings described above.

- Preliminary architectural drawing list and specification list

Building Services

- Plumbing design concepts, sanitary sewer design, etc.
- Fire protection and security system requirements
- Establish ambient design conditions
- Plan to bring existing facilities into code compliance where necessary.
- HVAC equipment room layout (sketch)
- HVAC equipment list (include on project master equipment list)
- Document local building codes and requirements
- Document odor system requirements and provide sketches, if required
- Vendor drawings and information as required

Deliverables:

- Document design approach and criteria by building and room in Schematic Design BODR
- Schematic design level distribution drawings.
- HVAC Equipment List
- Air Flow Schematic
- Equipment Arrangements
- Preliminary HVAC drawing list and specification list

Structural

- Structural design concept and design criteria
- Structural steel sketches and details
- Structural concrete plan sketches
- Structural foundation sketches and details
- Piling plan sketches
- Document existing building or structures requiring upgrade or modifications.
- Document any structural problems associated with any existing plant facilities to be modified in the project.
- Identify local building codes and local design criteria
- Draft of specifications
- Geotechnical Report with preliminary foundation recommendations

Deliverables:

- Document design approach and criteria in Schematic Design Basis of Design Report (BODR) per Basis of Design Best Practice.
- Preliminary structural drawing list and specification list
- Documentation of feasibility for modification/use of existing structures.

Instrumentation

- Control philosophy description
- Control system block diagram, including integration with existing SCADA System
- P&IDs with pipe and valve sizes and materials
- Onsite communication system requirements
- Vendor drawings and information as required

Deliverables:

- Document design approach and criteria in Schematic Design BODR
- Define or recommend control system procurement methods and software development.
- Document client's control system philosophy/architecture and other information needs (e.g., reports needed, integration with lab data, O&M).
- Develop and publish control system network block diagram.
- In addition to the above report, provide the following to the QC reviewer:
- Preliminary I&C drawing list and specification list

Electrical

- Electrical/communications/security design concepts
- Preliminary electrical one-lines
- Electrical equipment location plan
- Electrical equipment list (include on project master equipment list)
- Plan to bring existing facilities into code compliance where necessary.
- Schedule of hazardous and corrosive locations
- Document the need for onsite standby and/or emergency power; determine size.
- Define modes of generator operation, interconnection requirements and load shedding.
- Document redundancy requirements for power supplies and power distribution.
- Vendor drawings and information as required

Deliverables:

- Document design approach and criteria in Schematic Design Basis of Design Report (BODR) per Basis of Design Best Practice.
- Preliminary one-line diagrams
- Preliminary site plans or sketches showing major equipment locations and duct bank route
- Preliminary electrical room plans or sketches including electrical equipment, I&C and special system panel locations
- In addition to the above report, provide the following to the QC reviewer:
 - SKM DAPPER files
 - Equipment List

60% Preliminary Design Package Contents

Process

- Update Process Design
 - Update process design criteria and document reason for revision.
 - Final Process Narrative Memo in line with P&IDS
- Equipment List
 - Complete the equipment and process design calculations and have the calculations and supporting information reviewed and signed off by the QC reviewer.
 - Complete equipment data sheets or equipment list on all major process equipment items.
 - Finalize process equipment sizing and line sizing calculations. Have calculations reviewed and checked.
 - Finalize process equipment selection (type, size, weight, arrangement) and update equipment list.
 - Assemble catalog cuts for all major process equipment.
- Preliminary Process Drawings
 - Complete PFD and mass balance drawings.
- Specifications
 - Prepare specifications list.
 - Pull specifications and do first round of markups.
- Project Permitting
 - Meet with governing regulatory agency(ies) to determine permitting requirements.
 - Prepare or assist client in preparing PER and permit application..

Deliverables:

- Preliminary Drawings identified above.
- Specifications list
- P&IDs

Mechanical

- Hydraulic Profile
 - Finalize the hydraulic profile for all major gravity process pipelines and hydraulic structures.
- Process Mechanical Design
 - Finalize mechanical portion of P&IDs, including tag numbers.
- Size control valves and all other valves and piping.
- Equipment Selection List
 - Complete equipment data sheets or equipment list on all major pumping equipment items.
 - Finalize pump and blower selection (e.g., type, size, weight, arrangement).
 - Assemble catalog cuts for all major pumping equipment.
 - Select piping materials.
 - Select valve types.
 - Size equipment and piping.
- Drawings
 - Develop mechanical model, including equipment, piping, and control panels.
 - Complete 2D drawings.
- Specifications
 - Complete Process Mechanical specifications

Deliverables:

- Preliminary Drawings identified above
- Updated final drawing list
- Updated final specifications list and any specifications edited to date
- BODR Document revisions

Civil

- Preliminary Site Plan
 - Develop preliminary site layout and set up overall survey control. Delineate the boundaries of the site constraints based on legal, environmental, and regulatory restrictions.
 - Establish horizontal locations of major structures and buildings. Set up coordinate table and identify control points of facilities

- Locate contractor staging areas and haul routes.
- Obtain traffic generation, paving, and parking requirements from client. Coordinate with Building Services to obtain fire access and hydrant requirements from Fire Marshall.
- Identify access control, fencing, and security arrangements.
- Road Design
 - Determine traffic generation and parking requirements.
 - Develop road layout for access to all buildings and structures.
 - Determine locations of driveways, curb cuts, dumpsters, etc.
- Site Grading
 - Prepare preliminary site grading drawings.
 - Establish finish floor elevations and road profiles
 - Develop terrain model and calculate earthwork quantities
- Site Drainage
 - Show stormwater control concepts (e.g., swales, curb, and gutter) on the design development drawings.
 - Develop storm sewer system and coordinate with site utilities and with building services for roof drains.
 - Develop Manhole and Inlet Table to be completed in CD Phase
 - Size stormwater features - ponds, basins, ditches
- Site Utilities
 - Provide calculations for storm sewer capacity/size and hydraulic grade line (HGL) profile.
 - Lay out process piping, storm drain system, and building services (water, fire protection, natural gas, sewer)
 - Lay out electrical power and communications duct banks, in coordination with electrical and I&C disciplines.
 - Determine connection points and lay out major piping and utilities.
 - Develop coordinate table to be completed in CD Phase
- Specifications
 - Prepare specifications list.

Deliverables:

- Preliminary Drawings identified above.
- Updated final drawing list
- Updated final specifications list and any specifications edited to date

- BODR Document revisions

Architectural

- Begin or continue to develop 3D model or BIM attributes if applicable.
- Obtain all chemical quantities, concentrations and MSDS sheets from Process Engineers.
- Finalize specification list and develop all schedules including doors, windows, louvers and finishes for all buildings.
- Building Code Analysis
 - Finalize Code Analysis Form for each building on drawing sheets.
 - Verify roof assembly required ratings such as Factory Mutual.
 - Complete chemical documentation on drawings per building (as applicable).
 - Finalize Life Safety Plan including project specific legend for each building.
 - Identify on plans all required fire ratings for walls, roofs and other assemblies including all penetration details with UL numbers.
 - Finalize and illustrate all life safety requirements including egress, fire suppression and smoke control as applicable.
- Develop interior design concepts, color scheme and produce solar boards if applicable.
- Schedule and meet with code authorities having jurisdiction as required.
- Design Development Drawings
 - Set up and develop a 3D model of buildings and master files for use by the team.
 - Develop floor plans and building elevations and annotate all deliverables..
 - Develop major building and/or wall sections to define the vertical relationship of all building elements.
 - Confirm drawing list for final design.
 - Special Architectural Rendering (If required in Contract)
 - Prepare a 3D CAD model or 2D drawing to describe the architectural concepts. Incorporate or coordinate with mechanical and structural disciplines
- Prepare rendered views, photographs, or video displays, if included in contracted scope.

Deliverables:

- Life Safety Plan for each building.
- Floor Plan for each level of each building (if required).
- Roof Plan for each building including locations and type of roof drainage system.
- Exterior elevations of each face of each building.
- Major building and/or wall sections partially developed.
- Specifications including all building schedules and standard details as required based on the project.

- BODR Document revisions

Building Services

- Definition of HVAC System Concepts
 - Finalize minimum Air change rates based on governing codes, agency, local requirements as well as design guides.
 - Finalize room pressurization scheme.
 - Finalize existing systems and capacities
 - Finalize air flow schematics which indicate major equipment and air flow balance meeting ventilation and pressurization requirements
 - Finalize type of ventilation system to be used in process buildings (e.g., inlet air tempered with both inlet and outlet fans and simple exhaust fan system). Confirm contaminants of exhaust stream and ensure segregation of streams as required.
 - Based on the exhaust systems identified and the air discharge requirements, finalize the requirements for safe discharge.
 - Finalize type of heating system to be used; hot water boiler, hot air furnace, space heaters.
 - Finalize type of air conditioning system to be used in personnel spaces; variable air volume system, zoned constant air volume system.
 - Finalize HVAC control system approach and level of communication/control by the plant SCADA system.
 - Finalize fuel (e.g., gas, oil, or other fuel) for heating buildings and identify local fuel storage requirements.
- Finalize utility requirements for all process, mechanical, and HVAC equipment
- Finalize the design criteria for the utility systems including temperature, pressure, and filtration, for all systems: chilled water, steam, compressed air, and cooling tower systems.
- Equipment Selection
 - Finalize equipment will require pre-purchasing due to the schedule, and prepare specifications for purchase.
 - Finalize the size and select the major equipment identified on P&ID drawings considering Energy code. Prepare HVAC equipment data sheets.
- Equipment, Piping and Ductwork Arrangements
 - Finalize the location of the major equipment identified on general arrangement drawings. Confirm size of equipment rooms with Architect.
 - Select equipment materials and review selection with corrosion engineer.
 - Prepare specifications for equipment requiring pre-purchase due to the schedule.
- Prepare construction specifications for all utility systems including piping, insulation, etc.
- Prepare construction specifications for HVAC-related components including ductwork, insulation, etc.

Deliverables:

- BODR Document revisions
- Checked calculations with table of contents
- Preliminary Drawings identified above
- Updated final drawing list
- Updated final specifications list and any specifications edited to date

Structural

- Perform preliminary structural design calculations of all structural members sufficient to establish preliminary sizes.
- If developing drawings in 2D, prepare floor plans, framing plans, and foundation design drawings as follows:
 - Prepare foundation plan(s) and sections for buildings, equipment and pipe racks.
 - Prepare framing plans and details, and building sections of all floor levels and roof.
 - Prepare exterior and interior elevation drawings to show brace locations.
 - Prepare selected connection detail drawings.
 - Indicate slab depression(s) and/or slope(s) required for sumps, trenches, etc.
 - Prepare framing plans and details for equipment and pipe racks.
 - Show construction phasing and existing items to remain or be demolished on drawings.
- If the design is to be executed using 3D modeling, use the selected 3D software to produce the design and extract the drawings listed previously.
- Prepare any additional required preliminary specifications.

Deliverables:

- BODR Document revisions
- Checked calculations with table of contents
- Preliminary Drawings identified above
- Updated final drawing list
- Updated final specifications list and any specifications edited to date
- Soils Investigation Report

Instrumentation

- Control System Development
- Finalize Control Narratives
- Specifications
 - Prepare specifications list.

- Draft control system specifications, including instrument component specs or instrument data sheets.
- Size and select instruments. Assemble catalog cuts (electronic or hard copy) of first-named instruments.
 - Produce preliminary Instrument List.
- Develop preliminary I/O List.
 - Develop I&C insert to be used for equipment and package control systems that defines controls, operator interfaces, instrument, and I/O requirements.
- Drawings
 - Prepare final P&ID drawings, including loop numbers, instrumentation, and I/O.
 - Confirm drawing list for final design.
 - Updated control system block diagram.

Deliverables:

- BODR Document revisions
- Preliminary Drawings identified above
- Updated final drawing list
- Updated final specifications list and any specifications edited to date
- Updated final specifications list and any specifications edited to date

Electrical

- Power Supply and Distribution
 - Update electrical system analysis using SKM DAPPER.
 - Submit load calculations and one-line diagrams to electric utility for review.
- Finalize generator size.
- Electrical Code Review
 - Verify compliance with electrical code requirements.
- One-Line Diagrams
 - Finalize overall one-line diagram.
 - Prepare preliminary one-line diagrams for each proposed facility.
- Site Electrical
 - Locate and identify outdoor electrical equipment, such as transformers, engine generator, and switchgear.
 - Lay out duct bank system, including major runs, manholes and handholes.
- Preliminary Process Plans
 - Finalize size of electrical rooms and update layout of the major electrical equipment located in each electrical room.

- Identify rights-of-way and routing methods for electrical conduit and trays.
- Determine equipment requiring uninterruptible power supplies (UPS) and locations of UPS equipment.
- Lighting Design
 - Develop detailed lighting concepts; select luminary types in conjunction with architect.
 - Develop preliminary lighting layouts and initial lighting calculations.
 - Prepare preliminary site lighting layout.
- Finalize specifications

Deliverables:

- Preliminary Drawings identified above
- Drawing list.
- Specifications list and any specifications edited to date.
- BODR Document revisions

90% Preliminary Design Package Contents

Process

- Finalize Design Calculations
- Specifications
 - Finalize process equipment specifications and schedules. Coordinate with painting, package control systems, and electric motor specs.
 - Define process startup requirements.
- Project Permitting
 - Address all process comments received from permitting agencies.

Deliverables:

- Contract Drawings and Details
- Contract Specifications
- Final equipment list
- Final P&IDs
- Final Calculations with narrative and table of contents.

Mechanical

- Mechanical Floor Plans.
- Sections and Details
- Prepare standard details.

- Annotate mechanical sections and details.
- Specifications
 - Finalize equipment specifications and schedules.
- Project Permitting
 - Address all process comments received from permitting agencies.
 - Address all mechanical comments on design received from regulatory agencies.
 - If required complete noise analysis.

Deliverables:

- Contract Drawings and Details
- Contract Specifications
- Final Calculations with narrative and table of contents.

Civil

- Site/Civil Plans
 - Finalize site layout, including road layout, building locations, and overall grading.
 - Provide coordinates or layout dimensions for new facilities. Locate buildings and facilities by structural grid line intersection, if applicable
 - Finalize roadway geometrics and horizontal and vertical alignments.
 - Finalize fencing, gates, security, and access control.
 - Finalize roadway pavement design, sections, and details.
 - Locate sidewalks, door and equipment pads.
 - Finalize grading and add spot elevations. Coordinate with architectural and structural disciplines for grades at building entrances, equipment pads and stair landings.
- Site Utility Plans
 - Finalize horizontal alignment of utility systems.
 - Develop vertical alignment of utility systems.
 - Finalize storm drainage system based on final grading plan and complete manhole and inlet schedule.
 - Finalize pipe profile drawings
 - Finalize piping sections
- Site Demolition Plans
 - Prepare site demolition plans
- Site/Civil Details
 - Prepare project-specific and standard details.

- Specifications
 - Finalize specifications

Deliverables:

- Contract Drawings and Details
- Contract Specifications
- Final Calculations with narrative and table of contents
- Final Project Notebook (hard and/or soft copy)

Architectural

- Building Code Analysis
- Complete Life Safety Plan with Complete Code Data.
- Finalize Specifications, Specification Schedules and coordinate with drawings:
 - Doors Assemblies
 - Window Assemblies
 - Louvers
 - Signage
 - Finishes-interior and exterior.
 - Colors and color lists.
 - Details included and properly coordinated into drawings.
 - Finalize Drawings
 - Floor Plans
 - Roof Plans
 - Reflected ceiling Plans
 - Finish Plans
 - Enlarged Area Plans
 - Exterior Elevations
 - Building and/or Wall Sections
 - Building specific sections and details as required
 - Standard Details on Drawings or separately bound
 - Toilet and bath accessories located and scheduled
 - Lockers and Specialties located and scheduled
 - Signage located and scheduled especially HAZMAT designations.
 - Fire Extinguishers located and scheduled

Deliverables:

- Contract Drawings and Details
- Contract Specifications

Building Services

- Final P&IDs and General Arrangements
 - Finalize P&IDs for all identified systems. Include final control valve sizing, alarms, shutdown and control setpoints, drain valves added as a result of actual pipe routing, final sizes for relief valves, identification of hard wired interlocks, and modification of the vendor supplied packages.
- Update general arrangement drawings based on approved vendor shop drawings.
- Plans, Sections and Details
 - Finalize HVAC Floor plans suitable for bidding and construction. Include plan drawings indicating the duct routings, dimensions, sections, details and schedules.
 - Finalize piping drawings suitable for bidding and construction (amount of detail will vary with the project). Show pipe routings, dimensions, sections, details and schedules.
 - Finalize HVAC standard details. Cross reference details to plans.
 - Finalize HVAC equipment schedules.
- Finalize louver sizing
- Prepare pressure drop calculations. Incorporate any changes to pressure drop calculations and motor sizing for each of the systems identified.
- Calculate heat tracing loads.
- Finalize Specifications
 - Finalize construction specifications for all utility systems including piping, insulation, etc..
 - Finalize construction specifications for HVAC-related components including ductwork, insulation, etc.
- Finalize schedules.
- Finalize drawings
- Complete standard details.

Deliverables:

- Utility Equipment Specifications and Data Sheets
- HVAC-Floor Plans, Roof Plans, Mech Room Plans, Sections, Details, Schedules
- Utility-Floor Plans, Roof Plans, Mech Room Plans, Sections, Details, Schedules
- Construction Specifications
- P&IDs and General Arrangements
- Final Calculations with narrative and table of contents

Structural

- Design Calculations
 - Finalize structural design calculations of all gravity load resisting structural systems, members, and details.
 - Finalize lateral load resisting systems calculations including those for all details. Describe flow of forces and/or systems in final calculation narrative.
 - Finalize structural design calculations for all mechanical, electrical, I and C, architectural, process, and related supports and systems that will not have calculations provided by deferred submittals.
- Finalize Drawings
 - Complete foundation plans and sections
 - Complete roof framing plans
 - Complete floor and all other level framing plan
 - Complete floor and roof diaphragm designs
 - Complete column and wall designs, sections, and detailing
- Finalize structural Design Details.
- Specifications
 - Finalize structural specifications.

Deliverables:

- Contract Drawings and Details
- Contract Specifications
- Final Calculations with narrative and table of contents

Instrumentation

- Finalize Drawings
- Finalize P&IDs.
- Final control system block diagram
- Prepare installation details.
- Prepare any other miscellaneous I&C drawings.
- Specifications
- Review and provide input on actuator, adjustable speed drive, equipment, electrical, and package control system specifications.
- Finalize Instrument Lists, I/O Lists, and Panel Schedules.
- Finalize loop descriptions in Commissioning Database. If CH2M HILL is not doing the software development, include "Loop Description" report in specifications.

- Finalize Design Calculations

Deliverables:

- Contract Drawings and Details
- Contract Specifications

Electrical

- Finalize power supply and distribution
- Lighting Design
 - Complete lighting calculations.
- Finalize electrical drawings
 - Electrical Legend and Abbreviations
 - Site Plan(s)
 - One-Line Diagram(s)
 - Control Diagrams
 - Demolition Plans (if required)
 - Process Plans
 - Facility Plans
 - Grounding Plans
 - Hazardous Area Definition Plans and Sections (where needed for clarity)
 - Cable Block Diagrams (in lieu of Process Plan wiring information, if desired)
 - Riser Diagrams (for telephone, data, fire alarms, security, paging)
 - Electrical Schedules
 - Standard Details
- Specifications
 - Finalize electrical and special system specifications.

Deliverables:

- Contract Drawings and Details
- Contract Specifications
- Final Calculations with narrative and table of contents

Attachment C

Draft Progressive Design-Build Contract

Draft Progressive Design-Build Contract

The draft contract, including the agreement and all of its attachments, substantially in the form attached hereto as Attachment C (Draft Progressive Design-Build Contract). The City expressly reserves the right unilaterally to change any provision or provisions of the Draft Progressive Design-Build Contract prior to the execution of the agreement.

The draft contract is attached at the end of the RFP Document for your convenience.

Attachment D

Project Background Documents

- Preliminary Engineering Report (PER) for City of Rio Rancho WWTP 1 Rebuild – October 2015, with contents listed below.
 - Section 1 – Introduction. Project background, overview of the project objectives of the report, and report organization.
 - Section 2 – Project Planning. Describes the project planning area, service area for WWTP 1, the location, environmental resources present, growth areas, and projected population and wastewater flow.
 - Section 3 – Existing Facilities. Provides a description of the existing wastewater treatment plant, including the location, history, condition, and financial status of the existing operating facilities.
 - Section 4 – Need for Project. Establishes the need for the project in terms of health and sanitation, regulatory requirements, system operation and maintenance, growth, and other identified needs.
 - Section 5 – Alternatives Considered. Develops the alternatives for the WWTP 1 treatment options, design criteria, and pump and pipeline alternatives. The specific alternatives include a detailed description, a process flow diagram, environmental impacts, land requirements, construction problems, cost estimates, and a comparison of alternatives.
 - Section 6 – Selection of Alternative. Proposes a project based on a decision analysis process and weighting criteria and presents the capital cost and net present worth analysis.
 - Section 7 – Proposed Project. Summarizes the recommended project and includes the system layout for the treatment process, pumping stations, and pipeline and includes implementation items such as the project schedule, and permit requirements.
 - Section 8 – Conclusions and Recommendations. Summarizes the conclusions and recommendations and includes any additional findings and recommendations that may be considered in development of the project.
- Rio Rancho Reuse Alignment Update, Huitt-Zollars, September 18, 2015
- Storm Drainage Improvement Project at WWTP 1 Plans; Huitt-Zollars, February 19, 2015
 - WWTP 1 Storm Drain Improvements
 - Plan and profile drawings of new storm drain improvements, Vista Verde Memorial Park Cemetery plat map and Engineer’s Opinion of Probable Cost.
- A WTF influent requirements as stated in NMED direct injection permit
- Diurnal flow variations to WWTP 1
- Components of design annual average and maximum monthly flow.
- Table of special sampling results
- Effluent data from WWTP 6:
 - Effluent data from August 2015 – July 2016

- Sara Road access point and revised access entrance off Sara Road:
 - Conceptual Auto turn drawing
- General map of collection system showing diversion to WWTP 1

Attachment E

Project Technical Requirements

The purpose of this project is to construct a new wastewater treatment plant on the site of the existing WWTP 1, located at 4300 Sara Road SE in Rio Rancho, NM. The existing WWTP 1 was constructed in the early 1970's and is well beyond its originally planned service life.

The City of Rio Rancho is implementing a water resource recovery program that includes the production of Class 1A effluent as defined by the New Mexico Environment Department Guidelines for the Above Ground Use of Reclaimed Domestic Wastewater dated January 2007, for use on irrigation sites across the city and as feed water for the Advanced Water Treatment Facility (AWTF). The City has already constructed two Membrane Bioreactor (MBR) WWTPs serving the Mariposa (WWTP 5) and Cabezon (WWTP 6) housing developments, with the WWTP 6 currently producing an average of 0.4 MGD of effluent. This project is intended to provide treatment for flow capacity of 1.5 MGD.



Figure 1 – Collection System for WWTP1 Project

Influent Flows and Concentrations

The design influent flows and concentrations for this project are provided in Table 1. This table is based on limited sampling and may be modified by the City before process design is finalized.

Table 1 – Design Influent Criteria for new WWTP 1

Parameter	Value
Annual Average Flow, mgd	1.5
Maximum Month Flow, mgd	1.6
Peak Day Flow, mgd	2
Peak Hour Flow, mgd	2.2
Minimum Influent Temperature, °C	18
Average Influent Temperature, °C	22
COD, mg/L	550
Soluble COD, mg/L	220
Filtered, flocculated COD, mg/L	140
BOD ₅ , mg/L	300
Soluble BOD ₅ , mg/L	110
TSS, mg/L	300
VSS, mg/L	140
Total Kjeldahl Nitrogen (TKN), mg/L	60
Ammonia, mg/L	40
Total Phosphorus, mg/L	8
Oil and Grease, mg/L	50
Alkalinity as CaCO ₃ , mg/L	350

Treatment Process - General

While the PER recommendation is for a MBR process, to encourage innovation, the City does not want to limit the treatment process technology to that option. Therefore, treatment process alternatives that provides equivalent effluent quality to MBR may be considered. This effluent quality is provided in Table 2.

Table 2 – Effluent Requirements for new WWTP 1

Parameter	Limit	Measuring Type/Frequency
BOD ₅	3 mg/L (30-d avg), 5 mg/L (max)	6-hour composite, 1/2 weeks
Total Nitrogen (TKN + NO ₃)	8 mg/L (30-d avg), 10 mg/L (max)	Quarterly
E.Coli	0 cfu/100 mL (30-d avg), 2 cfu/100 mL (max)	Grab at peak flow, 1/week
Turbidity	0.1 NTU (30-d avg), 0.3 NTU (max)	Continuously recorded

The purpose of the AWTF is to provide further treatment of the effluent prior to direct injection into the city’s ground water being used as the municipal water supply, also known as indirect potable reuse (IPR). The AWTF is currently under construction with an anticipated completion date of April 2017. A pilot study was conducted by the city consisting of treatment of the WWTP 6 effluent by advanced oxidation (ozone/peroxide) and granular activated carbon (GAC) filtration. The successful results of this study formed the basis of the current AWTF project. Because this pilot study used effluent filtered with ultrafiltration (UF) membranes, a membrane filtration process with a pore size no greater than the current UF membranes being used at WWTP 6 will be required for this project.

Although innovation is encouraged on this project, certain minimum technical requirements for the unit processes are provided below. The primary purpose of these requirements is to reduce the potential for protracted discussions during the preliminary design (Phase 1) of the project on fundamental design concepts and facilitate compliance with the aggressive schedule of this project.

Headworks (Screening and Grit Removal)

For the MBR option, two-stage screening with grit removal preceding the 2nd Stage fine screen is required. The 1st Stage coarse screen shall be a bar screen with bar openings no greater than 9.5 mm and no less than 6 mm. Grit removal shall follow the 1st Stage screen and shall be a process proven to provide 95% removal of 100 micron particles, as defined by sand equivalent size settling velocity determinations using wet sieving. The 2nd Stage fine screen shall be a perforated plate screen with openings of 1-2 mm. Flow through the fine screen shall be “inside-out” type, creating a physical barrier against debris carrying over into the screened flow and possibly damaging the membranes. If a tertiary membrane filtration (TMF) process is proposed only the 1st Stage screen and grit removal process is required, although a means of preventing windblown and other floating debris that may carry over from the secondary clarification process from entering the TMF process shall be provided.

Secondary Process

The secondary process shall provide a fully nitrified effluent and total nitrogen removal to less than 10 mg/L at all times. Because this is an IPR application, the process shall provide a minimum aerobic solids retention time (SRT) of 10 days at design maximum month flow and concentrations listed in Table 1. The secondary process shall be sized using an accepted mechanistic modeling program (BioWin™ preferred). Influent characteristics in Table 1 are estimates only and additional influent characterization is being performed of WWTP 1 and LS 10 flows and will be provided during Phase 1 of the project that will allow for determination of influent COD fractions. The model files will be provided to the Owner and used by the Owner’s agent for checking the respondents’ proposed design. Consideration shall be given to future effluent phosphorus limits in the final layout of the facilities.

Membrane Filtration Process

The membrane filtration process shall use ultrafiltration membranes with a maximum pore size of 0.1 µm. The membrane filtration system shall be equipped with auxiliary systems to keep the membranes clean and maintain the manufacturer’s specified range of net specific flux rates of the system. The membranes shall carry at 10 year prorated warranty allowing for membrane replacement during the first 5 years at no additional cost to the Owner. Membrane replacement during the following 5 years of the membrane warranty period will be provided at a prorated cost based on the guaranteed membrane purchase cost. The DB shall guarantee the maximum membrane purchase cost for 10 years following the date of Substantial Completion of the construction contract.

Effluent Disinfection and Storage

For proposers utilizing sodium hypochlorite cleaning systems for the membrane filtration system, sodium hypochlorite shall also be used for effluent disinfection. Alternative disinfectant systems shall be considered if sodium hypochlorite is not used for membrane filtration system cleaning. Sizing of the disinfection systems shall take into account the high quality of membrane filtered secondary effluent and need to control regrowth in the effluent reuse lines. For membranes with backwashing capability, a sufficiently sized permeate storage tank shall be provided to ensure an adequate amount of permeate for a “worst-case” backwash cycle.

Waste Activated Sludge (WAS) Solids Handling

WAS shall be transported in liquid form to WWTP 2 for dewatering. A WAS storage tank shall be provided of sufficient size to maintain peak WAS flow for a period of two days.

Odor Control

Complete containment and treatment of odors from the headworks shall be provided. The odor control system shall be designed to achieve no detectable odor at the fence line. If MBR is used, the bioreactor and membrane tanks will be covered and ventilated with a dispersion stack.

Reliability/Redundancy

For all critical plant equipment, a redundant unit shall be provided. For multiple units of various size, plant capacity shall be achievable with the largest unit out of service. This is particularly important for the MBR fine screens as membrane warranties can be voided with the lack of fine screening. Due to the relatively small plant size, a redundant bioreactor is not feasible but multiple bioreactors shall be provided to allow maintenance of a viable biomass while servicing a portion of the process aeration and mixing equipment while diverting flow to one of the other city WWTPs. A generator will be required to maintain power to the critical elements of the plant.

Control System

For all Control System and components, power will be provided via UPS to provide uninterrupted operation of Control System related equipment. Design of PLC's shall include redundancy such that the control system can be restored by City Operations staff to full operation within 4 hours of system failure with no programming required. The control system shall be fully integrated into the City's existing SCADA System. Full plant control shall be available from other City sites through SCADA system along with all historical data.

Recycled water conveyance from WWTP1:

The City of Rio Rancho is interested in innovative alignments to convey the effluent from WWTP1. Respondents should plan on conveying effluent to the existing recycled water system. The proposed effluent pipe alignment(s) will need to be reviewed and approved, by the city, to prevent cutting of roads less than 5 years old.

Utilities

A reuse water system utilizing the high quality effluent shall be used for all plant utility water.

Site Drainage

DB is to confirm the need for the storm water drainage improvements provided in Attachment D as being necessary to avoid flooding of the adjacent cemetery. While use of the existing effluent storage pond is not encouraged either for raw sewage equalization or high quality effluent storage, it may be considered to manage storm water flow.

Existing Plant Demolition

Given the lack of redundancy and extreme age of the existing plant, reuse of existing structures is not encouraged and demolition of the existing plant shall be an additive alternative to the GMP.

Attachment F

Fee and Rate Proposal Form

Scope of Work	Definition	Price
Phase 1 Pricing Component		
Phase 1 Design and GMP Services	Preliminary design, all workshops, schedule and GMP development (assume 60% level of design for GMP development):	
	(5% evaluation) Reuse conveyance Phase 1 Design and GMP Services	\$
	(5% evaluation) Balance of Project Phase 1 Design and GMP Services	\$
Total proposal for Phase 1	Evaluated Price Component 1 (Sum of Reuse conveyance and balance of project)	\$
Overhead and profit on cost of work		
(%) Overhead and Profit on Cost of Work	Does not include GC's, bonds, insurance and Phase 2 engineering costs. Markup to be applied to actual cost of work (subcontractors, materials, and actual cost of work performed) for services as a percentage markup	
	Construction: % fee markup consisting of: (6% evaluation) Self-performed Scope Percentage (6% evaluation) Subcontracted Percentage	Self-performance scope %: _____ Subcontracted scope %: _____
(\$) Evaluated Price for Overhead and Profit on Cost of Work	Markup (%) x Budgeted construction costs (\$22,000,000) for evaluated price component.	\$



CITY OF RIO RANCHO
DEPARTMENT OF FINANCIAL SERVICES

RFP 17-UT-006
Progressive Design Build for Wastewater Treatment Plant 1

Appendix 1 Acknowledgment Form

Please complete this form and return it to the City of Rio Rancho Financial Services Department. Failure to return this form will not exclude a firm from submitting a statement of qualification; however, only those prospective respondents who elect to return this form will receive addenda, if issued, and/or other information pertaining to this solicitation.

Name of Firm: _____

Firm Representative: _____

Title: _____

Phone: _____ **Fax:** _____

E-Mail: (required) _____

Address: _____

City: _____ **State:** _____ **Zip:** _____

When completed, please email, fax or mail this form to the following contact:

Shonna Ybarra, Purchasing and Contracts Manager
CITY OF RIO RANCHO
DEPARTMENT OF FINANCIAL SERVICES
3200 CIVIC CENTER CIRCLE
RIO RANCHO, NM 87144
Phone: (505) 891-5044
Fax: (505) 891-5762
sybarra@rrnm.gov



CITY OF RIO RANCHO
DEPARTMENT OF FINANCIAL SERVICES

RFP 17-UT-006
Progressive Design Build for Wastewater Treatment Plant 1

Appendix 2

Required Information Form

1. IDENTITY OF RESPONDENT:

FIRM NAME: _____

ADDRESS: _____

E-MAIL ADDRESS: _____

ALTERNATE EMAIL CONTACT: _____

(City may attempt to contact Respondent via email please provide additional email contact information if available.)

TELEPHONE #: _____

NEW MEXICO TAX # (if any) _____

NEW MEXICO STATE CORPORATION COMMISSION # _____

CONTACT PERSON FOR PROPOSAL _____

2. DISCLOSURE OF ANY POTENTIAL CONFLICTS OF INTEREST

Please indicate any potential conflicts of interest including, but is not limited to:

- Accepting an assignment where duty to the client would conflict with the Respondent's personal interest, or interest of another client.
- Performing work for a client or having an interest which conflicts with this contract.

(Please attach additional pages if necessary)

3. SIGNATURE

This page has been signed by a signatory with the authority to bind the Respondent. By signing this Signature Page, through the undersigned representative who has the authority to bind the Respondent, and by submitting a proposal in response to RFP 17-UT-006, the Respondent agrees to perform the services required by such RFQ and to adhere to all requirements, specifications, terms and conditions of the RFQ. Respondent further agrees to be bound by this proposal for a minimum of 90 days from the date proposals were due. By signing this Signature Page, the undersigned representative is also acknowledging receipt of all addenda that may be issued in regards to said RFQ.

SIGNED BY:

Name (print)

Signature

Title

Date

Appendix 3
LOCAL/AREA/RESIDENT/RESIDENT VETERAN/RECYCLED CONTENT GOODS
PREFERENCE CERTIFICATION FORM

Business Name: _____

Principal Place of Business: _____

Address: _____

State _____ ZIP _____

DEFINITIONS:

Recycled content goods has the meaning set forth in NMSA 1978 § 13-1-21(A)(6) , as amended from time to time.

RESIDENT BUSINESS has the meaning set forth in NMSA 1978 § 13-1-21(A)(5) , as amended from time to time.

RESIDENT CONTRACTOR has the meaning set forth in NMSA 1978 § 13-4-2(A)(5) , as amended from time to time.

RESIDENT VETERAN BUSINESS has the meaning set forth in NMSA 1978 § 13-1-21(A)(7), as amended from time to time.

RESIDENT VETERAN CONTRACTOR has the meaning set forth in NMSA 1978 § 13-4-2(A)(6), as amended from time to time.

STATUTORY PREFERENCE means the preference for Resident Businesses, Resident Contractors, Resident Veteran Businesses, Resident Veteran Contractors, and Recycled Content Goods provided in NMSA 1978 §§ 13-1-21 or 13-4-5, as amended from time to time.

Qualifying company means a company that qualifies for a Statutory Preference under NMSA 1978 §§ 13-1-21 or 13-4-5, as amended from time to time.

LOCAL BUSINESS means a Resident Business or Resident Contractor which:

- (a) Is authorized to do and is doing business under the laws of the State of New Mexico;
- (b) Possesses a current city business registration;
- (c) Maintains its principal place of business within the corporate limits of the city; and
- (d) Agrees to furnish evidence, in a form suitable to the city, of its payment of New Mexico Gross Receipts Tax.

AREA BUSINESS means a Resident Business or Resident Contractor which:

- (a) Is authorized to do and is doing business under the laws of the State of New Mexico;
- (b) Possesses a current city business registration;
- (c) Maintains a bona fide place of business within the corporate limits of the city, and agrees to conduct its activities pursuant to the contract for which it is bidding or proposing, to the extent practicable, from that place of business; and
- (d) Agrees to furnish evidence, in a form suitable to the city, of its payment of New Mexico Gross Receipts Tax.

No bid or proposal shall receive both the Local Business and Area Business preferences.

INSTRUCTIONS:

In all invitations for bid and requests for proposals, the Statutory Preferences shall be applied in the manner set forth in NMSA 1978 §§ 13-1-21 or 13-4-5, as amended from time to time.

In addition to the Statutory Preferences, a preference for Local Businesses and Area Businesses shall be administered in the same manner as the Statutory Preferences, as follows:

(1) in the event a Local Business submits a qualifying bid or proposal and one or more Qualifying Companies also submits a bid or proposal, the Local Business shall receive a two percent (2%) preference in addition to (and not in lieu of) the Statutory Preference; and

(2) in the event an Area Business submits a qualifying bid or proposal and one or more Qualifying Companies also submits a bid or proposal, the Area Business shall receive a one percent (1%) preference in addition to (and not in lieu of) the Statutory Preference.

No bid or proposal shall receive both the Local Business and Area Business preferences.

In addition to the definitions and criteria set forth in this section, the central purchasing office may impose additional requirements regarding the nature, size and/or location of Respondents or bidders in any request for proposals or invitation for bids. As a result, companies responding to such solicitations should review the solicitation documents thoroughly.

A COPY OF A RESIDENT BUSINESS OR CONTRACTOR / VETERAN BUSINESS OR CONTRACTOR CERTIFICATE ISSUED BY THE NEW MEXICO TAXATION AND REVENUE DEPARTMENT IS REQUIRED TO BE SUBMITTED ALONG WITH YOUR BID / OFFER IN ORDER TO QUALIFY FOR THE STATUTORY RESIDENT / VETERAN PREFERENCE. In addition, the attached Resident Veterans Preference Certification form must accompany any bid/offer and any business wishing to receive a resident veteran's preference must complete and sign the form.

REQUESTS FOR RECYCLED CONTENT GOODS PREFERENCE MUST BE ACCOMPANIED BY OFFICIAL / VERIFIABLE EVIDENCE THAT THE MATERIAL BEING BID / OFFERED CONTAINS THE MINIMUM RECYCLED CONTENT REQUIRED BY STATE STATUE.

THIS FORM MUST BE SUBMITTED AT THE TIME BIDS / OFFERS IN ORDER TO CLAIM LOCAL, AREA, RESIDENT, VETERAN OR RECYCLED CONTENT GOODS PREFERENCE.

PLEASE INDICATE THE TYPE OF PREFERENCE CLAIMED:

If your firm is a Qualifying Company please circle the type of preference for which your firm qualifies and indicate your appropriate annual revenue threshold:

RECYCLED CONTENT GOODS

RESIDENT BUSINESS

RESIDENT CONTRACTOR

RECYCLED CONTENT GOODS RESIDENT VETERAN BUSINESS

- Annual revenue up to \$3,000,000.00
- Annual revenue more than \$3,000,000.00 or more

RESIDENT VETERAN BUSINESS

- Annual revenue up to \$3,000,000.00
- Annual revenue more than \$3,000,000.00 or more

RESIDENT VETERAN CONTRACTOR

- Annual revenue up to \$3,000,000.00
- Annual revenue more than \$3,000,000.00 or more

If your firm is applying for either a Local or Area Preference, please circle the type of preference for which your firm qualifies. **(Select only one):**

LOCAL BUSINESS

AREA BUSINESS

CITY OF RIO RANCHO BUSINESS LICENSE REGISTRATION NUMBER: _____

(Must be provided if claiming Local Business or Area Business Preference)

If submitting a joint bid/proposal please indicated proportion of work to be completed by qualifying company:

_____ %

CERTIFICATION: I hereby certify that the information which I have provided on this form is true and correct, that I am authorized to sign on behalf of the business set out above and if requested by the City will provide, within 10 days of notice, the necessary documents to substantiate the information provided on this form.

By: _____ Title: _____ Date: _____

Resident Veterans Preference Certification

_____ (NAME OF CONTRACTOR) hereby certifies the following in regard to application of the resident veterans' preference to this procurement:

Please check one box only:

I declare under penalty of perjury that my business prior year revenue starting January 1 ending December 31 is less than \$3M allowing me the 10% preference discount on this solicitation. I understand that knowingly giving false or misleading information about this fact constitutes a crime.

I declare under penalty of perjury that my business prior year revenue starting January 1 ending December 31 is more than \$3M. I understand that knowingly giving false or misleading information about this fact constitutes a crime.

"I agree to submit a report, or reports, to the State Purchasing Division of the General Services Department declaring under penalty of perjury that during the last calendar year starting January 1 and ending on December 31, the following to be true and accurate:

"In conjunction with this procurement and the requirements of this business' application for a Resident Veteran Business Preference/Resident Veteran Contractor Preference under Sections 13-1-21 or 13-1-22 NMSA 1978, when awarded a contract which was on the basis of having such veterans preference, I agree to report to the State Purchasing Division of the General Services Department the awarded amount involved. I will indicate in the report the award amount as a purchase from a public body or as a public works contract from a public body as the case may be.

"I understand that knowingly giving false or misleading information on this report constitutes a crime."

I declare under penalty of perjury that this statement is true to the best of my knowledge. I understand that giving false or misleading statements about material fact regarding this matter constitutes a crime.

(Signature of Business Representative)* (Date)

*Must be an authorized signatory for the Business.

The representations made in checking the boxes constitutes a material representation by the business that is subject to protest and may result in denial of an award or unaward of the procurement involved if the statements are proven to be incorrect.

Appendix 4
NON-COLLUSION AFFIDAVIT OF RESPONDENT

State of _____ }

County of _____ }

Being first duly sworn deposes and says that:

1. He/She is the _____ of, the Respondent that has submitted the attached proposal;
2. He/She is fully informed respecting the preparation and contents of the attached Proposal and of all pertinent circumstances respecting such Proposal;
3. Such Proposal is genuine and is not a collusive or sham Proposal;
4. Neither the said Respondent nor any of its officers, partners, owners, agents, representatives, employees or parties in interest including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly with any other Respondent, firm or person to submit a collusive or sham Proposal in connection with the Contract for which the attached Proposal has been submitted or to refrain from proposing in connection with such Contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communications or conference with any other Respondent firm or person to fix the price or prices in the attached Proposal or of any other Respondent, or to fix any overhead, profit or cost element of the Proposal price of any other Respondent, or to secure through collusion, conspiracy, connivance or unlawful agreement any advantage against the City of Rio Rancho or any person interested in the proposed Contract; and
5. The price or prices quoted in the attached Proposal are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Respondent or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

Subscribed and sworn to before me this _____ day of _____, 20__

Signed:

Notary Public

_____ Title

My commission expires: _____



PROGRESSIVE DESIGN-BUILD AGREEMENT FOR WATER AND WASTEWATER PROJECTS

WDBC Document No. W-1701-2015

Copyright 2015 by The Water Design-Build Council (WDBC).

This document is provided by WDBC as a convenient reference tool for owners of water and wastewater facilities to use when drafting progressive design-build agreements that meet their particular needs. This document should not be understood to offer legal advice or another professional service.

If useful as a starting point, the user should review this document with its legal counsel and make necessary modifications to suit the user's particular project. Credit and acknowledgement in the final agreement should be given to WDBC for the source document.

PROGRESSIVE DESIGN-BUILD AGREEMENT

WASTEWATER TREATMENT PLANT IMPROVEMENT PROJECT

This **AGREEMENT** is made effective as of _____, 2016, by and between the following parties, for services in connection with the Project identified below:

OWNER:

*City of Rio Rancho
3200 Civic Center Circle NE
Rio Rancho, New Mexico 87144*

DESIGN-BUILDER:

(Name and address)

PROJECT:

*Progressive Design Build Services for Wastewater Treatment Plant 1 Improvement Project
4300 Sara Road SE
Rio Rancho, New Mexico 87124*

In consideration of the mutual covenants and obligations contained herein, Owner and Design-Builder now agree as follows:

Article 1.0 Scope of Work

- 1.1 Phased Delivery.** Owner and Design-Builder will implement the Project on a phased basis.
- 1.2 Phase 1 Services.** Owner has selected Design-Builder on the basis of Design-Builder's proposal for the performance of design, pricing, and other services for the Project during Phase 1. Design-Builder shall perform such services to the level of completion required for Design-Builder and Owner to establish the Contract Price for Phase 2, as set forth in Section 1.3 below. The Contract Price for Phase 2 shall be developed during Phase 1 on an "Open-Book" basis. Design-Builder's Compensation for Phase 1 Services is set forth in Section 1, *Phase 1*, of Attachment B, *Compensation*. The level of completion required for Phase 1 Services is defined in Attachment A, *Scope of Work* (either as a percentage of design completion or by defined deliverables).
- 1.3 Phase 2 Services.** Design-Builder's Phase 2 services shall consist of the completion of design services for the Project, the procurement of all materials and equipment for the Project, the performance of construction services for the Project, the start-up, testing, and commissioning of the Facility, and the provision of warranty services, all as further described in Attachment A, *Scope of Work*. Upon receipt of Design-Builder's proposed Contract Price for Phase 2, Owner may (a) accept the Contract Price and issue a Notice to Proceed with Phase 2 services, or (b) enter into a negotiation with Design-Builder on the scope and Contract Price, and, if required, on the schedule, for Phase 2 services to achieve a mutually acceptable basis on which to proceed, or (c) reject Design-Builder's proposal for Phase 2 and either (i) cancel the Project, (ii) proceed with

another Design-Builder, or (iii) exercise the “off-ramp” final design provisions of Section 1.4, *Off-Ramp*. The Contract Price for Phase 2 Services will be set forth in Section 2, *Phase 2*, of Attachment B, *Compensation*, when mutually agreed between the parties. Once the parties have agreed upon the Contract Price and Owner has issued a Notice to Proceed with Phase 2, Design-Builder shall perform the Phase 2 services, all as further described in Attachment A, *Scope of Work*, as it may be revised.

1.4 Off-Ramp

- 1.4.1** The parties acknowledge that Owner’s ability to successfully complete the Project may be significantly impacted if Owner elects to terminate Design-Builder’s services at the end of Phase 1, rather than proceeding to Phase 2 under Section 1.3 (“Phase 2 Services”) and certain design subconsultants are not available to continue working on the Project. Consequently, Design-Builder hereby agrees that if Owner terminates Design-Builder for any reason, Owner shall have the right to contract directly with such design subconsultants for design-related services on this Project, and Design-Builder shall take such steps as are reasonably necessary to enable Owner to implement such relationship. Design-Builder shall provide in any design subconsultancy agreements that Owner shall have the right to negotiate directly with such design subconsultants for the continuation of their services with respect to the Project, and that any provisions with respect to copyright or the ownership of instruments of service confirm such right of Owner.
- 1.4.2** If the parties are unable to reach an agreement on Design-Builder’s proposed Contract Price for Phase 2 under Section 1.3 within the time limit for acceptance specified in the Proposal, as may be extended by the mutual agreement of the parties, then the proposed Contract Price shall be deemed withdrawn and of no effect. In such event, Owner and Design-Builder shall meet and confer as to how the Project will proceed, with Owner having the following options:
- .1** Owner may declare Phase 1 Services completed and authorize Design-Builder to continue to advance the final design of the Project as an extension of Phase 1 or as an Additional Service, as applicable; or
 - .2** Owner may terminate the relationship with Design-Builder and proceed to exercise its available options to perform the final design and construction with parties other than Design-Builder.
- 1.4.3** If Owner fails to exercise either of its options under Section 1.4.2 in a reasonable period of time, Design-Builder may give written notice to Owner that it considers this Agreement completed. If Owner fails to exercise either of the options under Section 1.4.2 within ten (10) days of receipt of Design-Builder’s notice, then this Agreement shall be deemed completed.
- 1.4.4** If Owner terminates the relationship with Design-Builder under Section 1.4.2.2, or if this Agreement is deemed completed under Section 1.4.3, then Design-Builder shall have no further liability or obligations to Owner under this Agreement
- 1.5 Completion.** Once Design-Builder has received a Notice to Proceed with Phase 2, Design-Builder shall perform all design and construction services, and provide all material, equipment, tools, labor, manuals, start-up, commissioning and testing services for the Project necessary to complete the Work described in and reasonably inferable from the Contract Documents, including Section 2 of Attachment A (Scope of Work). A requirement of Substantial Completion of the Work is that Design-Builder shall conduct performance tests to demonstrate that the Facility Performance Criteria have been met.

Article 2.0 Contract Documents

2.1 Contract Documents. The Contract Documents are comprised of the following:

- .1 All written modifications, amendments and change orders to this Agreement issued in accordance with Attachment D, *General Conditions*;
- .2 Written Supplementary Conditions, if any, to the General Conditions;
- .3 The General Conditions set forth as Attachment D to this Agreement;
- .4 This Agreement, including all exhibits and attachments;
- .5 Construction Documents prepared and reviewed in accordance with GC 2.4;
- .6 **Wage Rate Determination**
- .7 The following other documents, if any, attached hereto:
 - *RFP 17-UT-006 Attachment B – Scope of Design-Builders Services*
 - *RFP 17-UT-006 Attachment E – Project Technical Requirements*

Article 3.0 Interpretation and Intent

3.1 Contract Documents. The Contract Documents are intended to permit the parties to complete the Work and all obligations required by the Contract Documents within the Contract Time(s) for the Phase 1 Compensation and the agreed Contract Price for Phase 2 Services. The Contract Documents are intended to be complementary and interpreted in harmony so as to avoid conflict, with words and phrases interpreted in a manner consistent with construction and design industry standards. In the event of any inconsistency, conflict, or ambiguity between or among the Contract Documents, the Contract Documents shall take precedence in the order in which they are listed in Section 2.1 hereof, except that with respect to the attachments to this Agreement, Attachment F shall take precedence over the other attachments.

3.2 Meanings. Terms, words and phrases used in the Contract Documents, including this Agreement, shall have the meanings given them in GC 1.2.

3.3 Entire Agreement. The Contract Documents form the entire agreement between Owner and Design-Builder and by incorporation herein are as fully binding on the parties as if repeated herein in their entirety. No oral representations or other agreements have been made by the parties except as specifically stated in the Contract Documents.

Article 4.0 Ownership of Work Product

4.1 Owner's Limited License upon Payment in Full. Upon Owner's payment in full for the Work performed in Phase 1 under the Contract Documents, Design-Builder shall be deemed to have conveyed to Owner all drawings, specifications and other documents and electronic data furnished by the Design-Builder to Owner under this Agreement (the "Work product") developed by Design-Builder for Owner's use in the design, construction, occupancy and maintenance of the Project. Design-Builder shall require a similar provision conveying to Owner their respective Phase 1 design Work product from each of Design-Builder's design subconsultants. The conveyance of such Work product shall not include any patent, trade secret, or other intellectual property owned by Design-Builder or its respective subconsultants prior to undertaking the Work hereunder, but Design-Builder and its subconsultants shall grant Owner a nonexclusive license to use such intellectual property included in the Work product for Owner's design, construction, occupation, operation, maintenance and repair of the Project, but not for use on any other project or facility without Design-Builder's (or its subconsultant's) express written consent. Design-

Builder shall include provisions in each of its subconsultants agreements reflecting the conveyance and license provided above.

- 4.2 Owner’s Limited License upon Owner’s Termination for Convenience or Design-Builder’s Election to Terminate.** If (i) Owner terminates the Project for its convenience as set forth in Article 8.0 (“Termination for Convenience”); (ii) Design-Builder elects to terminate this Agreement in accordance with GC 9.5 (“Design-Builder’s Right to Terminate for Cause”); (iii) Owner elects the “off ramp” option provided in Section 1.4 of this Agreement Design-Builder shall, upon Owner’s payment in full of the amounts due Design-Builder under the Contract Documents, be deemed to have granted Owner a limited license to use the Work product to complete the Project and subsequently use and occupy the Project, conditioned on the following:
- .1** Use of the Work product is at Owner’s sole risk without liability or legal exposure to Design-Builder or anyone working for or through Design-Builder, including Design Consultants of any tier (collectively the “Released Parties”).
 - .2** If Owner elects the “off ramp” option provided in Section 1.4 of this Agreement retains any of the Design-Builder’s design subconsultants, then the risk, liability and legal exposure with respect to Work product shall be as set forth in the agreement or agreements between Owner and such design subconsultant or subconsultants.
- 4.3 Owner’s Limited License upon Design-Builder’s Default.** If this Agreement is terminated due to Design-Builder’s default pursuant to GC 9.3 (“Owner’s Right to Perform and Terminate for Cause”) and (i) it is determined that Design-Builder was in default, and (ii) Owner has fully satisfied all of its obligations under the Contract Documents, then Design-Builder shall grant Owner a limited license to use the Work product in connection with Owner’s completion, use and occupancy of the Project. This limited license is conditioned on Owner’s express understanding that its use of the Work product is at Owner’s sole risk and without liability or legal exposure to any Released Party.
- 4.4 Owner’s Release for Use of Work Product.** Owner recognizes that in the event of an early termination of the Work, whether for convenience or for cause, Design-Builder will not have the opportunity to finish or to finalize its Work product. Therefore, if Owner uses the Work product under Sections 4.3 or 4.4 in whole or in part, Owner releases the Released Parties from any and all claims, damages, liabilities, losses and expenses, including attorneys’ fees, arising out of or resulting from Owner’s use of the Work product.

Article 5.0 Contract Time

5.1 Dates of Commencement.

- 5.1.1** Design-Builder’s Phase 1 Services shall commence within ten (10) days of Design-Builder’s receipt of Owner’s Phase 1 Notice to Proceed unless the parties mutually agree otherwise in writing. The parties shall use their best efforts to complete the Phase 1 Services within five (5) months for completing 60% preliminary design following Owner’s Phase 1 Notice to Proceed.
- 5.1.2** The Phase 2 Services shall commence on the date within ten (10) days of Design-Builder’s receipt of Owner’s Phase 2 Notice to Proceed (“Date of Commencement”) unless the parties mutually agree otherwise in writing.

5.2 Substantial Completion and Final Completion

- 5.2.1** Substantial Completion of the entire Work shall be achieved no later than eighteen (18) months (548) calendar days after the Date of Commencement (“Scheduled Substantial Completion Date”).
- 5.2.2** Interim milestones and/or Substantial Completion of identified portions of the Work shall be achieved in accordance with Attachment C, *Schedule*.

- 5.2.3** Final Completion of the Work or identified portions of the Work shall be achieved within sixty (60) days after Substantial Completion.
- 5.2.4** All of the dates set forth in this Article 5.0 shall be subject to adjustment in accordance with the General Conditions.
- 5.3** **Time is of the Essence.** Owner and Design-Builder mutually agree that time is of the essence with respect to the dates and times set forth in the Contract Documents. Owner agrees to provide all site access, materials, information, data, and approvals required under the Contract Documents in a timely manner, as required for Design-Builder to achieve the interim milestones of the Schedule and the Scheduled Substantial Completion Date.

Liquidated Damages. Design-Builder understands that if Substantial Completion is not achieved by the Scheduled Substantial Completion Date (as it may be extended hereunder), Owner will suffer damages which are difficult to determine and accurately specify. Design-Builder agrees that if Substantial Completion is not achieved by eighteen (18) months after the date of contract execution, Design-Builder shall pay Owner Seven Thousand Five Hundred Dollars (\$7,500.00) as liquidated damages for each day that Substantial Completion extends beyond the Substantial Completion Date. Once Substantial Completion is given The Design-Builder shall complete the punch list items and obtain the Owner's approval within 60 days of the Substantial Completion Date. The liquidated damages provided herein shall be in lieu of all liability for any and all extra costs, losses, expenses, claims, penalties and any other damages, whether special or consequential, and of whatsoever nature incurred by Owner which are occasioned by any delay in achieving Substantial Completion.

Article 6.0 Compensation and Contract Price

- 6.1 Phase 1 Compensation.** For the Phase 1 Services, Owner shall pay Design-Builder compensation in accordance with Section 1, *Phase 1*, of Attachment B, *Compensation*.
- 6.2 Phase 2 Contract Price.** For the Phase 2 Services, Owner shall pay Design-Builder in accordance with Section 2, *Phase 2*, of Attachment B, *Compensation*, an agreed Contract Price, subject to adjustments made in accordance with the General Conditions.

Article 7.0 Procedure for Payment

7.1 Payment for Phase 1 Services

7.1.1 Owner shall compensate Design-Builder monthly for Phase 1 Services performed under the Agreement on the following basis:

- Per the deliverables specified in the RFP, Attachment B Scope of Design-Builder Services (as a percentage of Milestones - 30%, 60% and 90%).

ACTUAL COST OF WORK COMPLETED

7.1.2 Owner shall pay Design-Builder for Phase 1 Services within thirty (30) days after Owner's receipt of each properly submitted and accurate Application for Payment in accordance with the provisions of GC 5.1 ("Payment for Phase 1 Services") and 5.4 ("Withholding of Payments").

7.2 Progress Payments for Phase 2 Services

7.2.1 Design-Builder shall submit to Owner on or before the twenty-fifth (25th) day of each month, beginning with the first month after the Date of Commencement, Design-Builder's Application for Payment in accordance with GC 5.3 ("Monthly Progress Payments for Phase 2 Services").

7.2.2 Owner shall make payment within twenty-one (21) days after Owner's receipt of each properly submitted and accurate Application for Payment in accordance with GC 5.3, but in each case less

the total of payments previously made, and less any amounts properly withheld under GC 5.4 (“Withholding of Payments”) and Section 7.3 below (“Close-Out Item”).

- 7.2.3** If Design-Builder’s Fee is a fixed amount, the amount of Design-Builder’s Fee to be included in Design-Builder’s monthly Application for Payment and paid by Owner shall be proportional to the percentage of the Work completed, less payments previously made on account of Design-Builder’s Fee.
- 7.3 Close-Out Item** The documents required to close-out the project shall be incidental to the project and shall not be included in the schedule of values. The Contractor shall represent the faithful final completion of the Work, including but not limited to correction of incomplete or deficient items identified in the final inspection; final cleaning and removal of temporary facilities and controls; preparation and delivery of operation and maintenance manuals, record drawings, and other project records and documents; completion of all required demonstrations and training; completion of all close-out submittals; and all other close-out procedures and requirements, if any, required for the Project. The construction close-out submittals shall be in accordance with the City of Rio Rancho Development Process Manual Volume II, Chapter 7, Section 2.
- 7.4 Final Payment.** Design-Builder shall submit its Final Application for Payment and all Close-Out Items to Owner in accordance with GC 5.8 (“Final Payment”). Owner shall make payment on Design-Builder’s properly submitted and accurate Final Application for Payment within twenty-one (21) days after Owner’s approval of the Final Application for Payment, provided that Design-Builder has satisfied the requirements for final payment set forth in GC 5.8.2.
- 7.5 Interest.** Payments due and unpaid by Owner to Design-Builder, whether progress payments or final payment, shall bear daily interest commencing thirty (30) days after payment is due at the rate equivalent to one percent (1%) per annum, or the maximum rate permitted by applicable law, whichever is less, which Owner shall pay upon presentation of an invoice therefor.
- 7.6 Record Keeping and Financial Controls.** Design-Builder acknowledges that this Agreement is to be administered on an “Open-Book” arrangement relative to Costs of the Work, including the development and agreement upon the Contract Price for Phase 2 Services; provided that if Owner and Design-Builder convert to or agree to a lump sum form of compensation for the Phase 2 Contract Price (“Fixed Contract Price”), then the provisions of this Section 7.6 shall not apply to such Fixed Contract Price and any adjustments made on a lump sum basis. Design-Builder shall keep full and detailed accounts and exercise such controls as may be necessary for proper financial management, using accounting and control systems in accordance with generally accepted accounting principles, and in such accounts as may be necessary for Owner’s utility accounting purposes. During the performance of the Work and for a period of three (3) years after Final Payment, Owner and Owner’s accountants shall be afforded access from time to time, upon reasonable notice, to Design-Builder’s records, books, correspondence, receipts, subcontracts, purchase orders, vouchers, memoranda and other data relating to the Work, all of which Design-Builder shall preserve for a period of three (3) years after Final Payment, *provided, however,* that such access, review, and audit rights shall not extend to any compensation amounts established on the basis of fixed rates for overhead or fee, or an agreed fixed sum, or unit rates for any element of cost.

Article 8.0 Representatives of the Parties

8.1 Owner’s Representatives

- 8.1.1** Owner designates the individual listed below as its Senior Representative (“Owner’s Senior Representative”), which individual has the authority and responsibility for avoiding and resolving disputes under GC 8.2.3: (*Identify individual’s name, title, address and telephone numbers*)

8.1.2 Owner designates the individual listed below as its Owner’s Representative, which individual has the authority and responsibility set forth in GC 3.4 (“Owner’s Representative”): *(Identify individual’s name, title, address and telephone numbers)*

8.2 Design-Builder’s Representatives

8.2.1 Design-Builder designates the individual listed below as its Senior Representative (“Design-Builder’s Senior Representative”), which individual has the authority and responsibility for avoiding and resolving disputes under GC 8.2.3: *(Identify individual’s name, title, address and telephone numbers)*

8.2.2 Design-Builder designates the individual listed below as its Design-Builder’s Representative, which individual has the authority and responsibility set forth in GC 2.1.1: *(Identify individual’s name, title, address and telephone numbers)*

Article 9.0 Indemnity, Insurance and Bonds

9.1 Indemnity. Indemnification obligations between the parties shall be as set forth in Article 4.0, above, and in Section 1.0, *Indemnity*, of Attachment E, *Indemnity, and Insurance & Bonding*.

9.2 Insurance. The parties shall procure the insurance coverages set forth in Attachment E, *Indemnity, Insurance & Bonding*, in accordance with the General Conditions.

9.3 Bonds and Other Performance Security. If so required, Design-Builder shall provide a performance bond and labor and material payment bond or other performance security in accordance with Section 8.0, *Bonds*, of Attachment E, *Indemnity, and Insurance & Bonding*.

Article 10.0 Other Provisions

10.1 Other provisions, if any, are as follows: None

Article 11.0 Limitations of Liability

11.1 Consequential Damages. In no event shall Owner be liable for any incidental, indirect, special, punitive, economic or consequential damages, (including but not limited to loss of profits) suffered or incurred by Design-Builder as a result of this Agreement or Design-Builder’s performance or non-performance of the Work.

11.2 Full Effect. All waivers of and limitations of liability contained in this Agreement shall apply whether such liability is claimed to arise in contract, tort (including but not limited to negligence), breach of warranty, breach of contract, strict liability, or otherwise. This General Condition 2.12 takes precedence over any conflicting article or provision of this Agreement or any document incorporated into it or referred to by it.

In executing this Agreement, Owner and Design-Builder each individually represents that it has the necessary financial resources to fulfill its obligations under this Agreement, and each has the necessary corporate approvals to execute this Agreement, and perform the services described herein.

OWNER:

DESIGN-BUILDER:

City of Rio Rancho

(Name of Design-Builder)

(Signature)

(Signature)

(Printed Name) (Printed Name)

(Title)

(Title)

ATTACHMENT A SCOPE OF WORK

SECTION 1 PHASE 1

1.0 Design-Builder shall exercise reasonable skill and judgment in the furnishing of design services. Architectural and engineering services shall be furnished by licensed employees of Design-Builder, or by consultants or subcontractors as permitted by the law of the state where the Project is located. Design-Builder is responsible for the following Preliminary Design-Build Services:

1.1 Preliminary Evaluation. Design-Builder shall provide a preliminary evaluation of the Project's feasibility based on the Owner's Program and other relevant information.

1.2 Preliminary Schedule. Design-Builder shall provide a preliminary schedule for Owner's written approval. The schedule shall show the activities of Owner and Design-Builder necessary to meet Owner's completion requirements.

1.3 Preliminary Estimate. Design-Builder shall prepare for Owner's written approval a preliminary estimate utilizing area, volume, or similar conceptual estimating techniques. The level of detail for the estimate shall reflect the Owner's Program and any additional available information. If the preliminary estimate exceeds Owner's budget, Design-Builder shall make written recommendations to Owner.

1.4 Preliminary Design Documents. Design-Builder shall submit for Owner's written approval Preliminary Design Documents, based on the Owner's Program and other relevant information. Preliminary Design Documents shall include drawings, outline specifications and other conceptual documents as further defined herein illustrating the Project's basic elements, scale and their relationship to the site. One set of these Documents shall be furnished to Owner. Design-Builder shall update the preliminary schedule and preliminary estimate based on the Preliminary Design Documents.

1.5 Division of Responsibility. Design-Builder shall prepare for Owner's review a proposed Division of Responsibility with respect to the Project, showing (a) equipment, materials, labor, and services to be provided by Design-Builder, (b) access, equipment, materials, data, information, and approvals to be provided by Owner, and (c) any items necessary for the Project to be provided by third parties.

1.6 Contract Price Proposal. Based on the Preliminary Design-Build Services, Design-Builder shall prepare for Owner's consideration a proposed Contract Price for the Phase 2 Services.

1.7 Additional Services. Design-Builder shall provide the following additional services, if needed:

1. Procurement of long-lead time equipment or materials
2. Easement verification and required plat(s)
3. Land appraisal and acquisition
4. Potential permitting based on the Design Builder's selected alternatives (temporary work permits etc.)
5. Coordinating with outside entities (i.e. City of Albuquerque Design Review Committee, the Water Utility Authority, Intel, utility companies, NMDOT, Club Rio Golf Course, businesses/residents etc.)

6. Utility relocations shall be affected by the Design Builder based on selected alternatives. Cost shall be borne by the Design Builder. No additional cost shall be rendered by the Owner.

SECTION 2 PHASE 2

2.1 Completion of Design

2.1.1 Drawings and Technical Specifications

Design-Builder shall submit for Owner's review and written comment Drawings and Specifications based on the Contract Documents and the Preliminary Design Documents prepared under Phase 1 and any further development of Contract Documents that have been approved in writing by Owner. The Drawings and Specifications shall set forth in detail the requirements for construction of the Work, and shall be based upon codes, laws or regulations enacted at the time of their preparation, *provided, however*, that if such codes, law, or regulations have changed between the date on which Design-Builder submitted its proposed Contract Price and the date of preparation, then Design-Builder shall be entitled to an equitable adjustment in the compensation and/or the Schedule. Construction shall be in accordance with these approved Drawings and Specifications. One set of these documents shall be furnished to Owner prior to commencement of construction.

2.1.2 Manuals

Design-Builder shall provide a Commissioning and Startup Manual and an Operations and Maintenance Manual for the Facility, each in such form and in such numbers as the parties may agree, and such other manuals as the parties may agree. All such manuals shall be provided no later than ninety (90) days prior to the scheduled date for the commissioning and startup of the Facility.

2.2 Construction Services

2.2.1 Notice to Proceed Following Owner's written acceptance of Drawings and Specifications under Paragraph 2.1.1 above, Design-Builder will commence the performance of Construction Services.

2.2.2 Completion In order to complete the Work, Design-Builder shall provide all necessary construction supervision, inspection, construction equipment, labor, materials, tools, and subcontracted items.

2.2.3 Compliance Design-Builder shall give all notices and comply with all laws and ordinances legally enacted at the date of execution of the Agreement which govern the proper performance of the Work.

2.2.4 Schedule Design-Builder shall prepare and submit a Schedule of Work in the form of a revised Attachment C, *Schedule*, for Owner's written approval. This Schedule shall indicate the dates for the start and completion of the various stages of the construction including project milestones and the dates when information and approvals are required from Owner. It shall be revised as required by the conditions of the Work. The Schedule of Work shall be the basis for Design-Builder's management and control of the project and its reporting of progress to Owner.

2.2.5 Permits Design-Builder shall obtain permits and governmental approvals as provided in GC 2.6.

2.2.6 Safety and Hazardous Conditions Design-Builder shall take necessary precautions for the safety of its employees on the Project, and shall comply with all applicable provisions of federal, state and municipal safety laws to prevent accidents or injury to persons on, about or adjacent to the Site. Design-Builder, directly or through its Subcontractors, shall erect and properly maintain at all times, as required by the conditions and progress of the Work, necessary safeguards for the protection of workers and the public. However, Design-Builder shall not be responsible for the

elimination or abatement of any pre-existing Hazardous Materials at the site or any safety hazards created or otherwise resulting from work at the Site carried on by Owner or its employees, agents, separate contractors or tenants. Owner agrees to cause its employees, agents, separate contractors, and tenants to abide by and fully adhere to all applicable provisions of federal, state and municipal safety laws and regulations. The above provision shall not relieve Subcontractors of their responsibility for the safety of persons or property in the performance of their work, nor for compliance with all applicable provisions of relevant laws.

2.2.7 Reports As provided in GC 2.1.2, Design-Builder shall provide monthly written reports to Owner on the progress of the Work. If the form of compensation of the Phase 2 Contract Price is a Guaranteed Maximum Price or Cost Reimbursable plus Fixed Design-Builder's Fee, then such monthly reports shall include a system of cost reporting for the Work, and also including regular monitoring of actual costs for activities in progress and estimates for uncompleted tasks and proposed changes in the Work. If the form of compensation is a stipulated sum, the progress reporting will address progress and payment against an agreed upon schedule of values established prior to the commencement of Phase 2 of the work by the Design-Builder.

2.2.8 Site Maintenance At all times Design-Builder shall maintain the Site of the Work free from debris and waste materials resulting from the Work. At the completion of the Work, Design-Builder shall remove from the premises all construction equipment, tools, surplus materials, waste materials and debris.

2.3 Hazardous Material

2.3.1 A Hazardous Material is any substance or material identified now or in the future as hazardous under any federal, state or local law or regulation, or any other substance or material which may be considered hazardous or otherwise subject to statutory or regulatory requirements governing handling, disposal and/or clean-up. Design-Builder shall not be obligated to commence or continue Work until any known or suspected Hazardous Material discovered at the Site has been removed, rendered or determined to be harmless by Owner as certified by an independent testing laboratory and approved by the appropriate government agency.

2.3.2 If after the commencement of the Work, known or suspected Hazardous Material or Hazardous Conditions are discovered at the Site, Owner and Design-Builder shall proceed in accordance with the requirements of GC 4.1 ("Hazardous Conditions & Differing Site Conditions").

2.4 Patents & Copyright

2.4.1 Design-Builder shall pay all royalties and license fees which may be due on the inclusion of any patented or copyrighted materials, methods or systems selected by Design-Builder and incorporated in the Work. Design-Builder agrees to defend, indemnify and hold Owner harmless from all suits or claims for infringement of any patent rights or copyrights arising out of such selection.

2.4.2 Owner shall pay all royalties and license fees which may be due on the inclusion of any patented or copyrighted materials, methods or systems selected by Owner, specified in Attachment F - Owner's Project Criteria or otherwise directed by Owner to be incorporated in the Work. In such event, Owner shall be solely liable for its use of such patented or copyrighted materials, methods or systems selected by Owner, and shall release Design-Builder from any suits or claims of infringement of any patent rights or copyrights arising out of any such patented or copyrighted materials, methods or systems specified by Owner.

2.5 Warranties and Completion

2.5.1 Design-Builder's warranty to Owner with respect to construction, including all materials and equipment furnished as part of the construction, shall be as specified in GC 2.9 ("Construction Warranty").

- 2.5.2** Design-Builder’s warranty to Owner with respect to the performance of the Facility upon completion shall be as specified in GC 2.11 (“Performance Warranty”).
- 2.5.3** Those products, equipment, systems or materials incorporated in the Work at the direction of or upon the specific request of Owner shall be covered exclusively by the warranty of the manufacturer. Design-Builder shall secure required certificates of inspection, testing or approval and deliver them to Owner.
- 2.5.4** Design-Builder shall collect all written warranties and equipment manuals and deliver them to Owner.
- 2.5.5** With the assistance of Owner’s maintenance personnel, Design-Builder shall direct the checkout of utilities and operations of systems and equipment for readiness, and assist in their commissioning and initial start-up and testing, all in accordance with the Commissioning and Startup Manual to be provided by Design-Builder.
- 2.6 Limitations of Liability**
- 2.6.1 Limitation of Liability.** Design-Builder’s liability for Owner’s damages for any cause or combination of causes (including any liquidated damages), whether based upon contract, tort, breach of warranty, negligence, strict liability, or otherwise, shall be limited as set forth in Article 11 of this Agreement.
- 2.7 Additional Services**
- Design-Builder shall provide or procure the following Additional Services upon the request of Owner unless such services are specifically included in the Owner’s Program or in an attachment to this Agreement. A written agreement between Owner and Design-Builder shall define the extent of such Additional Services and compensation therefor.
- 2.7.1** Documentation of the Owner’s Program, establishing the Project budget (beyond the Cost of the Work), investigating sources of financing, general business planning and other information and documentation as may be required to establish the feasibility of the Project.
- 2.7.2** Consultations, negotiations, and documentation supporting the procurement of Project financing.
- 2.7.3** Surveys, site evaluations, legal descriptions and aerial photographs.
- 2.7.4** Appraisals of existing equipment, existing properties, new equipment and developed properties.
- 2.7.5** Soils, subsurface and environmental studies, reports and investigations required for submission to governmental authorities or others having jurisdiction over the Project.
- 2.7.6** Consultations and representations other than normal assistance in securing building permits, before governmental authorities or others having jurisdiction over the Project.
- 2.7.7** Investigation or making measured drawings of existing conditions or the verification of drawings or other Owner-provided information.
- 2.7.8** Artistic renderings, models and mockups of the Project or any part of the Project or the Work.
- 2.7.9** Inventories of existing furniture, fixtures, furnishings and equipment which might be under consideration for incorporation into the Work.
- 2.7.10** Interior design and related services including procurement and placement of furniture, furnishings, artwork and decorations.
- 2.7.11** Making revisions to the Preliminary Design, Design Development, or Construction Documents after they have been reviewed by Owner, and which are due to causes beyond the control of Design-Builder.

- 2.7.12 Design, coordination, management, expediting and other services supporting the procurement of materials to be obtained, or work to be performed, by Owner, including but not limited to telephone systems, computer wiring networks, sound systems, alarms, security systems and other specialty systems which are not a part of this Agreement.
 - 2.7.13 Estimates, proposals, appraisals, consultations, negotiations and services in connection with the repair or replacement of an insured loss.
 - 2.7.14 The premium portion of overtime work ordered by Owner including productivity impact costs.
 - 2.7.15 Document reproduction is incidental to the project.
 - 2.7.16 Obtaining service contractors and training maintenance personnel, assisting and consulting in the use of systems and equipment after the initial startup, and adjusting and balancing of systems and equipment.
 - 2.7.17 Services for tenant or rental spaces or third-party facilities not a part of this Agreement.
 - 2.7.18 Services requested by Owner or required by the Work which are not specified in the Contract Documents and which are not normally part of generally accepted design, construction and start-up and commissioning practice.
 - 2.7.19 Serving or preparing to serve as an expert witness on behalf of Owner in connection with any proceeding, legal or otherwise, regarding the Project.
 - 2.7.20 Preparing reproducible record drawings from marked-up prints, drawings or other documents that incorporate significant changes in the Work made during the Construction Phase.
- 2.8 **Subcontractors.** Work not performed by Design-Builder with its own forces shall be performed by Subcontractors. The provisions of this Agreement and the associated Contract Documents shall be incorporated into all major subcontracts for construction. The Owner shall review and approve all subcontractor contracts.
- 2.8.1 **Retaining Subcontractors** Design-Builder shall not retain any Subcontractor to whom Owner has a reasonable and timely objection, *provided* that Owner agrees to compensate Design-Builder for any additional costs incurred by Design-Builder as provided in GC 2.7.3. Design-Builder shall not be required to retain any Subcontractor to whom Design-Builder has a reasonable objection.
- 2.8.2 **Management of Subcontractors** Design-Builder shall be responsible for the management of Subcontractors in the performance of their work.
- 2.8.3 **Assignment of Subcontract Agreements** Design-Builder shall provide for assignment of subcontract agreements in the event that Owner terminates this Agreement for cause as provided in GC 11.2 (“Owner’s Right to Perform and Terminate for Cause”). Following such termination, Owner shall notify in writing those subcontractors whose assignments will be accepted, subject to the rights of sureties.

SECTION 3 OWNER’S RESPONSIBILITIES

3.1 Information and Services Provided by Owner

- 3.1.1 Owner shall provide full information regarding requirements for the Project in accordance with GC 3.2 and this Section 3.1, including the Owner’s Program, Facility Performance Criteria and other relevant information, within the times specified in Attachment C, *Schedule*.

3.1.2 Owner shall provide:

1. all necessary information describing the physical characteristics of the site, including surveys, site evaluations, legal descriptions, existing conditions, subsurface and environmental studies, utilities, reports and investigations;
2. inspection and testing services during construction as required by law or as mutually agreed; and
3. unless otherwise provided in the Contract Documents, necessary approvals, site plan review, rezoning, easements and assessments, necessary permits, fees and charges required for the construction, use, occupancy or renovation of permanent structures, including legal and other require services.

3.1.3 Design-Builder shall be entitled to rely on the completeness and accuracy of the information and services required by this Section 3.1.

3.2 Owner's Responsibilities during Phase 1

3.2.1 If not developed by Owner and Design-Builder under a prior agreement, Owner shall provide the Owner's Program at the inception of the Design Phase. Owner shall review and timely approve schedules, estimates, and design documents furnished during the Design Phase as set forth in Section 3.1.

3.2.2 Owner shall arrange for access to and make all provisions for Design-Builder to enter upon public and private property as required for Design-Builder to perform Phase 1 services hereunder.

3.2.3 Design-Builder shall be entitled to rely on the completeness and accuracy of the information and documents to be provided by Owner under this Section 3.2.

3.3 Owner's Responsibilities during Phase 2 Design and Construction

3.3.1 Owner shall review and approve the Schedule as set forth in Attachment C, *Schedule*, as revised.

3.3.2 If Owner becomes aware of any error, omission or failure to meet the requirements of the Contract Documents or any fault or defect in the Work, Owner shall give written notice to Design-Builder within five (5) days of so becoming aware.

3.3.3 Unless otherwise agreed by Design-Builder, Owner shall communicate with Design-Builder's Subcontractors, Suppliers, and Design Consultants only through Design-Builder. Owner shall have no contractual obligations to Subcontractors or Suppliers or Design Consultants.

3.3.4 Owner may provide insurance for the Project as provided in Attachment E, *Indemnity, Insurance & Bonding*.

3.3.5 Owner shall provide timely, clear and adequate access to the site and any laydown areas.

3.3.6 Owner shall provide all equipment, materials, information, data, and approvals required for Design-Builder's performance of the Work in a timely and complete manner.

3.3.7 Design-Builder shall be entitled to rely on the completeness and accuracy of the information and documents to be provided by Owner under this Section 3.3.

3.4 Owner's Representative

Owner's representative, designated in writing and agreed to by Design-Builder:

- .1 shall be fully acquainted with the Project;
- .2 agrees to furnish the information and services required of Owner when required so as not to delay the performance of the Work; and
- .3 have authority to bind Owner in all matters requiring Owner's approval, authorization or written notice.

If Owner changes its representative or the representative's authority as listed above, Owner shall notify Design-Builder in advance in writing. Design-Builder shall have the right to approve any successor representative.

ATTACHMENT B COMPENSATION

SECTION 1 PHASE 1 SERVICES

[to be inserted based on RFP and proposal]

SECTION 2 CONTRACT PRICE FOR PHASE 2 SERVICES

1.0 Choice of Compensation Method for Phase 2 Services

1.1 The parties may elect to use the Guaranteed Maximum Price ("GMP") form of compensation, a stipulated sum (lump sum) form of compensation, or a cost-reimbursable form of compensation with a Fixed Fee for the Contract Price for the Phase 2 Services.

2.0 Option 1: Guaranteed Maximum Price ("GMP")

2.1 Use of a GMP for Phase 2 Work

2.1.1 Design-Builder agrees that upon Owner's request it will submit its proposal for the Contract Price on the basis of a GMP for the Phase 2 Services. Design-Builder does not guarantee any specific line item provided as part of the GMP (unless otherwise provided), but agrees that it will be responsible for paying all costs of completing the Work which exceed the GMP, as adjusted in accordance with the Contract Documents. Documents used as a basis for the GMP shall be identified in an agreed revision to this Attachment.

2.1.2 The GMP will include a Contingency which is available for Design-Builder's exclusive use for costs that are incurred in performing the Work that are not included in a specific line item or the basis for a Change Order under the Contract Documents.

2.1.3 If the parties so agree, the Phase 2 Services may be divided into separate work packages or task orders, and Design-Builder shall propose and Owner shall consider for acceptance a separate GMP for each such work package or task order.

2.2 GMP Established at the Commencement Date of Phase 2

2.2.1 GMP Proposal. Design-Builder shall submit to Owner a GMP Proposal for the Contract Price as part of the Phase 1 Services which shall include the following, unless the parties mutually agree otherwise:

- .1** A proposed GMP, which shall be the sum of:
 - i.** Design-Builder's Fee as defined in Section 2, *Phase 2*, of Attachment B, *Compensation*; and
 - ii.** the estimated Cost of the Work as defined in Section 2, *Phase 2*, of Attachment B, *Compensation*, inclusive of any Design-Builder's Contingency as defined in Section 1.1.2 above and any allowances and unit prices
- .2** A list of the drawings and specifications, including all addenda, used as the basis for the GMP proposal;
- .3** A list of the assumptions, exceptions, and clarifications made by Design-Builder in the preparation of the GMP Proposal, which list is intended to supplement the information contained in the drawings and specifications;

- .4 The Scheduled Substantial Completion Date upon which the proposed GMP is based, to the extent said date has not already been established under Paragraph 5.2.1 of the Agreement, and a schedule upon which the Scheduled Substantial Completion Date is based;
- .5 If applicable, a list of allowances and a statement of their basis;
- .6 If applicable, a schedule of alternate prices;
- .7 If applicable, a schedule of unit prices;
- .8 If applicable, a statement of Additional Services; and
- .9 The time limit for acceptance of the GMP Proposal.

2.2.2 Review and Adjustment to GMP Proposal. After submission of the GMP Proposal, Design-Builder and Owner shall meet to discuss and review the GMP Proposal. If Owner has any comments regarding the GMP Proposal, or finds any inconsistencies or inaccuracies in the information presented, it shall promptly give written notice to Design-Builder of such comments or findings. If appropriate, Design-Builder shall, upon receipt of Owner's notice, make appropriate adjustments to the GMP Proposal.

2.2.3 Acceptance of GMP Proposal. If Owner accepts the GMP Proposal, as may it be amended by Design-Builder, the GMP and its basis shall be set forth in an amendment to this Agreement.

2.2.4 Failure to Accept the GMP Proposal. If Owner rejects the GMP Proposal, or fails to notify Design-Builder in writing on or before the date specified in the GMP Proposal that it accepts the GMP Proposal, the GMP Proposal shall be deemed withdrawn and of no effect. In such event, Owner and Design-Builder shall meet and confer as to how the Project will proceed, with Owner having the following options:

- .1 Owner may suggest modifications to the GMP Proposal, whereupon, if such modifications are accepted in writing by Design-Builder, the GMP Proposal shall be deemed accepted and the parties shall proceed in accordance with Section 2.2.3 above;
- .2 Owner may authorize Design-Builder to continue to proceed with the Work on the basis of reimbursement as provided in Section 2, *Phase 2*, of Attachment B, *Compensation*, without a GMP, in which case all references in this Agreement to the GMP shall not be applicable; or
- .3 Owner may terminate this Agreement for convenience in accordance with GC 9.2 ("Termination for Convenience").

If Owner fails to exercise any of the above options, Design-Builder shall have the right to (i) continue with the Work as if Owner had elected to proceed in accordance with Item .2 above, and be paid by Owner accordingly, unless and until Owner notifies it in writing to stop the Work, or (ii) suspend performance of Work in accordance with GC 9.4 ("Design-Builder's Right to Stop Work").

2.2.5 Conversion. The parties may agree at any time to convert the agreed GMP to a Fixed Contract Price utilizing a stipulated sum for the completion of the Phase 2 Services.

2.3 Basis. Documents used as a basis for the GMP shall be identified in a mutually agreed revision to this Attachment.

Open-Book

ATTACHMENT C
SCHEDULE

**ATTACHMENT D
GENERAL CONDITIONS**

GC 1.0 General

1.1 Mutual Obligations

- 1.1.1 Owner and Design-Builder agree to cooperate fully with each other at all time, to permit each party to realize the benefits afforded under the Contract Documents.
- 1.1.2 These General Conditions (“GC”) may be supplemented, varied, or revised through Supplementary Conditions (“SC”), as attached.

1.2 Basic Definitions

- 1.2.1 *Agreement* refers to the executed contract between Owner and Design-Builder with respect to the Project.
- 1.2.2 *Bonus Date* has the meaning given in Section 5.5 of the Agreement.
- 1.2.3 *Change in Law* has the meaning given in GC 8.1.2.
- 1.2.4 *Changed Condition* has the meaning given in GC 8.1.
- 1.2.5 *Change Order* has the meaning given in GC 7.1.
- 1.2.6 *Construction Warranty* has the meaning given in GC 2.9.
- 1.2.7 *Construction Warranty Period* is that period specified in GC 2.10.1.
- 1.2.8 *Contract Documents* has the meaning given in Section 2.1 of the Agreement.
- 1.2.9 *Contract Price* has the meaning given in Section 6.2 of the Agreement and Section 2 of Attachment B, Compensation.
- 1.2.10 *Contract Time(s)* shall mean the times for performance of the Work by Design-Builder and the delivery of items and approvals by Owner set forth in Article 5 (“Contract Time”) of the Agreement and Attachment C, Schedule.
- 1.2.11 *Day or Days* shall mean calendar days unless otherwise specifically noted in the Contract Documents.
- 1.2.12 *Design Consultant*, if any, is a qualified, licensed design professional who is not an employee of Design-Builder, but is retained by Design-Builder, or employed or retained by anyone under contract with Design-Builder or Subcontractor, to furnish design services required under the Contract Documents.
- 1.2.13 *Design Criteria* means those documents which define the Owner’s criteria for the scope, quality, and function of the proposed facility, and which may be expanded to outline Owner’s project cost limitations and schedule requirements.
- 1.2.14 *Differing Site Conditions* has the meaning given in GC 4.2.1.
- 1.2.15 *Early Completion Bonus* has the meaning given in Section 5.5 of the Agreement.
- 1.2.16 *Electronic Data* has the meaning given in GC 11.1.1.
- 1.2.17 *Extended Performance Warranty* is Design-Builder’s warranty under GC 2.11.2 that the completed Facility shall be capable of meeting the Performance Standards in Attachment F throughout the Performance Warranty Period.
- 1.2.18 *Facility* is the physical facility to be designed and constructed for Owner as part of the Project.
- 1.2.19 *Facility Performance Criteria* means the Owner’s criteria for the performance of the Facility once constructed, and may be divided into two parts, (i) program requirements such as the physical, functional, and quantitative needs of the project, and (ii) performance requirements for the Facility and its component parts, including considerations of the specified quantitative and

- qualitative limits for inputs, the desired condition of Facility outputs, and the efficiency of the Facility in producing such outputs.
- 1.2.20** *Final Acceptance* of the Project shall be deemed to have occurred upon final payment pursuant to GC 5.8.
- 1.2.21** *General Conditions* refer to this Attachment D, *General Conditions*.
- 1.2.22** *Guaranteed Maximum Price or GMP* means the aggregate amount of the Design-Builder's Fee and the Cost of the Work that Owner shall be obligated to pay Design-Builder for performance of the Phase 2 Services.
- 1.2.23** *Hazardous Conditions* are any materials, wastes, substances and chemicals deemed to be hazardous under applicable Legal Requirements, or which handling, storage, remediation, or disposal are regulated by applicable Legal Requirements.
- 1.2.24** *Hazardous Materials* has the meaning given in Section 2.3 of Attachment A, Scope of Work.
- 1.2.25** *Released Parties*, with respect to Work product, has the meaning given in Section 4.3.1 of the Agreement.
- 1.2.26** *Legal Requirements* are all federal, state and local laws, codes, ordinances, rules, regulations, orders and decrees of any government or quasi-government entity having jurisdiction over the Project or Site, the practices involved in the Project or Site, or any Work which are applicable as of the date of Design-Builder's proposal to Owner, and, subject to the Change in Law provisions of GC 8.1.2, which become applicable during the Contract Time.
- 1.2.27** *Liquidated Damages* means such damages as may be assessed under Section 5.4 of the Agreement.
- 1.2.28** *Liquidated Damages Date* has the meaning given in Section 5.4 of the Agreement.
- 1.2.29** *Manuals* means the Commissioning and Startup Manual and the Operations and Maintenance Manual provided for in Section 2.1.2 of the Agreement, and such other manuals as the parties may agree to be provided.
- 1.2.30** *Open-Book* means the method of procuring work with Owner and Design Builder agreeing on the total construction cost (direct costs, fees, profit and overhead). The Design-Builder shall be paid on the agreed upon cost of the GMP and subsequent schedule of values agreed upon by both parties. Where costs are shared, such as head office staff and overhead costs, the cost shall be pro-rated to the Owners project cost and agreed upon by both parties. Overhead shall be expressed in the form of a percentage against the total specific project expenditure running through the Design-Builders accounting records. Unauthorized or overpayments to subcontracts shall not be reimbursed. Any cost associated with rectification of defective work will be disallowed.
- 1.2.31** *Owner's Program* means the overall definition of Owner's requirements for the Project, including Owner's Project Criteria, all materials, equipment and other items to be provided by Owner, and all items to be provided by third parties.
- 1.2.32** *Owner's Project Criteria* are developed by or for Owner to describe Owner's Program requirements and objectives for the Project, including use, space, price, time, site and expandability requirements, as well as submittal requirements and other requirements governing Design-Builder's performance of the Work. Owner's Project Criteria may include conceptual documents, Design Criteria, Facility Performance Criteria, performance tests, wage rate requirements, MBE/WBE requirements, and other Project-specific technical materials and requirements.
- 1.2.33** *Owner's Representative* means the individual selected and authorized by Owner to act upon Owner's behalf with respect to Design-Builder and the performance of this Agreement, in

accordance with GC 3.4, and identified by Owner in writing within ten (10) days of execution of this Agreement.

- 1.2.34 *Performance Warranty* has the meaning given in GC 2.11.
- 1.2.35 *Performance Warranty Period* means the period ending eighteen (18) months following successful completion of the performance tests.
- 1.2.36 *Project* is the design and construction of the Owner's Facility, including start-up and the provision of manuals, warranties, as-built drawings and specifications, spare parts, and all other items required to be provided under this Agreement.
- 1.2.37 *Schedule* means that Schedule for the performance of the Work in accordance with the Contract Time(s) set forth in Attachment C, *Schedule*, as revised from time to time.
- 1.2.38 *Site* is the land or premises on which the Facility is located, including any separate laydown or storage areas.
- 1.2.39 *Subcontractor* is any person or entity retained by Design-Builder as an independent contractor to perform a portion of the Work and shall include materialmen and suppliers.
- 1.2.40 *Sub-Subcontractor* is any person or entity retained by a Subcontractor as an independent contractor to perform any portion of a Subcontractor's Work and shall include materialmen and suppliers.
- 1.2.41 *Substantial Completion* is the date on which the Work, or an agreed upon portion of the Work, is sufficiently complete (including performance testing) so that Owner can occupy and use the Project or a portion thereof for its intended purposes.
- 1.2.42 *Certificate of Substantial Completion* is that Certificate issued by Owner to Design-Builder pursuant to GC 5.7.1.
- 1.2.43 *Uncontrollable Circumstances* are those acts, omissions, conditions, events, or circumstances beyond the control of Design-Builder and due to no fault of its own or those for whom Design-Builder is responsible. By way of example (and not limitation), Uncontrollable Circumstances include acts or omissions of Owner or anyone under Owner's control (including separate contractors), changes in the Work, Differing Site Conditions, Hazardous Conditions, wars, floods, labor disputes, unusual delay in transportation, epidemics, earthquakes, adverse weather conditions not reasonably anticipated, and other circumstances beyond the reasonable control of the party affected.
- 1.2.44 *Work* is comprised of all Design-Builder's design, construction, start-up, warranty, and other services required to by the Contract Documents, including procuring and furnishing all materials, equipment, services and labor reasonably inferable from the Contract Documents, plus manuals and documentation required by the Contract Documents.

GC 2.0 Design-Builder's Services and Responsibilities

2.1 General Services

- 2.1.1 Design-Builder's Representative shall be reasonably available to Owner and shall have the necessary expertise and experience required to supervise the Work. Design-Builder's Representative shall communicate regularly with Owner and shall be vested with the authority to act on behalf of Design-Builder. Design-Builder's Representative may be replaced only with the mutual agreement of Owner and Design-Builder.
- 2.1.2 Design-Builder shall provide Owner on a monthly basis a status report detailing the progress of the Work, including whether (i) the Work is proceeding according to schedule, (ii) discrepancies, conflicts, or ambiguities exist in the Contract Documents that require resolution, (iii) health and safety issues exist in connection with the Work, (iv) other items require resolution so as not to

jeopardize Design-Builder's ability to complete the Work for the Contract Price and within the Contract Time(s), and (v) such other items as Owner may reasonably require.

- 2.1.3** Design-Builder shall prepare and submit, at least three (3) days prior to the meeting contemplated by GC 2.1.4, a preliminary schedule for the execution of the Work for Owner's review and response. The schedule shall indicate the dates for the start and completion of the various stages of Work, including the dates when Owner information and approvals are required to enable Design-Builder to achieve the Contract Time(s). When agreed between the parties, such schedule shall be attached hereto as Attachment C, Schedule. The Schedule shall be revised as required by conditions and progress of the Work, but such revisions shall not relieve Design-Builder of its obligations to complete the Work within the Contract Time(s), as such dates may be adjusted in accordance with the Contract Documents. Owner's review of and response to the Schedule shall not be construed as relieving Design-Builder of its complete and exclusive control over the means, methods, sequences and techniques for executing the Work.
- 2.1.4** The parties will meet, within seven (7) days after execution of the Agreement, to discuss issues affecting the administration of the Work and to implement the necessary procedures, including those relating to submittals, review and approval turn-around times contained in the Schedule, and payment, to facilitate the ability of the parties to perform their obligations under the Contract Documents.
- 2.1.5** At the completion of Phase 1 Services, the parties may agree upon a revised Schedule to reflect the intended scope of Phase 2 Services and as the basis for the Contract Price to be agreed for the Phase 2 services.

2.2 Design Professional Services

- 2.2.1** Design-Builder shall, consistent with applicable state licensing laws, provide through qualified, licensed design professionals employed by Design-Builder, or procured from a qualified, independent licensed Design Consultant, the necessary design services, including architectural, engineering and other design professional services, for the preparation of the required drawings, specifications and other design submittals to permit Design-Builder to complete the Work consistent with the Contract Documents. Nothing in the Contract Documents is intended or deemed to create any legal or contractual relationship between Owner and any independent Design Consultant.

2.3 Standard of Care for Design Professional Services

- 2.3.1** The standard of care for all design professional services performed to execute the Work shall be the care and skill ordinarily used by members of the design profession practicing under similar conditions at the same time and locality of the Project. Design-Builder, its Design Consultants, and its Subcontractors may reasonably rely on the accuracy and completeness of Owner's Project Criteria.

2.4 Design Development Services

- 2.4.1** Design-Builder and Owner shall, consistent with any applicable provision of the Contract Documents, agree upon any interim design submissions that Owner may wish to review, which interim design submissions may include design criteria, drawings, diagrams and specifications setting forth the Project requirements. Such agreement may specify the percentage completion of the design documents to be submitted for such review and comment. On or about the time of the scheduled submissions, Design-Builder and Owner shall meet and confer about the submissions, with Design-Builder identifying during such meetings, among other things, the evolution of the design and any significant changes or deviations from the Contract Documents, or, if applicable, previously submitted design submissions. Minutes of the meetings will be maintained by Design-

Builder and provided to all attendees for review. Following the design review meeting, Owner shall review and comment on the interim design submissions in a time frame that is consistent with the turnaround times set forth in the Schedule.

- 2.4.2** Design-Builder shall submit to Owner Construction Documents setting forth in detail drawings and specifications describing the requirements for construction of the Work. The Construction Documents shall be consistent with the latest set of interim design submissions; as such submissions may have been modified in a design review meeting. The parties shall have a design review meeting to discuss, and Owner shall review and may comment on the Construction Documents in accordance with the procedures set forth GC 2.4.1. Design-Builder shall proceed with construction in accordance with the approved Construction Documents and shall submit one set of approved Construction Documents to Owner prior to commencement of construction.
- 2.4.3** Owner's review and approval of interim design submissions and the Construction Documents is for the purpose of mutually establishing a conformed set of Contract Documents compatible with the requirements of the Work. Neither Owner's review nor approval of any interim design submissions and Construction Documents shall be deemed to transfer any design liability from Design-Builder to Owner.
- 2.4.4** To the extent not prohibited by the Contract Documents or Legal Requirements, Design-Builder may prepare interim design submissions and Construction Documents for a portion of the Work to permit construction to proceed on that portion of the Work prior to completion of the Construction Documents for the entire Work.

2.5 Legal Requirements

- 2.5.1** Design-Builder shall perform the Work in accordance with all Legal Requirements and shall provide all notices applicable to the Work as required by the Legal Requirements.
- 2.5.2** The Contract Price and/or Contract Time(s) shall be adjusted to compensate Design-Builder for the effects of any changes in the Legal Requirements enacted after the date of the Agreement affecting the performance of the Work. Such effects may include, without limitation, revisions Design-Builder is required to make to the Construction Documents because of changes in Legal Requirements.

2.6 Government Approvals and Permits

- 2.6.1** Except as identified in Attachment G, *Owner's Permit List*, Design-Builder shall obtain and pay for all necessary permits, approvals, licenses, government charges and inspection fees required for the prosecution of the Work by any government or quasi-government entity having jurisdiction over the Project.
- 2.6.2** Design-Builder shall provide reasonable assistance to Owner in obtaining those permits, approvals and licenses that are Owner's responsibility.

2.7 Design-Builder's Phase 2 Construction Services

- 2.7.1** Unless otherwise provided in the Contract Documents to be the responsibility of Owner or a separate contractor, Design-Builder shall provide through itself or Subcontractors the necessary supervision, labor, inspection, testing, start-up, material, equipment, machinery, temporary utilities and other temporary facilities to permit Design-Builder to complete construction of the Project consistent with the Contract Documents.
- 2.7.2** Design-Builder shall perform all construction activities efficiently and with the requisite skill and competence to satisfy the requirements of the Contract Documents. Design-Builder shall at all times exercise complete and exclusive control over the means, methods, sequences and techniques of construction.

- 2.7.3 Design-Builder shall employ only Subcontractors who are duly licensed and qualified to perform the Work consistent with the Contract Documents. Owner may reasonably object to Design-Builder's selection of any Subcontractor, provided that the Contract Price and/or Contract Time(s) shall be adjusted to the extent that Owner's decision impacts Design-Builder's cost and/or time of performance.
- 2.7.4 Design-Builder shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, national origin or ancestry, or physical or mental handicap. Design-Builder will take affirmative action to ensure that applicants for employment are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, age, national origin or ancestry, physical or mental handicap. Such action shall include but not be limited to the following: employment, upgrading, demotion, transfer, recruitment, recruitment advertising, layoff, termination, disciplinary actions and grievances, rates of pay or other forms of compensation, other terms and conditions of employment and selection for training, including apprenticeship. Design-Builder shall include the provisions of this Paragraph in every Subcontract or purchase order so that such provisions shall be binding upon every Subcontractor.
- 2.7.5 Design-Builder assumes responsibility to Owner for the proper performance of the Work of Subcontractors and any acts, errors or omissions in connection with such performance. Nothing in the Contract Documents is intended or deemed to create any legal or contractual relationship between Owner and any Subcontractor or Sub-Subcontractor, including but not limited to any third-party beneficiary rights.
- 2.7.6 Design-Builder shall coordinate the activities of all Subcontractors.
- 2.7.7 If Owner performs other work on the Project or at the Site with separate contractors under Owner's control, Design-Builder agrees to reasonably cooperate and coordinate its activities with those of such separate contractors so that the Project can be completed in an orderly and coordinated manner without unreasonable disruption. Unreasonable disruption or interference by Owner's separate contractors may result in a request for a Contract Adjustment under GC 8.1.3.
- 2.7.8 Design-Builder shall keep the Site reasonably free from debris, trash and construction wastes to permit Design-Builder to perform its construction services efficiently, safely and without interfering with the use of adjacent land areas.
- 2.7.9 Upon Substantial Completion of the Work, or a portion of the Work, Design-Builder shall remove all debris, trash, construction wastes, materials, equipment, machinery and tools arising from the Work or applicable portions thereof to permit Owner to occupy the Project or a portion of the Project for its intended use. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents.
- 2.8 Design-Builder's Responsibility for Project Safety**
- 2.8.1 Design-Builder recognizes the importance of performing the Work in a safe manner so as to prevent damage, injury or loss to (i) all individuals at the Site, whether working or visiting, (ii) the Work, including materials and equipment incorporated into the Work or stored on-Site or off-Site, and (iii) all other property at the Site or adjacent thereto. Design-Builder assumes responsibility for implementing and monitoring all safety precautions and programs related to the performance of the Work. Design-Builder shall, prior to commencing construction, designate a Safety Representative with the necessary qualifications and experience to supervise the

implementation and monitoring of all safety precautions and programs related to the Work, and shall develop a Project Safety Program which shall be implemented at the Project Site during the performance of the Work. Unless otherwise required by the Contract Documents, Design-Builder's Safety Representative shall be an individual stationed at the Site who may have responsibilities on the Project other than safety. The Safety Representative shall make routine daily inspections of the Site and shall hold weekly safety meetings with Design-Builder's personnel, Subcontractors and others as applicable.

- 2.8.2** Design-Builder and Subcontractors shall comply with all Legal Requirements relating to safety, as well as any Owner-specific safety requirements set forth in the Contract Documents and incorporated into the Project Safety Program, provided that such Owner-specific requirements do not violate any applicable Legal Requirement. Design-Builder will immediately report in writing any safety-related injury, loss, damage or accident arising from the Work to Owner's Representative and, to the extent mandated by Legal Requirements, to all government or quasi-government authorities having jurisdiction over safety-related matters involving the Project or the Work.
- 2.8.3** Design-Builder's responsibility for safety under this GC 2.8 is not intended in any way to relieve Subcontractors and Sub-Subcontractors of their own contractual and legal obligations and responsibility for (i) complying with all Legal Requirements, including those related to health and safety matters, and (ii) taking all necessary measures to implement and monitor all safety precautions and programs to guard against injury, losses, damages or accidents resulting from their performance of the Work.
- 2.8.4** Owner shall require that its officers, employees, guests, visitors, and other contractors entering the Project Site comply with the Project Safety Program then in effect.

2.9 Construction Warranty

- 2.9.1** Design-Builder warrants to Owner that the construction, including all materials and equipment furnished as part of the construction, shall be new unless otherwise specified in the Contract Documents, of good quality, in conformance with the Contract Documents and free of defects in materials and workmanship. Design-Builder's warranty obligation excludes defects caused by abuse, alterations, or failure to maintain the Work by persons other than Design-Builder or anyone for whose acts Design-Builder may be liable.
- 2.9.2** Nothing in this warranty is intended to limit any manufacturer's warranty which provides Owner with greater warranty rights than set forth in this GC 2.9 or the Contract Documents. Design-Builder will provide Owner with all manufacturers' warranties upon Substantial Completion.

2.10 Correction of Defective Work

- 2.10.1 Construction Warranty Period.** Design-Builder agrees to correct any Work that is found not to be in conformance with the Contract Documents, including that part of the Work subject to GC 2.9, within a period of eighteen (18) months from the date of Substantial Completion of the Work or any portion of the Work, or within such longer period to the extent required by the Contract Documents.
- 2.10.2 Correction of Non-Conforming Work.** Design-Builder shall, within seven (7) days of receipt of written notice from Owner that the Work is not in conformance with the Contract Documents, take meaningful steps to commence correction of such nonconforming Work, including the correction, removal or replacement of the nonconforming Work and any damage caused to other parts of the Work affected by the nonconforming Work. If Design-Builder fails to commence the necessary steps within such seven (7) day period, Owner may, in addition to any other remedies provided under the Contract Documents, provide Design-Builder with written notice that Owner will commence correction of such nonconforming Work with its own forces. If Owner does

perform such corrective Work, Design-Builder shall be responsible for all reasonable costs incurred by Owner in performing such correction. If the nonconforming Work creates an emergency requiring an immediate response, the seven (7) day periods identified herein shall be deemed inapplicable.

- 2.10.3** The one (1) year period referenced in GC 2.10.1 applies only to Design-Builder's obligation to correct nonconforming Work and is not intended to constitute a period of limitations for any other rights or remedies Owner may have regarding Design-Builder's other obligations under the Contract Documents.

2.11 Performance Warranty

- 2.11.1** Design-Builder warrants to Owner that the Facility will meet the Facility Performance Criteria set forth in Attachment F, *Owner's Project Criteria*. Such Performance Warranty shall be satisfied upon successful completion of the Performance Tests set forth in Attachment F, *Owner's Project Criteria*.

- 2.11.2** Design-Builder also warrants, subject to GC 2.11.3 and 2.11.4, that the completed Facility shall be capable of meeting the Performance Standards in Attachment F throughout the Performance Warranty Period ("Extended Performance Warranty").

- 2.11.3** Design-Builder shall have no responsibility under the Extended Performance Warranty to the extent that any failure of the Work is due to: (1) Owner action or non-action, such as (i) provision of inadequate staffing, (ii) failure to operate or maintain the Project in accordance with methods, standards and procedures generally recognized and accepted as good industry practices and with the Operation and Maintenance Information Systems prepared by Design-Builder, (iii) abuse, negligence or willful misconduct, or (iv) alteration of the Work; (2) Uncontrollable Circumstances; (3) Change in Law; (4) noncompliant operating conditions, such as raw [water or wastewater] influent not conforming to the parameters in Attachment F or other conditions exceeding the Project's design criteria in Attachment F; (5) unavailability of supplies, spare parts, chemicals, power or other consumables or items necessary for operation and maintenance; or (6) impossibility or frustration of purpose.

- 2.11.4** If the Work fails to satisfy the Extended Performance Warranty, Design-Builder shall, upon written notice from Owner delivered not later than ten (10) days after any such failure, promptly begin and continue to take necessary actions (including training or support of Owner's operation and maintenance staff; revision of operating or maintenance procedures; or modification or correction of equipment or facilities) to satisfy the Extended Performance Warranty. The costs of any such training or support of Owner's operations staff or revision of operating procedures that are effective in achieving satisfaction of the Extended Performance Warranty shall be paid by Owner. The costs of any such modification or correction of equipment or facilities required to achieve satisfaction of the Extended Performance Warranty shall be paid by the Design-Builder without reimbursement from Owner, subject to any applicable limitation of liability set forth in this Agreement. Before any necessary correction or modification of equipment or facilities is initiated by the Design-Builder, all reasonable efforts to satisfy the Performance Warranty through operational training, support and revision shall be completed and a plan indicating the scope and schedule for such work shall be prepared by the Design-Builder and approved by Owner.

GC 3.0 Owner's Services and Responsibilities

3.1 Duty to Cooperate

- 3.1.1** Owner shall, throughout the performance of the Work, cooperate with Design-Builder and perform its responsibilities, obligations and services in a timely manner to facilitate Design-

Builder's timely and efficient performance of the Work and so as not to delay or interfere with Design-Builder's performance of its obligations under the Contract Documents.

- 3.1.2 Owner shall provide reviews and approvals of interim design submissions and Construction Documents consistent with the turn-around times set forth in the Schedule. Owner's review does not constitute acceptance of design errors or omissions, or transfer of any design liability to Owner.

3.2 **Furnishing of Services and Information**

- 3.2.1 Unless expressly stated to the contrary in the Contract Documents, Owner shall provide, at its own cost and expense, for Design-Builder's information and use the following, all of which Design-Builder is entitled to rely upon in performing the Work:

- .1 Surveys describing the property boundaries, topography and reference points for use during construction, including existing service and utility lines;
- .2 Geotechnical studies describing subsurface conditions, and other surveys describing other latent or concealed physical conditions at the Site;
- .3 Temporary and permanent easements, zoning and other requirements and encumbrances affecting land use, or necessary to permit the proper design and construction of the Project, access to the Site and any off-site storage or lay-down areas, and to enable Design-Builder to perform the Work;
- .4 A legal description of the Site;
- .5 To the extent available, as-built and record drawings of any existing structures and utilities at the Site; and
- .6 To the extent available, environmental studies, reports and impact statements describing the environmental conditions, including Hazardous Conditions, in existence at the Site.

- 3.2.2 Owner is responsible for securing and executing all necessary agreements with adjacent land or property owners that are necessary to enable Design-Builder to perform the Work. Owner is further responsible for all costs, including attorneys' fees, incurred in securing these necessary agreements.

3.3 **Financial Information**

- 3.3.1 Design-Builder shall cooperate with the reasonable requirements of Owner's lenders or other financial sources.

- 3.3.2 Notwithstanding the preceding sentence, after execution of the Agreement Design-Builder shall have no obligation to execute for Owner or Owner's lenders or other financial sources any documents or agreements that require Design-Builder to assume obligations or responsibilities greater than those existing obligations Design-Builder has under the Contract Documents.

- 3.3.3 [*Optional language:* Design-Builder shall not be required as a condition of award or contract to waive or subordinate its mechanic's lien rights, if any, to Owner's construction lender(s).]

3.4 **Owner's Representative**

- 3.4.1 Owner's Representative shall be responsible for providing Owner-supplied information and approvals in a timely manner to permit Design-Builder to fulfill its obligations under the Contract Documents. Owner's Representative shall also provide Design-Builder with prompt notice if it observes any failure on the part of Design-Builder to fulfill its contractual obligations, including any errors, omissions or defects in the performance of the Work.

3.5 Government Approvals and Permits

- 3.5.1 Design-Builder shall obtain and pay for all necessary permits, approvals, licenses, government charges and inspection fees set forth in the Owner's Permit List attached as part of Attachment F, *Owner's Project Criteria*. Reimbursement of these charges to the Design-Builder shall be per the invoiced amount with no allowable mark up.
- 3.5.2 Owner shall provide reasonable assistance to Design-Builder in obtaining those permits, approvals and licenses that are Design-Builder's responsibility.

3.6 Owner's Separate Contractors

- 3.6.1 Owner is responsible for all work performed on the Project or at the Site by separate contractors under separate agreements with Owner. Owner shall contractually require its separate contractors to cooperate with, and coordinate their activities so as not to interfere with, Design-Builder in order to enable Design-Builder to timely complete the Work consistent with the Contract Documents.
- 3.6.2 Owner recognizes the importance that all work performed on the Project or at the Site by separate contractors under separate agreements with Owner is performed in a safe manner so as to prevent damage, injury or loss to (i) all individuals at the Site, whether working or visiting, (ii) the Work, including materials and equipment incorporated into the Work or stored on-Site or off-Site, and (iii) all other property at the Site or adjacent thereto. Owner shall require such separate contractors to assume responsibility for implementing and monitoring all safety precautions and programs related to the performance of their work.

GC 4.0 Hazardous Conditions and Differing Site Conditions

4.1 Hazardous Conditions

- 4.1.1 Unless otherwise expressly provided in the Contract Documents to be part of the Work, Design-Builder is not responsible for any Hazardous Conditions encountered at the Site. Upon encountering any Hazardous Conditions, Design-Builder will stop Work immediately in the affected area and duly notify Owner and, if required by Legal Requirements, all government or quasi-government entities with jurisdiction over the Project or Site.
- 4.1.2 Upon receiving notice of the presence of suspected Hazardous Conditions, Owner shall take the necessary measures required to ensure that the Hazardous Conditions are remediated or rendered harmless. Such necessary measures shall include Owner retaining qualified independent experts to (i) ascertain whether Hazardous Conditions have actually been encountered, and, if they have been encountered, (ii) prescribe the remedial measures that Owner must take either to remove the Hazardous Conditions or render the Hazardous Conditions harmless.
- 4.1.3 Design-Builder shall be obligated to resume Work at the affected area of the Project only after Owner's expert provides it with written certification that (i) the Hazardous Conditions have been removed or rendered harmless and (ii) all necessary approvals have been obtained from all government and quasi-government entities having jurisdiction over the Project or Site.
- 4.1.4 Design-Builder will be entitled, in accordance with these General Conditions, to an equitable adjustment in its Contract Price and/or Contract Time(s) to the extent Design-Builder's cost and/or time of performance have been adversely impacted by the presence of Hazardous Conditions.
- 4.1.5 Design-Builder, Design Consultants, Subcontractors and Sub-subcontractors, and their respective agents, officers, directors and employees shall have no liability for any and all claims, damages, losses, costs and expenses, whether direct, indirect or consequential, arising or resulting from the

presence of any Hazardous Material in or about the area of the Work, except to the extent that such person would be liable for the same under applicable law.

- 4.1.6** Notwithstanding the preceding provisions of this GC 4.1, Owner is not responsible for Hazardous Conditions introduced to the Site by Design-Builder, Design Consultants, Subcontractors or anyone for whose acts they may be liable. Design-Builder shall indemnify, defend and hold harmless Owner and Owner's officers, directors, employees and agents from and against all claims, losses, damages, liabilities and expenses, including attorneys' fees and expenses, arising out of or resulting from those Hazardous Conditions introduced to the Site by the parties identified in the first sentence of this GC 4.1.6.
- 4.1.7** The terms of this GC 4.1 shall survive the completion of the Work under this Agreement and/or any termination of this Agreement.

4.2 Differing Site Conditions

- 4.2.1** Concealed or latent physical conditions or subsurface conditions at the Site that (i) materially differ from the conditions indicated in the Contract Documents or (ii) are of an unusual nature, differing materially from the conditions ordinarily encountered and generally recognized as inherent in the Work, are collectively referred to herein as "Differing Site Conditions." If Design-Builder encounters a Differing Site Condition, Design-Builder will be entitled to an equitable adjustment in the Contract Price and/or Contract Time(s) to the extent Design-Builder's cost and/or time of performance are adversely impacted by the Differing Site Condition.
- 4.2.2** Upon encountering a Differing Site condition, Design-Builder shall provide prompt written notice to Owner of such condition, which notice shall not be later than seven (7) days after such condition has been encountered. Design-Builder shall, to the extent reasonably possible, provide such notice before the Differing Site Condition has been substantially disturbed or altered.

GC 5.0 Payment

5.1 Payment for Phase 1 Services

- 5.1.1** Design-Builder will submit an Application for Payment to Owner each month covering Phase 1 services performed to date. Each Application for Payment will be prepared in the standard form agreed to by the parties and supported by required documentation.

5.2 Schedule of Values for Phase 2 Services

- 5.2.1** Within ten (10) days of the Commencement Date, Design-Builder shall submit for Owner's review and approval a schedule of values for Phase 2 of the Work. The Schedule of Values will (i) subdivide the Work into its respective parts, (ii) include values for all items comprising the Work and (iii) serve as the basis for monthly progress payments made to Design-Builder throughout the Work.

5.3 Monthly Progress Payments

- 5.3.1** On or before the date established in the Agreement, Design-Builder shall submit for Owner's review and approval its Application for Payment requesting payment for all Work performed as of the date of the Application for Payment. The Application for Payment shall be accompanied by all supporting documentation required by the Contract Documents and/or established at the meeting required by GC 2.1.4.
- 5.3.2** The Application for Payment may request payment for equipment and materials not yet incorporated into the Project, provided that (i) Owner is satisfied that the equipment and materials are suitably stored at either the Site or another acceptable location, (ii) the equipment and

materials are protected by suitable insurance and (iii) upon payment, Owner will receive the equipment and materials free and clear of all liens and encumbrances.

- 5.3.3** The Application for Payment shall constitute Design-Builder's representation that the Work has been performed consistent with the Contract Documents, has progressed to the point indicated in the Application for Payment, and that title to all Work will pass to Owner free and clear of all claims, liens, encumbrances, and security interests upon the incorporation of the Work into the Project, or upon Design-Builder's receipt of payment, whichever occurs earlier.

5.4 Withholding of Payments; Payment of Undisputed Amounts

- 5.4.1** On or before the date established in the Agreement, Owner shall pay Design-Builder all amounts properly due, including the release of retention under Section 7.3.1 of the Agreement. If Owner determines that Design-Builder is not entitled to all or part of an Application for Payment, it will notify Design-Builder in writing at least five (5) days prior to the date payment is due. The notice shall indicate the specific amounts Owner intends to withhold, the reasons and contractual basis for the withholding, and the specific measures Design-Builder must take to rectify Owner's concerns. Design-Builder and Owner will attempt to resolve Owner's concerns prior to the date payment is due. If the parties cannot resolve such concerns, Design-Builder may pursue its rights under the Contract Documents, including those under GC 8.0.

- 5.4.2** Notwithstanding anything to the contrary in the Contract Documents, Owner shall pay Design-Builder all undisputed amounts in an Application for Payment within the times required by the Agreement.

5.5 Right to Stop Work and Interest

- 5.5.1** If Owner fails to pay Design-Builder any amount that becomes due, Design-Builder, in addition to all other remedies provided in the Contract Documents, may stop Work pursuant to GC 9.4. All payments due and unpaid shall bear interest at the rate set forth in Section 7.5 of the Agreement.

5.6 Design-Builder's Payment Obligations

- 5.6.1** Design-Builder will promptly pay any Subcontractors and Design Consultants, in accordance with NMSA 13-4-11 and all applicable laws and its contractual obligations to such parties, all the amounts Design-Builder has received from Owner on account of their work. Design-Builder will impose similar requirements on Subcontractors and Design Consultants to pay those parties with whom they have contracted.
- 5.6.2** Design-Builder shall make prompt payment to its subcontractors and suppliers for amounts owed for work performed on the construction project within seven days after receipt of payment from the City. If Design-Builder fails to pay Design-Builder's subcontractor and suppliers by first-class mail or hand delivery within seven days of receipt of payment, Design-Builder shall pay interest to Design-Builder's subcontractors and suppliers beginning on the eight day after payment was due, computed at one and one-half percent of the undisputed amount per month or fraction of a month until payment is issued. These payment provisions apply to all tiers of contractors, subcontractors and suppliers.
- 5.6.3** Providing that Owner is not in breach of its contractual obligation to make payments to Design-Builder for the Work, Design-Builder shall indemnify, defend and hold harmless Owner from any claims or mechanic's liens brought against Owner or against the Project as a result of the failure of Design-Builder, or those for whose acts it is responsible, to pay for any services, materials, labor, equipment, taxes or other items or obligations furnished or incurred for or in connection with the Work. Within ten (10) days of receiving written notice from Owner that such a claim or mechanic's lien has been filed, Design-Builder shall commence to take the steps necessary to

discharge said claim or lien, including, if necessary, the furnishing of a mechanic's lien bond. If Design-Builder fails to do so, Owner will have the right to discharge the claim or lien and charge Design-Builder with any costs and expenses incurred, including attorneys' fees.

5.7 Certified Weekly Payroll Certificates

5.7.1 Design-Builder and all subcontractors shall submit one certified copy of the project weekly payrolls to Owner, email is preferred, and one certified copy directly to the New Mexico Department of Workforce Solutions, not later than five (5) working days after the close of each payroll period. The Design-Builder shall be responsible for the submission of copies of certified weekly payrolls of all Subcontractors to the Owner. If certified payrolls are not submitted in a pursuant to NMSA 13-4-11, the Owner shall hold monthly pay application until all certified payroll submissions are current.

5.8 Substantial Completion

5.8.1 Design-Builder shall notify Owner when it believes the Work, or to the extent permitted in the Contract Documents, a portion of the Work, is substantially complete (including the completion of performance testing). Within five (5) days of Owner's receipt of Design-Builder's notice, Owner and Design-Builder will jointly inspect such Work to verify that it is substantially complete in accordance with the requirements of the Contract Documents. If such Work is substantially complete, Owner shall prepare and issue a Certificate of Substantial Completion that will set forth (i) the date of Substantial Completion of the Work or portion thereof, (ii) the remaining items of Work that have to be completed before final payment, (iii) provisions (to the extent not already provided in the Contract Documents) establishing Owner's and Design-Builder's responsibility for the Project's security, maintenance, utilities and insurance pending final payment, and (iv) an acknowledgment that warranties commence to run on the date of Substantial Completion, except as may otherwise be noted in the Certificate of Substantial Completion.

5.8.2 Upon Substantial Completion of the entire Work or, if applicable, any portion of the Work, Owner shall release to Design-Builder all retained amounts relating, as applicable, to the entire Work or completed portion of the Work, less an amount equal to the reasonable value of all remaining or incomplete items of Work as noted in the Certificate of Substantial Completion.

5.8.3 Owner, at its option, may use a portion to the Work which has been determined to be substantially complete, provided that (i) a Certificate of Substantial Completion has been issued for the portion of Work addressing the items set forth in GC 5.7.1, (ii) Design-Builder and Owner have obtained the consent of their sureties and insurers, and (iii) Owner and Design-Builder, agree that Owner's use or occupancy will not interfere with Design-Builder's completion of the remaining Work.

5.8.4 Upon Substantial Completion, Design-Builder shall conduct performance testing of the Facility using Owner's operations and maintenance staff to demonstrate that the Performance Criteria set forth in Attachment F, *Owner's Project Criteria*, have been satisfied and that the Performance Guarantees have been met.

5.9 Final Payment

5.9.1 After receipt of a Final Application for Payment from Design-Builder, Owner shall make final payment by the time required in the Agreement, *provided* that Design-Builder has completed all of the Work in conformance with the Contract Documents.

5.9.2 At the time of submission of its Final Application for Payment, Design-Builder shall provide the following information:

- 1) an affidavit that there are no claims, obligations or liens outstanding or unsatisfied for labor, services, material, equipment, taxes or other items performed, furnished or incurred for or in connection with the Work which will in any way affect Owner's interests;
- 2) a general release executed by Design-Builder waiving, upon receipt of final payment by Design-Builder, all claims, except those claims previously made in writing to Owner and remaining unsettled at the time of final payment;
- 3) consent of Design-Builder's surety, if any, to final payment;
- 4) a certificate demonstrating that performance testing is complete and that the Performance Guarantees set forth in Attachment F, *Owner's Project Criteria*, have been met;
- 5) all operating manuals, warranties and other deliverables required by the Contract Documents;
- 6) certificates of insurance confirming that required coverages will remain in effect consistent with the requirements of the Contract Documents;
- 7) affidavit of wages paid for Design-Builder and all subcontractors; and
- 8) copy of signed substantial completion and copy of signed final completion.

5.9.3 Upon making final payment, Owner waives all claims against Design-Builder except claims relating to (i) Design-Builder's failure to satisfy its payment obligations, if such failure affects Owner's interests, (ii) Design-Builder's failure to complete the Work consistent with the Contract Documents, including defects appearing after Substantial Completion, (iii) the terms of any special warranties required by the Contract Documents, and (iv) claims which are identified as unsettled at the time of making final payment.

5.9.4 Final payment by Owner shall constitute Final Acceptance of the Project for all purposes hereunder, subject to Design-Builder's remaining warranty obligations and any remaining indemnity obligations hereunder.

5.9.5 Acceptance of final payment by the Design-Builder, a Subcontractor or material supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

GC 6.0 Time

6.1 Obligation to Achieve the Contract Times

6.1.1 Design-Builder agrees that it will commence performance of the Work and achieve the Contract Time(s) in accordance with Article 5.0 of the Agreement.

6.2 Delays to the Work

6.2.1 If Design-Builder is delayed in the performance of the Work due to Uncontrollable Circumstances, the Contract Time(s) for performance shall be reasonably extended by Change Order, and the Schedule adjusted accordingly.

6.2.2 In addition to Design-Builder's right to a time extension for delays in the Work under GC 6.2.1, Design-Builder shall also be entitled to an equitable adjustment of the Contract Price and equitable commutation of any Liquidated Damages under Section 5.4 of the Agreement.

GC 7.0 Changes to the Contract Price and Time

7.1 Change Orders

7.1.1 A Change Order is a written instrument issued after execution of the Agreement signed by Owner and Design-Builder, stating their agreement upon all of the following:

- .1 The scope of the change in the Work;

- .2 The amount of the adjustment to the Contract Price; and
 - .3 The extent of the adjustment to the Contract Time(s) and Schedule.
- 7.1.2 All changes in the Work authorized by applicable Change Order shall be performed under the applicable conditions of the Contract Documents. Owner and Design-Builder shall negotiate in good faith and as expeditiously as possible the appropriate adjustments for such changes.
- 7.2 Work Change Directives**
- 7.2.1 A Work Change Directive is a written order prepared and signed by Owner, directing a change in the Work prior to agreement on an adjustment in the Contract Price and/or the Contract Time(s).
- 7.2.2 Owner and Design-Builder shall negotiate in good faith and as expeditiously as possible the appropriate adjustments for the Work Change Directive. Upon reaching an agreement, the parties shall prepare and execute an appropriate Change Order reflecting the terms of the agreement.
- 7.2.3 If Owner has requested a proposal for a change in the Work from Design-Builder, Owner shall notify Design-Builder as expeditiously as possible whether such proposal is accepted. Design-Builder shall not commence changed work until a written Work Change Directive or Change Order has been delivered by Owner. The parties recognize that delay in response to such proposals may increase the impact or cost of the Change.
- 7.3 Minor Changes in the Work**
- 7.3.1 Minor changes in the Work do not involve an adjustment in the Contract Price and/or Contract Time(s) and do not materially and adversely affect the Work, including the design, quality, performance and workmanship required by the Contract Documents. Design-Builder may make minor changes in the Work consistent with the intent of the Contract Documents, *provided, however*, that Design-Builder shall promptly inform Owner, in writing, of any such changes and record such changes on the documents maintained by Design-Builder.
- 7.4 Contract Price Adjustments**
- 7.4.1 The increase or decrease in Contract Price resulting from a change in the Work shall be determined by one or more of the following methods:
- .1 unit prices set forth in the Agreement or as subsequently agreed between the parties (which may include daily or monthly overhead rates for the extension of services);
 - .2 a mutually-accepted lump sum, properly itemized and supported by sufficient substantiating data to permit evaluation by Owner;
 - .3 costs, fees and any other markups set forth in the Agreement; and
 - .4 if an increase or decrease cannot be agreed to as set forth in items .1 through .3 above and Owner issues a Work Change Directive, the cost of the change of the Work shall be determined by the reasonable expense and savings in the performance of the Work resulting from the change, including a reasonable overhead and profit, as may be set forth in the Agreement. If the net result of both additions and deletions to the Work is an increase or a decrease in the Contract Price, overhead and profit shall be calculated on the basis of the net increase or decrease to the Contract Price. Design-Builder shall maintain a documented, itemized accounting evidencing the expenses and savings associated with such changes.
- 7.4.2 If unit prices are set forth in the Contract Documents or are subsequently agreed to by the parties, but application of such unit prices will cause substantial inequity to Owner or Design-Builder because of differences in the character or quantity of such unit items as originally contemplated, such unit prices shall be equitably adjusted.
- 7.4.3 If Owner and Design Builder disagree upon whether Design-Builder is entitled to be paid for any services required by Owner, or if there are any other disagreements over the scope of Work or

proposed changes to the Work, Owner and Design-Builder shall resolve the disagreement pursuant to GC 8.0. As part of the negotiation process, Design-Builder shall furnish Owner with a good faith estimate of the costs to perform the disputed services in accordance with Owner's interpretations. If the parties are unable to agree and Owner expects Design-Builder to perform the services in accordance with Owner's interpretations, Design-Builder shall proceed to perform the disputed services, conditioned upon Owner issuing a written order to Design-Builder (i) directing Design-Builder to proceed and (ii) specifying Owner's interpretation of the services that are to be performed.

- 7.4.4 Unless otherwise agreed by the parties, the Design-Builder's markup for indirect costs and profit on additional costs included in an adjustment to the Contract Price under this section 7.4 shall be equal to a maximum seven percent (7%) of such additional costs.

7.5 Emergencies

- 7.5.1 In any emergency affecting the safety of persons and/or property, Design-Builder shall act, at its discretion, to prevent threatened damage, injury or loss. Any change in the Contract Price and/or Contract Time(s) on account of emergency work shall be determined as provided in this GC 7.0.

GC 8.0 Contract Adjustments and Disputes

8.1 Requests for Contract Adjustments and Relief

- 8.1.1 If either Design-Builder or Owner believes that it is entitled to relief against the other for any Changed Condition arising out of or related to the Work or Project, such party shall provide written notice to the other party of the basis for its claim for relief.
- 8.1.2 A Changed Condition may include a Change in Law following the date of Design-Builder's proposal to Owner which has a material impact on the cost of the Work, the Schedule, the Performance Criteria, or other aspects of Design-Builder's performance hereunder.
- 8.1.3 Changed Conditions may include Uncontrollable Circumstances having an impact on Design-Builder's cost of the Work, the Schedule, the Performance Criteria, or other aspects of Design-Builder's performance hereunder.
- 8.1.4 Such notice shall, if possible, be made prior to incurring any cost or expense and in accordance with any specific notice requirements contained in applicable sections of these General Conditions. In the absence of any specific notice requirement, written notice shall be given within a reasonable time, not to exceed twenty-one (21) days, after the occurrence giving rise to the claim for relief or after the claiming party reasonably should have recognized the event or condition giving rise to the request, whichever is later.
- 8.1.5 Such notice shall include sufficient information to advise the other party of the circumstances giving rise to the claim for relief, and, if then available, the specific contractual adjustment or relief requested and the basis of such request.

8.2 Dispute Avoidance and Resolution

- 8.2.1 The parties are fully committed to working with each other throughout the Project and agree to communicate regularly with each other at all times so as to avoid or minimize disputes or disagreements. If disputes or disagreements do arise, Design-Builder and Owner each agree to resolve such disputes or disagreements in an amicable, professional and expeditious manner so as to avoid unnecessary losses, delays and disruptions to the Work.
- 8.2.2 Design-Builder and Owner will first attempt to resolve disputes or disagreements at the Project level through discussions between Design-Builder's Representative and Owner's Representative.
- 8.2.3 If a dispute or disagreement cannot be resolved through Design-Builder's Representative and Owner's Representative, upon the request of either party, then the matter shall be referred to the

Senior Representatives of each party for resolution. Design-Builder's Senior Representative and Owner's Senior Representative shall meet as soon as conveniently possible, but in no case later than thirty (30) days after such a request is made, to attempt to resolve such dispute or disagreement. Prior to any meetings between the Senior Representatives, the parties will exchange relevant information that will assist the parties in resolving their dispute or disagreement.

8.2.4 If, after meeting, the Senior Representatives determine that the dispute or disagreement cannot be resolved on terms satisfactory to both parties, then the parties shall submit the dispute or disagreement to non-binding mediation. The mediation shall be conducted by a mutually agreeable impartial mediator, or if the parties cannot so agree, a mediator designated by the American Arbitration Association ("AAA") pursuant to its Construction Industry Mediation Rules. The mediation will be governed by and conducted pursuant to a mediation agreement negotiated by the parties or, if the parties cannot so agree, by procedures established by the mediator.

8.3 Arbitration

8.3.1 Any claims, disputes or controversies between the parties arising out of or relating to the Agreement, or the breach thereof, which have not been resolved in accordance with the procedures set forth in GC 8.2, shall be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the AAA then in effect, unless the parties mutually agree otherwise.

8.3.2 The award of the arbitrator(s) shall be final and binding upon the parties without the right of appeal to the courts. Judgment may be entered upon it in accordance with applicable law by any court having jurisdiction thereof.

8.3.3 Design-Builder and Owner expressly agree that any arbitration pursuant to this GC 8.3 may be joined or consolidated with any arbitration involving any other person or entity (i) necessary to resolve the claim, dispute or controversy, or (ii) substantially involved in or affected by such claim, dispute or controversy. Both Design-Builder and Owner will include appropriate provisions in all contracts they execute with other parties in connection with the Project to require such joinder or consolidation.

8.3.4 In any arbitration, or any other final, binding dispute proceeding upon which the parties may agree, each party shall be responsible for its own legal costs, including attorneys' fees.

8.3.5 The arbitration shall be held at the location of the Project, unless the parties mutually agree to another acceptable site for the arbitration. The law applicable to the arbitration shall be the law of the jurisdiction in which the Project is located.

8.4 Duty to Continue Performance

8.4.1 Unless provided to the contrary in the Contract Documents, Design-Builder shall continue to perform the Work and Owner shall continue to satisfy its payment obligations to Design-Builder, pending the final resolution of any dispute or disagreement between Design-Builder and Owner.

GC 9.0 Suspension and Termination

9.1 Owner's Right to Stop Work

9.1.1 Owner may, without cause and for its convenience, order Design-Builder in writing to stop and suspend the Work. Such suspension shall not exceed sixty (60) consecutive days or aggregate more than ninety (90) days during the duration of the Project.

9.1.2 Design-Builder is entitled to an equitable adjustment of the Contract Price and/or Contract Time(s) if its cost or time to perform the Work has been adversely impacted by any suspension of stoppage of work by Owner.

9.2 Termination for Convenience

9.2.1 Upon ten (10) days' written notice to Design-Builder, Owner may, for its convenience and without cause, elect to terminate this Agreement. In such event, Owner shall pay Design-Builder for the following:

- .1** All Work executed and for proven loss, cost or expense in connection with such Work;
- .2** The reasonable costs and expenses attributable to such termination, including demobilization costs and amounts due in settlement of terminated contracts with Subcontractors and Design Consultants; and
- .3** The fair and reasonable sums for overhead and profit on the sum of items **.1** and **.2** above.

9.2.2 If Owner terminates this Agreement pursuant to GC 9.2.1 and proceeds to design and construct the Project through its employees, agents or third parties, Owner's rights to use the Work product shall be as set forth in Section 4.3 ("Owner's Limited License upon Owner's Termination for Convenience or Design-Builder's Election to Terminate").

9.3 Owner's Right to Perform and Terminate for Cause

9.3.1 *If* Design-Builder persistently fails to (i) provide a sufficient number of skilled workers, (ii) supply the materials required by the Contract Documents, (iii) comply with applicable Legal Requirements, (iv) timely pay, without cause, Subcontractors, (v) prosecute the Work with promptness and diligence to ensure that the Work is completed by the Contract Time(s), as such times may be adjusted, or (vi) perform material obligations under the Contract Documents, *then* Owner, in addition to any other rights and remedies provided in the Contract Documents or by law, shall have the rights set forth in GC 9.3.2, 9.3.3, and 9.3.4.

9.3.2 Upon the occurrence of an event set forth in GC 9.3.1, Owner may provide written notice to Design-Builder that it intends to terminate the Agreement unless the problem cited is cured, or commenced to be cured, within seven (7) days of Design-Builder's receipt of such notice. If Design-Builder fails to cure, or reasonably commence to cure, such problem, then Owner may give a second written notice to Design-Builder of its intent to terminate within an additional seven (7) day period. If Design-Builder, within such second seven (7) day period, fails to cure, or reasonably commence to cure, such problem, then Owner may declare the Agreement terminated for default by providing written notice to Design-Builder of such declaration.

9.3.3 Upon declaring the Agreement terminated pursuant to GC 9.3.2, Owner may enter upon the premises and take possession, for the purpose of completing the Work, of all materials, equipment, scaffolds, tools, appliances and other items thereon, which have been purchased or provided for the performance of the Work, all of which Design-Builder hereby transfers, assigns and sets over to Owner for such purpose, and to employ any person or persons to complete the Work and provide all of the required labor, services, materials, equipment and other items.

9.3.4 In the event of such termination, Design-Builder shall not be entitled to receive any further payments under the Contract Documents until the Work shall be finally completed in accordance with the Contract Documents. At such time, if the unpaid balance of the Contract Price exceeds the cost and expense incurred by Owner in completing the Work, such excess shall be paid by Owner to Design-Builder. Notwithstanding the preceding sentence, if the Agreement establishes a Guaranteed Maximum Price, Design-Builder will only be entitled to be paid for Work performed prior to its default. If Owner's cost and expense of completing the Work exceeds the

unpaid balance of the Contract Price, then Design-Builder shall be obligated to pay the difference to Owner. Such costs and expense shall include not only the cost of completing the Work, but also losses, damages, costs and expense, including attorneys' fees and expenses, incurred by Owner in connection with the re-procurement and defense of claims arising from Design-Builder's default, subject to the waiver of consequential damages set forth in GC 2.12.2.

9.3.5 If Owner improperly terminates the Agreement for cause, the termination for cause will be converted to a termination for convenience in accordance with the provisions of GC 9.2.

9.4 Design-Builder's Right to Stop Work

9.4.1 Design-Builder may, in addition to any other rights afforded under the Contract Documents or at law, stop work for the following reasons:

.1 Owner's failure to pay amounts properly due under Design-Builder's Application for Payment.

9.4.2 Should an event set forth in GC 9.4.1 occur, Design-Builder may provide Owner with written notice that Design-Builder will stop work unless such event is cured within seven (7) days from Owner's receipt of Design-Builder's notice. If Owner does not cure the problem within such seven (7) day period, Design-Builder may stop work. In such case, Design-Builder may make a claim for adjustment to the Contract Price and Contract Time(s) to the extent it has been adversely impacted by such stoppage.

9.5 Design-Builder's Right to Terminate for Cause

9.5.1 Design-Builder, in addition to any other rights and remedies provided in the Contract Documents or by law, may terminate the Agreement for cause for the following reasons:

.1 The Work has been stopped for sixty (60) consecutive days, or more than ninety (90) days during the duration of the Project, because of a court order, any government authority having jurisdiction over the Work, or orders by Owner under GC 9.1.1, *provided* that such stoppages are not due to the acts or omissions of Design-Builder or anyone for whose acts Design-Builder may be responsible; or

.2 Owner's failure to provide Design-Builder with any information, permits or approvals that are Owner's responsibility under the Contract Documents which result in the Work being stopped for sixty (60) consecutive days, or more than ninety (90) days during the duration of the Project, even though Owner has not ordered Design-Builder in writing to stop and suspend the Work pursuant to GC 9.1.1; or

.3 Owner's failure to cure the problems set forth in GC 9.4.1 after Design-Builder has stopped the Work.

9.5.2 Upon the occurrence of an event set forth in GC 9.5.1, Design-Builder may provide written notice to Owner that it intends to terminate the Agreement unless the problem cited is cured, or commenced to be cured, within seven (7) days of Owner's receipt of such notice. If Owner fails to cure, or reasonably commence to cure, such problem, then Design-Builder may give a second written notice to Owner of its intent to terminate within an additional seven (7) day period. If Owner, within such second seven (7) day period, fails to cure, or reasonably commence to cure, such problem, then Design-Builder may declare the Agreement terminated for default by providing written notice to Owner of such declaration. In such case, Design-Builder shall be entitled to recover in the same manner as if Owner had terminated the Agreement for its convenience under GC 9.2.

9.6 Bankruptcy of Owner or Design-Builder

- 9.6.1** If either Owner or Design-Builder institutes or has instituted against it a case under the United States Bankruptcy Code (such party being referred to as the “Bankrupt Party”), such event may impair or frustrate the Bankrupt Party's ability to perform its obligations under the Contract Documents. Accordingly, should such event occur:
- .1** The Bankrupt Party, its trustee or other successor, shall furnish, upon request of the non-Bankrupt Party, adequate assurance of the ability of the Bankrupt Party to perform all future material obligations under the Contract Documents, which assurances shall be provided within ten (10) days after receiving notice of the request; and
 - .2** The Bankrupt Party shall file an appropriate action within the bankruptcy court to seek assumption or rejection of the Agreement within sixty (60) days of the institution of the bankruptcy filing and shall diligently prosecute such action.
- If the Bankrupt Party fails to comply with its foregoing obligations, the non-Bankrupt Party shall be entitled to request the bankruptcy court to reject the Agreement, declare the Agreement terminated and pursue any other recourse available to the non-Bankrupt Party under this GC 9.0.
- 9.6.2** The rights and remedies under GC 9.6.1 shall not be deemed to limit the ability of the non-Bankrupt Party to seek any other rights and remedies provided by the Contract Documents or by law, including its ability to seek relief from any automatic stays under the United States Bankruptcy Code or the right of Design-Builder to stop Work under any applicable provision of these General Conditions.

GC 10.0 Miscellaneous

10.1 Assignment

- 10.1.1** Neither Design-Builder nor Owner shall without the written consent of the other, assign, transfer or sublet any portion or part of the Work or the obligations required by the Contract Documents.

10.2 Successorship

- 10.2.1** Design-Builder and Owner intend that the provisions of the Contract Documents are binding upon the parties, their employees, agents, heirs, successors and assigns.

10.3 Governing Law

- 10.3.1** The Agreement and all Contract Documents shall be governed by the laws of the State of New Mexico, without giving effect to its conflict of law principles.

10.4 Severability

- 10.4.1** If any provision or any part of a provision of the Contract Documents shall be finally determined to be superseded, invalid, illegal, or otherwise unenforceable pursuant to any applicable Legal Requirements, such determination shall not impair or otherwise affect the validity, legality, or enforceability of the remaining provision or parts of the provision of the Contract Documents, which shall remain in full force and effect as if the unenforceable provision or part were deleted.

10.5 No Waiver

- 10.5.1** The failure of either Design-Builder or Owner to insist, in any one or more instances, on the performance of any of the obligations required by the other under the Contract Documents shall not be construed as a waiver or relinquishment of such obligation or right with respect to future performance.

10.6 Headings

- 10.6.1** The headings used in these General Conditions or any other Contract Document, are for ease of reference only and shall not in any way be construed to limit or alter the meaning of any provision.

10.7 Notice

10.7.1 Whenever the Contract Documents require that notice be provided to the other party, notice will be deemed to have been validly given (i) if delivered in person to the individual intended to receive such notice, (ii) four (4) days after being sent by registered or certified mail, postage prepaid to the address indicated in the Agreement, (iii) if transmitted by facsimile, by the time stated in a machine-generated confirmation that notice was received at the number of the intended recipient, or (iv) if transmitted by e-mail to the individual to whom such notice is required to be given, by the time stated in a machine-generated confirmation that notice was received at the e-mail address of the intended recipient.

10.8 Amendments

10.8.1 The Contract Documents may not be changed, altered, or amended in any way except in writing signed by a duly authorized representative of both parties.

10.9 Third Parties

10.9.1 The services to be performed by Design-Builder are intended solely for the benefit of the Owner. No person or entity not a signatory to this Agreement shall be entitled to rely on the Design-Builder's performance of its services hereunder, and no right to assert a claim against the Design-Builder by assignment of indemnity rights or otherwise shall accrue to a third party.

GC 11.0 Electronic Data

11.1 Electronic Data.

11.1.1 The parties recognize that Contract Documents, including drawings, specifications and three-dimensional modeling (such as Building Information Models) and other Work product may be transmitted among Owner, Design-Builder and others in electronic media as an alternative to paper hard copies (collectively "Electronic Data").

11.2 Transmission of Electronic Data

11.2.1 Owner and Design-Builder shall agree upon the software and the format for the transmission of Electronic Data. Each party shall be responsible for securing the legal rights to access the agreed-upon format, including, if necessary, obtaining appropriately licensed copies of the applicable software or electronic program to display, interpret and/or generate the Electronic Data.

11.2.2 Neither party makes any representations or warranties to the other with respect to the functionality of the software or computer program associated with the electronic transmission of Work product. Unless specifically set forth in the Agreement, ownership of the Electronic Data does not include ownership of the software or computer program with which it is associated, transmitted, generated or interpreted.

11.2.3 By transmitting Work product in electronic form, the transmitting party does not transfer or assign its rights in the Work product. The rights in the Electronic Data shall be as set forth in Article 4.0 of the Agreement ("Ownership of Work product"). Under no circumstances shall the transfer of ownership of Electronic Data be deemed to be a sale by the transmitting party of tangible goods.

11.3 Electronic Data Protocol

- 11.3.1** The parties acknowledge that Electronic Data may be altered or corrupted, intentionally or otherwise, due to occurrences beyond their reasonable control or knowledge, including but not limited to compatibility issues with user software, manipulation by the recipient, errors in transcription or transmission, machine error, environmental factors, and operator error. Consequently, the parties understand that there is some level of increased risk in the use of Electronic Data for the communication of design and construction information and, in consideration of this, agree, and shall require their independent contractors, Subcontractors and Design Consultants to agree, to the following protocols, terms and conditions set forth in this GC 11.3.
- 11.3.2** Electronic Data will be transmitted in the format agreed upon in GC 11.2.1, including file conventions and document properties, unless prior arrangements are made in advance in writing.
- 11.3.3** The Electronic Data represents the information at a particular point in time and is subject to change. Therefore, the parties shall agree upon protocols for notification by the author to the recipient of any changes which may thereafter be made to the Electronic Data, which protocol shall also address the duty, if any, to update such information, data or other information contained in the electronic media if such information changes prior to Final Completion of the Project.
- 11.3.4** The transmitting party specifically disclaims all warranties, expressed or implied, including, but not limited to, implied warranties of merchantability and fitness for a particular purpose, with respect to the media transmitting the Electronic Data. However, transmission of the Electronic Data by electronic means shall not invalidate or negate any duties pursuant to the applicable standard of care with respect to the creation of the Electronic Data, unless such data is materially changed or altered after it is transmitted to the receiving party, and the transmitting party did not participate in such change or alteration.

ATTACHMENT E
INDEMNITY, INSURANCE & BONDING

1.0 Indemnity

- 1.1** To the fullest extent permitted by law, Design-Builder shall defend, indemnify and hold Owner harmless from all claims by third parties for bodily injury and property damage (other than to the Work itself and other property insured hereunder) that may arise from the performance of the Work, except that Design-Builder shall have no duty to defend Owner from claims arising from acts, omissions or negligence of Owner, Owner's employees, or agents.
- 1.2** If an employee of Design-Builder, Design Consultants, Subcontractors, anyone employed directly or indirectly by any of them, or anyone for whose acts any of them may be liable has a claim against Owner, its officers, directors, employees, or agents, then Design-Builder's indemnity obligation set forth in Section 1.1 above shall not be limited by any limitation on the amount of damages, compensation, or benefits payable by or for Design-Builder, Design Consultants, Subcontractors, or other entity under any employee benefit acts, including workers' compensation or disability acts.

2.0 Design-Builder's Liability Insurance

- 2.1** Design-Builder shall obtain and maintain insurance coverage for the following claims which may arise out of the performance of this Agreement, whether resulting from Design-Builder's operations or by the operations of any Subcontractor, anyone in the employ of any of them, or by an individual or entity for whose acts they may be liable:

[The claims and limits described below are illustrative. Owner should revise as appropriate to the needs of its project.]

- 2.1.1** workers' compensation, disability and other employee benefit claims under acts applicable to the Work;
- 2.1.2** under applicable employers' liability law, bodily injury, occupational sickness, disease or death claims of Design-Builder's employees with limits of \$1,000,000 per accident or employee disease;
- 2.1.3** bodily injury, sickness, disease or death claims for damages to persons not employed by Design-Builder;
- 2.1.4** usual personal injury liability claims for damages directly or indirectly related to the person's employment by Design-Builder or for damages to any other person;
- 2.1.5** damage to or destruction of tangible property, including resulting loss of use, claims for property other than the Work itself and other property of third parties;
- 2.1.6** bodily injury, death or property damage claims resulting from motor vehicle liability in the use, maintenance or ownership of any motor vehicle; and
- 2.1.7** contractual liability claims involving Design-Builder's obligations under Paragraph 1.1.

2.2 Design-Builder’s Commercial General and Automobile Liability Insurance as required by Paragraph 2.1 shall be written for the following limits of liability:

- 1. Commercial General Liability Insurance
 - a. Each Occurrence Limit \$ 1,000,000.00
 - b. General Aggregate \$ 1,000,000.00
 - c. Products/Completed Operations Aggregate \$ 1,000,000.00
 - d. Personal and Advertising Injury Limit \$ 1,000,000.00
 - e. Contractual Liability \$ 1,000,000.00
- 2. Commercial Automobile Liability Insurance
 - a. Combined Single Limit Bodily Injury and Property Damage \$ 1,000,000.00 Each Occurrence

Owner shall be an Additional Insured on Commercial General Liability insurance and the Commercial Automobile Liability insurance obtained by Design-Builder pursuant to this clause.

Excess Liability Insurance above the required Commercial General, Commercial Automobile, and Employer’s Liability insurance in the additional amount of [**amount to be determined**] annual aggregate limit.

Contractor’s Pollution Liability Errors and Omissions Insurance in the amount of [**amount to be determined**] per loss and annual aggregate limit of [**amount to be determined**].

2.3 The policies shall contain a provision that coverage will not be canceled or not renewed until at least thirty (30) days' prior written notice has been given to Owner. Certificates of insurance showing required coverage to be in force shall be filed with Owner prior to commencement of the Work.

2.4 Products and Completed Operations insurance shall be maintained for a minimum period of at least two year(s) after either ninety (90) days following the date of Substantial Completion or final payment, whichever is earlier.

2.5 The insurance limits stated in this Attachment E may be satisfied through a combination of underlying and excess or umbrella coverage.

2.6 **Subcontractors.** Design-Builder shall require that all Subcontractors working on the Project secure and maintain the same insurance coverages required for Design-Builder for workers’ compensation insurance, employer’s liability insurance, commercial automotive liability insurance and commercial general liability insurance and other financial sureties required by applicable law in connection with their presence and the performance of their duties pursuant to this Agreement; provided that Owner may approve lower limits for specific subcontractors pursuant to a request submitted by Design-Builder to Owner prior to any work being performed by the subcontractor. Design-Builder shall require that all subcontractors performing engineering services and all subcontractors performing work with potential pollution liability risk secure and maintain Professional Liability or Pollution Liability insurance coverage, respectively, with such coverage limits commensurate with the scope of the subcontract work performed. Owner, Design-Builder and all other parties required of Design-Builder shall be named as additional insured on subcontractor’s required commercial general liability insurance policy. Alternatively, Design-Builder may obtain and maintain said policies and sureties on the subcontractor’s behalf.

All Subcontractors shall be registered at the time of proposal submission with New Mexico Work Force Solutions pursuant to NMSA 13-4-13.1.

3.0 Professional Liability Insurance

Professional liability insurance for claims arising from the negligent performance of professional services under this Agreement shall be written for **amount to be determined** per claim and in the annual aggregate with a deductible not to exceed **amount to be determined**. These requirements shall be continued in effect for two year(s) after the date of Substantial Completion. If the Design-Builder retains consultants for a portion of the design, Owner may approve lower limits for specific Design Consultants pursuant to a request submitted by Design-Builder to Owner prior to any work being performed by such Design Consultants.

4.0 Owner's Liability Insurance

- 4.1** Owner shall be responsible for obtaining and maintaining its own liability insurance. Insurance for claims arising out of the performance of this Agreement may be purchased and maintained at Owner's discretion.
- 4.2** If Owner hires separate contractors for with respect to the Project or for any portion of the Work, then Owner shall require that such separate contractors waive any insurers' rights of subrogation against the Design-Builder and its Subcontractors, Design Consultants, and their officers, directors, and employees.

5.0 Insurance to Protect Project

- 5.1** Design-Builder shall obtain and maintain Builder's Risk Property Insurance including work and materials, upon the entire project for the full replacement cost at the time of loss. This insurance shall include as named insureds Owner, Design-Builder, Subcontractors and Sub-subcontractor. The policy shall insure against direct risk of physical loss or damage including flood or other water damage, earthquake, transit, off-premises storage, boiler and machinery, delay in opening, testing (both hot and cold) [*and damage resulting from defective design, faulty workmanship or materials*]. Minimum deductible for all risks perils is [**amount to be determined**] except flood and earthquake which shall be [**amount to be determined**] and [**amount to be determined**] respectively. Subcontractors shall be responsible for up to a [**amount to be determined**] deductible per the Subcontract Terms and Conditions.

The Builder's Risk Property Insurance shall contain provisions to the effect that in the event of payment of any loss or damage, the insurers will have no rights of recovery against any of the insureds or additional insureds. Owner, Design-Builder, Subcontractors and Sub-subcontractor and Suppliers of any tier waive all rights and claims against each other and their respective officers, directors, employees and agents for all loss or damages including loss due to business interruption, loss of use or other consequential damage extending beyond direct physical loss or damage to Owner's property or the work whether or not insured by Owner, caused by, arising out of or resulting from any of the perils covered by such insurance and any other property insurance applicable to the Work during construction and after. None of the waivers will extend to the rights of any party making such waiver may have to the proceeds of insurance held by Owner as trustee or otherwise payable under any policy issued.

Owner and Subcontractor(s) shall maintain at their option, separate all risk commercial property insurance to cover their property, tools and equipment not covered by the Builder's Risk Insurance Policy.

- 5.2 If Owner occupies or uses a portion of the Project prior to its Substantial Completion, such occupancy or use shall not commence prior to a time mutually agreed to by Owner and Design-Builder and to which the insurance company or companies providing the property insurance have consented by endorsing the policy or policies. This insurance shall not be canceled or lapsed on account of partial occupancy. Consent of Design-Builder to such early occupancy or use shall not be unreasonably withheld.
- 5.3 Owner shall obtain and maintain boiler and machinery insurance as necessary. The interests of Owner, Design-Builder, Subcontractors and Sub-subcontractor shall be protected under this coverage.
- 5.4 Upon Substantial Completion and during any period of startup, testing, commissioning, or initial operation of the Project, Owner shall obtain and maintain insurance with respect thereto consistent with that insurance which Owner obtains and maintains with respect to any damage or loss to its permanent plant during commercial operation. Design-Builder, Subcontractors and Sub-subcontractor shall be named as additional insured on such insurance, and Owner hereby waives any rights of subrogation with respect thereto.

6.0 Property Insurance Loss Adjustment

- 6.1 Any insured loss shall be adjusted with Owner and Design-Builder and made payable to Owner and Design-Builder as trustees for the insureds, as their interests may appear, subject to any applicable mortgagee clause.
- 6.2 Upon the occurrence of an insured loss, monies received will be deposited in a separate account and the trustees shall make distribution in accordance with the agreement of the parties in interest, or in the absence of such agreement, in accordance with a mediation agreement, or, if not resolved through mediation, then by an arbitration award pursuant to arbitration. If the trustees are unable to agree between themselves on the settlement of the loss, such dispute shall also be submitted for resolution by mediation or arbitration.

7.0 Waiver of Subrogation

- 7.1 Owner and Design-Builder waive all rights against each other, and any of their respective employees, agents, consultants, subcontractors and sub-subcontractor for damages caused by risks covered by insurance provided in Section 5.0 to the extent they are covered by that insurance, except such rights as they may have to the proceeds of such insurance held by Owner and Design-Builder as trustees. Design-Builder shall require similar waivers from all Subcontractors, and shall require each of them to include similar waivers in their sub subcontracts and consulting agreements.
- 7.2 Owner waives subrogation against Design-Builder, Subcontractors and Sub-subcontractors on all property and consequential loss policies carried by Owner on adjacent properties and under property and consequential loss policies purchased for the Project after its completion.
- 7.3 If the policies of insurance referred to in this Section require an endorsement to provide for continued coverage where there is a waiver of subrogation, the owners of such policies will cause them to be so endorsed.

8.0 Bonding

- 8.1 Design-Builder will provide Performance and Payment Bonds for the Phase 2 Services. The costs of such bonds shall be in addition to the Contract Price.
- Design-Builder shall furnish Performance and Payment Bonds, each in an amount equal to the Contract Price, as security for the faithful performance of all Design-Builder's contractual

obligations hereunder with respect to both design and construction of the Project, and as security for payment of all Design-Builder's obligations to furnish, provide and pay for Construction and related materials under the Contract Documents.

- 8.2** These Bonds shall remain in effect after the date of Substantial Completion at least until expiration of the warranty period, except as provided otherwise by Laws or Regulations or by the Contract Documents.
- 8.3** 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 Audit Staff, Bureau of Government Financial Operations, U.S. Treasury Department. All Bonds signed by an agent must be accompanied by a certified copy of such agent's authority to act.
- 8.4** **Licensed Sureties** All Bonds required by the Contract Documents to be purchased and maintained by Design-Builder shall be obtained from surety companies that are duly licensed or authorized to issue bonds in the jurisdiction in which the Project is located to issue Bonds for the limits and coverages so required.

ATTACHMENT F
OWNER'S PROJECT SCOPE AND CRITERIA

1.0 Project Scope

The purpose of this project is to construct a new wastewater treatment plant that shall provide treatment for flow capacity of 1.5 MGD on the site of the existing WWTP 1. The conveyance of effluent from the new plant to the existing recycled water system shall also be part of the design.

2.0 Design Criteria

The treatment process technology should provide effluent quality as identified in Table 2 of attachment E within RFP 17-UT-006.

3.0 Facility Performance Criteria

Functional Testing:

Once written certification of proper installation has been issued, Design-Builder shall coordinate with Owner to perform Functional Testing of the Treatment Facility. For the Functional Testing, the Design-Builder and manufacturers shall verify operation of all system components, all control system functions, and communication links. To perform the Functional Testing, the Manufacturer shall operate all valves, controls, and other devices to ensure they are functional and ready for Performance Testing.

The Design-Builder shall inspect all installed treatment facility system equipment for correct operation, proper connection, and satisfactory function of all components. The Design-Builder shall approve the installation and provide to the Owner and Owner's Representative written certification that the system components have been installed properly and are ready for operation.

The proposed Functional Testing procedures shall be developed by the Design Builder and manufacturers and shall be submitted to the Owner and reviewed by the Owner's representative before scheduling and performing Functional Testing. In the case of a non-conforming system, as determined by the Owner's representative, advancement to Performance Testing shall not commence until the Design Builder's Manufacturer has made, at no additional cost to the Owner, such adjustments and modifications as are necessary to correct the system, and has demonstrated this by repeating the Functional Testing until satisfactory.

4.0 Performance Tests

A sixty (60) calendar day performance test is required to be performed after substantial completion in order to comply with performance specifications.

Testing preparation

Ready-to-test determination will be by the Design-Builder based at least on the following:

- a. Notification by Design-Builder of equipment and system readiness for testing.
- b. Acceptable testing plan.

- c. Adequate completion of work adjacent to, or interfacing with, equipment to be tested.
- d. Availability of Supplier's representative to assist in testing of respective equipment.
- e. Control devices have been tested for function and operation over design range.
- f. Equipment and electrical tagging complete.
- g. All spare parts and tools on hand.

Commissioning test

Prior to startup, the Design-Builder shall inspect the installed treatment equipment for proper alignment, correct operation, proper connection, and satisfactory function of all components. The Design-Builder's Supplier's representative shall approve the installation and provide certification that the system components have been installed correctly and is ready for operation. If the treatment equipment needs Corrective action prior to beginning of commissioning test, the Design-Builder shall make all necessary modifications to meet these specified requirements. The proposed commissioning test procedure shall have been developed by the Design-Builder/Supplier and submitted to and approved by Owner and Owner's representative before scheduling and performing the Commissioning Test.

Commissioning test shall include confirming the operability between the treatment facility equipment control panels, PLC, and the plant distributed control systems. The Design-Builder shall require the presence of both their Supplier and the plant control system during the interface test.

Commissioning test shall be witnessed by the Owner and Owner's representative and shall demonstrate that the facility and related control system operate in accordance with the specifications, including all operating, monitoring, and shutdown functions. The Design- Builder shall prepare a report summarize the results of the commissioning testing. The report shall be transmitted to the Owner and Owner's representative. Acceptance of the commissioning testing is necessary before Acceptance Testing can begin.

Acceptance testing

The acceptance testing shall be performed following the commissioning. Acceptance testing shall include operational, mass transfer efficiency, and intensive effluent quality testing. The proposed acceptance testing procedure shall have been developed by the Design-Builder/Supplier and submitted to and approved by the Owner and Owner's representative before scheduling and performing the acceptance test. During the acceptance test, the Design-Builder shall monitor the facility continuously for sixty (60) days to demonstrate that the system meets the treatment objective.

Effluent quality tests: The purpose of the acceptance test effluent quality test is to quickly test the system to confirm that the effluent quality is satisfactory under the specified design conditions. The testing period shall be for sixty (60) days.

On each of the thirty days during the tests, three sets of grab samples for the influent and effluent shall be collected and analyzed for the concentration of the constituents of concern. At the time when the samples are collected, the time, set points, and process readings shall be recorded. This

test shall be considered to be successful if the effluent results for each day of the test period meets the performance criteria listed in Table 2 attachment E of the RFP. A qualified representative of the Design-Builder's Supplier shall supervise acceptance testing and certify the facility performance during the tests. Tests shall be documented during continuous operation of the treatment facility, and the Design-Builder and Supplier shall submit to the Owner and Owner's representative five copies of a complete report containing all original test data, calculations, and descriptions of the acceptance testing procedures and results. If, in the opinion of the Owner and Owner's representative the treatment facility meets the Performance Requirements, the Owner's Representative will recommend to the Owner, by letter, the official acceptance of the treatment facility. If, in the opinion of the Owner's Representative, the acceptance test results do not meet the requirements, the Owner's Representative will notify the Design Builder/Supplier in writing of the unacceptable performance. For tests performed after the warranty period, the Owner will notify the Design-Builder in writing of the unacceptable performance.

Laboratory tests

All laboratory tests to confirm the performance requirements for the treatment facility shall be performed in conformance with the applicable portions of the most recent edition of Standard Methods. The Design-Builder shall pay for all tests.

System Commissioning

The Design-Builder shall coordinate with the Owner and Owner's Representative for execution of the System Commissioning. In advance of the System Commissioning, the Design-Builder shall perform an onsite Mechanical Inspection of the facility and generate a punch list of inconsistencies. The Design-Builder is required to resolve the punch list items prior to scheduling the System Commissioning. The System Commissioning will consist of the following:

1. General inspection of systems (lubrication, rotation, calibration)
2. Loop checking, instrumentation, and control system verification
3. Pipe loss testing
4. Performance testing
5. Training

The Design-Builder shall provide materials and personnel in support of the System Commissioning to fill tanks or basins with clean water, transfer fluids, repair/remedy any and all mechanical and electrical issues, provide temporary tie-ins, temporary piping, transfer pumps, etc. The System Commissioning shall begin at the Design-Builder's discretion, within the limits defined herein:

1. Successful completion of a pre-commissioning Mechanical Inspection is required.
2. Start of Commissioning shall be no later than 60 days after completion of Mechanical Inspection.

The Owner shall operate the treatment facility during the Commissioning Period; however, Design-Builder/Supplier shall be allowed to provide onsite assistance. Design-Builder is responsible for monitoring operating conditions and performance during the Commissioning

Period. The treatment facility effluent quality shall be evaluated to determine compliance of the facility with the Performance Requirements. If the treatment facility fails to comply with the requirements of the effluent quality, Design-Builder/ Supplier shall provide the Owner and Owner's representative with a written plan of modifications to the system to achieve compliance with the requirements. Upon implementation of the modification plan, the treatment facility effluent quality tests shall recommence in their entirety.

Training

Design-Builder's Manufacturer shall provide training to Owner's personnel as required for complete understanding of process, mechanical, electrical, and control system relationships. Training shall be completed prior to commencement of Performance Testing.

VIDEO RECORDING OF DESIGN-BUILDER/MANUFACTURER'S INSTRUCTION

The Design-Builder shall video record the equipment manufacturer's instruction to the Owner's personnel. Video recording shall be done in a professional manner so that instruction is clearly heard and background noises or video interference is eliminated.

For instruction which shall be video recorded, persons providing the instruction:

Provide to Owner and/or Owner's Representative when instruction is scheduled, detailed outline of topics, materials, procedures, information, etc. to be covered during instruction.

Provide instruction in easily video recorded format and presentation

Cooperate with video recording efforts

1. Provide training video on CD with media player within each copy of final O&M manual. Identify CD on jewel case cover and on CD with typed or printed title "OPERATING AND MAINTENANCE INSTRUCTIONS TRAINING VIDEO". List:

- a. Title of Project
- b. Identity of separate structure as applicable
- c. Identity of general subject matter covered in CD

Warranties

All equipment warranties for major equipment listed in Specification Section 01 61 05 shall be guaranteed for two (2) years after the date of Substantial Completion. Where manufacturer's standard warranties expire before expiration date required by Contract Documents, obtain and pay for warranty extensions through manufacturer, as part of Contract Price. Provide all warranties prior to final acceptance. Submit warranties to OWNER in a 3-ring binder and electronically on PDF.

**ATTACHMENT G
OWNER'S PERMIT LIST**

NMED
City of Albuquerque/Water Utility Authority
Intel
NMDOT
USACE
USEPA
Sandoval County
NMCID