STATEMENT/PURPOSE

Approve the contract with the GE Johnson Construction for the construction of Phase One of the START facility.

BACKGROUND/ALTERNATIVES

A competitive procurement process was used to select GE Johnson as the low bidder to construct Phase one of the project. At the September 9 JIM meeting the town and County approved the award, in the amount of $13,906,000 to GE Johnson Construction, Wyoming LLC. The JIM also directed the staff and the Owners Review Committee (ORC) to work with GE Johnson to identify value engineering measures to minimize the cost of this construction. A target goal of 5% has been established for value engineering. A project contingency of 5% is also recommended for this project, and proposed to come from the VE process. Excess savings will be used to reduce the overall cost of the project. Should the 5% goal not be realized, the remaining balance is proposed to come from remaining project revenues.

We are asking for approval for the Mayor to sign the attached construction contract with GE Johnson.

ALIGNMENT WITH COUNCIL’S STRATEGIC INTENT

This project supports “Environmental Stewardship” and “Town is Heart”. Improving public transit service within the Town of Jackson will help protect the environment and make the town much more livable and vibrant as a community.

ATTACHMENTS

A copy of the proposed contract, and table listing financial resources that will be used to fund this contract is attached.

FISCAL IMPACT

See attached financial resource table.

STAFF IMPACT

LEGAL REVIEW

START staff has worked very closely with the Town Attorney on this issue. The contract has been reviewed by the Town Attorney.

RECOMMENDATION

Staff recommends that council approve (and authorize the mayor to sign) the contract attached to this report.
SUGGESTED MOTION
I move to approve the amendment to the contract for the design of the START Facility (attached to this report).
START Bus Operations and Storage Facility

Jackson Hole, Wyoming

AGREEMENT
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START Bus Administration, Operations and Storage Facility
Jackson Hole, WY

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00 73 00 SUPPLEMENTARY CONDITIONS
00 73 83 WYOMING RURAL PUBLIC TRANSIT PROGRAM AGREEMENT
00 21 14 SUPPLEMENTARY INSTRUCTIONS TO BIDDERS
00 31 32 GEOTECHNICAL DATA
AGREEMENT made as of the « 23rd » day of « September » in the year « 2013 »
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name, legal status, address and other information)
« Larry Pardee, Public Works Director Owner’s Representative  »
« The Town of Jackson »
« P.O. Box 1657 »
« Jackson, Wyoming 83001 »

and the Contractor:
(Name, legal status, address and other information)
« GE Johnson Construction, Wyoming, LLC »
« 1110 Maple Way, Suite E »
« P.O. Box 377 »
« Jackson, Wyoming, 83001  »
« 307.734.2605 »

for the following Project:
(Name, location and detailed description)
« START Operations and Storage Facility »
« Jackson Hole, Wyoming »
«  »

The ArchitectEngineer:
(Name, legal status, address and other information)
« Jorgensen Associates (Engineer of Record) »
« P.O. Box 9550 »
« 1315 S. Hwy. 89 »
« Jackson, Wyoming 83002 »

The Owner and Contractor agree as follows.
TABLE OF ARTICLES

1 THE CONTRACT DOCUMENTS
2 THE WORK OF THIS CONTRACT
3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
4 CONTRACT SUM
5 PAYMENTS
6 DISPUTE RESOLUTION
7 TERMINATION OR SUSPENSION
8 MISCELLANEOUS PROVISIONS
9 ENUMERATION OF CONTRACT DOCUMENTS
10 INSURANCE AND BONDS

ARTICLE 1 THE CONTRACT DOCUMENTS
The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, the Sustainability Plan, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. An enumeration of the Contract Documents, other than a Modification, appears in Article 9.

ARTICLE 2 THE WORK OF THIS CONTRACT
The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
§ 3.1 The date of commencement of the Work shall be the date of this Agreement unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner.
(Insert the date of commencement if it differs from the date of this Agreement or, if applicable, state that the date will be fixed in a notice to proceed.)
«September 9, 2013 »

If, prior to the commencement of the Work, the Owner requires time to file mortgages and other security interests, the Owner’s time requirement shall be as follows:
« »

§ 3.2 The Contract Time shall be measured from the date of commencement.

§ 3.3 The Contractor shall achieve Substantial Completion of the entire Work not later than « » days from the date of commencement, or as follows:
(Insert number of calendar days. Alternatively, a calendar date may be used when coordinated with the date of commencement. If appropriate, insert requirements for earlier Substantial Completion of certain portions of the Work.)
«December 15, 2014 »
ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor’s performance of the Contract. The Contract Sum shall be «thirteen million, nine hundred and six thousand dollars» ($13,906,000.00), subject to additions and deductions as provided in the Contract Documents.

§ 4.2 The Contract Sum is based upon the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

(State the numbers or other identification of accepted alternates. If the bidding or proposal documents permit the Owner to accept other alternates subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date when that amount expires.)

«Base Bid and Alternate 1 (Vegetative Roof Assemblies) totaling $13,906,000.00. Contractor will participate in a value engineering effort with a goal of a five percent (5%) reduction in the Final Contract Sum. Any contract savings will be held in reserve as a construction contingency and only be used as directed by Owner's Representative. All construction contingency sums remaining at the time of Substantial Completion shall be deducted from the Final Contract Sum via Change Order.»

§ 4.3 Unit prices, if any:

(Identify and state the unit price; state quantity limitations, if any, to which the unit price will be applicable.)

<table>
<thead>
<tr>
<th>Item</th>
<th>Units and Limitations</th>
<th>Price per Unit ($0.00)</th>
</tr>
</thead>
</table>

§ 4.4 Allowances included in the Contract Sum, if any:

(Identify allowance and state exclusions, if any, from the allowance price.)

<table>
<thead>
<tr>
<th>Item</th>
<th>Price</th>
</tr>
</thead>
</table>

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

§ 5.1.1 Based upon Applications for Payment submitted to the ArchitectEngineer by the Contractor and Certificates for Payment issued by the ArchitectEngineer, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

« »

§ 5.1.3 Provided that an Application for Payment is received by the ArchitectEngineer not later than the «20th» day of a month, the Owner shall make payment of the certified amount to the Contractor not later than the «30th» day of the «following» month. If an Application for Payment is received by the ArchitectEngineer after the application date fixed above, payment shall be made by the Owner not later than «thirty» («30») days after the ArchitectEngineer receives the Application for Payment.

(Federal, state or local laws may require payment within a certain period of time.)
§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the ArchitectEngineer may require. This schedule, unless objected to by the ArchitectEngineer, shall be used as a basis for reviewing the Contractor’s Applications for Payment.

§ 5.1.5 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.6 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

.1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of «10» percent («10» %). Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 7.3.9 of AIA Document A201™–2007 SP, General Conditions of the Contract for Construction, for use on a Sustainable Project;

.2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage of «10» percent («10» %);

.3 Subtract the aggregate of previous payments made by the Owner; and

.4 Subtract amounts, if any, for which the ArchitectEngineer has withheld or nullified a Certificate for Payment as provided in Section 9.5 of AIA Document A201–2007 SP.

§ 5.1.7 The progress payment amount determined in accordance with Section 5.1.6 shall be further modified under the following circumstances:

.1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to the full amount of the Contract Sum, less such amounts as the ArchitectEngineer shall determine for incomplete Work, retainage applicable to such work and unsettled claims; and (Section 9.8.5 of AIA Document A201–2007 SP requires release of applicable retainage upon Substantial Completion of Work with consent of surety, if any.)

.2 Add, if final completion of the Work is thereafter materially delayed through no fault of the Contractor, any additional amounts payable in accordance with Section 9.10.3 of AIA Document A201–2007 SP.

§ 5.1.8 Reduction or limitation of retainage, if any, shall be as follows:

(If it is intended, prior to Substantial Completion of the entire Work, to reduce or limit the retainage resulting from the percentages inserted in Sections 5.1.6.1 and 5.1.6.2 above, and this is not explained elsewhere in the Contract Documents, insert here provisions for such reduction or limitation.)

§ 5.1.9 Except with the Owner’s prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.2 Final Payment

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

.1 the Contractor has fully performed the Contract except for the Contractor’s responsibility to correct Work as provided in Section 12.2.2 of AIA Document A201–2007 SP, and to satisfy other requirements, if any, which extend beyond final payment; and

.2 a final Certificate for Payment has been issued by the ArchitectEngineer.

§ 5.2.2 The Owner’s final payment to the Contractor shall be made no later than 30 days after the issuance of the ArchitectEngineer’s final Certificate for Payment, or as follows:

« »
ARTICLE 6 DISPUTE RESOLUTION
§ 6.1 Initial Decision Maker

The ArchitectEngineer will serve as Initial Decision Maker pursuant to Section 15.2 of AIA Document A201–2007 SP, unless the parties appoint below another individual, not a party to this Agreement, to serve as Initial Decision Maker.

(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the ArchitectEngineer.)

§ 6.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Section 15.3 of AIA Document A201–2007 SP, the method of binding dispute resolution shall be as follows:

(If the Owner and Contractor do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.)

[ X ] Arbitration pursuant to Section 15.4 of AIA Document A201–2007 SP

[ ] Litigation in a court of competent jurisdiction

[ ] Other: (Specify)

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201–2007 SP.

§ 7.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2007 SP.

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A201–2007 SP or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 8.2 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

(Insert rate of interest agreed upon, if any.)

[ ] six % [ 6% ]

§ 8.3 The Owner’s representative:

(Name, address and other information)

Larry Pardee, Public Works Director, Owner’s Representative
The Town of Jackson, Wyoming
P.O. Box 1657
Jackson, Wyoming 83001
§ 8.4 The Contractor’s representative:
(Name, address and other information)

«Ben Aufderheide »
«GE-Johnson Construction Wyoming, LLC »
«P.O. Box 377 »
«Jackson, Wyoming 83001 »

§ 8.5 Neither the Owner’s nor the Contractor’s representative shall be changed without ten days written notice to the other party.

§ 8.6 Other provisions:

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated in the sections below.

§ 9.1.1 The Agreement is this executed AIA Document A101–2007 SP, Standard Form of Agreement Between Owner and Contractor, for use on a Sustainable Project.

§ 9.1.2 The General Conditions are AIA Document A201–2007 SP, General Conditions of the Contract for Construction, for use on a Sustainable Project.

§ 9.1.3 The Supplementary and other Conditions of the Contract:

<table>
<thead>
<tr>
<th>Document</th>
<th>Title</th>
<th>Date</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td>00.73.00</td>
<td>Supplementary Conditions</td>
<td></td>
<td>1-13</td>
</tr>
<tr>
<td>00.73.83</td>
<td>Wyoming Rural Transit Agreement with Attachment A-E</td>
<td></td>
<td>1-35</td>
</tr>
<tr>
<td>00.31.32</td>
<td>Geotechnical Data</td>
<td>December 6, 2010</td>
<td>1-38</td>
</tr>
<tr>
<td>00.21.14</td>
<td>Supplementary Instructions to Bidders</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

§ 9.1.4 The Specifications:
(Either list the Specifications here or refer to an exhibit attached to this Agreement.)

«Project Manual for Permit and Construction (Rev#2) Dated July 24, 2013. »

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Date</th>
<th>Pages</th>
</tr>
</thead>
</table>

§ 9.1.5 The Drawings:
(Either list the Drawings here or refer to an exhibit attached to this Agreement.)

§ 9.1.6 The Addenda, if any:

<table>
<thead>
<tr>
<th>Number</th>
<th>Title</th>
<th>Date</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td>Addendum #1</td>
<td></td>
<td>July 18, 2013</td>
<td>1</td>
</tr>
<tr>
<td>Addendum #2</td>
<td></td>
<td>July 24, 2013</td>
<td>1-11</td>
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<td>Addendum #3</td>
<td></td>
<td>August 1, 2013</td>
<td>1-4</td>
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<tr>
<td>Addendum #4</td>
<td></td>
<td>August 5, 2013</td>
<td>1-4</td>
</tr>
</tbody>
</table>

Portions of Addenda relating to bidding requirements are not part of the Contract Documents unless the bidding requirements are also enumerated in this Article 9.

§ 9.1.7 The Sustainability Plan:

*Identify the document or documents that comprise the Sustainability Plan by title, date and number of pages, and include other identifying information.*

<table>
<thead>
<tr>
<th>Title</th>
<th>Date</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td>Other identifying information:</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

§ 9.1.8 Additional documents, if any, forming part of the Contract Documents:

.1 AIA Document E201™–2007, Digital Data Protocol Exhibit, if completed by the parties, or the following:

.2 Other documents, if any, listed below:

*List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201–2007 SP provides that bidding requirements such as advertisement or invitation to bid, Instructions to Bidders, sample forms and the Contractor’s bid are not part of the Contract Documents unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.*

ARTICLE 10 INSURANCE AND BONDS

The Contractor shall purchase and maintain insurance and provide bonds as set forth in Article 11 of AIA Document A201–2007 SP.

*(State bonding requirements, if any, and limits of liability for insurance required in Article 11 of AIA Document A201–2007 SP.)*

<table>
<thead>
<tr>
<th>Type of Insurance or Bond</th>
<th>Limit of Liability or Bond Amount ($0.00)</th>
</tr>
</thead>
</table>

User Notes:

(927561268)
This Agreement entered into as of the day and year first written above.

OWNER (Signature)

«Mark Barron
Mayor
Town of Jackson, Wyoming

(Printed name and title)

CONTRACTOR (Signature)

«Ben Aufderheide
Project Manager »
« GE Johnson Construction Wyoming, LLC »

(Printed name and title)
General Conditions of the Contract for Construction, for use on a Sustainable Project

for the following PROJECT:
(Name and location or address)

START Operations and Storage Facility
Karns Meadow Tract 4 north of Snow King Drive
Jackson Hole, WY

THE OWNER:
(Name, legal status and address)

START Operations and Storage Facility
P.O. Box 1657
150 E. Pearl Avenue
Jackson, WY 83001

THE ARCHITECT/ENGINEER:
(Name, legal status and address)

Jorgensen Associates (Engineer of Record)
P.O. Box 9550
1315 Highway 89 South; Suite 203.
Jackson, WY 83002

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, the Sustainability Plan, Addenda issued prior to execution of the Contract, other documents listed in the Agreement and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive or (4) a written order for a minor change in the Work issued by the Architect-Engineer. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor’s bid or proposal, or portions of Addenda related to bidding requirements.

§ 1.1.2 The Contract

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect-Engineer or the Architect-Engineer’s consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect-Engineer or the Architect-Engineer’s consultants or (4) between any persons or entities other than the Owner and the Contractor. The Architect-Engineer shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect-Engineer’s duties.

§ 1.1.3 The Work

The term “Work” means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment and services provided or to be provided by the Contractor to fulfill the Contractor’s obligations. The Work may constitute the whole or a part of the Project.

§ 1.1.4 The Project

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner and by separate contractors.

§ 1.1.5 The Drawings

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Project, generally including plans, elevations, sections, details, schedules and diagrams.

§ 1.1.6 The Specifications

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

§ 1.1.7 Instruments of Service

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect-Engineer and the Architect-Engineer’s consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

§ 1.1.8 Initial Decision Maker

The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2 and certify termination of the Agreement under Section 14.2.2.

§ 1.1.9 Special Definitions

§ 1.1.9.1 Sustainable Objective

The Sustainable Objective is the Owner’s goal of incorporating Sustainable Measures into the design, construction, maintenance and operations of the Project to achieve a Sustainability Certification or other benefit to the environment, to enhance the health and well-being of building occupants, or to improve energy efficiency. The Sustainable Objective is identified in the Sustainability Plan.

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§ 1.1.9.2 Sustainable Measure
A Sustainable Measure is a specific design or construction element, or post occupancy use, operation, maintenance or monitoring requirement that must be completed in order to achieve the Sustainable Objective. The Owner, Architect, Engineer and Contractor shall each have responsibility for the Sustainable Measure(s) allocated to them in the Sustainability Plan.

§ 1.1.9.3 Sustainability Plan
The Sustainability Plan is a Contract Document that identifies and describes: the Sustainable Objective; the targeted Sustainable Measures; implementation strategies selected to achieve the Sustainable Measures; the Owner’s, Architect’s, Engineer’s and Contractor’s roles and responsibilities associated with achieving the Sustainable Measures; the specific details about design reviews, testing or metrics to verify achievement of each Sustainable Measure; and the Sustainability Documentation required for the Project.

§ 1.1.9.4 Sustainability Certification
The Sustainability Certification is the initial third-party certification of sustainable design, construction, or environmental or energy performance, such as LEED®, Green Globes™, Energy Star or another rating or certification system, that may be designated as the Sustainable Objective or part of the Sustainable Objective for the Project. The term Sustainability Certification shall not apply to any recertification or certification occurring subsequent to the initial certification.

§ 1.1.9.5 Sustainability Documentation
The Sustainability Documentation includes all documentation related to the Sustainable Objective or to a specific Sustainable Measure that the Owner, Architect, Engineer or Contractor is required to prepare in accordance with the Contract Documents. Responsibility for preparation of specific portions of the Sustainability Documentation will be allocated among the Owner, Architect, Engineer and Contractor in the Sustainability Plan and may include documentation required by the Certifying Authority.

§ 1.1.9.6 Certifying Authority
The Certifying Authority is the entity that establishes criteria for achievement of a Sustainability Certification and is authorized to grant or deny a Sustainability Certification.

§ 1.2 Correlation and Intent of the Contract Documents
§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

§ 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

§ 1.3 Capitalization
Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles or (3) the titles of other documents published by the American Institute of Architects.

§ 1.4 Interpretation
In the interest of brevity the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

§ 1.5 Ownership and Use of Drawings, Specifications and Other Instruments of Service
§ 1.5.1 The Architect, Engineer and the Architect's Engineer's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and will retain all common law.
statutory and other reserved rights, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with this Project is not to be construed as publication in derogation of the Architect’s or Engineer’s consulting engineers’ reserved rights.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors and material or equipment suppliers are authorized to use and reproduce the Instruments of Service provided to them solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers may not use the Instruments of Service on other projects or for additions to this Project outside the scope of the Work without the specific written consent of the Owner, Architect and the Architect’s consulting engineers.

§ 1.6 Transmission of Data in Digital Form
If the parties intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions, unless otherwise already provided in the Agreement or the Contract Documents.

ARTICLE 2 OWNER
§ 2.1 General
§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner’s approval or authorization. Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term “Owner” means the Owner or the Owner’s authorized representative.

§ 2.1.2 The Owner shall furnish to the Contractor within fifteen days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of or enforce mechanic’s lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner’s interest therein.

§ 2.2 Information and Services Required of the Owner
§ 2.2.1 Prior to commencement of the Work, the Contractor may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner’s obligations under the Contract. Thereafter, the Contractor may only request such evidence if (1) the Owner fails to make payments to the Contractor as the Contract documents require; (2) a change in the Work materially changes the Contract Sum; or (3) the Contractor identifies in writing a reasonable concern regarding the Owner’s ability to make payment when due. The Owner shall furnish such evidence as a condition precedent to commencement or continuation of the Work or the portion of the Work affected by a material change. After the Owner furnishes the evidence, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

§ 2.2.2 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

§ 2.2.3 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 2.2.4 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner’s control and relevant to the Contractor’s performance of the Work with reasonable promptness after receiving the Contractor’s written request for such information or services.
§ 2.2.5 Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor one copy of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2.

§ 2.2.6 The Owner shall perform those Sustainable Measures identified as the responsibility of the Owner in the Sustainability Plan, including any approved changes, or as otherwise required by the Contract Documents. The Owner shall require that each of its contractors and consultants perform the services or work assigned to them in accordance with the Sustainability Plan.

§ 2.2.7 The Owner shall comply with the requirements of the Certifying Authority as they relate to the ownership, operation and maintenance of the Project both during construction and after completion of the Project.

§ 2.3 Owner’s Right to Stop the Work
If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.

§ 2.4 Owner’s Right to Carry Out the Work
If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such deficiencies. In such case an appropriate Change Order shall be issued deducting from payments then or thereafter due the Contractor the reasonable cost of correcting such deficiencies, including Owner’s expenses and compensation for the Architect-Engineer’s additional services made necessary by such default, neglect or failure. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect-Engineer. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner.

ARTICLE 3 CONTRACTOR
§ 3.1 General
§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term “Contractor” means the Contractor or the Contractor’s authorized representative.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents, including any Sustainable Measures identified as the responsibility of the Contractor in the Sustainability Plan.

§ 3.1.3 The Contractor shall not be relieved of obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect-Engineer in the Architect-Engineer’s administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

§ 3.2 Review of Contract Documents and Field Conditions by Contractor
§ 3.2.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed and correlated personal observations with requirements of the Contract Documents.

§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.2.3, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect-Engineer any errors, inconsistencies or omissions discovered by or made known to
the Contractor as a request for information in such form as the Architect-Engineer may require. It is recognized that the Contractor’s review is made in the Contractor’s capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

§ 3.2.2.1 The Contractor shall meet with the Owner and Architect-Engineer to discuss alternatives in the event the Owner or Architect-Engineer recognizes a condition that will affect achievement of a Sustainable Measure or achievement of the Sustainable Objective. If any condition is discovered by, or made known to, the Contractor that will adversely affect the Contractor’s achievement of a Sustainable Measure for which the Contractor is responsible pursuant to the Sustainability Plan, the Contractor will promptly provide notice to the Architect-Engineer and meet with the Owner and Architect-Engineer to discuss alternatives to remedy the condition.

§ 3.2.3 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, rules and regulations, lawful orders of public authorities, or requirements of the Certifying Authority, but the Contractor shall promptly report to the Architect-Engineer any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect-Engineer may require.

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect-Engineer issues in response to the Contractor’s notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall make Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect-Engineer for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, rules and regulations, and lawful orders of public authorities.

§ 3.3 Supervision and Construction Procedures

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor’s best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract, unless the Contract Documents give specific instructions concerning these matters. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences or procedures, the Contractor shall evaluate the jobsite safety thereof and, except as stated below, shall be fully and solely responsible for the jobsite safety of such means, methods, techniques, sequences or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely written notice to the Owner and Architect-Engineer and shall not proceed with that portion of the Work without further written instructions from the Architect-Engineer. If the Contractor is then instructed to proceed with the required means, methods, techniques, sequences or procedures without acceptance of changes proposed by the Contractor, the Owner shall be solely responsible for any loss or damage arising solely from those Owner-required means, methods, techniques, sequences or procedures.

§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor’s employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors.

§ 3.3.3 The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 3.4 Labor and Materials

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

§ 3.4.2 Except in the case of minor changes in the Work authorized by the Architect-Engineer in accordance with Sections 3.12.8 or 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect-Engineer and in accordance with a Change Order or Construction Change Directive.
§ 3.4.2.1 The Contractor shall include, with any request for substitution, a written representation identifying any potential effect the substitution may have on the Project’s achievement of a Sustainable Measure or the Sustainable Objective. The Owner and Architect/Engineer shall be entitled to rely on any such representation. In preparing this representation, the Contractor may request additional information from the Architect/Engineer describing how the product, material or equipment, for which a substitution is proposed, was intended to satisfy the requirements of a Sustainable Measure or contribute toward achievement of the Sustainable Objective. The Architect/Engineer shall respond to the Contractor’s request in accordance with Section 4.2.14.

§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor’s employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

§ 3.5 Warranty
§ 3.5.1 The Contractor warrants to the Owner and Architect/Engineer that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor’s warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect/Engineer, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 3.5.2 The Contractor shall perform the Sustainable Measures required to be performed by the Contractor in accordance with the Contract Documents; however, nothing contained in this Section 3.5 shall be construed as a guarantee or warranty by the Contractor that the Project will achieve the Sustainable Objective.

§ 3.6 Taxes
The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

§ 3.7 Permits, Fees, Notices and Compliance with Laws
§ 3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded.

§ 3.7.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work.

§ 3.7.3 If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

§ 3.7.4 Concealed or Unknown Conditions
If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect/Engineer before conditions are disturbed and in no event later than 21 days after first observance of the conditions. The Architect/Engineer will promptly investigate such conditions and, if the Architect/Engineer determines that they differ materially and cause an increase or decrease in the Contractor’s cost of, or time required for, performance of any part of the Work, will recommend an equitable adjustment in the Contract Sum or Contract Time, or both. If the Architect/Engineer determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect/Engineer shall promptly notify the Owner and Contractor in writing, stating the reasons. If either party
disputes the Architect's Engineer's determination or recommendation, that party may proceed as provided in Article 15.

§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect-Engineer. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

§ 3.8 Allowances
§ 3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

§ 3.8.2 Unless otherwise provided in the Contract Documents,

.1 allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;

.2 Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and

.3 whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

§ 3.9 Superintendent
§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor.

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner through the Architect-Engineer the name and qualifications of a proposed superintendent. The Architect-Engineer may require within 14 days to the Contractor in writing stating (1) whether the Owner or the Architect-Engineer has reasonable objection to the proposed superintendent or (2) that the Architect-Engineer requires additional time to review. Failure of the Architect-Engineer to reply within the 14 day period shall constitute notice of no reasonable objection.

§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner or Architect-Engineer has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

§ 3.10 Contractor's Construction Schedules
§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall prepare and submit for the Owner's and Architect-Engineer's information a Contractor's construction schedule for the Work. The schedule shall not exceed time limits current under the Contract Documents, shall be revised at appropriate intervals as required by the conditions of the Work and Project, shall be related to the entire Project to the extent required by the Contract Documents, and shall provide for expeditious and practicable execution of the Work.

§ 3.10.2 The Contractor shall prepare a submittal schedule, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, and shall submit the schedule(s) for the Architect-Engineer's approval. The Architect-Engineer's approval shall not unreasonably be delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect-Engineer reasonable
time to review submittals. If the Contractor fails to submit a submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

§ 3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect-Engineer.

§ 3.11 Documents and Samples at the Site and Sustainability Documentation

§ 3.11.1 The Contractor shall maintain at the site for the Owner one copy of the Drawings, Specifications, Addenda, Change Orders and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and one copy of approved Shop Drawings, Product Data, Samples and similar required submittals. These shall be available to the Architect-Engineer and shall be delivered to the Architect-Engineer for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

§ 3.11.2 The Contractor shall be responsible for preparing and completing the Sustainability Documentation required from the Contractor by the Contract Documents, including any Sustainability Documentation required to be submitted after Substantial Completion. The Contractor shall submit the Sustainability Documentation to the Architect-Engineer in accordance with any schedules or deadlines set forth in, or as otherwise required by, the Contract Documents. In the absence of schedules or deadlines for submission of Sustainability Documentation in the Contract Documents, the Contractor will submit the Sustainability Documentation with reasonable promptness so that the Architect-Engineer may submit the Sustainability Documentation to the Certifying Authority.

§ 3.12 Shop Drawings, Product Data and Samples

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment or workmanship and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples and similar submittals are not Contract Documents. Their purpose is to demonstrate the way by which the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect-Engineer is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect-Engineer is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect-Engineer without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve and submit to the Architect-Engineer Shop Drawings, Product Data, Samples and similar submittals required by the Contract Documents in accordance with the submittal schedule approved by the Architect-Engineer or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of separate contractors.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples and similar submittals, the Contractor represents to the Owner and Architect-Engineer that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples or similar submittals until the respective submittal has been approved by the Architect-Engineer.
§ 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from requirements of the Contract Documents by the Architect's Engineer's approval of Shop Drawings, Product Data, Samples or similar submittals unless the Contractor has specifically informed the Architect-Engineer in writing of such deviation at the time of submittal and (1) the Architect-Engineer has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples or similar submittals by the Architect's Engineer's approval thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples or similar submittals, to revisions other than those requested by the Architect-Engineer on previous submittals. In the absence of such written notice, the Architect-Engineer's approval of a resubmission shall not apply to such revisions.

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. The Contractor shall not be required to provide professional services in violation of applicable law. If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect-Engineer will specify all performance and design criteria that such services must satisfy. The Contractor shall cause such services or certifications to be provided by a properly licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect-Engineer. The Owner and the Architect-Engineer shall be entitled to rely upon the accuracy, adequacy and completeness of the services, certifications and approvals performed or provided by such design professionals, provided the Owner and Architect-Engineer have specified to the Contractor all performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect-Engineer will review, approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Contractor shall not be responsible for the adequacy of the performance and design criteria specified in the Contract Documents.

§ 3.12.10.1 In the event the Contractor's design professional proposes the use of materials or equipment that have had limited testing or verification of performance, the Contractor shall discuss with the Architect-Engineer and Owner the proposed use of such materials or equipment and potential effects on the Sustainable Objective that may occur if the materials or equipment fail to perform in accordance with the manufacturer's or supplier's representations. The Owner will render a written decision regarding the use of such materials or equipment in a timely manner. In the event the Owner elects to proceed with the use of such materials or equipment, the Contractor and Architect-Engineer shall be permitted to rely on the manufacturer's or supplier's representations and shall not be responsible for any damages arising from the failure of the material or equipment to perform in accordance with the manufacturer's or supplier's representations.

§ 3.13 Use of Site
The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

§ 3.14 Cutting and Patching
§ 3.14.1 The Contractor shall be responsible for cutting, fitting or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting and patching shall be restored to the condition existing prior to the cutting, fitting and patching, unless otherwise required by the Contract Documents.

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or separate contractors by cutting, patching or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter such construction by the Owner or a separate contractor except with written consent of the Owner and of such separate contractor; such consent shall not be unreasonably
withheld. The Contractor shall not unreasonably withhold from the Owner or a separate contractor the Contractor's consent to cutting or otherwise altering the Work.

§ 3.15 Cleaning Up
§ 3.15.1 The Contractor shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove waste materials, rubbish, and the Contractor's tools, equipment, machinery and surplus materials from and about the Project. The Contractor shall also recycle, reuse, remove or dispose of materials as required by the Contract Documents.

§ 3.15.2 The Contractor, in accordance with the Contract Documents, shall prepare and submit to the Architect and Owner a construction waste management and disposal plan setting forth the procedures and processes for salvaging, recycling or disposing of construction waste generated from the Project.

§ 3.15.3 If the Contractor fails to clean up in accordance with Section 3.15.1 and as provided in the Contract Documents, the Owner may do so and Owner shall be entitled to reimbursement from the Contractor.

§ 3.16 Access to Work
The Contractor shall provide the Owner and Architect access to the Work in preparation and progress wherever located.

§ 3.17 Royalties, Patents and Copyrights
The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for such defense or loss when a particular design, process or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications or other documents prepared by the Owner or Architect. However, if the Contractor has reason to believe that the required design, process or product is an infringement of a copyright or a patent, the Contractor shall be responsible for such loss unless such information is promptly furnished to the Architect.

§ 3.18 Indemnification
§ 3.18.1 To the fullest extent permitted by law the Contractor shall indemnify and hold harmless the Owner, Architect, Engineer's consultants, and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.18.

§ 3.18.2 In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.
§ 4.1.2 Duties, responsibilities and limitations of authority of the Architect/Engineer as set forth in the Contract Documents shall not be restricted, modified or extended without written consent of the Owner, Contractor and Architect/Engineer. Consent shall not be unreasonably withheld.

§ 4.1.3 If the employment of the Architect/Engineer is terminated, the Owner shall employ a successor architect/engineer as to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Architect/Engineer.

§ 4.2 Administration of the Contract
§ 4.2.1 The Architect/Engineer will provide administration of the Contract as described in the Contract Documents and will be an Owner’s representative during construction until the date the Architect/Engineer issues the final Certificate for Payment. The Architect/Engineer will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

§ 4.2.2 The Architect/Engineer will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine in general if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect/Engineer will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect/Engineer will not have control over, charge of, or responsibility for, the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor’s rights and responsibilities under the Contract Documents, except as provided in Section 3.3.1.

§ 4.2.3 On the basis of the site visits, the Architect/Engineer will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and report to the Owner (1) known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor, and (2) defects and deficiencies observed in the Work, including those that will impact the Contractor’s achievement of its Sustainable Measures. The Architect/Engineer will not be responsible for the Contractor’s failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect/Engineer will not have control over or charge of and will not be responsible for acts or omissions of the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

§ 4.2.4 Communications Facilitating Contract Administration
Except as otherwise provided in the Contract Documents or when direct communications have been specially authorized, the Owner and Contractor shall endeavor to communicate with each other through the Architect/Engineer about matters arising out of or relating to the Contract. Communications by and with the Architect/Engineer’s consultants shall be through the Architect/Engineer. Communications by and with Subcontractors and material suppliers shall be through the Contractor. Communications by and with separate contractors shall be through the Owner.

§ 4.2.5 Based on the Architect/Engineer’s evaluations of the Contractor’s Applications for Payment, the Architect/Engineer will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

§ 4.2.6 The Architect/Engineer has authority to reject Work that does not conform to the Contract Documents. Whenever the Architect/Engineer considers it necessary or advisable, the Architect/Engineer will have authority to require inspection or testing of the Work in accordance with Sections 13.5.2 and 13.5.3, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect/Engineer nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect/Engineer to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 4.2.7 The Architect/Engineer will review and approve, or take other appropriate action upon, the Contractor’s submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect/Engineer’s action will be taken in accordance with the submittal schedule approved by the Architect/Engineer or, in
the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's Engineer's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's Engineer's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5 and 3.12. The Architect's Engineer's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect-Engineer, of any construction means, methods, techniques, sequences or procedures. The Architect's Engineer's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 4.2.8 The Architect-Engineer will prepare Change Orders and Construction Change Directives, and may authorize minor changes in the Work as provided in Section 7.4. If the Architect-Engineer determines that implementation of a proposed change would materially impact a Sustainable Measure or the Sustainable Objective, the Architect-Engineer shall notify the Owner, who may authorize further investigation of such change. The Architect-Engineer will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

§ 4.2.9 The Architect-Engineer will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties, Sustainability Documentation and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

§ 4.2.10 If the Owner and Architect-Engineer agree, the Architect-Engineer will provide one or more project representatives to assist in carrying out the Architect-Engineer's responsibilities at the site. The duties, responsibilities and limitations of authority of such project representatives shall be as set forth in an exhibit to be incorporated in the Contract Documents.

§ 4.2.11 The Architect-Engineer will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect-Engineer's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 4.2.12 Interpretations and decisions of the Architect-Engineer will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect-Engineer will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either and will not be liable for results of interpretations or decisions rendered in good faith.

§ 4.2.13 The Architect-Engineer's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.14 The Architect-Engineer will review and respond to requests for information about the Contract Documents. The Architect-Engineer's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect-Engineer will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

ARTICLE 5  SUBCONTRACTORS
§ 5.1 Definitions
§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a separate contractor or subcontractors of a separate contractor.

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.
§ 5.2 Award of Subcontracts and Other Contracts for Portions of the Work

§ 5.2.1 Unless otherwise stated in the Contract Documents or the bidding requirements, the Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner through the Architect-Engineer the names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each principal portion of the Work. The Architect-Engineer may reply within 14 days to the Contractor in writing stating (1) whether the Owner or the Architect-Engineer has reasonable objection to any such proposed person or entity or (2) that the Architect-Engineer requires additional time for review. Failure of the Owner or Architect-Engineer to reply within the 14-day period shall constitute notice of no reasonable objection.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect-Engineer has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 5.2.3 If the Owner or Architect-Engineer has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect-Engineer has no reasonable objection. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor’s Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsibly in submitting names as required.

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person or entity previously selected if the Owner or Architect-Engineer makes reasonable objection to such substitution.

§ 5.3 Subcontractual Relations

By appropriate agreement, written where legally required for validity, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor’s Work, which the Contractor, by these Documents, assumes toward the Owner and Architect-Engineer. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect-Engineer under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, including the Sustainability Plan and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.4 Contingent Assignment of Subcontracts

§ 5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

1. assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor in writing; and

2. assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor’s rights and obligations under the subcontract.

§ 5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor’s compensation shall be equitably adjusted for increases in cost resulting from the suspension.
§ 5.4.3 Upon such assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. If the Owner assigns the subcontract to a successor contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor contractor’s obligations under the subcontract.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ 6.1 Owner’s Right to Perform Construction and to Award Separate Contracts

§ 6.1.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner’s own forces, and to award separate contracts in connection with other portions of the Project or other construction or operations on the site under Conditions of the Contract identical or substantially similar to these including those portions related to insurance and waiver of subrogation. If the Contractor claims that delay or additional cost is involved because of such action by the Owner, the Contractor shall make such Claim as provided in Article 15.

§ 6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner–Contractor Agreement.

§ 6.1.3 The Owner shall provide for coordination of the activities of the Owner’s own forces and of each separate contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with other separate contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to the construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, separate contractors and the Owner until subsequently revised.

§ 6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner’s own forces, the Owner shall be deemed to be subject to the same obligations and to have the same rights that apply to the Contractor under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6 and Articles 10, 11 and 12.

§ 6.2 Mutual Responsibility

§ 6.2.1 The Contractor shall afford the Owner and separate contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor’s construction and operations with theirs as required by the Contract Documents.

§ 6.2.2 If part of the Contractor’s Work depends for proper execution or results upon construction or operations by the Owner or a separate contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly report to the Architect-Engineer apparent discrepancies or defects in such other construction that would render it unsuitable for such proper execution and results. Failure of the Contractor so to report shall constitute an acknowledgment that the Owner’s or separate contractor’s completed or partially completed construction is fit and proper to receive the Contractor’s Work, except as to defects not then reasonably discoverable.

§ 6.2.3 The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a separate contractor because of the Contractor’s delays, improperly timed activities or defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of a separate contractor’s delays, improperly timed activities, damage to the Work or defective construction.

§ 6.2.4 The Contractor shall promptly remedy damage the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or separate contractors as provided in Section 10.2.5.

§ 6.2.5 The Owner and each separate contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

§ 6.3 Owner’s Right to Clean Up

If a dispute arises among the Contractor, separate contractors and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Architect-Engineer will allocate the cost among those responsible.
ARTICLE 7  CHANGES IN THE WORK
§ 7.1 General
§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor and Architect-Engineer; a Construction Change Directive requires agreement by the Owner and Architect-Engineer and may or may not be agreed to by the Contractor; an order for a minor change in the Work may be issued by the Architect-Engineer alone.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents, and the Contractor shall proceed promptly, unless otherwise provided in the Change Order, Construction Change Directive or order for a minor change in the Work.

§ 7.2 Change Orders
§ 7.2.1 A Change Order is a written instrument prepared by the Architect-Engineer and signed by the Owner, Contractor and Architect-Engineer stating their agreement upon all of the following:

- The change in the Work;
- The amount of the adjustment, if any, in the Contract Sum; and
- The extent of the adjustment, if any, in the Contract Time.

§ 7.3 Construction Change Directives
§ 7.3.1 A Construction Change Directive is a written order prepared by the Architect-Engineer and signed by the Owner and Architect-Engineer, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

- Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- Unit prices stated in the Contract Documents or subsequently agreed upon;
- Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- As provided in Section 7.3.7.

§ 7.3.4 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed in a proposed Change Order or Construction Change Directive so that application of such unit prices to quantities of Work proposed will cause substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

§ 7.3.5 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect-Engineer of the Contractor’s agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

§ 7.3.6 A Construction Change Directive signed by the Contractor indicates the Contractor’s agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 7.3.7 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect-Engineer shall determine the method and the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum,
an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect-Engineer may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.7 shall be limited to the following:

1. Costs of labor, including social security, old age and unemployment insurance, fringe benefits required by agreement or custom, and workers' compensation insurance;
2. Costs of materials, supplies and equipment, including cost of transportation, whether incorporated or consumed;
3. Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
4. Costs of premiums for all bonds and insurance, permit fees, and sales, use or similar taxes related to the Work; and
5. Additional costs of supervision and field office personnel directly attributable to the change.

§ 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Architect-Engineer. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment. The Architect-Engineer will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect-Engineer determines, in the Architect-Engineer's professional judgment, to be reasonably justified. The Architect-Engineer's interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

§ 7.3.10 When the Owner and Contractor agree with a determination made by the Architect-Engineer concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Architect-Engineer will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

§ 7.4 Minor Changes in the Work
The Architect-Engineer has authority to order minor changes in the Work not involving adjustment in the Contract Sum or extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes will be effected by written order signed by the Architect-Engineer and shall be binding on the Owner and Contractor.

ARTICLE 8 TIME
§ 8.1 Definitions
§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement.

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect-Engineer in accordance with Section 9.8.

§ 8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

§ 8.2 Progress and Completion
§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement the Contractor confirms that the Contract Time is a reasonable period for performing the Work.
§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, prematurely commence operations on the site or elsewhere prior to the effective date of insurance required by Article 11 to be furnished by the Contractor and Owner. The date of commencement of the Work shall not be changed by the effective date of such insurance.

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

§ 8.3 Delays and Extensions of Time
§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by an act or neglect of the Owner or Architect-Engineer, or of an employee of either, or of a separate contractor employed by the Owner; or by changes ordered in the Work; or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the Contractor’s control; or by delay authorized by the Owner pending mediation and arbitration; or by other causes that the Architect-Engineer determines may justify delay, then the Contract Time shall be extended by Change Order for such reasonable time as the Architect-Engineer may determine.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

§ 8.3.3 This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

ARTICLE 9 PAYMENTS AND COMPLETION
§ 9.1 Contract Sum
The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 9.2 Schedule of Values
Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit to the Architect-Engineer, before the first Application for Payment, a schedule of values allocating the entire Contract Sum to the various portions of the Work and prepared in such form and supported by such data to substantiate its accuracy as the Architect-Engineer may require. This schedule, unless objected to by the Architect-Engineer, shall be used as a basis for reviewing the Contractor’s Applications for Payment.

§ 9.3 Applications for Payment
§ 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect-Engineer an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. Such application shall be notarized, if required, and supported by such data substantiating the Contractor’s right to payment as the Owner or Architect-Engineer may require, such as copies of requisitions from Subcontractors and material suppliers, and shall reflect retainage if provided for in the Contract Documents.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect-Engineer, but not yet included in Change Orders.

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or material supplier, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner’s title to such materials and equipment or otherwise protect the Owner’s interest, and shall include the costs of applicable insurance, storage and transportation to the site for such materials and equipment stored off the site.
§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor’s knowledge, information and belief, be free and clear of liens, claims, security interests or encumbrances in favor of the Contractor, Subcontractors, material suppliers, or other persons or entities making a claim by reason of having provided labor, materials and equipment relating to the Work.

§ 9.4 Certificates for Payment
§ 9.4.1 The Architect Engineer will, within seven days after receipt of the Contractor’s Application for Payment, either issue to the Owner a Certificate for Payment, with a copy to the Contractor, for such amount as the Architect Engineer determines is properly due, or notify the Contractor and Owner in writing of the Architect Engineer’s reasons for withholding certification in whole or in part as provided in Section 9.5.1.

§ 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect Engineer to the Owner, based on the Architect Engineer’s evaluation of the Work and the data comprising the Application for Payment, that, to the best of the Architect Engineer’s knowledge, information and belief, the Work has progressed to the point indicated and that the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion and to specific qualifications expressed by the Architect Engineer. The issuance of a Certificate for Payment will further constitute a representation that the Contractor is entitled to payment in the amount certified. However, the issuance of a Certificate for Payment will not be a representation that the Architect Engineer has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor’s right to payment, or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 9.5 Decisions to Withhold Certification
§ 9.5.1 The Architect Engineer may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect Engineer’s opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect Engineer is unable to certify payment in the amount of the Application, the Architect Engineer will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect Engineer cannot agree on a revised amount, the Architect Engineer will promptly issue a Certificate for Payment for the amount for which the Architect Engineer is able to make such representations to the Owner. The Architect Engineer may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect Engineer’s opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

1. defective Work not remedied;
2. third party claims filed or reasonable evidence indicating probable filing of such claims unless security acceptable to the Owner is provided by the Contractor;
3. failure of the Contractor to make payments properly to Subcontractors or for labor, materials or equipment;
4. reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
5. damage to the Owner or a separate contractor;
6. reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
7. repeated failure to carry out the Work in accordance with the Contract Documents.

§ 9.5.2 When the above reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.3 If the Architect Engineer withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or material or equipment suppliers to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the

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Owner makes payments by joint check, the Owner shall notify the Architect-Engineer and the Architect-Engineer will reflect such payment on the next Certificate for Payment.

§ 9.6 Progress Payments
§ 9.6.1 After the Architect-Engineer has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect-Engineer.

§ 9.6.2 The Contractor shall pay each Subcontractor no later than seven days after receipt of payment from the Owner the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

§ 9.6.3 The Architect-Engineer will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect-Engineer and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and material and equipment suppliers amounts paid by the Owner to the Contractor for subcontracted work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors to ascertain whether they have been properly paid. Neither the Owner nor Architect-Engineer shall have an obligation to pay or to see to the payment of money to a Subcontractor, except as may otherwise be required by law.

§ 9.6.5 Contractor payments to material and equipment suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors and suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, shall create any fiduciary liability or tort liability on the part of the Contractor for breach of trust or shall entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

§ 9.7 Failure of Payment
§ 9.7.1 If the Architect-Engineer does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents the amount certified by the Architect-Engineer or awarded by binding dispute resolution, then the Contractor may, upon seven additional days' written notice to the Owner and Architect-Engineer, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shut-down, delay and start-up, plus interest as provided for in the Contract Documents.

§ 9.8 Substantial Completion
§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use. Except for that portion of the Sustainability Documentation which by its nature must be provided after Substantial Completion, the Contractor shall submit all other Sustainability Documentation required from the Contractor by the Contract Documents no later than the date of Substantial Completion. Verification that the Project has achieved the Sustainable Objective, or the actual achievement of the Sustainable Objective, shall not be a condition precedent to issuance of a Certificate of Substantial Completion in accordance with Section 9.8.4.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect-Engineer
comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list
does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 9.8.3 Upon receipt of the Contractor's list, the Architect-Engineer will make an inspection to determine whether the
Work or designated portion thereof is substantially complete. If the Architect-Engineer's inspection discloses any item,
whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the
Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended
use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item
upon notification by the Architect-Engineer. In such case, the Contractor shall then submit a request for another
inspection by the Architect-Engineer to determine Substantial Completion.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect-Engineer will prepare a
Certificate of Substantial Completion that shall establish the date of Substantial Completion, shall establish
responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and
insurance, and shall fix the time within which the Contractor shall finish all items on the list accompanying the
Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of
the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written
acceptance of responsibilities assigned to them in such Certificate. Upon such acceptance and consent of surety, if any,
the Owner shall make payment of retainage applying to such Work or designated portion thereof. Such payment shall
be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

§ 9.9 Partial Occupancy or Use
§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when
such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to
by the insurer as required under Section 11.3.1.5 and authorized by public authorities having jurisdiction over the
Project. 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. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit
a list to the Architect-Engineer as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use
shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement
between the Owner and Contractor or, if no agreement is reached, by decision of the Architect-Engineer.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner, Contractor and Architect-Engineer shall jointly
inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the
Work.

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute
acceptance of Work not complying with the requirements of the Contract Documents.

§ 9.10 Final Completion and Final Payment
§ 9.10.1 Upon receipt of the Contractor's written notice that the Work is ready for final inspection and acceptance and
upon receipt of a final Application for Payment, the Architect-Engineer will promptly make such inspection and,
when the Architect-Engineer finds the Work acceptable under the Contract Documents and the Contract fully
performed, the Architect-Engineer will promptly issue a final Certificate for Payment stating that to the best of the
Architect-Engineer's knowledge, information and belief, and on the basis of the Architect-Engineer's on-site visits
and inspections, the Work has been completed in accordance with terms and conditions of the Contract Documents
and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The
Architect-Engineer's final Certificate for Payment will constitute a further representation that conditions listed in
Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled. Verification that the
Project has achieved the Sustainable Objective, or the actual achievement of the Sustainable Objective, shall not be
a condition precedent to issuance of the final Certificate for Payment.

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§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect-Engineer (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner’s property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be canceled or allowed to expire until at least 30 days’ prior written notice has been given to the Owner, (3) a written statement that the Contractor knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) all Sustainability Documentation required from the Contractor by the Contract Documents, (5) consent of surety, if any, to final payment and (6), if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, releases and waivers of liens, claims, security interests or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien. If such lien remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging such lien, including all costs and reasonable attorneys’ fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect-Engineer so confirms, the Owner shall, upon application by the Contractor and certification by the Architect-Engineer, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect-Engineer prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

1. liens, Claims, security interests or encumbrances arising out of the Contract and unsettled;
2. failure of the Work to comply with the requirements of the Contract Documents; or
3. terms of special warranties required by the Contract Documents.

§ 9.10.5 Acceptance of final payment by the Contractor, 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.

ARTICLE 10  PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs
The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract.

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to

1. employees on the Work and other persons who may be affected thereby;
2. the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Contractor or the Contractor’s Subcontractors or Sub-subcontractors; and
3. other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

§ 10.2.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities bearing on safety of persons or property or their protection from damage, injury or loss.
§ 10.2.3 The Contractor shall erect and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent sites and utilities.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3, except damage or loss attributable to acts or omissions of the Owner or Architect Engineer or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor’s obligations under Section 3.18.

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor’s organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor’s superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect Engineer.

§ 10.2.7 The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.2.8 Injury or Damage to Person or Property
If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, written notice of such injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

§ 10.3 Hazardous Materials
§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the Owner and Architect Engineer in writing.

§ 10.3.2 Upon receipt of the Contractor’s written notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect Engineer the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of such material or substance or who are to perform the task of removal or safe containment of such material or substance. The Contractor and the Architect Engineer will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect Engineer has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect Engineer have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased in the amount of the Contractor’s reasonable additional costs of shut-down, delay and start-up.

§ 10.3.3 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Architect, Architect’s Engineer, Engineer’s consultants and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys’ fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim,
damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss or expense is due to the fault or negligence of the party seeking indemnity.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.

§ 10.3.5 The Contractor shall indemnify the Owner for the cost and expense the Owner incurs (1) for remediation of a material or substance the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

§ 10.3.6 If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall indemnify the Contractor for all cost and expense thereby incurred.

§ 10.4 Emergencies
In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

ARTICLE 11 INSURANCE AND BONDS
§ 11.1 Contractor's Liability Insurance
§ 11.1.1 The Contractor shall purchase from and maintain in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located such insurance as will protect the Contractor from claims set forth below which may arise out of or result from the Contractor's operations and completed operations under the Contract and for which the Contractor may be legally liable, whether such operations be by the Contractor or by a Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

.1 Claims under workers' compensation, disability benefit and other similar employee benefit acts that are applicable to the Work to be performed;
.2 Claims for damages because of bodily injury, occupational sickness or disease, or death of the Contractor's employees;
.3 Claims for damages because of bodily injury, sickness or disease, or death of any person other than the Contractor's employees;
.4 Claims for damages insured by usual personal injury liability coverage;
.5 Claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;
.6 Claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle;
.7 Claims for bodily injury or property damage arising out of completed operations; and
.8 Claims involving contractual liability insurance applicable to the Contractor's obligations under Section 3.18.

§ 11.1.2 The insurance required by Section 11.1.1 shall be written for not less than limits of liability specified in the Contract Documents or required by law, whichever coverage is greater. Coverages, whether written on an occurrence or claims-made basis, shall be maintained without interruption from the date of commencement of the Work until the date of final payment and termination of any coverage required to be maintained after final payment, and, with respect to the Contractor's completed operations coverage, until the expiration of the period for correction of Work or for such other period for maintenance of completed operations coverage as specified in the Contract Documents.

§ 11.1.3 Certificates of insurance acceptable to the Owner shall be filed with the Owner prior to commencement of the Work and thereafter upon renewal or replacement of each required policy of insurance. These certificates and the insurance policies required by this Section 11.1 shall contain a provision that coverages afforded under the policies will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner. An
additional certificate evidencing continuation of liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment as required by Section 9.10.2 and thereafter upon renewal or replacement of such coverage until the expiration of the time required by Section 11.1.2. Information concerning reduction of coverage on account of revised limits or claims paid under the General Aggregate, or both, shall be furnished by the Contractor with reasonable promptness.

§ 11.1.4 The Contractor shall cause the commercial liability coverage required by the Contract Documents to include (1) the Owner, the Architect-Engineers and the Architect-Engineers’ consultants as additional insureds for claims caused in whole or in part by the Contractor’s negligent acts or omissions during the Contractor’s operations; and (2) the Owner as an additional insured for claims caused in whole or in part by the Contractor’s negligent acts or omissions during the Contractor’s completed operations.

§ 11.2 Owner’s Liability Insurance
The Owner shall be responsible for purchasing and maintaining the Owner’s usual liability insurance.

§ 11.3 Property Insurance
§ 11.3.1 Unless otherwise provided, the Owner shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, property insurance written on a builder’s risk “all-risk” or equivalent policy form in the amount of the initial Contract Sum, plus value of subsequent Contract Modifications and cost of materials supplied or installed by others, comprising total value for the entire Project at the site on a replacement cost basis without optional deductibles. Such property insurance shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made as provided in Section 9.10 or until no person or entity other than the Owner has an insurable interest in the property required by this Section 11.1.3 to be covered, whichever is later. This insurance shall include interests of the Owner, the Contractor, Subcontractors and Sub-subcontractors in the Project.

§ 11.3.1.1 Property insurance shall be on an “all-risk” or equivalent policy form and shall include, without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, falsework, testing and startup, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for Architect-Engineer’s and Contractor’s services and expenses required as a result of such insured loss.

§ 11.3.1.2 If the Owner does not intend to purchase such property insurance required by the Contract and with all of the coverages in the amount described above, the Owner shall so inform the Contractor in writing prior to commencement of the Work. The Contractor may then effect insurance that will protect the interests of the Contractor, Subcontractors and Sub-subcontractors in the Work, and by appropriate Change Order the cost thereof shall be charged to the Owner. If the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain insurance as described above, without so notifying the Contractor in writing, then the Owner shall bear all reasonable costs properly attributable thereto.

§ 11.3.1.3 If the property insurance requires deductibles, the Owner shall pay costs not covered because of such deductibles.

§ 11.3.1.4 This property insurance shall cover portions of the Work stored off the site, and also portions of the Work in transit.

§ 11.3.1.5 Partial occupancy or use in accordance with Section 9.9 shall not commence until the insurance company or companies providing property insurance have consented to such partial occupancy or use by endorsement or otherwise. The Owner and the Contractor shall take reasonable steps to obtain consent of the insurance company or companies and shall, without mutual written consent, take no action with respect to partial occupancy or use that would cause cancellation, lapse or reduction of insurance.

§ 11.3.2 Boiler and Machinery Insurance
The Owner shall purchase and maintain boiler and machinery insurance required by the Contract Documents or by law, which shall specifically cover such insured objects during installation and until final acceptance by the Owner;
this insurance shall include interests of the Owner, Contractor, Subcontractors and Sub-subcontractors in the Work, and the Owner and Contractor shall be named insureds.

§ 11.3.3 Loss of Use Insurance
The Owner, at the Owner’s option, may purchase and maintain such insurance as will insure the Owner against loss of use of the Owner’s property due to fire or other hazards, however caused. The Owner waives all rights of action against the Contractor for loss of use of the Owner’s property, including consequential losses due to fire or other hazards however caused.

§ 11.3.4 If the Contractor requests in writing that insurance for risks other than those described herein or other special causes of loss be included in the property insurance policy, the Owner shall, if possible, include such insurance, and the cost thereof shall be charged to the Contractor by appropriate Change Order.

§ 11.3.5 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, the Owner shall waive all rights in accordance with the terms of Section 11.3.7 for damages caused by fire or other causes of loss covered by this separate property insurance. All separate policies shall provide this waiver of subrogation by endorsement or otherwise.

§ 11.3.6 Before an exposure to loss may occur, the Owner shall file with the Contractor a copy of each policy that includes insurance coverages required by this Section 11.3. Each policy shall contain all generally applicable conditions, definitions, exclusions and endorsements related to this Project. Each policy shall contain a provision that the policy will not be canceled or allowed to expire, and that its limits will not be reduced, until at least 30 days’ prior written notice has been given to the Contractor.

§ 11.3.7 Waivers of Subrogation
The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents and employees, each of the other, and (2) the Architect, Engineer’s Engineer’s engineers, separate contractors described in Article 6, if any, and any of their subcontractors, sub-subcontractors, agents and employees, for damages caused by fire or other causes of loss to the extent covered by property insurance obtained pursuant to this Section 11.3 or other property insurance applicable to the Work, except such rights as they have to proceeds of such insurance held by the Owner as fiduciary. The Owner or Contractor, as appropriate, shall require of the Architect, Engineer’s Engineer’s engineers, separate contractors described in Article 6, if any, and the subcontractors, sub-subcontractors, agents and employees of any of them, by appropriate agreements, written where legally required for validity, similar waivers each in favor of other parties enumerated herein. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

§ 11.3.8 A loss insured under the Owner’s property insurance shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.3.10. The Contractor shall pay Subcontractors their just shares of insurance proceeds received by the Contractor, and by appropriate agreements, written where legally required for validity, shall require Subcontractors to make payments to their Sub-subcontractors in similar manner.

§ 11.3.9 If required in writing by a party in interest, the Owner as fiduciary shall, upon occurrence of an insured loss, give bond for proper performance of the Owner’s duties. The cost of required bonds shall be charged against proceeds received as fiduciary. The Owner shall deposit in a separate account proceeds so received, which the Owner shall distribute in accordance with such agreement as the parties in interest may reach, or as determined in accordance with the method of binding dispute resolution selected in the Agreement between the Owner and Contractor. If after such loss no other special agreement is made and unless the Owner terminates the Contract for convenience, replacement of damaged property shall be performed by the Contractor after notification of a Change in the Work in accordance with Article 7.
§ 11.3.10 The Owner as fiduciary shall have power to adjust and settle a loss with insurers unless one of the parties in interest shall object in writing within five days after occurrence of loss to the Owner’s exercise of this power; if such objection is made, the dispute shall be resolved in the manner selected by the Owner and Contractor as the method of binding dispute resolution in the Agreement. If the Owner and Contractor have selected arbitration as the method of binding dispute resolution, the Owner as fiduciary shall make settlement with insurers or, in the case of a dispute over distribution of insurance proceeds, in accordance with the directions of the arbitrators.

§ 11.4 Performance Bond and Payment Bond
§ 11.4.1 The Owner shall have the right to require the Contractor to furnish bonds covering faithful performance of the Contract and payment of obligations arising thereunder as stipulated in bidding requirements or specifically required in the Contract Documents on the date of execution of the Contract.

§ 11.4.2 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK
§ 12.1 Uncovering of Work
§ 12.1.1 If a portion of the Work is covered contrary to the Architect Engineer’s request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect Engineer, be uncovered for the Architect Engineer’s examination and be replaced at the Contractor’s expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Architect Engineer has not specifically requested to examine prior to its being covered, the Architect Engineer may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, costs of uncovering and replacement shall, by appropriate Change Order, be at the Owner’s expense. If such Work is not in accordance with the Contract Documents, such costs and the cost of correction shall be at the Contractor’s expense unless the condition was caused by the Owner or a separate contractor in which event the Owner shall be responsible for payment of such costs.

§ 12.2 Correction of Work
§ 12.2.1 Before or After Substantial Completion
The Contractor shall promptly correct Work rejected by the Architect Engineer or failing to conform to the requirements of the Contract Documents, whether discovered before or after Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect Engineer’s services and expenses made necessary thereby, shall be at the Contractor’s expense.

§ 12.2.2 After Substantial Completion
§ 12.2.2.1 In addition to the Contractor’s obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of an applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of written notice from the Owner to do so unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect Engineer, the Owner may correct it in accordance with Section 2.4.

§ 12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 12.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.
§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction, whether completed or partially completed, of the Owner or separate contractors caused by the Contractor’s correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor’s liability with respect to the Contractor’s obligations other than specifically to correct the Work.

§ 12.3 Acceptance of Nonconforming Work
If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 13 MISCELLANEOUS PROVISIONS
§ 13.1 Governing Law
The Contract shall be governed by the law of the place where the Project is located except that, if the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4.

§ 13.2 Successors and Assigns
§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns and legal representatives to covenants, agreements and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner’s rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate such assignment.

§ 13.3 Written Notice
Written notice shall be deemed to have been duly served if delivered in person to the individual, to a member of the firm or entity, or to an officer of the corporation for which it was intended; or if delivered at, or sent by registered or certified mail or by courier service providing proof of delivery to, the last business address known to the party giving notice.

§ 13.4 Rights and Remedies
§ 13.4.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights and remedies otherwise imposed or available by law.

§ 13.4.2 No action or failure to act by the Owner, Architect, Engineer or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach there under, except as may be specifically agreed in writing.

§ 13.5 Tests and Inspections
§ 13.5.1 Tests, inspections and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections and approvals. The Contractor shall give the Architect.
Engineer timely notice of when and where tests and inspections are to be made so that the Architect Engineer may be present for such procedures. The Owner shall bear costs of (1) tests, inspections or approvals that do not become requirements until after bids are received or negotiations concluded, and (2) tests, inspections or approvals where building codes or applicable laws or regulations prohibit the Owner from delegating their cost to the Contractor.

§ 13.5.2 If the Architect Engineer, Owner or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection or approval not included under Section 13.5.1, the Architect Engineer will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection or approval by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect Engineer of when and where tests and inspections are to be made so that the Architect Engineer may be present for such procedures. Such costs, except as provided in Section 13.5.3, shall be at the Owner’s expense.

§ 13.5.3 If such procedures for testing, inspection or approval under Sections 13.5.1 and 13.5.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure including those of repeated procedures and compensation for the Architect Engineer’s services and expenses shall be at the Contractor’s expense.

§ 13.5.4 Required certificates of testing, inspection or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect Engineer.

§ 13.5.5 If the Architect Engineer is to observe tests, inspections or approvals required by the Contract Documents, the Architect Engineer will do so promptly and, where practicable, at the normal place of testing.

§ 13.5.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 13.6 Interest
Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at such rate as the parties may agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

§ 13.7 Time Limits on Claims
The Owner and Contractor shall commence all claims and causes of action, whether in contract, tort, breach of warranty or otherwise, against the other arising out of or related to the Contract in accordance with the requirements of the final dispute resolution method selected in the Agreement within the time period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all claims and causes of action not commenced in accordance with this Section 13.7.

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT
§ 14.1 Termination by the Contractor
§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor or a Subcontractor, Sub-subcontractor or their agents or employees or any other persons or entities performing portions of the Work under direct or indirect contract with the Contractor, for any of the following reasons:

.1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;

.2 An act of government, such as a declaration of national emergency that requires all Work to be stopped;

.3 Because the Architect Engineer has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or

.4 The Owner has failed to furnish to the Contractor promptly, upon the Contractor’s request, reasonable evidence as required by Section 2.2.1.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor or a Subcontractor, Sub-subcontractor or their agents or employees or any other persons or entities performing portions of the Work under direct or indirect contract with the Contractor, repeated suspensions, delays or interruptions of the entire Work by the
Owner as described in Section 14.3 constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days’ written notice to the Owner and Architect, Engineer, terminate the Contract and recover from the Owner payment for Work executed, including reasonable overhead and profit, costs incurred by reason of such termination, and damages.

§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor or a Subcontractor or their agents or employees or any other persons performing portions of the Work under contract with the Contractor because the Owner has repeatedly failed to fulfill the Owner’s obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days’ written notice to the Owner and the Architect, Engineer, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

§ 14.2 Termination by the Owner for Cause
§ 14.2.1 The Owner may terminate the Contract if the Contractor
.1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
.2 fails to make payment to Subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the Subcontractors;
.3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
.4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

§ 14.2.2 When any of the above reasons exist, the Owner, upon certification by the Initial Decision Maker that sufficient cause exists to justify such action, may without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor’s surety, if any, seven days’ written notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:
.1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
.2 Accept assignment of subcontracts pursuant to Section 5.4; and
.3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect’s Engineer’s services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

§ 14.3 Suspension by the Owner for Convenience
§ 14.3.1 The Owner, without cause, may order the Contractor in writing to suspend, delay or interrupt the Work in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay or interruption as described in Section 14.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent
.1 that performance is, was or would have been so suspended, delayed or interrupted by another cause for which the Contractor is responsible; or
.2 that an equitable adjustment is made or denied under another provision of the Contract.
§ 14.4 Termination by the Owner for Convenience
§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner’s convenience and without cause.

§ 14.4.2 Upon receipt of written notice from the Owner of such termination for the Owner’s convenience, the Contractor shall

.1 cease operations as directed by the Owner in the notice;

.2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and

.3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

§ 14.4.3 In case of such termination for the Owner’s convenience, the Contractor shall be entitled to receive payment for Work executed, and costs incurred by reason of such termination, along with reasonable overhead and profit on the Work not executed.

ARTICLE 15 CLAIMS AND DISPUTES
§ 15.1 Claims
§ 15.1.1 Definition
A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim.

§ 15.1.2 Notice of Claims
Claims by either the Owner or Contractor must be initiated by written notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, Engineer, if the Architect, Engineer is not serving as the Initial Decision Maker. Claims by either party must be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

§ 15.1.3 Continuing Contract Performance
Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents. The Architect, Engineer will prepare Change Orders and issue Certificates for Payment in accordance with the decisions of the Initial Decision Maker.

§ 15.1.4 Claims for Additional Cost
If the Contractor wishes to make a Claim for an increase in the Contract Sum, written notice as provided herein shall be given before proceeding to execute the Work. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.5 Claims for Additional Time
§ 15.1.5.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, written notice as provided herein shall be given. The Contractor’s Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

§ 15.1.5.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated and had an adverse effect on the scheduled construction.

§ 15.1.6 Claims for Consequential Damages
The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

.1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons;
.2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit except anticipated profit arising directly from the Work; and

.3 damages resulting from failure of the Project to achieve the Sustainable Objective or one or more of the Sustainable Measures including unachieved energy savings, unintended operational expenses, lost financial or tax incentives, or unachieved gains in worker productivity.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party’s termination in accordance with Article 14. Nothing contained in this Section 15.1.6 shall be deemed to preclude an award of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

§ 15.2 Initial Decision

§ 15.2.1 Claims, excluding those arising under Sections 10.3, 10.4, 11.3.9, and 11.3.10, shall be referred to the Initial Decision Maker for initial decision. The Architect-Engineer will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim arising prior to the date final payment is due, unless 30 days have passed after the Claim has been referred to the Initial Decision Maker with no decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker’s sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner’s expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of such request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect-Engineer, if the Architect-Engineer is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 15.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.

§ 15.2.6.1 Either party may, within 30 days from the date of an initial decision, demand in writing that the other party file for mediation within 60 days of the initial decision. If such a demand is made and the party receiving the demand fails to file for mediation within the time required, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

§ 15.2.7 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor’s default, the Owner may, but is not obligated to, notify the surety and request the surety’s assistance in resolving the controversy.
§ 15.2.8 If a Claim relates to or is the subject of a mechanic’s lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

§ 15.3 Mediation
§ 15.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.6 shall be subject to mediation as a condition precedent to binding dispute resolution.

§ 15.3.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 15.3.3 The parties shall share the mediator’s fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 15.4 Arbitration
§ 15.4.1 If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.

§ 15.4.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim.

§ 15.4.2 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 15.4.3 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

§ 15.4.4 Consolidation or Joinder
§ 15.4.4.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 15.4.4.2 Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.
§ 15.4.3 The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Contractor under this Agreement.
A. The following supplements modify, delete from and add to the "General Conditions of the Contract for Construction, for use on a Sustainable Project," AIA Document A201-2007 SP. Where any article or section of the General Conditions is modified, or any paragraph, subparagraph, or clause thereof is modified or deleted by these supplements, then the unaltered provisions of the article, paragraph, subparagraph or clause shall remain in effect except to the extent contrary to these supplementary conditions.

B. Contractor shall be obligated to and shall specifically consent to the provisions of these Supplementary Conditions to the extent of the Work to be performed under this Contract.

C. These Supplementary Conditions amend or supplement the "Standard General Conditions of the Construction Contract" and other provisions of the Contract Documents as indicated below. All provisions which are not so amended or supplemented remain in full force and effect.

D. The terms used in these Supplementary Conditions which are defined in the Standard General Conditions of the Construction Contract have the meanings assigned to them in the General Conditions.

ARTICLE 1  GENERAL PROVISIONS

Change the last sentence of 1.1.1 as follows: “The Contract Documents shall include those identified in the AIA A101-2007 SP Standard Form of Agreement Between Owner and Contractor, as completed and modified by document titled (the "Construction Agreement")

Delete the last sentence of 1.1.2.

Add to 1.1.6: “Specifications may be in one or more parts of the Contract Documents.”

Amend 1.1.8 as follows: “1.1.8 Initial Decision Maker. The Initial Decision Maker shall be the Engineer.”

Add 1.2.1.1 Any Work that may reasonably be inferred from the Specifications or Drawings as being required to produce the intended result shall be supplied whether or not it is specifically called for. Work, materials, or equipment described in words which so applied have a well-known technical or trade meaning shall be determined to refer to such recognized standards.

In the event of conflicts or discrepancies among the Contract Documents, interpretations will be based on the following priorities:

1. The Construction Agreement.
2. AIA A201 2007 General Conditions of the Contract for Construction, as completed, modified and supplemented by document.
3. Specification
4. Drawings. Note, figure dimensions on Drawings shall govern over scale dimension, and detailed drawings shall govern over standard drawings.

Add 1.2.3.1 as follows “1.2.3.1 In general, the Drawings are intended to nominate and establish the location, quantity and relationship of the Work, and the Specifications are intended to define the type and quality of the materials and workmanship requirements of the Work shown. In cases of conflict between the Drawings and Specifications or with either, the Contractor shall submit prompt request for direction before proceeding.”
Add 1.2.3.2 as follows “1.2.3.2 When a requirement is made by the Contract Documents that is not possible to meet, such as the requirements for an unavailable material, the Contractor shall submit prompt notice to the Engineer for direction under Article 4.2.1.”

Add 1.2.4 as follows: “1.2.4 Before bidding, ordering any material or doing any Work, each contractor shall verify all measurements and conditions, existing and new, at the site and be responsible for the correctness of same. No extra charge or compensation will be allowed on account of difference between actual dimensions and conditions and the ones indicated on the Drawings.”

Add the following Subparagraph 1.6.1 to Paragraph 1.6:

Add 1.6.1 as follows: “1.6.1 The Engineer may, with the concurrence of the Owner, furnish to the Contractor versions of Instruments of Service in electronic form. The Contract Documents executed or identified in accordance with Subparagraph 1.5.2 shall prevail in case of an inconsistency with subsequent versions made through manipulatable electronic means involving computers.”

Add 1.6.2 as follows: “1.6.2 The Contractor shall not transfer or reuse Instruments of Service in electronic or machine-readable form without the prior written consent of the Engineer.”

Add 1.7 as follows: “1.7 Project Meetings. Representatives of the Owner, Contractor and Engineer shall have weekly Owner Engineer Contractor meetings throughout the course of performance of the Work for the purpose of establishing procedures to facilitate cooperation, communication, timely responses among the participants, and to ensure the quality of Work meets the standards indicated in the Project drawings and specifications. By participating in this arrangement, the parties do not intend to create additional contractual obligations or modify the legal relationships, which may otherwise exist.”

**ARTICLE 2 OWNER**

Delete 2.1.2 in its entirety.

Add 2.1.3 as follows: “2.1.3 The Owner reserves the right to observe the Work at any time. The presence of the Owner or its representatives at the project site does not imply concurrence or approval of the Work. The Contractor shall call specific items to the attention of the Engineer if the Contractor wishes an opinion.”

Delete Paragraph 2.2.1 (related to Owner’s financial arrangements). Replace with the following:

**2.2.1 Project Representative**

A. Owner shall furnish a Resident Project Representative (RPR), to assist Owner in observing performance of the Work of Contractor.

B. Through such additional observations of Contractor’s work in progress and field checks of materials and equipment by the RPR and assistants, Owner shall endeavor to provide further protection against defects and deficiencies in the Work. However, Owner shall not, during such visits or as a result of such observations of Contractor’s work in progress, supervise, direct, or have control over the Contractor’s Work nor shall Owner have authority over or responsibility for the means, methods, techniques, sequences, or procedures selected or used by Contractor, for security or safety at the site, for safety precautions and programs incident to the Contractor’s work in progress, for any failure of Contractor to comply with Laws and Regulations applicable to Contractor’s performing and furnishing the Work, or responsibility of construction for Contractor’s failure to furnish and perform the Work in accordance with the Contract Documents.
C. The duties and responsibilities of the RPR are as follows:

1. General: RPR is Owner’s agent at the site, will act as directed by and under the supervision of Owner, and will confer with Engineer & Owner regarding RPR’s actions. RPR’s dealings in matters pertaining to the Contractor’s work in progress shall in general be with Owner and Contractor. RPR’s dealings with subcontractors shall only be through or with the full knowledge and approval of Contractor.

2. Schedules: Review the progress schedule, schedule of Shop Drawing and Sample submittals, and schedule of values prepared by Contractor and consult with Engineer concerning acceptability.

3. Conferences and Meetings: Attend meetings with Contractor, such as preconstruction conferences, progress meetings, job conferences and other project-related meetings, and prepare and circulate copies of minutes thereof.

4. Liaison:
   a. Serve as Owner’s liaison with Contractor, working principally through Contractor’s superintendent, assist in providing information regarding the intent of the Contract Documents.
   b. Assist in serving as Owner’s liaison with Contractor when Contractor’s operations affect Owner’s on-site operation.
   c. Assist in obtaining from Owner additional details or information, when required for proper execution of the Work.

5. Interpretation of Contract Documents: Report to Owner when clarifications and interpretations of the Contract Documents are needed and transmit to Contractor clarifications and interpretations as issued by Engineer.

6. Shop Drawings and Samples:
   a. Record date of receipt of Samples and approved Shop Drawings.
   b. Receive Samples which are furnished at the site by Contractor, and notify Owner of availability of Samples for examination.
   c. Advise Owner and Contractor of the commencement of any portion of the Work requiring a Shop Drawing or Sample submittal for which RPR believes that the submittal has not been approved.

7. Modifications: Consider and evaluate Contractor’s suggestions for modifications in Drawings or Specifications and report such suggestions, together with RPR’s recommendations, to Owner. Transmit to Contractor in writing decisions as issued by Owner.

8. Review of Work and Rejection of Defective Work:
   a. Conduct on-site observations of Contractor’s work in progress to inform Owner whether the Work is in general proceeding in accordance with the Contract Documents.
   b. Report to Owner whenever RPR believes that any part of Contractor’s work in progress will not produce a completed Project that conforms generally to the Contract Documents or will imperil the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents, or has been damaged, or does not meet the requirements of any inspection, test or approval required to be made; and advise Owner of that part of work in progress that RPR believes should be corrected or rejected or should be uncovered for observation, or requires special testing, inspection or approval.
   c. Owner’s RPR may provide specific instructions to the Contractor regarding the Work only when the contract documents specifically indicate “as directed by Engineer.”

9. Inspections, Tests, and System Startups:
   a. Consult with Owner in advance of scheduled major inspections, tests, and systems startups of important phases of the Work.
   b. Verify that tests, equipment, and systems start-ups and operating and maintenance training are conducted in the presence of appropriate Owner’s personnel, and that Contractor maintains adequate records thereof.
   c. Observe, record, and report to Owner appropriate details relative to the test
procedures and systems start-ups.

d. Accompany visiting inspectors representing public or other agencies having jurisdiction over the Project, record the results of these inspections, and report to Owner.

10. Records:

a. Maintain on-site orderly files for correspondence, reports of job conferences, reproductions of original Contract Documents including all Change Orders, Field Orders, Work Change Directives, Addenda, additional Drawings issued subsequent to the execution of the Contract, Engineer's clarifications and interpretations of the Contract Documents, progress reports, Shop Drawing and Sample submittals received from and delivered to Contractor, and other Project-related documents.

b. Prepare a daily report or keep a diary or log book, recording Contractor's hours on the site, weather conditions, data relative to questions of Change Orders, Field Orders, Work Change Directives, or changed conditions, site visitors, daily activities, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures; and send copies to Owner.

c. Record names, addresses, fax numbers, e-mail addresses, web site locations, and telephone numbers of all Contractors, subcontractors, and major suppliers of materials and equipment.

d. Maintain records for use in preparing Project documentation.

e. Upon completion of the Work, furnish original set of all RPR Project documentation to Owner.

11. Reports:

a. Furnish to Owner periodic reports as required of progress of the Work and of Contractor's compliance with the progress schedule and schedule of Shop Drawing and Sample submittals.

b. Draft and recommend to Owner proposed Change Orders, Work Change Directives, and Field Orders. Obtain backup material from Contractor.

c. Furnish to Owner copies of all inspection, test, and system start-up reports.

d. Immediately notify Owner of the occurrence of any site accidents, emergencies, acts of God endangering the Work, damage to property by fire or other causes, or the discovery of any Constituent of Concern.

12. Payment Requests: Review Applications for Payment with Contractor for compliance with the established procedure for their submission and forward with recommendations to Engineer, noting particularly the relationship of the payment requested to the schedule of values, and Work completed.

13. Certificates, Operation and Maintenance Manuals: During the course of the Work, verify that materials and equipment certificates, operation and maintenance manuals and other data required by the Specifications to be assembled and furnished by Contractor are applicable to the items actually installed and in accordance with the Contract Documents, and have these documents delivered to Owner prior to payment for that part of the Work.

14. Completion:

a. Participate in a Substantial Completion inspection, assist in the determination of Substantial Completion and the preparation of lists of items to be completed or corrected.

b. Participate in a final inspection in the company of Owner, and Contractor and prepare a final list of items to be completed and deficiencies to be remedied.

c. Observe whether all items on the final list have been completed or corrected and make recommendations to Engineer concerning acceptance and issuance of the Notice of Acceptability of the Work.

E. Resident Project Representative shall not:

1. Authorize any deviation from the Contract Documents or substitution of materials or equipment (including "or-equal" items).

2. Exceed limitations of Owner’s authority as set forth in the Contract Documents.
3. Undertake any of the responsibilities of Contractor, subcontractors, suppliers, or Contractor’s superintendent.
4. Advise on, issue directions relative to, or assume control over any aspect of the means, methods, techniques, sequences or procedures of Contractor’s Work unless such advice or directions are specifically required by the Contract Documents.
5. Advise on, issue directions regarding, or assume control over safety practices, precautions, and programs in connection with the activities or operations of Contractor.
6. Participate in specialized field or laboratory tests or inspections conducted off-site by others except as specifically authorized by Engineer.
7. Accept Shop Drawing or Sample submittals from anyone other than Contractor.

Add 2.5 as follows: “2.5 The Contractor shall keep full and accurate records of all costs incurred and items billed in connection with the performance of the Work, including records of subcontractors, which records shall be open to audit by the authorized representative of the Owner or the Owner during the performance of the Work and for three (3) years after Final Payment.”

Add 2.6 as follows: “2.6 The Owner will procure and bear costs of structural tests and special inspections as required by the applicable building code.”

ARTICLE 3 CONTRACTOR

Add 3.1.1.1 as follows: “The Contractor is responsible for determining that all of the Contractor’s subcontractors are duly licensed in accordance with the federal, state and local licensing laws.”

Add a new paragraph immediately after paragraph 3.4.3 which is to read as follows:

"The Contractor shall be responsible for providing competent, suitably-qualified personnel to perform the Work. If during the performance of the Work, the Owner determines that the Contractor has provided incompetent, unsuitably-qualified personnel, the Owner shall notify the Contractor in writing and the Contractor shall replace said personnel within one (1) day with competent, suitably-qualified personnel."

Add 3.4.4 as follows: “3.4.4 By making requests for substitutions as provided above, the Contractor represents that the Contractor has personally investigated the proposed substitute product and determined that it is equal or superior in all respects to that specified, represents that the Contractor will provide the same warranty for the substitution that the Contractor would for that specified; certifies that the cost data presented is complete and includes all related costs under this Contract except the Engineer’s redesign costs, and waives all claims for additional costs related to the substitution that subsequently become apparent; and will coordinate the installation of the accepted substitute, making such changes as may be required for the Work to be completed in all respects. The Owner shall be entitled to deduct from the Contract Sum amounts paid to the Engineer to evaluate the Contractor's proposed substitutions and to make agreed-upon changes in the Drawings and Specifications made necessary by the Owner's acceptance of such substitutions. Contractor shall include all costs associated with Engineer's evaluations, review and required revisions of drawings and specifications as part of any proposed substitution."

Add a new paragraph immediately after paragraph 3.5.1 which is to read as follows:

“The Contractor fully warranties the items installed under this project to be free of defects of the products and workmanship for a period of two (2) years commencing on the date of final completion.”
Add 3.6.2 as follows: “3.6.2 Article 3.6 notwithstanding, the Owner is exempt from the payment of Wyoming Sales Tax on materials required for the Work. Therefore, to comply with the law, the Contract Sum shall be broken down into the amount of cost for labor and the amount of cost for materials. This breakdown shall be provided by the Contractor immediately upon notification that the Contractor is the apparent successful bidder so that it can be set out in the Contract.”

Add the following to 3.7.1: “Tap permits and environmental impact permits due to water and sewer connections, sanitary sewer plant investment fees, water plant investment fees, and building permit fees, if any, shall be applied for by the Contractor to the appropriate entity. The Owner will pay the amount of fees.”

3.7.4 Change “21 days” to “ten (10) calendar days”.

Add paragraph 3.7.6 as follows: “3.7.6 Each and every provision of law and clause required by law to be inserted in the Contract shall be deemed to be inserted herein and the Contract shall be read and enforced as though it were included herein, and if through mistake or otherwise, any such provision is not inserted, or is not correctly inserted, then upon application of either party, the Contract shall forthwith be physically amended to make such insertion or correction.”

Contractor shall, before commencing Work on the Project, furnish the Owner proof of compliance with the following:

1. Wyoming Worker’s Compensation Act.
4. FTA AGREEMENT

With regard to compliance with the Wyoming Preference Act of 1971, Contractor shall furnish Owner with the reports and/or records required under Wyo. Stat. 16-6-203 (1977, and as supplemented in 1986) on a monthly basis.

Add paragraph 3.7.7 as follows: “3.7.7 Contractor will comply with the Wyoming Preference Act of 1971 as stated hereafter:

Preference for State Laborers

W.S. 16-6-201. SHORT TITLE. This act (W.S. 16-6-201 through W.S. 16-6-206) may be cited as the “Wyoming Preference Act of 1971”. (Laws 1971, ch. 207, 1; W.S. 1957, 9-680.1; W.S. 1977, 9-8-401; Laws 1982, ch. 62, 3.)

W.S. 16-6-202. DEFINITIONS.

A. As used in this act (W.S. 16-6-201 through 16-6-206):
   1. “Laborer” means a person employed to perform unskilled or skilled manual labor for wages in any capacity and does not include independent contractors;
   2. “Resident” includes any person who is a citizen of the United States and has resided in the State of Wyoming for at least one (1) year immediately preceding his application for employment;
   3. “Wages” means a payment of money for labor or services according to a contract or any hourly, daily, or piece-work basis;

W.S. 16-6-203. REQUIRED RESIDENT LABOR ON PUBLIC WORKS PROJECTS; EXCEPTION; LIST OF RESIDENTS.

Every person who is charged with the duty of construction, reconstructing, improving, enlarging, altering, or repairing any public works project or improvement for the State or any political subdivision, municipal corporation, or other governmental unit, shall employ only Wyoming
laborers on the project or improvement. Every contract let by any person shall contain a provision requiring that Wyoming labor be used except other laborers may be used when Wyoming laborers are not available for the employment from within the State or are not qualified to perform the Work involved. The State employment office nearest the proposed contract or construction site shall maintain a list of laborers, classified by skills, who are residents and are available for employment. When the nearest State employment office is unable to provide the requested number of laborers from its own list, it shall immediately contact other State employment offices and request the names of other available laborers. Every person required to employ Wyoming laborers shall inform the nearest State employment office of his employment needs. If the State employment office certifies that the person's need for laborers cannot be filled from those listed as of the date the information is filed, then the person may employ other than Wyoming laborers. (Laws 1971, ch. 207, 3; W.S. 1957, 9-680.3; W.S. 1977, 9-8-403; Laws 1982, ch. 62, 3.)

W.S. 16-6-204. EMPLOYEES NOT COVERED BY PROVISIONS. All other employees of the CONTRACTOR or subcontractor, other than laborers as defined by this act (W.S. 16-6-201 through 16-6-206), are not covered by this act. (Laws 1971, ch. 207, 4; W.S. 1957, 9-680.4; W.S. 1977, 9-8-404; Laws 1982, ch. 62, 3.)

W.S. 16-6-205. ENFORCEMENT. This Act (W.S. 16-6-201 through 16-6-206) shall not be enforced in a manner which conflicts with any federal statutes or rules and regulations. (Laws 1971, ch. 207, 5; W.S. 1957, 9-680.5; W.S. 1977, 9-8-405; Laws 1982, ch. 62, 3.)

W.S. 16-6-206. FAILURE TO EMPLOY STATE LABORERS; PENALTY. A person who willfully or intentionally fails to use Wyoming laborers as required in this Act (W.S. 16-6-201 through 16-6-206) is guilty of a misdemeanor punishable by a fine of not more than five hundred dollars ($500.00) or by imprisonment for not more than thirty (30) days. Each separate case of failure to employ Wyoming laborers on public works projects constitutes a separate offense. (Laws 1983, ch. 126, 1.)

Add 3.10.1.1: “3.10.1.1 Contractor shall prepare and submit to Owner an estimated progress schedule indicating the starting and completion dates of the various stages of the Work. Schedule shall be in the form of a CPM in reproducible form. The Owner shall approve the form and the content for adequacy.”

Add 3.10.1.2: “3.10.1.2 Contractor shall prepare a Water System Construction Sequence and Shutdown Plan, an Erosion Control Plan detailing the methods and materials to be utilized for erosion control, and a Traffic Control Plan. The plans shall be in accordance with all Town of Jackson and Wyoming Department of Environmental Quality standards. The plans shall be submitted to, and approved by the Town prior to commencement of any construction activities.”

Add 3.12.4.1: “3.12.4.1 A list of hourly labor and equipment rental rates for all Contractor’s forces and also for its Subcontractors. These rates shall be utilized in all Force Account Work, Exploratory Excavations and Change Orders paid as described in Article 12 of the General Conditions. These rates shall include Contractor’s fees for overhead and profit.”

3.18.1 Delete paragraph 3.18.1 in its entirety and replace with the following:

“3.18.1 The Contractor hereby agrees to hold harmless, indemnify and defend the Owner, and his agents, architects, engineers, and employees while acting within the scope of their duties from and against any and all liability, claims, damages and cost of defense arising out of the Contractor’s performance of the Work described herein, but not including the sole negligence of the Owner, his agents, architect and engineers, or employees. The Contractor will require any and all subcontractors to conform with the provisions of this clause prior to commencing any Work and agrees to insure this clause in conformity with Article 11, Insurance and Bonds, herein.”
ARTICLE 4 – ADMINISTRATION TO THE CONTRACT
Delete 4.1.3 in its entirety.

ARTICLE 6 – CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS
Add 6.2.6 as follows: “6.2.6. The Contractor and each separate Contractor shall together, and without reliance on the Owner’s or Engineer's determination, establish the conditions of the premises before commencement of the Work on each such separate contract, and the parties shall adjust all claims for damages to each other's between themselves, but the Owner may withhold the value of all such corrections from payments to both Contractors pending settlement of disputes between the Contractors concerning such damage.”

Add 6.2.7 as follows: “6.2.7 The Owner requires that the Contractor will cooperate and maintain continuous communication with other contractors performing work concurrent and adjacent to the project and performing additional or other work on or near the work not covered by the Contract. When separate contracts are let within the limits of any one project, each Contractor shall conduct the work without interfering or hindering the progress or completion of the work being performed by other Contractors. Contractors working on the same project site shall cooperate with each other as directed.”

Add 6.2.7.1 as follows: “6.2.6.7.1 Each Contractor involved shall mutually agree to regularly scheduled project coordination meetings and inform the Owner of times and places of meetings, conflicts, schedule agreements and any other related information that affects the projects.”

Add 6.2.7.2 as follows: “6.2.7.2 Each Contractor shall assume all liability, financial or otherwise, in connection with the Contract and shall protect and save harmless the Owner from any and all damages or claims that may arise because of inconvenience, delay, or loss because of presence and operations of Contractors working within the limits of the same or adjacent project.”

ARTICLE 7 CHANGES IN THE WORK
Add 7.3.1.1 as follows: “7.3.1.1 Change Order or Written Amendment, when executed, constitutes a modification to the Agreement and all provisions of the Agreement. The Contractor accepts a Written Amendment or Change Order as full compensation, both time and cost for the additional work and any delays caused thereby.”

ARTICLE 8 TIME
8.1.4 Omit the words “unless otherwise specifically defined.”

Add 8.1.5 as follows: “8.1.5 Contractor, when bidding the Project, must take into account their expected downtimes due to typical weather conditions for Jackson, Wyoming at the time that the Work is performed, equipment breakdowns, labor shortages, scheduling conflicts, material delivery delays, recognized holidays, or any other incidents or conditions that can be expected to occur on a project of this size and magnitude. The Contractor's failure to properly staff the job, failure to manage the Work, or failure to allow for normal, seasonable weather delays shall not entitle the Contractor to additional time. No extensions of contract time due to weather delays shall be considered by the Owner unless the Owner is satisfied that the weather was significantly severe and unusual for long periods of time in which the Work is performed and that the overall Project completion time was, in fact, truly impacted by the severe or unusual weather.”

Add 8.3.2.1 as follows: “8.3.2.1 In the case of claims for extension of time because of severe or unusual weather, such extension of time shall be granted only because of said weather
preventing the execution of the item of Work underway at the time that controls overall job progress, equivalent to an item on the critical path of a network progress schedule, or such an item.

Delete 8.3.3 in its entirety.

ARTICLE 9 PAYMENTS AND COMPLETION

9.3.1 Change the first sentence to read in part as follows: “At least thirty (30) days before the date established for each progress payment…”

9.3.1 Add the following sentence: “The form of Application for Payment shall be AIA Document G702, Application and Certification for Payment, supported by AIA Document G703, Continuation Sheet.”

Add 9.3.1.3 as follows: “9.3.1.3 Until the Work is 50% complete, the Owner will pay 90% of the amount due the Contractor on account of progress payments. At the time the Work is 50% complete and thereafter, if the manner of completion of the Work and its progress are and remain satisfactory to the Engineer and Owner, and in the absence of other good and sufficient reasons, Owner will pay 95% of the amount due the Contractor on account of progress payments.”

Add 9.7.1 as follows: “9.7.1 Notwithstanding the other provisions of Article 9, the Owner’s obligation for timely payment shall be conditioned on the allowance in the Contractor’s payment application procedure for thirty (30) days for handling by the Owner.”

9.10.2 Delete the word "liens" in line 11. Delete the word "lien" in line 14 and substitute "claims".

Add 9.10.2.1 as follows: “9.10.2.1 The Owner shall not be required to make final payment to the CONTRACTOR until such time as the provisions of Wyoming Statue Section 15-1-113 (e), 16-6-116, and 166-117, have been fulfilled. If no claims or liens have been filed within a forty-one (41) day period following the first choice that the project is complete and ready for final payment, the retainage percentage will be paid (final estimate) within twenty (20) days of the expiration of said 41-day advertisement period. Should any liens or claims be filed, retainage equal to the amount of the lien or claim will be held until satisfactory agreement is reached between the Owner, Contractor, and Contractor’s surety. All warranties and guarantees from the Contractor, subcontractors, suppliers, manufacturers, etc., shall be delivered to the Owner and be of acceptable form and content as determined by the Owner before final payment is made.”

Delete 9.10.4 in its entirety.

Add 9.11 as follows: “9.11 The Owner will suffer financial loss in an amount that is difficult to quantify if the Project is not Substantially Completed on the date set forth in the Contract Documents. The Owner may assess liquidated damages against the Contractor (and its surety) in an amount equal to two thousand dollars ($2000) per day, as fixed, agreed and liquidated damages and not a penalty, for each calendar day of delay until the Work is Substantially Completed. In the event liquidated damages are caused by the Contractor and another entity, the Owner may reasonably apportion damages. The right to assess liquidated damages is in addition to, and not in limitation of, any right or remedy available to the Owner.”

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

Delete 10.3.6 in its entirety.
ARTICLE 11 INSURANCE AND BONDS

Add 11.1.2.1 as follows: “11.1.2.1 The insurance required by Subparagraph 11.1.1 shall be written for not less than the following limits, or greater if required by law:

1. Worker's Compensation: Statutory
   Applicable Federal: Statutory
   Employers Liability: Statutory

2. Comprehensive or Commercial General Liability, (including Premises-Operations; Independent Contractor's Protective; Products and Completed Operations; Broad Form Property Damage):
   Bodily Injury:
   - $1,000,000 Each Occurrence
   - $3,000,000 Aggregate
   Property Damage:
   - $1,000,000 Each Occurrence
   - $2,000,000 Aggregate

Property damage liability insurance will provide Explosion, Collapse and Underground coverages where applicable.

Products and Completed Operations to be maintained for two years after final Payment.

- $2,000,000 Aggregate

Property Damage Liability Insurance shall provide X, C and U coverages. Broad Form Property Damage Coverage shall include Completed Operations.

3. Contractual Liability:
   Bodily Injury:
   - $1,000,000 Each Occurrence
   - $2,000,000 Aggregate
   Property Damage:
   - $1,000,000 Each Occurrence
   - $2,000,000 Aggregate

4. Personal Injury, with Employment Exclusion deleted:
   $2,000,000 Aggregate

5. Comprehensive Automobile Liability
   Bodily Injury:
   - $1,000,000 Each Person
   - $2,000,000 Each Occurrence
Property Damage:

$1,000,000 Each Occurrence

Add to 11.1.3 as follows: “If this insurance is written on the Comprehensive General Liability policy form, the Certificates shall be AIA Document G705, Certificate of Insurance. If this insurance is written on a Commercial General Liability policy form, ACORD form 25S will be acceptable.”

Amend 11.3.1 through 11.3.5 to read as follows: “Contractor shall purchase and maintain property insurance upon the Work at the site to the full insurable value thereof (subject to such deductible amounts as may be provided in the Supplementary Conditions or as required by Laws and Regulations). This insurance shall include the interests of Owner, Contractor, Subcontractors, Engineer, and Engineer’s consultants in the Work, all of whom shall be listed as insureds or additional insured parties, shall insure against the perils of fire and extended coverage and shall include “all risk” insurance for physical loss and damage including theft, vandalism and malicious mischief, collapse and water damage, and other such perils as may be provided in the Supplementary Conditions, and shall include damages, losses, and expenses arising out of or resulting from any insured loss or incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers, architects, attorneys, and other professionals). If not covered under the “all risk” insurance or otherwise provided in the Supplementary Conditions, Contractor shall purchase and maintain similar property insurance on portions of the Work stored on and off the site or in transit when such portions of the Work are to be included in an Application for Payment. The policies of insurance required to be purchased and maintained by Contractor in accordance with this paragraph 5.06 shall comply with the requirements of 5.06.C.”

Delete 11.3.2 in its entirety.

11.3.3 Delete the last sentence.

Delete 11.3.4 in its entirety.

Amend 11.3.6 as follows: In the first sentence delete "Owner shall file with the Contractor" and substitute "Contractor shall file with the Owner." In the last sentence change "Contractor" to "Owner."

Amend 11.3.7 as follows: Substituting "Contractor" for "Owner" at the end of the first sentence.

Amend 11.3.8 as follows: Substitute "Contractor" for "Owner" as fiduciary; except that at the first reference to "Owner" in the first sentence, the word "this" should be substituted for "Owner's."

Amend 11.3.9 as follows: Substitute "Contractor" for "Owner" each time the latter word appears except the word "Owner" remains in the last sentence.

Amend 11.3.10 as follows: Substitute "Contractor" for "Owner" each time the latter word appears.

Amend 11.4.1 and 11.4.2 to read: “11.4 Prior to the commencement of the Work, Contractor shall obtain and provide to Owner a payment and performance bond equal to the amount of the total Contract Sum for the Project as stated herein, guaranteeing the faithful performance of the Work and payment obligations arising hereunder, including without limitation the payment of laborers, subcontractors and material suppliers as required by C.R.S.§38-26-105. The bond shall be in a form satisfactory to Owner in consideration of all material terms therein. Contractor shall require the attorney-in-fact who executes the required bonds on behalf of the surety to affix thereto a certified and current copy of the power of attorney.”

Add 11.4.1.1 as follows: “11.4.1.1 The Contractor shall deliver the required bonds to the Owner no later than seven (7) days following the date the Agreement is signed and before Work is
ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

12.1.2 Modify the last sentence of 12.1.2 to read: “If such Work is not in accordance with the Contract Documents, correction shall be at the Contractor’s expense.”

ARTICLE 13 MISCELLANEOUS PROVISIONS

Add the following to 13.5.3: “Should such special testing, inspection, or approval be caused by the Contractor's failure to follow requirements of the Contract Documents or by required tests per 13.5.1 indicating conditions not in conformance with Contract Documents, the costs of such additional testing, inspection, or approval shall be borne by the Contractor regardless of the results.”

Delete 13.6 in its entirety.

Delete 13.7 in its entirety.

Add 13.8 as follows: “13.8 The signing parties to this agreement do not intend to confer any rights upon any persons not a party to this Contract; accordingly this contract shall not be construed to create any third party beneficiaries.”

Add 13.9 as follows: “13.9 Equal Opportunity:

13.9.1 The Contractor shall maintain policies of employment as follows:

13.9.1.1 The Contractor and the Contractor’s Subcontractors shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, or national origin. The Contractor shall take affirmative action to insure that applicants are employed, and that employees are treated during employment without regard to their race, religion, color, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the policies of non-discrimination.

13.9.1.2 The Contractor and the Contractor's Subcontractors shall, in all solicitations or advertisements for employees placed by them or on their behalf, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, or national origin.

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

14.2.2 Delete the phrase “upon certification by the Initial Decision Maker that sufficient cause exists to justify such action” from the first sentence.

14.2.4 Delete the phrase(s) “shall be certified by the Initial Decision Maker, upon application, and” from the last sentence.

14.4.3 Delete the phrase “on the Work not executed.”
ARTICLE 15 CLAIMS AND DISPUTES

15.1.2 Change both “21 days” to “ten (10) calendar days”.

Add 15.1.5.2 as follows: “15.1.5.2 Weather conditions will be considered abnormal if more severe and extended than those reflected by the ten year average for the month as evidenced by the Climatological Data, U.S. Department of Commerce, for the Project area.”

Add 15.1.5.2.1 as follows: “15.1.5.2.1 Add Subparagraph: Delays due to weather conditions will be allowed on a tentative basis only and a final decision made by the Engineer when the Work is substantially completed. In allowing delays for weather, the Engineer will consider weather conditions prevailing throughout the entire contract period.”

Add 15.1.5.2.3 as follows: “15.1.5.2.3 Claims for increase in the Contract Time shall set forth in detail the circumstances that form the basis for the Claim, the date upon which each cause of delay began to affect the progress of the Work, the date upon which each cause of delay ceased to affect the progress of the Work and the number of days' increase in the Contract Time claimed as a consequence of each such cause of delay. The Contractor shall provide such supporting documentation as the Owner may require including, where appropriate, a revised construction schedule indicating all the activities affected by the circumstances forming the basis of the Claim.”

15.1.6.2 Delete the phrase “except anticipated profit arising directly from the Work”.

15.2.1 Delete the phrase “excluding those arising under Sections 10.3, 10.4, 11.3.9, and 11.3.10 in the first sentence. Change the second and third sentences to read: “An initial decision shall be required as a condition precedent to litigation of any Claim unless thirty (30) days have passed after the Claim has been referred to the Architect with no decision have been rendered in writing. The Engineer will not decide disputes between the Contract and persons or entities other than the Owner.”

15.2.2 Change ten days to “five” work days” and change numbered clause (3) to read: “forward the claim to Owner with a recommendation that the claim be approved.”

15.2.3 Delete the second sentence.

15.2.4 Change the last sentence to read: “Upon receipt of the response or supporting data, if any, the Engineer will either reject the claim or forward the Claim to the owner with recommendation that the claim be approved in whole or part.”

15.2.5 Change the first sentence to read: “The Engineer will evaluate claims by written decision and notify parties of any recommended changes to Contract Sum or Contract Time or both.”

Delete 15.2.6 and 15.2.6.1 in their entirety.

Delete 15.2.8, 15.3 including all subparts (15.3.1, 15.3.2, 15.3.3) and

Delete 15.4 including all its subparts (15.4.1 through 15.4.4.3) in their entirety.

END OF DOCUMENT 00 73 00
A. Project is required to comply with the attached "Wyoming Rural Public Transit Program Agreement Between The Wyoming Department Of Transportation And the Southern Teton Area Rapid Transit DBA Start Bus" with attachments.

B. Certain attachments will require execution by the General Contractor at or about the time that the Project Agreement between Owner and Contractor is executed.

C. Do not remove the original from the Project Manual prior to Owner's receipt of Bids.

D. Original must be in Project Manual at time that Bidding Documents are returned for collection of deposit.

E. Table of Contents:

1. The Agreement with signature page.
2. Attachment "A" with the following provisions:
   a. No Obligation to Third Parties.
   b. Program Fraud and False or Fraudulent Statements and Related Acts.
   d. Federal Changes.
   e. Civil Rights.
   f. Termination.
   g. Disadvantaged Business Enterprise (DBE) Provision.
   h. Incorporation of Federal Transit Administration (FTA) terms.
   i. Government-Wide Debarment and Suspension (Non-Procurement).
   j. Buy America Requirements.
   k. Breaches and Dispute Resolution.
   l. Lobbying.
   m. Clean Air.
   n. Clean Water Requirements.
   o. Cargo Preference Requirements.
   p. Fly America Requirements.
   q. Davis-Bacon and Copeland Anti-Kickback Acts.
   r. Contract Work Hours and Safety Standards Act.
   s. Bonding Requirements.
   t. Seismic Safety Requirements.
   u. Energy Conservation Requirements.
   v. Recovered Materials.
   w. ADA Accessibility.
   x. Loggying Certification (form requiring signature).
   y. Buy America Certification (form requiring signature).

3. Attachment "B" - START Bus State of Good Repair Discretionary Grant (costs).
4. Attachment "C" - Wyoming Department of Transportation; FTS State of Good Repair - Discretionary; Project Cost Reimbursement Statement.
5. Attachment "D" - Wyoming Department of Transportation (schedule of predetermined minimum wage rates).
6. Attachment "E" - Wyoming Department of Transportation (Request for a letter of no prejudice).

(see next page for "Wyoming Rural Public Transit Program Agreement Between The Wyoming Department Of Transportation And the Southern Teton Area Rapid Transit DBA Start Bus")
(see next page for "Wyoming Rural Public Transit Program Agreement Between The Wyoming Department Of Transportation And the Southern Teton Area Rapid Transit DBA Start Bus")
WYOMING RURAL PUBLIC TRANSIT PROGRAM AGREEMENT 
BETWEEN THE  
WYOMING DEPARTMENT OF TRANSPORTATION 
AND THE 
SOUTHERN TETON AREA RAPID TRANSIT DBA START BUS

<table>
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<tr>
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<tr>
<td>Award Name: Bus and Bus Facilities Grants (Discretionary)</td>
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<tr>
<td>Federal Award Number: D2011-BUSP-137</td>
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<table>
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<th>WYDOT Award Information</th>
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<tr>
<td>Recipient DUNS: 137683533</td>
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<tr>
<td>WYDOT Program Mgr.: Talbot Hauffe</td>
</tr>
<tr>
<td>Recipient County: Teton</td>
</tr>
<tr>
<td>WYDOT Contact for Confirmation of Funds: Barbara MacKenzie</td>
</tr>
<tr>
<td>Project No.: FT13055</td>
</tr>
<tr>
<td>Telephone: (307) 777-4384</td>
</tr>
<tr>
<td>Email: <a href="mailto:talbot.hauffe@wyo.gov">talbot.hauffe@wyo.gov</a></td>
</tr>
<tr>
<td>Telephone: (307) 777-4039</td>
</tr>
<tr>
<td>Email: <a href="mailto:barbara.mackenzie@wyo.gov">barbara.mackenzie@wyo.gov</a></td>
</tr>
</tbody>
</table>

1. **Parties.** The parties to this Agreement are the Wyoming Department of Transportation, hereinafter referred to as "WYDOT", whose address is 5300 Bishop Blvd., Cheyenne, WY 82009, and the Southern Teton Area Rapid Transit dba START Bus, hereinafter referred to as the "Recipient", whose address is 450 West Snow King, Jackson, WY 83001.

2. **Purpose.** The purpose of this Agreement is to provide for the undertaking of Phase II of the START Bus Transit Facility (hereinafter referred to as "Project") by the Recipient and to state the terms, conditions and mutual understandings of the parties as to the manner in which the Project will be undertaken and completed. This Project is funded through a discretionary grant awarded to the WYDOT from the Federal Transit Administration known by Federal Award Number D2011-BUSP-137.

   WYDOT has been approved by Wyo. Stat. § 24-15-102 to administer these program funds in accordance with guidelines of the Wyoming Transportation Program Management Plan.

   WYDOT and the Recipient desire to secure and utilize grant funds for the public transportation needs in small urban and rural areas in the State of Wyoming.

3. **Term of Agreement.** This Agreement shall commence upon the day and date last signed and executed by the duly authorized representatives of the parties to this Agreement and shall remain in full force and effect until terminated. This Agreement may be terminated,
without cause, by either party upon 30 days written notice, which notice shall be
delivered by hand or certified mail.

4. In consideration of the mutual covenants herein set forth, WYDOT and the
Recipient agree as to the following General Conditions

a. Project Scope. The Recipient shall undertake and complete the Project as
described in its application, herewith incorporated by reference, filed with and
approved by WYDOT in accordance with the terms and conditions of this
Agreement. This project shall consist of:
(i) Final Permitting and Design;
(ii) Construction of Heated Fleet Storage Building – First Phase;
(iii) Below Grade Utility and Parts Storage;
(iv) Wash Station;
(v) Roadway Construction; and
(vi) Miscellaneous Site Work.

b. Project Allocation. Federal funding for this project will not exceed $5,000,000.
In accordance with WYDOT’s policies, a program match requirement of 80
percent of federal and 20 percent local share of the project costs shall apply.
Project total cost exceeding project estimate of $6,250,000 (including local
match) shall be borne by the Recipient. The Recipient agrees that it will provide
from local and unrestricted Federal funds, monies in the amount sufficient
together with the Grant to assure payment of the actual Project costs. The
Recipient’s eligible costs incurred shall be reimbursed on an approved WYDOT
reimbursement request form – included as Attachment “C”. WYDOT reserves
the right to request support documentation for any and all submittals. The basis
for reimbursement shall be Capital: Federal 80.00 percent, Local 20.00 percent.
The Recipient shall initiate and prosecute to completion all actions necessary to
enable the Recipient to provide its share of the Project costs at or prior to the time
that such funds are needed to meet Project costs.

This Agreement is required to comply with the Federal Funding Accountability
and Transparency Act (FFATA) of 2006. As the prime recipient of these funds,
WYDOT will report the required information to the Federal Funding
Accountability and Transparency Act Subaward Reporting System (FSRS). The
FFATA requires any person or entity receiving contract or grant funds directly
from the federal government to report certain information regarding those funds
through a centralized website, www.fsrs.gov. The law requires that you provide
your Data Universal Numbering System (DUNS) number to WYDOT. This
requirement means you need to be registered with DUNS and Bradstreet.
Instructions for this process can be found at www.dnb.com. Additional
information regarding this Act may be found at the following sites:

and

Wyoming Rural Public Transportation Program Agreement No. SGR-13-FTA-55
between the Wyoming Department of Transportation and the Southern Teton Area Rapid Transit dba START Bus
Page 2 of 13
c. **Purchase of Project Equipment.** The purchase of all Project Equipment financed in whole or in part pursuant to this Agreement shall be undertaken by Recipient in accordance with the procedures established by Recipient and in compliance with State and Federal Laws. In the absence of written procedures, the Recipient shall follow WYDOT's procedure. Recipient shall provide WYDOT with a copy of their procedures prior to purchasing any project equipment.

d. **Title to Project Equipment.** Title to Project Equipment shall be in the name of the Recipient subject to the restrictions on use and disposition of the Project Equipment set forth herein.

e. **Use of Project Equipment.** The Recipient agrees that the Project Equipment, and/or facilities, shall be used for the purpose for which it was acquired, as long as it is needed in the Project. If the Project Equipment is no longer needed, or cannot be used for the intended purpose; prior to selling or otherwise disposing of the Project Equipment, the Recipient shall immediately notify WYDOT. Before selling or otherwise disposing of the Project Equipment, the Recipient must receive a written letter from WYDOT allowing the sale or disposal. The Recipient shall not execute any lease, pledge, mortgage, lien, or other contract touching or affecting the Federal interest in any Project Equipment, nor shall it obligate itself in any other manner, with any third party with respect to the Project Equipment, unless such lease, pledge, mortgage, lien, contract, or other obligation is either in conformance with the standards of Federal Transit Administration (FTA) guidelines or is otherwise expressly authorized in writing by WYDOT; nor shall the Recipient or any other organization that obtains facilities or equipment through this Grant, by any act or omission of any kind, impair its continuing control over the use of Project Equipment. The Recipient shall maintain satisfactory records with regard to the use of the property and submit to WYDOT upon request such information as is required in order to assure compliance with this section. The Recipient shall immediately notify WYDOT in all cases where Project Equipment is used in a manner substantially different from that described in the Project description. The Recipient shall maintain an amount and form satisfactory to WYDOT such insurance or self-insurance as will be adequate to protect Project Equipment throughout the period of required use. The Recipient shall also submit to WYDOT, on a triennial basis, a certification that the Project Equipment is still being used in accordance with the terms of this section and that no part of the local contribution to the cost of the Project has been refunded or reduced. During the period of contract performance, the Recipient shall maintain the Project Equipment at a high level of cleanliness, safety and mechanical soundness. WYDOT and the FTA shall have the right to monitor maintenance records in order to confirm that proper upkeep has been conducted pursuant to this section. Useful life for the facility is established as 40 years in accordance with FTA Circular 5010.1D.
f. **Prohibited Interest.** No member, officer or employee of the Recipient during his tenure or one year thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.

g. **Restrictions, Prohibitions, Controls and Labor Provisions**

(i) **Equal Employment Opportunity.** In connection with the carrying out of the Project, the Recipient shall not discriminate against any employee or applicant for employment because of race, color, age, creed, sex, national origin or disability. The Recipient shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, sex, age, national origin or disability. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

(ii) **Disadvantaged Business Enterprise (DBE) Requirements.**
1. **Policy.** It is the policy of WYDOT that disadvantaged business enterprises, defined as Minority Business Enterprises and Woman Business Enterprises, shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this Agreement. Consequently, the DBE requirements of 49 CFR Part 26 apply to this Agreement.
2. **DBE Obligation.** The Recipient or its contractor agrees to ensure that disadvantaged business enterprises as defined in 49 CFR Part 26 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this Agreement. In this regard, all Recipients shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that DBE’s have the maximum opportunity to compete for and perform contracts. The Recipient and their contractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of WYDOT assisted contracts.

(iii) **Title VI Civil Rights Act of 1964.** The Recipient shall comply and shall assure the compliance by contractors and subcontractors under this Project with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (49 U.S.C. 2000d), the Regulations of the Department of Transportation (DOT) issued thereunder, 49 CFR Part 21, and the Assurance by the Recipient pursuant thereto.

(iv) **Compliance with Elderly and Disabled Regulations.** The Recipient shall comply with applicable regulations regarding transportation for Elderly and Disabled person, set forth in 49 CFR Part 27 and the Americans with Disabilities Act of 1990.
h. Nondiscrimination On The Basis of Disability - 504 Regulations
   (i) The Recipient shall ensure to WYDOT that persons with disabilities and
groups representing them have had adequate notice of and opportunity to
comment on the present and proposed plans for providing transportation to
disabled persons unable to use general public service.
(ii) The Recipient must certify to WYDOT that special efforts are being made
to provide transportation to eligible disabled persons. This service must
be reasonable in cost, meet a significant fraction for such transportation
needs, and be provided within a reasonable time.
(iii) The Recipient is to submit a status report to WYDOT (updated every three
years). The report must include:
   1. A description of the service to the disabled, as compared to the general
public service.
   2. Copies or a summary of the comments received in response to the
   opportunity to comment.
   3. A statement of any plans to significantly modify the services.
   4. A statement of the resources devoted to the disabled service.

i. Safety Jurisdiction. FTA requires that all Recipients operate their service in a
safe manner and not allow any conditions to develop that “create a serious hazard
of death or injury.” The Recipient shall ensure that all contractors ensure the
safety of construction sites so that no laborer or mechanic shall be required to
work in surroundings or conditions that are unsanitary, hazardous, or dangerous
as prohibited by the safety requirements of Section 107 of the Contract Work
Hours and Safety Standards Act, 40 U.S.C. Section 3704, and its implementing
1926.

j. Records and Reports
   (i) Establishment and Maintenance of Accounting Records. The Recipient
shall establish and maintain, in accordance with requirements established
by WYDOT, separate accounts for the Project, either independently or
within its existing accounting system, to be known as the Project Account.
(ii) Documentation of Project Costs. All charges to the Project Account shall
be supported by properly executed invoices, contracts or vouchers
evidencing in proper detail the nature and propriety of the charges, in
accordance with the rules and regulations of WYDOT. Copies and/or
supporting documentation of such invoices, contracts or vouchers may be
included with billing statements to cover all charges submitted for
payment. Billing submissions and records shall be sent electronically.
The original documentation should be maintained by the Recipient in the
Project file and must be available to WYDOT upon request.
(iii) Checks, Orders and Vouchers. Any check or order drawn by the Recipient
with respect to any item which is or will be chargeable against the Project
Account will be drawn only in accordance with a properly signed voucher then on file in the office of the Recipient stating in proper detail the purpose for which such check or order is drawn. All checks, invoices, contracts, vouchers, orders or other accounting documents pertaining in whole or in part to the Project shall be clearly identified, readily accessible and, to the extent feasible, kept separate and apart from all other such documents.

(iv) Reports. The Recipient shall advise WYDOT regarding the progress of the Project at such times and in such manner as WYDOT may require, including, but not limited to meetings and interim reports. The Recipient shall update WYDOT, at least monthly, as to progress of the project. Recipient, or its authorized representatives, shall notify WYDOT of regularly scheduled Project meetings and include notes from these meetings in the monthly updates. WYDOT shall be informed of any pre-construction meetings/conferences and shall be given sufficient notice to allow a representative of WYDOT to attend. Ten days shall be considered sufficient notice. If the Recipient has an audit performed for their own purposes, the Recipient agrees to provide WYDOT with a copy of such audit report. The Recipient shall keep all records and audit reports on file for three years after receipt of their final Project payment.

k. Required Clauses. The Recipient shall include in all subcontracts and entered into pursuant to this Agreement all of the above required clauses and those Federal clauses included in the attached Attachment “A”. In addition, the following required provision shall be included in any advertisement of invitation to bid for any procurement under this Agreement: “Statement of Financial Assistance. This contract is subject to a financial assistance contract between WYDOT and the Federal Transit Administration.”

5. Special Provisions

a. Buy America. The provisions of 49 CFR Part 661 shall apply to this Project. No funds may be obligated by FTA for a grantee project unless all iron, steel and manufactured products used in the project are produced in the United States. These items include, but are not limited to, structural steel or iron and steel or iron beams and columns. A copy of the required Certification is included in Attachment “A”.

b. Labor Provisions

(i) Wage and Hour Requirements. Recipient shall include provisions in its third party contracts requiring the contractor to compute the wages of every mechanic and laborer based on a standard 40 hour workweek. Work in excess of 40 hours in the workweek is permitted if the worker is paid not less than one and one-half times the basic rate of pay for all hours in excess of 40 hours.

(iii) Prevailing Wage. Under 49 U.S.C. Section 5333(a), Davis-Bacon Act prevailing wage protections apply to laborers and mechanics employed on FTA assisted construction projects. The Davis-Bacon Act requires contractors to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. The Davis-Bacon Act also requires contractors to pay wages not less than once a week. The Recipient must include a copy of the current prevailing wage determination issued by the DOL in each contract solicitation and must condition contract award upon the acceptance of that wage determination. The current wage determination is included as Attachment “D”. Prior to advertising for bids for the Project, the Recipient shall verify that the current version is included in the advertisement.

c. Letter of No Prejudice. A Letter of No Prejudice (LONP) has been filed with the FTA for the remaining eligible transit phases of the Recipient’s project. This LONP does not construe a commitment from the FTA or the WYDOT for any additional participation in the Project beyond the funding specified in the Project Allocation section above. The LONP allows the Recipient to continue to pursue other funding sources with the possibility of being reimbursed from the FTA. The Recipient understands that in order to be eligible for consideration for reimbursement, all costs must be incurred in compliance with all Federal, State and Local laws and regulations. The Letter of No Prejudice is included as Attachment “E”.


a. Amendments. Either party may request changes in this Agreement. Any changes, modifications, revisions or amendments to this Agreement which are mutually agreed upon by and between the parties to this Agreement shall be incorporated by written instrument, executed and signed by all parties to this Agreement.


c. Applicable Law and Venue. The construction, interpretation and enforcement of this Agreement shall be governed by the laws of the State of Wyoming. The Courts of the State of Wyoming shall have jurisdiction over this Agreement and the parties, and the venue shall be in the First Judicial District, Laramie County, Wyoming.

d. Assignment/Agreement Not Used as Collateral. Neither party shall assign nor otherwise transfer any of the rights or delegate any of the duties set forth in this
e. **Assumption of Risk.** The Recipient shall assume the risk of any loss of state or federal funding, either administrative or program dollars, due to its failure to comply with state or federal requirements. WYDOT will notify the Recipient of any state or federal determination of noncompliance.

f. **Audit/Access to Records.** This Agreement is considered a pass-through Agreement and must follow the Office of Management and Budget (OMB) Circular A-133 which requires Recipients that expend $500,000 or more in total Federal awards during their fiscal year to:

- Have a single audit or program-specific audit conducted; and
- The audit must be submitted to the Federal Audit Clearinghouse within the earlier of 30 days after receipt of the auditor’s report(s), or within 9 months after the end of the audit period, unless a longer period is agreed to in advance by the Federal agency that provided the funding or a different period is specified in a program-specific audit guide.
- No audit costs may be charged to Federal awards when required audits have not been made or have been made but not in accordance with OMB Circular A-133. In cases of inability or unwillingness to have an audit conducted in accordance with OMB Circular A-133, Federal agencies and pass-through entities shall take appropriate action using sanctions as follows:
  - Withholding a percentage of Federal awards until the audit is completed satisfactorily;
  - Withholding or disallowing overhead costs;
  - Suspending Federal awards until the audit is conducted; or
  - Terminating the Federal award.

In addition to the above requirements, WYDOT Internal Review requires Recipients to:

- Provide a certification letter to WYDOT that states:
  - If the above-mentioned audit was conducted,
  - If the schedule of findings and questioned costs disclosed any audit findings related to WYDOT funding, and
  - If the summary schedule of prior audit findings reported on the status of any audit findings related to WYDOT funding.
- Provide WYDOT with a copy of the Recipient’s audit report and corrective action plan only when the audit report includes material findings related to WYDOT funding.

A copy of the certification and/or audit report should be sent to:

Wyoming Department of Transportation
Internal Review Services
5300 Bishop Boulevard
Cheyenne, Wyoming 82009-3340

The Recipient may be subject to monitoring activities by WYDOT including on-site visits, review of supporting documents, and limited scope audits. The Recipient shall permit independent auditors, Federal personnel and WYDOT auditors, access to any pertinent books, documents, papers, and records necessary to perform monitoring of activities. The Recipient shall keep audit reports and audit documents on file for three years after the project is complete. The audit is the sole responsibility of the Recipient.

**g. Availability of Funds.** Each payment obligation of WYDOT is conditioned upon the availability of government funds which are appropriated or allocated for the payment of this obligation. If funds are not allocated and available for the continuance of the services performed by the Recipient, this Agreement may be terminated by WYDOT at the end of the period for which the funds are available. WYDOT will notify the Recipient at the earliest possible time of the services which will or may be affected by a shortage of funds. No penalty shall accrue to WYDOT in the event this provision is exercised, and WYDOT will not be obligated or liable for any future payments due or for any damages as a result of termination under this section. This provision shall not be construed to permit WYDOT to terminate this Agreement in order to acquire similar services from another party.

**h. Compliance with Law.** The Recipient shall keep informed of and comply with all applicable, Federal, State and local laws and regulations in the performance of this Agreement.

**i. Contracts Under this Agreement.** Unless otherwise authorized in writing by WYDOT, the Recipient shall not assign any portion of the work to be performed under this Agreement, or execute any contract, amendment or change order thereto, or obligate itself in any manner with any third party with respect to its rights and responsibilities under this Agreement without the prior written concurrence of WYDOT.

**j. Entirety of Agreement.** This Agreement, consisting of 13 pages, Attachment “A”, consisting of 14 pages, Attachments “B”, “C”, and “E”, consisting of one page each, and Attachment “D”, consisting of four pages; represents the entire and integrated Agreement between the parties and supersedes all prior negotiations, representations and agreements, whether written or oral.

**k. Human Trafficking.** If required by 22 U.S.C. 7104(g) and 2 CFR Part 175, this Agreement may be terminated without penalty if a private entity that receives funds under this Agreement:

(i) Engages in severe forms of trafficking in persons during the period of time that the award is in effect;
(ii) Procures a commercial sex act during the period of time that the award is in effect; or
(iii) Uses forced labor in the performance of the award or subawards under the award.

l. **Indemnification.** The Recipient shall indemnify, defend and hold harmless the State of Wyoming, WYDOT, and their officers, agents, employees, successors and assignees from any and all claims, lawsuits, losses and liability arising out of the Recipient’s failure to perform any of Recipient’s duties and obligations hereunder or in connection with the negligent performance of the Recipient’s duties or obligations, including but not limited to any claims, lawsuits, losses or liability arising out of the Recipient’s malpractice.

m. **Kickbacks**
   (i) The Recipient shall comply with the Copeland “Anti-Kickback” Act (18 U.S.C. 874) as supplemented in the Department of Labor Regulations (29 CFR, Part 3). This Act provides that the Recipient is prohibited from inducing by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled.
   (ii) The Recipient certifies and warrants that no gratuities, kickbacks or contingency fees were paid in connection with this Agreement, nor were any fees, commissions, gifts, or other considerations made contingent upon the award of this Agreement.
   (iii) No staff member of the Recipient shall engage in any contract or activity which would constitute a conflict of interest as related to this Agreement.
   (iv) If the Recipient breaches or violates this warranty, WYDOT may, at its discretion, terminate this Agreement without liability to WYDOT, or deduct from the agreement price or consideration, or otherwise recover, the full amount of any commission, percentage, brokerage, or contingency fee.

n. **Nondiscrimination.** The Recipient shall comply with the Civil Rights Act of 1964, the Wyoming Fair Employment Practices Act (Wyo. Stat. § 27-9-105 et seq.), the Americans with Disabilities Act (ADA), 42 U.S.C. 12101, et seq. and the Age Discrimination Act of 1975. The Recipient shall not discriminate against any individual on the grounds of age, sex, color, race, religion, national origin or disability in connection with the performance of this Agreement. In reference to Title VI Policy, WYDOT’s Civil Rights Program is responsible for initiating and monitoring Title VI activities, preparing required reports and the WYDOT responsibilities as required by 23 Code of Federal Regulations (CFR) 200 and 49 CFR 21.

o. **Notices.** All notices arising out of, or from, the provisions of this Agreement shall be in writing and given to the parties at the address provided under this Agreement, either delivered by hand or certified mail.
p. **Prior Approval.** This Agreement shall not be binding upon either party unless this Agreement is approved as to form by the Attorney General or his representative.

q. **Publicity.** Any publicity given to the program or services provided herein, including, but not limited to, notices, information, pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Recipient and related to the services and work to be performed under this Agreement shall identify WYDOT as the sponsoring agency and shall not be released without prior written approval of WYDOT.

r. **Severability.** Should any portion of this Agreement be judicially determined to be illegal or unenforceable, the remainder of this Agreement shall continue in full force and effect, and either party may renegotiate the terms affected by the severance.

s. **Sovereign Immunity.** The State of Wyoming and WYDOT do not waive sovereign immunity by entering into this Agreement and the Recipient does not waive governmental immunity, and each specifically retains all immunities and defenses available to them as sovereigns or governmental entities pursuant to Wyo. Stat. § 1-39-101, et seq., and all other applicable law. Designations of venue, choice of law, enforcement actions, and similar provisions shall not be construed as a waiver of sovereign immunity. The parties agree that any ambiguity in this Agreement shall not be strictly construed, either against or for either party, except that any ambiguity as to sovereign immunity shall be construed in favor of sovereign immunity.

t. **Suspension and Debarment.** By signing this Agreement, Recipient certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction nor from federal financial or non-financial assistance, nor are any of the participants involved in the execution of this Agreement suspended, debarred, or voluntarily excluded by any federal department or agency in accordance with Executive Order 12549 (Debarment and Suspension) and CFR 44 Part 17, or are on the disbarred vendors list at www.sam.gov. Further, Recipient agrees to notify WYDOT by certified mail should it or any of its agents become debarred, suspended, or voluntarily excluded during the term of this Agreement.

u. **Termination**
   (i) **For Convenience.** WYDOT may terminate the Project and cancel this Agreement if both parties agree that the continuation of the Project would not produce beneficial results commensurate with the further expenditure of funds.
   
   (ii) **With Cause.** WYDOT may, by written notice to the Recipient, terminate the Project and cancel this Agreement for any of the following reasons:
1. The Recipient discontinues the use of such vehicles, equipment or facilities during their useful lives for the purpose of providing public or special public transportation services;
2. The Recipient takes any action pertaining to this Agreement without the approval of WYDOT and which under the procedures of this Agreement would have required the approval of WYDOT;
3. The commencement, prosecution or timely completion of the Project by the Recipient is, for any reason, rendered improbable, impossible or illegal;
4. The Recipient shall be in default under any provision of this Agreement.

(iii) Action Upon Termination. Upon termination of the Project and cancellation of this Agreement under the provisions of Paragraph (i) and (ii) of this Article, the Recipient agrees to dispose of the project equipment in accordance with WYDOT procedures.

v. **Third Party Beneficiary Rights.** The parties do not intend to create in any other individual or entity the status of third party beneficiary, and this Agreement shall not be construed so as to create such status. The rights, duties and obligations contained in this Agreement shall operate only between the parties to this Agreement and shall inure solely to the benefit of the parties to this Agreement. The provisions of this Agreement are intended only to assist the parties in determining and performing their obligations under this Agreement.

The terms of this Agreement, and any amendments thereto, shall be binding upon and inure to the parties hereto, their administrators and successors.

"THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK"
7. **Signatures.** In witness whereof, the parties to this Agreement, either personally or through their duly authorized representatives, have executed this Agreement on the days and dates set out below and certify that they have read, understood, and agreed to the terms and conditions of this Agreement.

The effective date of this Agreement is the day and date last signed and executed by the duly authorized representatives of the parties to this Agreement, below.

**ATTEST:**

**SOUTHERN TETON AREA RAPID TRANSIT dba START BUS:**

By: __________________________

Name, Title

Title

(Date)

(SEAL)

**ATTEST:**

**WYOMING DEPARTMENT OF TRANSPORTATION:**

By: __________________________

Gregg C. Fredrick, P.E., Assistant Chief Engineer – Engineering and Planning

(Signature)

(Date)

Approved as to form:

By: __________________________

Douglas J. Moench
Senior Assistant Attorney General
State of Wyoming

(SEAL)
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Attachment “A”

No Obligation to Third Parties:
No Obligation by the Federal Government.

1) The Purchaser and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the Purchaser, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

2) The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.


1) The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §§3801 et seq. And U.S. DOT regulations, “Program Fraud Civil Remedies,” 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

2) The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. §§5307, the Government reserves the right to impose the penalties of 18 U.S.C. §1001 and 49 U.S.C. §5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.

3) The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.


Access to Records. The following access to records requirements apply to this Contract:

1) Where the Purchaser is not a State but a local government and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 18.36(i), the Contractor agrees to provide the Purchaser, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 C.F.R. 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to Contractor’s records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a), which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.

2) Where the Purchaser is a State and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 633.17, Contractor agrees to provide the Purchaser, the FTA Administrator or his authorized representatives including any PMO Contractor access to Contractor’s records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a), which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311. By definition, a major capital project excludes contracts of less than the simplified acquisition threshold currently set at $100,000.

3) Where the Purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, an hospital or other non-profit organization and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 19.48, Contractor agrees to provide the Purchaser, the FTA Administrator, the Comptroller General of the United States or any of their duly authorized representatives with access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.

4) Where any Purchaser, which is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 U.S.C. 5325(a) enters into a contract for a capital project or improvement (defined at 49 U.S.C. 5302(a)) through other than competitive bidding, the Contractor shall make available records related to the contract to the Purchaser, the Secretary of Transportation and the Comptroller General or any authorized officer of employee of any of them for the purposes of conducting an audit and inspection.
5) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

6) The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until the Purchaser, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference of 49 CFR 18.39(i)(11).

Federal Changes: 49 CFR Part 18
Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Agreement (Form FTA MA (19) dated October 1, 2012) between purchaser and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

29 CFR Part 1630 – 41 CFR Parts 60 et seq.
The following requirements apply to the underlying contract:

1) Nondiscrimination – In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202, of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

2) Equal Employment Opportunity – The following equal opportunity requirements apply to the underlying contract:
   a) Race, Color, Creed, National Origin, Sex – In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor,” 41 C.F.R. Parts 60 et seq. (which implement Executive Order No. 11246, “Equal Employment Opportunity,” as amended by Executive Order No. 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
   b) Age – In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
   c) Disabilities – In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Commission, “Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act,” 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

3) The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

Termination: 49 U.S.C. Part 18 – FTA Circular 4220.1F
Applicability: All Contracts in excess of $10,000

1) Termination for Convenience – The Recipient may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Government’s best interest. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to the Recipient to be paid the Contractor. If the Contractor has any property in its
possession belonging to the Recipient, the Contractor will account for the same, and dispose of it in the manner the Recipient directs.

2) **Termination for Default [Breach or Cause]** – If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or, if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, the Recipient may terminate this contract for default. Termination shall be effected by serving a notice of termination on the contractor setting forth the manner in which the Contractor is in default. The contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract.

If it is later determined by the Recipient that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, the Recipient, after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

3) **Opportunity to Cure** – The Recipient in its sole discretion may, in the case of a termination for breach or default, allow the Contractor ten (10) days in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions.

If Contractor fails to remedy to Recipient’s satisfaction the breach or default of any of the terms, covenants, or conditions of this contract within ten (10) days after receipt by Contractor of written notice from Recipient setting forth the nature of said breach or default, Recipient shall have the right to terminate the Contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude Recipient from also pursuing all available remedies against contractor and its sureties for said breach or default.

4) **Waiver of Remedies for any Breach** – In the event that Recipient elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Contract, such waiver by Recipient shall not limit Recipient’s remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

5) **Termination for Default [Construction]** – If the Contractor refuses or fails to prosecute the work or any separable part, with the diligence that will insure its completion within the time specified in this contract or any extension or fails to complete the work within this time, or if the Contractor fails to comply with any other provisions of this contract, the Recipient may terminate this contract for default. The Recipient shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. In this event, the Recipient may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the Recipient resulting from the Contractor’s refusal or failure to complete the work within specified time, whether or not the Contractor’s right to proceed with the work is terminated. This liability includes any increased costs incurred by the Recipient in completing the work.

The Contractor’s right to proceed shall not be terminated nor the Contractor charged with damages under this clause if:

(a) the delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include: acts of God, acts of the Recipient, acts of another Contractor in the performance of a contract with the Recipient, epidemics, quarantine restrictions, strikes, freight embargos; and

(b) the Contractor, within ten (10) days from the beginning of any delay, notifies the Recipient in writing of the causes of delay. If in the judgment of the Recipient, the delay is excusable, the time for completing the work shall be extended. The judgment of the Recipient shall be final and conclusive on the parties, but subject to appeal under the Breaches and Disputes Resolution clauses.

If, after termination of the Contractor’s right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of the Recipient.

**Disadvantaged Business Enterprise (DBE) Provision: 49 CFR Part 26**

1) This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The Wyoming Department of Transportation’s overall goal for DBE participation in FTA funded projects is 1.03%. A separate contract goal has not been established for this procurement.

2) The contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of
this DOT-assisted contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the Wyoming Department of Transportation and the Recipient deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).

3) The successful bidder/offeree will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.

4) The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor’s receipt of payment for that work from WYDOT or the Recipient. In addition, the contractor may not hold retainage from its subcontractors.

5) The contractor must promptly notify WYDOT and the Recipient, whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of WYDOT and the Recipient.

Incorporation of Federal Transit Administration (FTA) Terms: FTA Circular 4220.1F

The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1E, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any (name of grantee) requests which would cause (name of grantee) to be in violation of the FTA terms and conditions.

Government-Wide Debarment and Suspension (Non-Procurement) – 49 CFR Part 29 – Executive Order 12549

Applicability: The provisions of Part 29 apply to all contracts and subcontracts at any level expected to equal or exceed $25,000.

This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the contractor is required to verify that none of the contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by WYDOT and the Recipient. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to WYDOT and the Recipient, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.


Applicability: The Buy America requirements apply to the following types of contracts: Construction Contracts valued at more than $100,000.

The Contractor agrees to comply with 49 U.S.C. 5323(j) and 49 CFR Part 661, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 CFR 661.7. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C) and 49 CFR 661.11. Rolling stock must be assembled in the United States and have a 60 percent domestic content.

A bidder or offeror must submit to the FTA recipient the appropriate Buy America certification with all bids or offers on FTA-funded contracts, except those subject to a general waiver. Bids or offers that are not accompanied by a completed Buy America certification must be rejected as nonresponsive. This requirement does not apply to lower tier subcontractors.
Breaches and Dispute Resolution: 49 CFR Part 18 – FTA Circular 4220.1F

Applicability: All contracts in excess of $100,000 shall contain provisions or conditions which will allow for administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate. This may include provisions for bonding, penalties for late or inadequate performance, retained earnings, liquidated damages or other appropriate measures.

1) Disputes. Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of Recipient’s Project Sponsor. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the Project Sponsor. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the Project Sponsor shall be binding upon the Contractor and the Contractor shall abide by the decision.

2) Performance During Dispute. Unless otherwise directed by Recipient, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

3) Claims for Damages. Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefore shall be made in writing to such other party within a reasonable time after the first observance of such injury of damage.

4) Remedies. Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the Recipient and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the Recipient is located.

5) Rights and Remedies. The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the Recipient, Architect or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.


Applicability: The Lobbying requirements apply to Construction/Architectural and Engineering/Acquisition of Rolling Stock/Professional Service Contract/Operational Service Contract/Turnkey contracts.


Clean Air: 42 U.S.C. 7401 et seq. – 40 CFR 15.61 – 49 CFR Part 18

Applicability: Clean Air requirements apply to all contracts exceeding $100,000, including indefinite quantities where the amount is expected to exceed $100,000 in any year.

1) The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

2) The Contractor also agrees to include these requirements in each subcontract exceeding $100,000 financed in whole or in part with Federal assistance provided by FTA.

Clean Water Requirements: 33 U.S.C. 1251

Applicability: Clean water requirements apply to each contract and subcontract which exceeds $100,000.

1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

2) The Contractor also agrees to include these requirements in each subcontract exceeding $100,000 financed in whole or in part with Federal assistance provided by FTA.

Applicability: Cargo Preference requirements apply to all contracts involving equipment, materials, or commodities which may be transported by ocean vessels.

Cargo Preference – Use of United States-Flag Vessels: The Contractor agrees to:

1) to use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping equipment, material, or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels;

2) to furnish within 20 working days following the date of loading for shipments originating within the United States, a legible copy of a rated, “on-board” commercial ocean bill-of-lading in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and the FTA recipient (through the contractor in the case of a subcontractor’s bill-of-lading); and

3) to include these requirements in all subcontracts issued pursuant to this contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.


The Contractor agrees to comply with 49 U.S.C. 40118 (the “Fly America” Act) in accordance with the General Services Administration’s regulations at 41 CFR Part 301-10, which provide that recipients and subrecipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.


Applicability: Davis-Bacon and the Copeland Anti-Kickback Act applies to all construction contracts over $2,000.

(The language in this clause is mandated under the DOL regulations at 29 C.F.R. § 5.5(a)).

(1) Minimum wages.

(i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer’s payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conforming under paragraph (1)(ii) of this section) and the Davis-Bacon poster (WH- 13 21) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii) (A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

1) Except with respect to helpers as defined as 29 CFR 5.2(n)(4), the work to be performed by the classification requested is not performed by a classification in the wage determination; and
2) The classification is utilized in the area by the construction industry; and
3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and
4) With respect to helpers as defined in 29 CFR 5.2(n)(4), such a classification prevails in the area in which the work is performed.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii)(B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(v) (A) The contracting officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:
1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
2) The classification is utilized in the area by the construction industry; and
3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an
authorized representative, will issue a determination with 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(v)(B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(2) Withholding - The Wyoming Department of Transportation or the Recipient shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, WYDOT or the Recipient may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) Payrolls and basic records.

(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii) (A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the WYDOT or the Recipient for transmission to the Federal Transit Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014- 1), U.S. Government Printing Office, Washington, DC 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors.

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

1) That the payroll for the payroll period contains the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5 and that such information is correct and complete;
2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;
3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.
(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the Federal Transit Administration or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) Apprentices and trainees

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker fisted on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator of the Wage and Hour Division of the U.S. Department of Labor determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.
(5) **Compliance with Copeland Act requirements** - The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) **Subcontracts** - The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the Federal Transit Administration may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) **Contract termination: debarment** - A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) **Compliance with Davis-Bacon and Related Act requirements** - All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) **Disputes concerning labor standards** - Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(10) **Certification of eligibility**

   (i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

   (ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).


**Applicability**: Construction Contracts in excess of $100,000.

(These clauses are specifically mandated under DOL regulation 29 C.F.R. § 5.5 and when preparing a construction contract in excess of $2,000 these clauses should be used in conjunction with the Davis-Bacon Act clauses. For non-construction contracts, this is the only section required along with the payroll section.)

(1) **Overtime requirements**. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) **Violation; liability for unpaid wages; liquidated damages**. In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clauses set forth in paragraph (1) of this section, in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

(3) **Withholding for unpaid wages the liquidated damages**. The Recipient shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.
(4) **Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractors to include these clauses in any lower tier contracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section. Section 102 non-construction contracts should also have the following provision:

(5) **Section 107 (OSHA)**

(i) The Contractor agrees to comply with Section 107 of the Contract Work House and Safety Standards Act, 40 U.S.C. section 333, and applicable DOL regulations, “Safety and Health Regulations for Construction” 29 C.F.R. Part 1926. Among other things, the Contractor agrees that it will not require any laborer or mechanic to work in unsanitary, hazardous, or dangerous surroundings or working conditions.

(ii) **Subcontracts.** The Contractor also agrees to include the requirements of this section in each subcontract. The term “subcontract” under this section is considered to refer to a person who agrees to perform any part of the labor or material requirements of a contract for construction, alteration or repair. A person who undertakes to perform a portion of a contract involving the furnishing of supplies or materials will be considered a “subcontractor” under this section if the work in question involves the performance of construction work and is to be performed:

1. directly on or near the construction site, or
2. by the employer for the specific project on a customized basis. Thus, a supplier of materials which will become an integral part of the construction is a “subcontractor” if the supplier fabricates or assembles the goods or materials in question specifically for the construction project and the work involved may be said to be construction activity. If the goods or materials in question are ordinarily sold to other customers from regular inventory, the supplier is not a “subcontractor.” The requirements of this section do not apply to contracts or subcontracts for the purchase of supplies or materials or articles normally available on the open market.

**Bonding Requirements:**

*Applicability:* For those construction or facility improvement contracts or subcontracts exceeding $100,000. FTA may accept the bonding policy and requirements of the recipient, provided that they meet the minimum requirements for construction contracts as follows:

1. A bid guarantee from each bidder equivalent to five (5) percent of the bid price. The “bid guarantees” shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.

2. A performance bond on the part of the Contractor for 100 percent of the contract price. A “performance bond” is one executed in connection with a contract to secure fulfillment of all the contractor’s obligations under such contract.

3. A payment bond on the part of the Contractor for 100 percent of the contract price. A “payment bond” is one executed in connection with a contract to assure payment, as required by law, of all persons supplying labor and material in the execution of the work performed for in the contract. Payment bond amounts required from Contractors are as follows:

   (i) 50% of the contract price if the contract price is not more than $1 million;

   (ii) 40% of the contract price if the contract price is more than $1 million but not more than $5 million; or

   (iii) $2.5 million if the contract price is more than $5 million.

4. A cash deposit, certified check or other negotiable instrument may be accepted by a grantee in lieu of performance and payment bonds, provided the grantee has established a procedure to assure that the interest of FTA is adequately protected. An irrevocable letter of credit would also satisfy the requirement for a bond.

**Seismic Safety Requirements:** 42 U.S.C. 7701 et seq. – 49 CFR Part 41

*Applicability:* The Seismic Safety requirements apply only to contracts for the construction of new buildings or additions to existing buildings.

The Contractor agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation Seismic Safety Regulations 49 CFR Part 41 and will certify to compliance to the extent required by the regulation. The Contractor also agrees to ensure that all work performed under this contract including work performed by a subcontractor is in compliance with the standards required by the Seismic Safety Regulations and the certification of compliance issued on the project.

Applicability: Energy conservation requirements are applicable to all contracts.

The Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.


The contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

ADA Accessibility: 42 U.S.C. 12101 et seq.

Applicability: Facilities construction or renovation contracts.

Facilities to be used in public transportation service must comply with 42 U.S.C. Sections 12101 et seq. and DOT regulations, “Transportation Services for Individuals with Disabilities (ADA),” 49 CFR Part 37; and Joint ATBCB/DOT regulations, “Americans with Disabilities (ADA) Accessibility Specifications for Transportation Vehicles,” 36 CFR Part 1192 and 49 CFR Part 38. Notably, DOT incorporated reference the ATBCB’s “Americans with Disabilities Act Accessibility Guidelines” (ADAAG), revised July 2004, which include accessibility guidelines for buildings and facilities, and are incorporated into Appendix A to 49 CFR Part 37. DOT also added specific provisions to Appendix A modifying the ADAAG, with the result that buildings and facilities must comply with both the ADAAG amendments thereto in Appendix A to 49 CFR Part 37.

“REMAINDER OF PAGE INTENTIONALLY LEFT BLANK”
LOBBYING CERTIFICATION
(Required to be submitted for all bids or offers in excess of $100,000)

The undersigned Contractor certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal Contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of congress, or an employee of a Member of Congress in connection with the Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form –LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions as amended by “Government wide Guidance for New Restrictions on Lobbying,” 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, et seq.).

3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any Person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure. [Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such expenditure or failure.]

The Contractor, ____________________________, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. A 3801, et seq., apply to this certification and disclosure, if any.

________________________________________
Signature of Contractor’s Authorized Official

________________________________________
Printed Name and Title of Contractor’s Authorized Official

________________________________________
Date
BUY AMERICA CERTIFICATION

Certification required for procurement of steel, iron, or manufactured products
(Required to be submitted for all bids or offers in excess of $100,000)

INSTRUCTIONS TO BIDDER: This project must comply with the Buy America requirements for the Federal Transit Administration. You must complete either the top portion “Certificate of Compliance with Buy America Requirements” or the bottom section “Certificate of Non-Compliance with Buy America Requirements” in order to be considered responsive to this solicitation.

Certificate of Compliance with Buy America Requirements

The bidder or offeror hereby certifies that it will comply with the requirements of 49 U.S.C. 5323(j)(1), and the applicable regulations in 49 CFR part 661.

Date: ________________________________

Signature:  ________________________________

Company:  __________________________________

Name:  __________________________________

Title:  __________________________________

Certificate of Non-Compliance with Buy America Requirements

The bidder or offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j), but it may qualify for an exception to the requirement pursuant to 49 U.S.C. 5323(j)(2), as amended, and the applicable regulations in 49 CFR 661.7.

Date: ________________________________

Signature:  ________________________________

Company:  __________________________________

Name:  __________________________________

Title:  __________________________________
START Bus State of Good Repair Discretionary Grant  
Phase II - Transit Facility Project  
Teton County  
25-Feb-13

Costs were prepared using information from START Bus to utilize Federal Discretionary funding from Award No. D2011-BUSP-137

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**Funding Breakdown**

- WYDOTH/FTA Funding: Discretionary Award D2011-BUSP-137 (80%) $5,000,000
- STARTBus Matching Funds (20%) $1,250,000
- **Total Project Costs**: $13,347,700
Wyoming Department of Transportation  
FTA State of Good Repair - Discretionary

**Project Cost Reimbursement Statement**

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<tr>
<td>Transit Program Coordinator</td>
<td>Tallbot Hauffe, Transit Program Coor.</td>
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</tbody>
</table>

**Maximum WYDOT Participation:** $5,000,000  
**Match Requirement:** 80.00% Federal - 20.00% Local

A. State of Good Repair (SGR)  
   (Federal funds only)  
   $5,000,000.00

B. Total amount of previous reimbursement requests  
   (actual less 20.00%) [from line H of last reimbursement billing]
   $ -

**Project Budget:**

<table>
<thead>
<tr>
<th>Project Description</th>
<th>Initial Budge/Amount (Federal/Local)</th>
<th>Previous Reimbursement Request</th>
<th>Reimbursement Request (this report)</th>
<th>Remaining Budget Amount (Federal)</th>
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C. Total amount approved this request (Total x Federal percentage): 80%  
   $5,000,000.00

D. Total federal funds approved to date:  
   (B + C)  
   $(Title)

**RECAP**

E. Maximum project funds available [Federal only]:  
   (A)  
   $5,000,000.00

F. Previous amount approved for reimbursement:  
   (B)  
   $(Title)

G. Funds approved for this current request:  
   (C)  
   $(Title)

H. Total funds approved to date:  
   \[(F + G)\]  
   $(Title)

**BALANCE OF PROJECT FUNDS REMAINING**  
[Federal funds only]

\[(E - H)\]  
$5,000,000.00

I certify that the above requested reimbursement for the State of Good Repair Discretionary program, administered by the Wyoming Department of Transportation are a true and accurate request for funds in accordance with the project agreement for this project.

Note: Original signature should be attached

By:  
(Title)

Attest:  
(Title)
# Wyoming State Building & Special Trades Wage Determination (all Counties)

## Wyoming Department of Transportation

### Wyoming Building & Special Trades Construction

STATEWIDE (all Counties)

The following schedule of predetermined minimum wage rates as set forth by the Wyoming Department of Employment is made part of the contract documents of this project. The Contractor shall pay not less than these rates:

<table>
<thead>
<tr>
<th>No.</th>
<th>Project Name</th>
<th>County</th>
<th>State: Wyoming Statewide (all Counties)</th>
<th>Decision: Building &amp; Special Trades, WY-2012</th>
<th>Decision Date: March 30, 2012</th>
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<td>$26.23</td>
<td>$6.99</td>
<td>$33.22</td>
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</tbody>
</table>
WORK CATEGORIES AND DESCRIPTIONS

2700 – GENERAL LABORERS: (Group 1)

- Axmen, hand faller
- Bin wall installer
- Bituminous curb builder
- Burner (cutting torch)
- Car or truck loader
- Concrete saw
- Concrete vibrator
- Concrete worker
- Creosote material handler
- Dumpman
- Erector/Installer (includes fences, guardrail, guideposts, etc.)
- Form setter and helper
- Form stripper
- General laborer
- Gunite helper
- Hand operated vibrator roller
- Jackhammer/pavement breaker
- Landscaper & helper
- Material handler
- Mechanical form cleaner
- Mortarman
- Nozzleman
- Pipe setter and helper
- Pipe wrapper
- Powderman helper
- Power saw operator
- Power type concrete buggy
- Pre-watering, pre-irrigation, and pre-wetting work
- Riprap man
- Rodman
- Sandblaster & pot tender
- Shoring & lagging open ditch
- Signalmen
- Scissorman or hopperman
- Stake jumper
- Tamper Operator
- Tar & asphalt tender
- Toolroom man
- Watchman/Flagman
- Wrecking & demolition crews
- Unloading and packing

2800 – SEMI-SKILLED LABORERS: (Group 2)

- Asphalt raker & tamper
- Brakeman and vibrator man
- Gunite nozzlemann
- High Scalar
- Mucker & bull gang laborer
- Sandblaster nozzlemann
- Sewer pipe installer

3000 – TENDERS: (Group 4)

- Blaster/Powderman
- Carpenter tender
- Cement mason tender
- Chuck tender
- Drill operators for blasting & grouting
- Fork lift operator
- Hod carriers
- Nipper
- Piling/caisson worker
- Plasterer tender
- Scaffold builder
- Spaders
- Terrazzo tenders
- Tile setter tenders
- Top man or top tender
- Tuggers
- Tunnel & underground worker

4100 – OPERATING ENGINEERS: (Group 1)

- A-frame truck
- Air Compressor
- Asphalt plant fireman/oiler
- Assistant to Engineer
- Auger machine (post hole digger)
- Brakeman
- Broom operator
- Bump grinder operator
- Cableway signalman
- Chip spreader operator
- Concrete mixer (up to 1 yard)
- Concrete saw operator
- Farm type tractor
- Forklift operator
- Form grader
- Generator operator
- Gunite and granite machine
- Heater operator
- Heavy duty repairman & helper
- Hopperman
- Joint machine operator
- Locomotive Fireman
- Longitudinal float operator
- Lubrication & Service engineer
- Material hoist operator
- Mechanical conveyor
## WORK CATEGORIES AND DESCRIPTIONS

### 4100 – OPERATING ENGINEERS: (Group 1 cont.)

<table>
<thead>
<tr>
<th>Occupation</th>
<th>Occupation</th>
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<tbody>
<tr>
<td>Motorman</td>
<td>Screening plant operator</td>
</tr>
<tr>
<td>Oil distributor</td>
<td>Tamper &amp; similar machines</td>
</tr>
<tr>
<td>Pavement breaker</td>
<td>Tire repairman</td>
</tr>
<tr>
<td>Pump operator</td>
<td>Tugger hoist</td>
</tr>
<tr>
<td>Pumpcrere operator (up to 4 inches)</td>
<td>Underground freeze unit</td>
</tr>
<tr>
<td>Rodman/Rear chairman</td>
<td>Welding machine operator</td>
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<tr>
<td>Screed operator</td>
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### 4200 – OPERATING ENGINEERS: (Group 2)

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<td>Asphalt plant operator</td>
<td>Kolman type loader</td>
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<tr>
<td>Backhoe operator</td>
<td>Locomotive Engineer</td>
</tr>
<tr>
<td>Cableway operator</td>
<td>Man lift elevator operator</td>
</tr>
<tr>
<td>CMI machine &amp; similar operator</td>
<td>Mixer operator (over 1 yard)</td>
</tr>
<tr>
<td>Compactor operator</td>
<td>Mucking machine operator</td>
</tr>
<tr>
<td>Concrete batch plant operator</td>
<td>Paving machine operator</td>
</tr>
<tr>
<td>Crushing plant operator</td>
<td>Pumpcrere operator, (over 4 inches)</td>
</tr>
<tr>
<td>Double drum hoist</td>
<td>Roller operator</td>
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<tr>
<td>Drilling machinery operator</td>
<td>Sub-gradcing machine operator</td>
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<tr>
<td>Elevating grader</td>
<td>Tractor with power attachments</td>
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<tr>
<td>Front-end loader (up to 1 1/2 yards)</td>
<td>Trenching machine operator</td>
</tr>
<tr>
<td>Hydro-blast operator</td>
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<tr>
<td>Jumbo form operator</td>
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### 4300 – OPERATING ENGINEERS: (Group 3)

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<th>Occupation</th>
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<td>Dozer/pushcat</td>
<td>Sideboom cat operator</td>
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<tr>
<td>Dual drum mixer</td>
<td>Rigger</td>
</tr>
<tr>
<td>Hydro crane (under 15 tons)</td>
<td>Pugmill equipment operator</td>
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<tr>
<td>Motor patrol-general</td>
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<td>Scraper</td>
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### 4400 – OPERATING ENGINEERS: (Group 4)

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<td>Hydro crane (15 to 30 tons)</td>
<td>Shovel, Dragline &amp; Clamshell (2 yards)</td>
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<td>Loader operator (1 1/2 yards to 4 yards)</td>
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### 4500 – OPERATING ENGINEERS: (Group 5)

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<td>Cranes (under 25 tons)</td>
<td>Mole operator</td>
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<td>Grade-all</td>
<td>Motor patrol-finisher</td>
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<td>Instrument man</td>
<td>Pumpcrere-mobile crane or truck</td>
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### 4500 – OPERATING ENGINEERS: (Group 6)

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<td>Four drum hoist</td>
<td>Scraper operator, tandem</td>
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<td>Heavy duty repairman, welder</td>
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<tr>
<td>Hydrocrane (30 to 50 tons)</td>
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</table>

### 4600 – OPERATING ENGINEERS: (Group 7)

<table>
<thead>
<tr>
<th>Occupation</th>
<th>Occupation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cranes (over 50 tons)</td>
<td>Wheel excavator</td>
</tr>
<tr>
<td>Shovels, Draglines, &amp; Clamshells (over 2 yards)</td>
<td></td>
</tr>
</tbody>
</table>
WORK CATEGORIES AND DESCRIPTIONS

6000 – TEAMSTERS: (Group 1)

Cement truck (under 10 yards)
Dump truck (under 13 cubic yards)
Flat rack truck
Flex boom-single axle & twin screw
Forklift operator
Fuel/grease truck
Grease/service person
Lumber carrier

Material checker
Pickup truck driver
Truck driver distributor
Truck mechanic/driver helpers
Warehouse person
Water truck (single axle)

6100 – TEAMSTERS: (Group 2)

Cardex person
Cement mixer (over 10 yards)
Dump truck (over 13 cubic yards)
Dumpster type equipment
Expeditor
Highboy, Lowboy, Floats, Semi-truck
Lead warehouse person

Scale person/checker/spotter
Snow plow
Tire repairman
Truck/diesel mechanic
Water truck (semi, tandem axle, Euclid)
Winch Pole-A-Frame
February 6, 2013

Ms. Linda Gehrke
Regional Administrator
Region VIII
Federal Transit Administration
12300 West Dakota Avenue, Suite 310
Lakewood, CO 80202

RE: Request for a Letter of No Prejudice for START Bus Storage, Maintenance and Operations Building – Phases Two through Five

The Wyoming Department of Transportation (WYDOT) would like to request a Letter of No Prejudice on behalf of the Town of Jackson and START Bus for the estimated total amount of $39,367,700 for the completion of Phases Two through Five of their Bus Storage, Maintenance and Operations Building. This project is consistent with the Categorical Exclusion issued by the Federal Transit Administration (FTA) dated, July 21, 2010. Phase Two is expected to begin construction during the summer of 2013.

WYDOT, the Town of Jackson and START Bus understand that all Federal requirements must be met prior to incurring costs related to this project and that the authority to incur costs pursuant to a Letter of No Prejudice does not constitute a commitment by FTA that future Federal dollars will be approved for this project. Further, this request does not constitute a commitment by WYDOT of any future formula funds to the project.

Phase Two of this project is estimated to cost $13,347,700 with $5 million of Federal funding from FTA award D2011-BUSP-137 combined with $1,250,000 local funds. The total balance of the project left for funding is estimated to be $33,117,700 with a Federal share estimate, not to exceed 80%, or $26,494,160 with the balance coming from local sources. WYDOT will evaluate available formula program funds for inclusion to the project and will continue to work with the Town of Jackson and START Bus to find other funding opportunities to complete this important project.

If you have any questions, please contact me at (307) 777-4438. Thank you for your consideration in this matter.

Sincerely,

Taylor J. Rossetti
Local Government Coordinator
SUPPLEMENTARY INSTRUCTIONS TO BIDDERS

A. Submit pre-bid questions directly to the following by email: Jeff Bates of Jorgensen Associates (jbates@jorgensenassociates.com).

B. Bids must be submitted no later than 2:00 p.m., Mountain Time, on Thursday, August 8, 2013, at the offices of Town Administrator in Town Hall, 150 E. Pearl Avenue, Jackson, Wyoming 83001, to the attention of Larry Pardee, Public Works Director.

C. A Bid Bond in the amount of $250,000 (Two hundred fifty thousand dollars) must accompany each bid.

D. The Town of Jackson (TOJ) is exempt from paying Wyoming sales tax on equipment and materials that they purchase directly for the START Project.

1. Bidders are to identify equipment and bulk material that are included in their bid that can be bought directly by the TOJ.
2. The actual items purchased by the TOJ will result in a deductive change order from the Contract which will be written based on the successful Bid.
3. The invoice for the Owner purchased item will be prepared and sent directly to the Owner.
4. Payment will be made directly to the Vendor by TOJ with no sales tax.
5. The responsibility for receiving, storing, protecting, and installing the equipment and material and providing warranty on equipment and material will remain with the Contractor.
6. The items and estimated cost of equipment and bulk material that can be purchased by TOJ are to be included in the Bid total on the Base Bid only without allowance for sales tax. These items are to be listed in the Bid Form document.

E. Bid Form and other forms indicated for attachment to Bid Form are bound within this digital (pdf) Project Manual. Bidders shall print copies of forms and fill in required information by typing or printing.

END OF DOCUMENT 00 21 14
December 6, 2010

Dana Buchwald  
Jorgensen Associates  
P.O. Box 9550  
Jackson, WY 83001  

RE: GEOTECHNICAL INVESTIGATION REPORT FOR THE START FACILITY AT KARNS MEADOW, JACKSON, WYOMING

Dear Dana:

We are pleased to present this report on our geotechnical site investigation for the proposed START Facility in Jackson. Three copies are enclosed. The report describes site conditions and presents recommendations for construction of foundation elements and roadways.

If you have any questions about this report, or if we may provide other services to you, please contact us. As the project progresses, we will be available to answer questions for you.

Ray Womack, P.E., P.G.
Enc: Reports (3)
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Figure 2 – Test Pit Location Map .................................................................................. 3
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Table 6-2: Pavement Design Parameters ....................................................................... 10
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Appendix A – Test pit logs
1.0 INTRODUCTION

As authorized by Jorgensen Associates, Womack & Associates, Inc. conducted a geotechnical site investigation for the proposed START Facility located between Karns Meadow and the Virginian Addition in the town of Jackson, Wyoming (Figure 1). The purposes were to investigate surface and subsurface soil conditions, evaluate soil-engineering properties, and to provide recommendations for foundation and roadway construction.

2.0 PROPOSED CONSTRUCTION

It is our understanding that five new buildings are proposed, primarily with shallow slab-on-grade or crawl space construction. As originally proposed, the buildings would be as follows:

- Administration and Operations 6,900 sq.ft.
- Heated Bus Storage 36,900 sq.ft.
- Fleet Maintenance 24,700 sq.ft.
- Fuel and Wash Stations 4,500 sq.ft.
- Employee Housing (2 story) 6,000 sq.ft.

The bus storage facility may be built below existing grade. We have assumed that the perimeter footing depths will be about 3 feet below existing grade. Parking lots, driveways, and a Town of Jackson connector road between Snow King Avenue and West Broadway will be required.

3.0 INVESTIGATION PROCEDURES

3.1 Field Investigation

The field investigation was conducted on June 10 and June 24, 2010. Fieldwork consisted of preliminary site reconnaissance and excavation and logging of 18 exploratory test pits. The test pits were excavated to depths of 6.5 to 13 feet in order to observe subgrade soil and groundwater conditions, and to obtain samples if necessary from below the depth of the proposed foundations. Test pit locations are shown on Figure 2. Descriptive logs of the test pits are appended.

Soil types, consistencies, and stratigraphic thicknesses were observed and documented by an Engineering Geologist. Field conditions were described and 5 standpipe piezometers were installed to allow monitoring of groundwater variability. General topography and site conditions were observed by the Geologist in order to place the test pits in representative locations. Note that site conditions may be variable and actual soil conditions may differ from those represented in the test pit logs.
2.3 - denotes thickness of unsuitable material in feet
* denotes monitoring well location

Geotechnical Investigation Report
START Facility
Karns Meadow
Jackson, Wyoming

Test Pit and Monitoring Well Locations and Site Layout Map

FIGURE

WOMACK AND ASSOCIATES, INC.
3.2 Laboratory Analysis
Laboratory tests were not conducted for this investigation. The site is underlain by gravel and cobble alluvium that did not require testing.

3.3 Report Preparation
The report presents the geological site conditions, test pit logs, location maps, engineering analyses, and recommendations.

4.0 SITE CONDITIONS

4.1 Description
The proposed building site is located in the town of Jackson just north of Flat Creek (Figure 1). The elevation at the site varies from about 6169 feet above sea level in the southeast corner to 6175 on mounds. The site is nearly level but has been used for fill storage, and contains irregular fill mounds up to 6 feet high. At the time of our investigation a small parking lot existed near the south end of the site and vehicles were stored near the northeast corner.

4.2 Geology
Figure 1 shows the generalized geology for the Jackson area (Love, et al, 1972). Most of the west end of the town of Jackson, including the project site, is mapped as Quaternary flood plain deposits (Qfp) consisting of gravel, sand, silt, and clay. The underlying material described in the test pits consists of gravel and cobble with a little clay and silt.. Bedrock was not encountered in any of the test pits, and depth to bedrock is unknown.

The inferred (buried) traces of the Cache Creek and Jackson thrust faults are located near the site, crossing the town of Jackson on a generally east-west trend. These faults are considered to be relatively old and inactive and do not affect the project. The Teton fault at the base of the Teton Range about 5 miles west of the site is considered to be seismically active.

4.3 Soils
Up to 5.5-feet of fill was found in most test pits, underlain by gravel/cobble alluvium. The fill varies from clayey gravel/cobble to gravelly clay, usually described as dark gray to black and very stiff/very dense. Much of the fill appears to represent recycled topsoil.

About 2-feet of black organic gravelly silt topsoil occurs at ground surface in undisturbed areas and underlies the fill in some places. The stony underlying alluvium consists of about 60% loose to very dense, stratified, subangular to subrounded limestone and sandstone gravel and cobbles up to about 6 inch diameter with occasional larger clasts up to about a foot diameter, in a matrix of well-graded sand, sometimes with a little clay or silt. Cobble size apparently increases with
depth. The gravel and cobble alluvium was described as dry to moist (wet only in TP-1 and TP-18 below water table),

4.4 Groundwater
Standpipe piezometers were installed in 5 of the test pits to depths of 6.5 to 13 feet bgs in order to monitor groundwater levels (Figure 2). Test pits TP-1 and 18, located adjacent to Flat Creek near the southeast corner of the site, encountered groundwater at about 5 to 7-feet below ground surface (bgs) at the time of the investigation on June 10 and 24, 2010. Jorgensen Associates measured groundwater depth on October 26, 2010, and all monitoring wells were reported dry. Groundwater levels probably fluctuate in response to seasonal precipitation and flow levels in Flat Creek.

Wyoming DEQ has informed Jorgensen that wells placed for other investigations along Virginian Lane and the public library parking lot encountered groundwater at 13 to 18 feet bgs. These values are too far down-valley from the START site to be definitive, but they suggest groundwater might interfere with construction of a basement. If a basement continues to be considered, two deeper wells should be installed in the basement area and monitored during the spring runoff season in 2011.

4.5 Earthquakes and Ground Shaking
Jackson Hole is located within the Intermountain Seismic Belt, a zone of seismicity that extends from southern Utah through eastern Idaho and western Montana and encompasses western Wyoming and the Teton Range (Smith and Arabasz, 1991). The Teton fault is located along the eastern margin of the Teton Range about 5 miles northwest of the site, and is considered an important structural element of the Intermountain Seismic Belt.

Site ground motion accelerations and design response spectra were derived in accordance with the general procedure defined in the 2006 International Building Code (IBC, unchanged in 2009). The provisions of the IBC are intended to provide uniform levels of performance for structures, depending on their occupancy and use and the risk inherent to their failure.

The approach adopted in the 2006 IBC is intended to provide a uniform margin of safety against collapse at the design ground motion. The design earthquake ground motion is selected at a ground shaking level that is 2/3 of the maximum considered earthquake (MCE) ground motion. The Site Ground Motion and Design Response Spectrum for the 2003 IBC is presented in Figure 3 and seismic parameters are listed below.
Earthquake Loads – Site Ground Motion and Design Response Spectrum 2006
International Building Code*

Site Location: Lat. 43.47º Lon. 110.78º
Site Class: D Stiff Soil

Design Spectral Response Acceleration Parameters:

\[ S_{DS} = 0.78 \]
\[ S_{D1} = 0.42 \]

4.6 Liquefaction Potential

Loose, saturated sands and silty sands, and in some cases silts and gravels, may liquefy when exposed to seismic shaking. During investigation groundwater was encountered at depths 5 to 7 feet below the ground surface in TP-1 and TP-18 adjacent to Flat Creek.

The test pits encountered gravel and cobble alluvium that appears to be too dense to liquefy in a seismic event. However, it is possible that liquefiable materials occur at greater depths. Evaluation of deep subsurface conditions and assessment of liquefaction potential at this site were beyond the scope of this investigation. At this flat lying location, liquefaction could cause damaging differential settlement, but there appears to be little risk of lateral spreading, which is the most damaging phenomenon associated with liquefaction.

5.0 ENGINEERING ANALYSIS

5.1 Settlement

Significant settlement is not anticipated in the stony gravel/cobble alluvium. Fill up to 6 feet thick covers most of the site, often underlain by about 2 feet of silty topsoil. The fill is variable and often consists primarily of silt or clay, perhaps derived from recycled topsoil. Fill and underlying topsoil should be removed down to gravel. Most pits encountered stony alluvium within 2 to 3 feet of existing ground surface. Test pits TP-2, 12, 13, 14, 17, and 18 encountered 5 to 6 feet of fill and topsoil on the fill mound surrounding the existing parking lot near the south end of the site (Figure 2). Other mounds at the site may be underlain by similar profiles, and over-excavation of mounded areas should be assumed. Foundation footings should be placed at depths of at least 3 feet below final grade on the gravel and cobble alluvium.

5.2 Bearing Capacity

Bearing capacity of soil refers to its ability to resist shear failure under load. The bearing capacity of the stony gravel/cobble alluvium was estimated using Terzaghi’s bearing capacity equation for strip footings (Bowles, 1996). Soil properties were estimated based on visual soil classification. The unit weight of the gravel is estimated to be about 135 pcf, with a friction angle of about 35 degrees (Pit Slope Manual, 1982; Huang, 1983). The foundation footings are assumed to be 2 feet wide, placed on the sandy gravel alluvium about 3.5 feet below the finished grade elevations. An allowable bearing capacity of about 7,000 psf is recommended. Allowable loads may include full dead load and 50 percent live load.
Design Response Spectrum (2006 IBC) - Site Class D
START Facility, 675 W. Snow King Avenue

- $T_s = \frac{S_{D1}}{S_{DS}}$
- $T_s = 0.55$
- $T_0 = 0.2S_{D1}/S_{DS}$
- $T_0 = 0.11$

$S_a = S_{DS}$
$S_a = 0.4S_{DS}$
$S_c = S_{D1}/T$

Geotechnical Investigation Report
START Facility
Karns Meadow
Jackson, Wyoming

DESIGN RESPONSE SPECTRUM
5.3 Lateral Pressures

Lateral pressures against retaining or basement walls can be estimated using several methods, and there is no overwhelming consensus favoring any one technique. We have used what we believe to be reasonably conservative values that can be justified from normal practice and the technical literature. The main variables are assumptions regarding seismic forces, wall friction, and surcharge pressures created by slopes. As discussed above, the Jackson Hole area is potentially susceptible to ground shaking from earthquakes. A maximum horizontal seismic acceleration $k_h$ of 0.22g is predicted for this site with a uniform likelihood of exceedance of 10 percent in 50 years (USGS 2002). Lateral pressures have been calculated assuming horizontal backslope conditions. Table 5-1 summarizes lateral pressure parameters applicable to the site.

<table>
<thead>
<tr>
<th>Condition</th>
<th>Coefficient of Earth Pressure</th>
<th>$\gamma K$ (equivalent fluid pressure)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Static Conditions</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Level Backfill</td>
<td>$K_s = 0.43$</td>
<td>56 psf</td>
</tr>
<tr>
<td></td>
<td>$K_a = 0.27$</td>
<td>35 pcf</td>
</tr>
<tr>
<td></td>
<td>$K_p = 3.69$</td>
<td>480 pcf</td>
</tr>
<tr>
<td><strong>Earthquake Conditions</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Level Backfill</td>
<td>$K_{ae} = 0.33$</td>
<td>43 pcf</td>
</tr>
<tr>
<td></td>
<td>$K_{pe} = 3.47$</td>
<td>451 pcf</td>
</tr>
</tbody>
</table>

5.3.1 Active Pressures

For lateral pressure design of retaining walls, which are allowed to deflect and develop an active soil wedge, the calculated equivalent fluid pressure ($\gamma K_a$) is about 35 pcf (pounds per cubic foot), assuming a horizontal ground surface behind the retaining wall. This pressure distribution would be equivalent to a force of approximately $17.5H^2$ pounds per horizontal foot of wall acting at one-third the wall height ($H$) above the base.

Research has indicated that lateral pressures due to earthquakes are non-hydrostatic in distribution, and the resultant acts above the lower third-point of the wall (Bakeer, et al, 1990). Accordingly, active soil pressures have been divided into two components that act at different wall heights. The static force acts at the lower third-point, as discussed above. The Mononobe-Okabe equations are often used to estimate dynamic forces against retaining walls. Although there is considerable debate about the theoretical applicability of these equations to rigid walls, they have been used for many years for seismic design and the performance record of underground walls during earthquakes has generally been good. The Mononobe-Okabe equations were applied using half the maximum horizontal acceleration (Bowles, 1996; Whitman, 1990). This force would be in addition to static active earth pressure, equivalent to $4H^2$ pounds per horizontal foot of wall applied at 50% of the wall height above the base.
5.3.2 Passive Pressures
For passive pressures, an equivalent fluid pressure ($\gamma K_p$) of about 480 pcf was estimated for static conditions and about 451 pcf for seismic conditions. Passive earth pressures were calculated using the Coulomb and Mononobe-Okabe equations, respectively (Bowles, 1996).

5.3.3 At-Rest Pressures
For lateral pressure design of basement walls, which are restrained and not allowed to deflect, the calculated at rest earth pressure ($\gamma K_o$) is about 56 pcf, assuming a horizontal ground surface behind the basement wall. Use the at-rest pressure or the active pressure under seismic conditions for basement wall design, whichever is greater.

6.0 RECOMMENDATIONS

6.1 Foundations
Excavation for the foundation footings should remove any unsuitable finer grained soil (topsoil and fill) and expose the underlying gravel/obble alluvium at foundation depth. Normal strip or column footings and slabs may be placed directly on the stony alluvium. A structural engineer should review the plans to check that adequate lateral restraint is provided to foundation walls. Minor cracks in the foundation walls, floor slabs, and sheetrock are normal and should not be a cause for concern.

6.2 Site Grading, Preparation and Backfill
Properly compacted backfill and good site drainage are important. Properly compacted backfill will reduce settlement of the soil against foundation walls and differential movement of exterior slabs. Structural fill should consist of granular fill placed in lifts no greater than 9 inches loose thickness and compacted. Existing site material may be used for structural fill and other backfills if compacted and tested. Large cobbles (>6” diameter) or clay should not be used as structural backfill, except as specified in Table 5-2.

Pre-roll the surface to compact materials that have been disturbed during excavation using a smooth drum vibratory roller (in vibratory mode) with a minimum of three passes. The actual number of passes should be determined by observing whether the surface is yielding after each pass. If the surface appears to be yielding, the number of passes should be increased until a non-yielding condition is observed.

### Table 6-1: Compaction Parameters for Stony Fill

<table>
<thead>
<tr>
<th>Compactor Type</th>
<th>Lift Thickness</th>
<th>Maximum Particle Size</th>
<th>Min. No. of Passes</th>
</tr>
</thead>
<tbody>
<tr>
<td>5-ton vibratory</td>
<td>12 inches</td>
<td>9-inch*</td>
<td>3</td>
</tr>
<tr>
<td>1.5-ton vibratory</td>
<td>9 inches</td>
<td>6-inch</td>
<td>5</td>
</tr>
<tr>
<td>Hand-held</td>
<td>4 inches</td>
<td>4-inch</td>
<td>5</td>
</tr>
</tbody>
</table>

* Occasional clasts to 12-inch are permitted, but should not be nested
If the number of passes and equipment used are verified by a qualified observer, density testing is not required. The actual number of passes should be determined by observing the compaction after each pass to determine if the surface is non-yielding. If the fill surface appears to be yielding the number of passes should be increased until a non-yielding condition is observed. Fill should be placed in horizontal lifts.

Utility trenches and exterior backfill should be placed in lifts and compacted. Site materials other than very stony alluvium should be tested. A compaction standard for non-structural fill of 92% Standard Proctor density (ASTM D 698) is recommended. Final grading should provide protection from frost. Do not over-compact exterior backfills against “green” foundation walls.

Prior to placement of structural fill for foundations or exterior slabs-on-grade, the site should be cleared and grubbed. No brush, roots, sod, frozen material, or other unsuitable materials shall be incorporated in the foundation subgrade or structural fill.

Final grading in unpaved areas should provide positive drainage of at least 0.5 foot in the first 10 feet away from the structure.

### 6.3 Pavement Design

Pavement designs have been evaluated flexible and rigid pavements. Subgrade soils at the site include un-engineered fill and stony alluvial deposits. These materials will likely provide a good quality of roadbed.

Pavement designs were prepared using Chapter 4 of the AASHTO Guide for Pavement Structures, 1993. Pavement sections were developed based on the following design assumptions:

US Climate Region - VI
Reliability – 75 %
Relative Quality of Roadbed Soil – Good (stony alluvial deposits)
Traffic Level – medium (400,000 to 600,000 18-kip ESAL during the design period)

#### 6.3.1 Flexible Pavement Design

<table>
<thead>
<tr>
<th>Climate Region</th>
<th>Roadbed</th>
<th>Traffic Level</th>
<th>SN</th>
</tr>
</thead>
<tbody>
<tr>
<td>VI</td>
<td>Good</td>
<td>Medium</td>
<td>3.2</td>
</tr>
</tbody>
</table>

*Table 4.7 (AASHTO, 1993)*

The design section is based on the following relationship, where the layer coefficient $a_1$ is equal to 0.33 and $a_2$ is equal to 0.12.
SN = a_1D_1 + a_2D_2

**Design section** should consist of:

**Pavement:** 3-inches \((D_1)\) asphalt concrete (AC)  
**Base Course:** 18 inches \((D_2)\) crushed gravel.

6.3.2 Rigid Pavement Design

Cement slab thickness is based on the following design parameters and for 75 % reliability:

- Base Course - consisting of 4 to 6-inches of high quality crushed gravel  
- PCC modulus of rupture \((S_c')\) 600 psi  
- PCC elastic modulus 5,000,000 psi

<table>
<thead>
<tr>
<th>Roadbed Quality</th>
<th>Load Transfer Devices</th>
<th>Edge Support</th>
<th>(S_c') (psi)</th>
<th>Slab Thickness (inches)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Good</td>
<td>No</td>
<td>Yes</td>
<td>600</td>
<td>6.5</td>
</tr>
<tr>
<td></td>
<td>Yes</td>
<td>No</td>
<td>600</td>
<td>7.25</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Yes</td>
<td>600</td>
<td>6.0</td>
</tr>
<tr>
<td></td>
<td></td>
<td>No</td>
<td>600</td>
<td>6.75</td>
</tr>
</tbody>
</table>

Thickness will vary depending on use of load transfer at joints and with or without edge support.

6.4 Interior Slabs-on-Grade

The interior floor slab should be at least 4 inches thick, and any slabs bearing vehicles should be at least 6 inches thick, or as approved by the Structural Engineer. Minor floor cracking of slab-on-grade construction is difficult to prevent. Such cracking is normal and should be expected to occur with time. Buildings are almost never free of cracks, and cracking is caused by many factors other than soil movement, such as concrete shrinkage, normal activities, and daily and seasonal variability in temperature and humidity.

6.5 Exterior Slabs-on-Grade

Exterior slabs (sidewalks, patios, parking lots, etc.) typically sustain the greatest damage. Cracking is almost impossible to avoid, and freeze-thaw adds to the difficulty caused by soil consolidation. The following suggestions may reduce differential movement of exterior slabs.

Exterior concrete slabs should be at least 4 inches thick, 6 inches if supporting vehicles, or as approved by the Structural Engineer. Exterior slabs should not be tied to foundation walls. Any movement of exterior slabs may be transmitted to the foundation walls, resulting in damage.
Posts for patios or other exterior columns should not bear on exterior slabs. If the slabs settle or rise, the movement can be transmitted to the post, resulting in damage to the structure.

Exterior slabs placed on topsoil or silty material may be very susceptible to frost heave, and any exterior flat work placed on these soils may perform poorly. Performance of the slabs may be improved by placement of at least 6 inches of gravel, preferably 12 inches, beneath the slab.

**6.6 Potential Basement**

Groundwater may interfere with construction of a basement. Deeper piezometers (on the order of 20 feet deep) should be installed to monitor groundwater elevation during the spring 2011 runoff season. Boreholes would be required.

**6.7 Ventilation**

Teton County Building Code requires that slabs below living spaces be ventilated.

**6.8 Reinforcing, Concrete Considerations, and Utilities Testing**

Footings, slabs, and foundation walls should be reinforced to resist differential movement. We strongly recommend consultation with a structural engineer to specify adequate reinforcement. Exterior concrete should contain 5% to 7% entrained air. We recommend pressure testing of water and sewer lines before backfilling.

**6.9 Observation during Construction**

A representative of this office should observe construction of any foundation elements recommended in this report. Site grading and soil compaction should be observed by a representative of this office. If any unexpected soils or conditions are revealed during construction, this office should be notified immediately to survey the conditions and make necessary modifications. In particular, the foundation excavations at the east end of the site should be observed by a representative of this office.

**7.0 LIMITATIONS**

This report has been prepared based on a limited amount of data. Actual site conditions may vary. The report is for single use and under no circumstances are the figures and text to be used separately. These services have been performed in a manner consistent with the level of care and skill ordinarily exercised by members of the profession currently practicing in this area under similar conditions. No warranty is made or implied.

**8.0 REFERENCES**


American Concrete Institute, 1997, Guide for Concrete Floor and Slab Construction: ACI 302.1R-96.


U.S. Geological Survey National Seismic Hazard Mapping Project, 2002, Peak Acceleration (%g) with 10% Probability of Exceedance in 50 Years


### TEST HOLE LOCATION
Southeast of project site, in Karns Meadow ~30' west of Flat Creek bend, see site map

### ELEVATION G.S. (ft.): ~6168
TOTAL DEPTH (ft.): 6.5
GROUNDWATER LEVEL (ft.): 5.0
MEASURED FROM: Ground Surface

<table>
<thead>
<tr>
<th>DEPTH (ft.)</th>
<th>GRAPHICAL LOG</th>
<th>SAMPLE</th>
<th>S.P.T. (N) BLOWS/6 IN.</th>
<th>RECOVERY (%)</th>
<th>UNCONFINED STRENGTH (TSF)</th>
</tr>
</thead>
<tbody>
<tr>
<td>0.0-2.2ft</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2.2-6.5ft</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**DESCRIPTION**

- **0.0-2.2ft** Silt: Black, moist, soft, massive, abundant roots and organic matter [TOPSOIL]

- **2.2-6.5ft** Clayey sandy gravels and cobbles: Tan, moist to wet, loose, stratified, moderately plastic clay ~15%, sand ~20-25%, subangular to subrounded limestone gravels and cobbles up to 1' diameter ~60-65%, abundant caving due to groundwater [ALLUVIUM]

Note: Abundant groundwater seeps at 5.0'
Installed perforated 4" PVC pipe to 6.5', stickup 3.5' (MW-1)
Pipe has a 79 degree angle to it (11 degrees from vertical)
Backfilled hole with spoils

### PROJECT NAME: START Facility
DATE: 6/10/10

### PROJECT LOCATION: Jackson, Wyoming
HOLE NO.: TP-1

### DRILL TYPE: 580 Super L Backhoe
HAMMER: 
DRILL CO: Fish Creek Excavation
DRILLER: Bill
LOGGED BY: ds
**PROJECT NAME:** START Facility  
**DATE:** 6/10/10  
**PROJECT LOCATION:** Jackson, Wyoming  
**HOLE NO.:** TP-2  
**TEST HOLE LOCATION:** South of chainlink fence, see site map

<table>
<thead>
<tr>
<th>DEPTH (ft.)</th>
<th>GRAPHICAL LOG</th>
<th>SAMPLE</th>
<th>S.P.T. (N) BLOWS/6 IN.</th>
<th>RECOVERY (%)</th>
<th>UNCONFINED STRENGTH (TSF)</th>
<th>CLASSIFICATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>0.0-4.0ft</td>
<td>Clayey/silty GRAVELS and COBBLES:</td>
<td></td>
<td></td>
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<td></td>
<td>Light to dark brown, slightly moist, dense, massive, 3 different fill events are differentiated in the pit each ~1.3' thick, wavy contacts between fill horizons, planar contact with underlying topsoil [FILL]</td>
</tr>
<tr>
<td>4.0-6.0ft</td>
<td>Gravelly SILT:</td>
<td>Black, dry, stiff to very stiff, layered (from machinery passing over), contains organics [BURIED TOPSOIL]</td>
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</tr>
<tr>
<td>6.0-7.0ft</td>
<td>Sandy CLAY: Pale gray, slightly moist to moist, medium stiff, massive [ALLUVIUM]</td>
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<td></td>
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<td></td>
</tr>
</tbody>
</table>
| 7.0-10.3ft  | Sandy GRAVELS and COBBLES: Yellowish-brown, dry, dense to very dense, stratified, trace (<5%) silt [ALLUVIUM]  
Note: No groundwater  
Near refusal at bottom of hole  
Installed 4" perforated PVC pipe to 10.3', stickup 1.5' (MW-2)  
Backfilled hole with spoils |
### Project Name: START Facility  
### Date: 6/10/10

#### Project Location: Jackson, Wyoming  
#### Hole No.: TP-3

#### Test Hole Location: Central west side of project site, see site map

<table>
<thead>
<tr>
<th>Depth (ft.)</th>
<th>Graphical Log</th>
<th>Sample</th>
<th>S.P. T. (N) Blows/6 in.</th>
<th>Recovery (%)</th>
<th>Unconfined Strength (TSF)</th>
<th>Classification</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>0.0-3.6ft</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>0.0-3.6ft Clayey/silty/sandy GRAVELS and COBBLES: Dark brown, moist, dense, massive, heterogenous, ~25% fines, ~25% sand, ~50% angular sandstone and limestone gravels and cobbles up to 8” in diameter, pockets of sandy clay and fines [FILL]</td>
</tr>
<tr>
<td>3.6-11.3ft</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>3.6-11.3ft Sandy GRAVELS and COBBLES: Tannish-brown, moist, dense, stratified, ~40-45% sand, ~55-60% subangular to subround limestone and sandstone gravels and cobbles up to 5” in diameter, cobble size and density increase with depth, moisture decreases with depth [ALLUVIUM]</td>
</tr>
</tbody>
</table>

**Notes:**
- No groundwater
- Installed 4” perforated PVC pipe to 11.3’, stickup 2.5’ (MW-3)
- Backfilled hole with spoils
**TEST HOLE LOG**

**PROJECT NAME:** START Facility  
**DATE:** 6/10/10

**PROJECT LOCATION:** Jackson, Wyoming  
**HOLE NO.:** TP-4

**TEST HOLE LOCATION:** Northwest portion of project site, see site map

<table>
<thead>
<tr>
<th>ELEVATION G.S. (ft.):</th>
<th>~6174</th>
<th><strong>TOTAL DEPTH (ft.):</strong></th>
<th>13</th>
<th><strong>GROUNDWATER LEVEL (ft.):</strong></th>
<th>N/A</th>
<th><strong>MEASURED FROM:</strong></th>
<th>Ground Surface</th>
</tr>
</thead>
</table>

**DRILL TYPE:** 580 Super L  
**HAMMER:**  
**DRILL CO:** Fish Creek Excavation  
**DRILLER:** Bill  
**LOGGED BY:** ds

**DEEPH (ft.)**  
**GRAPHICAL LOG**  
**SAMPLE**  
**S.P. (N)**  
**BLOWS/6 IN.**  
**RECOVERY (%):**  
**UNCONFINED STRENGTH (TSF):**  
**CLASSIFICATION**  
**DESCRIPTION**  
**COMMENTS:** Ground surface is silty gravel fill and sparse grass

<table>
<thead>
<tr>
<th>DEPTH (ft.)</th>
<th>RECOVERY (%)</th>
<th>UNCONFINED STRENGTH (TSF)</th>
<th>CLASSIFICATION</th>
<th>DESCRIPTION</th>
<th>COMMENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>0.0-2.5 ft</td>
<td>Silty GRAVELS and COBBLES: Very dark brown/black, moist, loose to dense, massive to layered, 3 different fill events are represented in the pit [FILL]</td>
<td></td>
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</tr>
<tr>
<td>1.3 ft</td>
<td>As above, ~20% sand and gravel, ~30% silt, ~50% angular volcanic and limestone cobbles</td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>2.5-13.0 ft</td>
<td>Sandy GRAVELS and COBBLES: Tan, dry to slightly moist, medium dense, stratified, ~30% sand, ~70% subround sandstone and limestone gravels and cobbles up to 8” in diameter, cobble size/density/moisture increase with depth [ALLUVIUM]</td>
<td></td>
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</tr>
</tbody>
</table>

**Note:** No groundwater  
Installed 4" perforated PVC pipe to 13.0’, stickup 0.9’ (MW-4)  
Pipe has a 75 degree angle to it (15 degrees from vertical)  
Backfilled hole with spoils

**PROJECT LOCATION:** Jackson, Wyoming  
**DATE:** 6/10/10  
**HOLE NO.:** TP-4

**ELEVATION G.S. (ft.):** ~6174  
**GROUNDWATER LEVEL (ft.):** N/A  
**MEASURED FROM:** Ground Surface

**DRILL TYPE:** 580 Super L  
**HAMMER:**  
**DRILL CO:** Fish Creek Excavation  
**DRILLER:** Bill  
**LOGGED BY:** ds

**DEPTH (ft.)**  
**SAMPLE**  
**S.P. (N)**  
**BLOWS/6 IN.**  
**RECOVERY (%):**  
**UNCONFINED STRENGTH (TSF):**  
**CLASSIFICATION**  
**DESCRIPTION**  
**COMMENTS:** Ground surface is silty gravel fill and sparse grass

<table>
<thead>
<tr>
<th>DEPTH (ft.)</th>
<th>RECOVERY (%)</th>
<th>UNCONFINED STRENGTH (TSF)</th>
<th>CLASSIFICATION</th>
<th>DESCRIPTION</th>
<th>COMMENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>0.0-2.5 ft</td>
<td>Silty GRAVELS and COBBLES: Very dark brown/black, moist, loose to dense, massive to layered, 3 different fill events are represented in the pit [FILL]</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>1.3 ft</td>
<td>As above, ~20% sand and gravel, ~30% silt, ~50% angular volcanic and limestone cobbles</td>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>2.5-13.0 ft</td>
<td>Sandy GRAVELS and COBBLES: Tan, dry to slightly moist, medium dense, stratified, ~30% sand, ~70% subround sandstone and limestone gravels and cobbles up to 8” in diameter, cobble size/density/moisture increase with depth [ALLUVIUM]</td>
<td></td>
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</tr>
</tbody>
</table>

**Note:** No groundwater  
Installed 4" perforated PVC pipe to 13.0’, stickup 0.9’ (MW-4)  
Pipe has a 75 degree angle to it (15 degrees from vertical)  
Backfilled hole with spoils
<table>
<thead>
<tr>
<th>DEPTH (ft.)</th>
<th>GRAPHICAL LOG</th>
<th>SAMPLER S.P.T. (N) BLOWS/6 IN.</th>
<th>RECOVERY (%)</th>
<th>UNCONFINED STRENGTH (TSF)</th>
<th>CLASSIFICATION</th>
<th>DESCRIPTION</th>
<th>COMMENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>0.0-2.0ft</td>
<td>SILT: Black, moist, soft, massive, abundant roots and organic matter [TOPSOIL]</td>
<td></td>
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<tr>
<td>2.0-9.0ft</td>
<td>Clayey sandy GRAVELS and COBBLES: Tan, moist to wet, loose, stratified, moderately plastic clay ~15%, sand ~20-25%, subangular to subround limestone gravels and cobbles up to 1' diameter ~60-65%, abundant caving due to groundwater [ALLUVIUM]</td>
<td></td>
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<tr>
<td>Note: No groundwater</td>
<td></td>
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<tr>
<td>Installed perforated 4&quot; PVC pipe to 9.0', stickup 1.0' (MW-5)</td>
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<tr>
<td>Backfilled hole with spoils</td>
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<tr>
<td>DEPTH (ft.)</td>
<td>GRAPHICAL LOG</td>
<td>SAMPLE</td>
<td>S.P. T (N)</td>
<td>RECOVERY (%)</td>
<td>UNCONFINED STRENGTH (TSF)</td>
<td>CLASSIFICATION</td>
<td>DESCRIPTION</td>
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<tr>
<td>0.0-1.7ft</td>
<td>Clayey/sandy GRAVELS and COBBLES: Dark brown, dry to slightly moist, medium dense, massive, consists of 2 fill events: upper has clay matrix, lower has sandy matrix [FILL]</td>
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<tr>
<td>1.7-7.1ft</td>
<td>Gravelly SAND and COBBLES: Brown, slightly moist, dense, stratified, ~30% gravel, ~35% sand, ~35% subangular to subround limestone and sandstone cobbles up to 7 inches in diameter ~35%, trace (&lt;5%) fines [ALLUVIUM]</td>
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</tbody>
</table>

Note: No groundwater
Backfilled hole with spoils
### Project Name: START Facility
### Date: 6/24/10
### Test Hole Location: Northwest side of proposed facility housing, see site map
### Hole No.: TP-7
### Elevation G.S. (ft.): ~6174
### Total Depth (ft.): 6.8
### Groundwater Level (ft.): N/A
### Measured From: Ground Surface
### Drill Type: 580 Super L Backhoe
### Hammer: 
### Drill Co.: Fish Creek Excavation
### Driller: Bill
### Logged By: ds

#### Description

**Comments:** Ground surface is grass and mixed juvenile/mature trees. Roots to 4'.

<table>
<thead>
<tr>
<th>Depth (ft.)</th>
<th>Sample</th>
<th>S.P. T. (N) Blows/6 in.</th>
<th>Recovery (%)</th>
<th>Classification</th>
</tr>
</thead>
<tbody>
<tr>
<td>0.0-1.5ft</td>
<td>Gravelly Silt: Black, slightly moist, stiff, massive, non-plastic, ~20% gravel, ~80% silt, abundant large roots [TOPSOIL]</td>
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<td></td>
</tr>
<tr>
<td>1.5-6.8ft</td>
<td>Sandy Gravels and Cobble: Brown, slightly moist, dense, stratified, ~25% sand, subrounded to subangular limestone and sandstone cobbles to 6 inches in diameter ~45%, ~30% gravel, calcareous matrix, some cobbles have lime coating on surface, ~1/2 inch sized vugs in limestone cobbles [ALLUVIUM]</td>
<td></td>
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</tbody>
</table>

Note: No groundwater

Backfilled hole with spoils
**PROJECT NAME:** START Facility  
**DATE:** 6/24/10  
**PROJECT LOCATION:** Jackson, Wyoming  
**HOLE NO.:** TP-8  

**TEST HOLE LOCATION:** Southwest side of proposed facility housing, see site map.

<table>
<thead>
<tr>
<th>ELEVATION G.S. (ft.)</th>
<th>TOTAL DEPTH (ft.)</th>
<th>GROUNDWATER LEVEL (ft.)</th>
<th>MEASURED FROM</th>
</tr>
</thead>
<tbody>
<tr>
<td>~6175</td>
<td>7</td>
<td>N/A</td>
<td>Ground Surface</td>
</tr>
</tbody>
</table>

**DRILL TYPE:** 580 Super L  
**HAMMER:**  
**DRILL CO:** Fish Creek Excavation  
**DRILLER:** Bill  
**LOGGED BY:** ds

<table>
<thead>
<tr>
<th>DEPTH (ft.)</th>
<th>GRAPHICAL LOG</th>
<th>SAMPLE</th>
<th>S.P. T. (N)</th>
<th>BLOWS/6 IN.</th>
<th>RECOVERY (%)</th>
<th>UNCONFINED STRENGTH (TSF)</th>
<th>DESCRIPTION</th>
<th>CLASSIFICATION</th>
<th>MOISTURE CONTENT (%)</th>
<th>DRY DENSITY (PCF)</th>
<th>LIQUID LIMITS (%)</th>
<th>PLASTICITY INDEX (%)</th>
<th>WELL COMPLETION</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
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<td>1-2</td>
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<td>2.0</td>
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<td>2.0</td>
<td>2.0</td>
<td>0.0-0.1ft Clayey/silty GRAVELS and COBBLES: Gray, dry, dense, massive [FILL] 0.1-1.8ft Gravelly SILT: Black, slightly moist, stiff, massive [BURIED TOPSOIL] 1.8-7.0ft Gravelly SAND and COBBLES: Brown, slightly moist, dense, stratified, ~30% gravel, ~35% sand, ~35% subangular to subrounded limestone and sandstone cobbles up to 7 inches in diameter ~35%, trace (&lt;5%) fines [ALLUVIUM] Note: No groundwater Backfilled hole with spoils</td>
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</tbody>
</table>
### TEST HOLE LOG

**PROJECT NAME:** START Facility  
**DATE:** 6/24/10

**PROJECT LOCATION:** Jackson, Wyoming  
**HOLE NO.:** TP-9

**TEST HOLE LOCATION:** East side of proposed facility housing, see site map

<table>
<thead>
<tr>
<th>ELEVATION G.S. (ft.)</th>
<th>TOTAL DEPTH (ft.)</th>
<th>GROUNDWATER LEVEL (ft.)</th>
<th>MEASURED FROM:</th>
<th>DRILL TYPE:</th>
<th>HAMMER:</th>
<th>DRILL CO:</th>
<th>DRILLER:</th>
<th>LOGGED BY:</th>
</tr>
</thead>
<tbody>
<tr>
<td>~6176</td>
<td>5</td>
<td>N/A</td>
<td>Ground Surface</td>
<td>580 Super L</td>
<td>Backhoe</td>
<td>Fish Creek Excavation</td>
<td>Bill</td>
<td>ds</td>
</tr>
</tbody>
</table>

**COMMENTS:** Ground surface is grass. Test pit located in current employee parking lot for float company.

**DESCRIPTION**

- 0.0-1.3ft Gravely clayey SILT: Black, dry to slightly moist, stiff, massive [TOPSOIL]

- 1.3-5.0ft Sandy GRAVELS and COBBLES: Brown, dry to slightly moist, very dense (extremely hard digging), stratified, at refusal at bottom of hole [ALLUVIUM]

**Note:** No groundwater
Backfilled hole with spoils
### Test Hole Log

**Project Name:** START Facility  
**Project Location:** Jackson, Wyoming  
**Test Hole Location:** Northeast end of project site, see site map  
**Date:** 6/24/10  

**Elevation G.S. (ft.):** ~6174  
**Total Depth (ft.):** 9.1  
**Groundwater Level (ft.):** N/A  
**Measured From:** Ground Surface  

<table>
<thead>
<tr>
<th>Depth (ft.)</th>
<th>Graphical Log</th>
<th>Sample</th>
<th>S.P.T. (N)</th>
<th>Blows/6 in.</th>
<th>Recovery (%)</th>
<th>Classification</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.0-2.0</td>
<td>D1</td>
<td></td>
<td></td>
<td></td>
<td>1.5-3.0</td>
<td></td>
<td>0.0-2.0ft Sandy/gravelly CLAY and COBBLES: Tan to dark brown, slightly moist to moist, dense (matrix is stiff to very stiff), massive, ~30% sand and gravel, ~35% moderately plastic clay, ~35% angular to subangular limestone and sandstone cobbles up to 7 inches in diameter, heterogenous, undulating contact with alluvium below [FILL]</td>
</tr>
</tbody>
</table>

**Comments:** Ground surface is fill. Large puddle at test pit, surface is saturated plastic clay and gravel.

**Notes:** Conducted pebble count in fill  
2.0-9.1ft Sandy GRAVELS and COBBLES: Brown, dry to very slightly moist, loose to medium dense (some caving despite difficult digging), stratified, ~25-30% sand, ~30% cobbles up to 6 inches in diameter, ~35% gravel, trace (~5%) fines, layers dip gently (~10 degrees) to the east [ALLUVIUM]  

**Note:** No groundwater  
Backfilled hole with spoils
<table>
<thead>
<tr>
<th>DEPTH (ft.)</th>
<th>GRAPHICAL LOG</th>
<th>SAMPLE</th>
<th>S.P. T. (N) BLOWS/6 IN.</th>
<th>RECOVERY (%)</th>
<th>UNCONFINED STRENGTH (TSF)</th>
<th>CLASSIFICATION</th>
<th>DESCRIPTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>D1</td>
<td></td>
<td>1.0</td>
<td></td>
<td></td>
<td></td>
<td>0.0-3.5ft Gravelly CLAY: Dark gray to black, slightly moist to moist, medium stiff, massive, heterogenous, ~30% gravel up to 2 inches in diameter, ~70% clay [FILL]</td>
</tr>
<tr>
<td>3.5-7.5ft</td>
<td>Sandy GRAVELS and COBBLES: Brown, dry to slightly moist, dense, stratified, ~40% medium-grained sand, ~60% angular to subround gravels and cobbles up to 5 inches in diameter, density increases with depth, coarsening downward [ALLUVIUM]</td>
<td></td>
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<tr>
<td>Note: No groundwater</td>
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<tr>
<td>Backfilled hole with spoils</td>
<td></td>
<td></td>
<td></td>
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</tr>
</tbody>
</table>
**TEST HOLE LOG**

**PROJECT NAME:** START Facility  
**DATE:** 6/24/10

**PROJECT LOCATION:** Jackson, Wyoming  
**HOLE NO.:** TP-12

**TEST HOLE LOCATION:** West end of project site, below overhead powerlines, see site map

<table>
<thead>
<tr>
<th>MEASURED FROM:</th>
<th>Ground Surface</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>ELEVATION G.S. (ft.):</strong></td>
<td>~6172</td>
</tr>
<tr>
<td><strong>TOTAL DEPTH (ft.):</strong></td>
<td>8.6</td>
</tr>
<tr>
<td><strong>GROUNDWATER LEVEL (ft.):</strong></td>
<td>N/A</td>
</tr>
<tr>
<td><strong>Backfilled hole with spoils</strong></td>
<td></td>
</tr>
</tbody>
</table>

**DRILL TYPE:** 580 Super L Backhoe  
**HAMMER:**  
**DRILL CO:** Fish Creek Excavation  
**DRILLER:** Bill  
**LOGGED BY:** ds

<table>
<thead>
<tr>
<th>DESCRIPTION</th>
<th>MOISTURE CONTENT (%)</th>
<th>DRY DENSITY (PCF)</th>
<th>LIQUID LIMITS (%)</th>
<th>PLASTICITY INDEX (%)</th>
<th>WELL COMPLETION</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>DEPTH (ft.)</strong></td>
<td><strong>GRAPHICAL LOG</strong></td>
<td><strong>SAMPLE</strong></td>
<td><strong>S.P.T. (N)</strong></td>
<td><strong>BLOWS/6 IN.</strong></td>
<td><strong>RECOVERY (%)</strong></td>
</tr>
</tbody>
</table>
| 0.0-5.5ft Sandy clayey GRAVELS and COBBLES: Dark brown, slightly moist to moist, stiff to very stiff, massive, ~15% sand, ~35% low plastic clay, ~50% gravels and cobbles to 5 inches in diameter, heterogenous [FILL]  
Note: Conducted pebble count in fill |
| 5.5-8.6ft Sandy GRAVELS and COBBLES: Brown, dry to slightly moist, dense to very dense, stratified [ALLUVIUM]  
Note: No groundwater  
Backfilled hole with spoils |
**TEST HOLE LOG**

**PROJECT NAME:** START Facility  
**DATE:** 6/24/10

**PROJECT LOCATION:** Jackson, Wyoming  
**HOLE NO.:** TP-13

**TEST HOLE LOCATION:** Southwest portion of project site, below overhead powerlines, west of chainlink fence, see site map

**ELEVATION G.S. (ft.):** ~6171  
**TOTAL DEPTH (ft.):** 9.4  
**GROUNDWATER LEVEL (ft.):** N/A  
**MEASURED FROM:** Ground Surface

<table>
<thead>
<tr>
<th>DEPTH (ft.)</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>6</th>
<th>7</th>
<th>8</th>
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<th>10</th>
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<td>GRAPHICAL LOG</td>
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<tr>
<td>S.P. T. (N)</td>
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<tr>
<td>BLOWS/6 IN.</td>
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<td>RECOVERY (%)</td>
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<tr>
<td>CLASSIFICATION</td>
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</tbody>
</table>

**DESCRIPTION**

**COMMENTs:** Ground surface is fill and grass.

- **0.0-4.5ft** Sandy gravelly silty CLAY: Light brown, slightly moist, stiff, massive, ~15% sand, ~30% gravel and cobbles up to 4 inches in diameter, ~55% fines [FILL]

- **4.5-6.0ft** Gravelly SILT: Black, moist, soft to medium stiff, massive [BURIED TOPSOIL]

- **6.0-9.4ft** Sandy GRAVELS and COBBLES: Brown, dry to slightly moist, dense to very dense, stratified [ALLUVIUM]

**Note:** No groundwater

Backfilled hole with spoils
**PROJECT NAME:** START Facility  
**DATE:** 6/24/10  
**PROJECT LOCATION:** Jackson, Wyoming  
**HOLE NO.:** TP-14  

**TEST HOLE LOCATION:** Against north side of buckrail fence, see site map

<table>
<thead>
<tr>
<th>ELEVATION G.S. (ft.)</th>
<th>TOTAL DEPTH (ft.)</th>
<th>GROUNDWATER LEVEL (ft.)</th>
<th>MEASURED FROM</th>
</tr>
</thead>
<tbody>
<tr>
<td>~6173</td>
<td>9.2</td>
<td>N/A</td>
<td>Ground Surface</td>
</tr>
</tbody>
</table>

**DRILL TYPE:** 580 Super L Backhoe  
**HAMMER:**  
**DRILL CO:** Fish Creek Excavation  
**DRILLER:** Bill  
**LOGGED BY:** ds

**DESCRIPTION**

**COMMENTS:** Ground surface is fill with sparse grass.

<table>
<thead>
<tr>
<th>DEPTH (ft.)</th>
<th>RECOVERY (%)</th>
<th>UNCONFINED STRENGTH (TSF)</th>
<th>CLASSIFICATION</th>
<th>SAMPLE GRAPHICAL LOG</th>
</tr>
</thead>
<tbody>
<tr>
<td>0.0-4.0ft</td>
<td>2.5</td>
<td></td>
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<td></td>
</tr>
<tr>
<td>4.0-5.5ft</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5.5-9.2ft</td>
<td></td>
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</tr>
</tbody>
</table>

**0.0-4.0ft** Sandy clayey GRAVELS and COBBLES: Light to dark brown, moist, dense (matrix is very stiff), massive, ~15% sand, ~35% clay, ~50% angular to subround gravels and cobbles up to 6 inches in diameter, matrix-supported [FILL]

**4.0-5.5ft** Sandy clayey GRAVELS and COBBLES: Black, moist, dense (matrix is medium stiff to stiff), massive, ~20% sand, ~35% moderately plastic clay, ~45% subround limestone gravel and cobbles up to 6 inches in diameter [BURIED TOPSOIL]

**5.5-9.2ft** Sandy GRAVELS and COBBLES: Brown, slightly moist to moist, very dense, stratified, ~10% clay, ~40% sand and gravel, ~50% angular to subround limestone cobbles up to 8 inches in diameter, lime coating on surface of cobbles, calcareous matrix [ALLUVIUM]

**Note:** No groundwater
Backfilled hole with spoils
## TEST HOLE LOG

**PROJECT NAME:** START Facility  
**DATE:** 6/24/10

**PROJECT LOCATION:** Jackson, Wyoming  
**HOLE NO.:** TP-15

### TEST HOLE LOCATION
Middle of driving roadway on east side of project site, see site map

### ELEVATION G.S. (ft.): ~6172  
**TOTAL DEPTH (ft.):** 6.6  
**GROUNDWATER LEVEL (ft.):** N/A  
**MEASURED FROM:** Ground Surface

<table>
<thead>
<tr>
<th>DRILL TYPE:</th>
<th>580 Super L Backhoe</th>
<th>HAMMER:</th>
<th>DRILL CO: Fish Creek Excavation</th>
<th>DRILLER: Bill</th>
<th>LOGGED BY: ds</th>
</tr>
</thead>
</table>

### DESCRIPTION

**COMMENTS:** Ground surface is packed fill roadway.

<table>
<thead>
<tr>
<th>DEPTH (ft.)</th>
<th>GRAPHICAL LOG</th>
<th>SAMPL</th>
<th>S.P. T. (N)</th>
<th>BLOWS/6 IN</th>
<th>RECOVERY (%)</th>
<th>CLASSIFICATION</th>
<th>UNCONFINED STRENGTH (TSF)</th>
<th>DESCRIPTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>0.0-2.3ft</td>
<td>D1</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>0.0-2.3ft Sandy/clayey GRAVELS and COBBLES: Light brown, dry to slightly moist, very dense, massive, ~25% sand, ~25% clay, ~50% angular gravels and cobbles up to 7 inches in diameter [FILL]</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1.8ft</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1.8ft As above, clayey gravel, black</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2.3-6.6ft</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>2.3-6.6ft Sandy GRAVELS and COBBLES: Light brown, dry, very dense (extremely hard digging), stratified [ALLUVIUM]</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Note:** Near refusal at bottom of hole  
No groundwater  
Backfilled hole with spoils
<table>
<thead>
<tr>
<th>DEPTH (ft.)</th>
<th>DESCRIPTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>0.0-1.6ft</td>
<td>Gravelly CLAY and COBBLES: Light brown, dry, dense, massive, ~30% gravel, ~35% moderately plastic clay, ~35% angular cobbles up to 4 inches in diameter, matrix-supported [FILL]</td>
</tr>
<tr>
<td>1.6-2.4ft</td>
<td>Sandy CLAY: Black, moist, stiff, massive [BURIED TOPSOIL]</td>
</tr>
<tr>
<td>2.4-4.4ft</td>
<td>Sandy CLAY: Pale gray, slightly moist, very stiff, massive, ~20% sand, ~80% clay, calcareous matrix, moderate pinhole voids [ALLUVIUM]</td>
</tr>
<tr>
<td>4.4-7.7ft</td>
<td>Clayey sandy GRAVELS and COBBLES: Yellow-brown, slightly moist to moist, very dense, stratified, ~10% clay, ~30% sand, ~30% gravel, ~30% subround cobbles up to 6 inches in diameter [ALLUVIUM]</td>
</tr>
</tbody>
</table>

**Notes:**
- No groundwater
- Backfilled hole with spoils

**Comments:** Ground surface is grass.
**DEPTH (ft.)**  | **GRAPHICAL LOG**  | **SAMPLE**  | **S.P. T. (N.)**  | **RECOVERY (%)**  | **DESCRIPTION**  | **COMMENTS**  | **MOISTURE CONTENT (%)**  | **DRY DENSITY (PCF)**  | **LIQUID LIMITS (%)**  | **PLASTICITY INDEX (%)**  | **WELL COMPLETION**  |
---|---|---|---|---|---|---|---|---|---|---|---|---|
0.0-4.0  |  |  |  |  | 0.0-4.0ft Sandy clayey GRAVELS and COBBLES: Light brown, dry to slightly moist, loose to medium dense (clay is very stiff), ~15% sand, ~25% clay, ~30% gravel, ~30% angular limestone and sandstone cobbles up to 6 inches in diameter, pockets of clay and sand ~1’x1’ in size throughout [FILL]  | Note: Conducted pebble count in fill  |  |  |  |  |  |  |  |  |
4.0-6.0  |  |  |  |  | 4.0-6.0ft Sandy gravelly CLAY: Black, slightly moist, very stiff, massive, ~10% sand, ~20% rounded gravel up to 1/2 inch in diameter, ~70% clay [BURIED TOPSOIL]  |  |  |  |  |  |  |  |  |  |
6.0-8.0  |  |  |  |  | 6.0-8.0ft Sandy GRAVELS and COBBLES: Light brown, dry, very dense, stratified, calcareous, cobbles are typically 7 inches in diameter and smaller, one 2-foot boulder pulled from hole [ALLUVIUM]  | Note: At refusal at bottom of hole  | No groundwater  |  |  |  |  |  |  |  |
8.0  |  |  |  |  | 8.0ft  |  |  |  |  |  |  |  |  |
9.0  |  |  |  |  | 9.0ft  |  |  |  |  |  |  |  |  |
10.0  |  |  |  |  | 10.0ft  |  |  |  |  |  |  |  |  |
11.0  |  |  |  |  | 11.0ft  |  |  |  |  |  |  |  |  |
12.0  |  |  |  |  | 12.0ft  |  |  |  |  |  |  |  |  |
13.0  |  |  |  |  | 13.0ft  |  |  |  |  |  |  |  |  |
14.0  |  |  |  |  | 14.0ft  |  |  |  |  |  |  |  |  |

**PROJECT NAME:** START Facility  
**DATE:** 6/24/10  
**PROJECT LOCATION:** Jackson, Wyoming  
**HOLE NO.:** TP-17  
**ELEVATION G.S. (ft.):** ~6174  
**TOTAL DEPTH (ft.):** 8  
**GROUNDWATER LEVEL (ft.):** N/A  
**MEASURED FROM:** Ground Surface  
**DRILL TYPE:** 580 Super L Backhoe  
**HAMMER:**  
**DRILL CO:** Fish Creek Excavation  
**DRILLER:** Bill  
**LOGGED BY:** ds  
**COMMENTS:** Ground surface is fill driveway.  
**MEASURED FROM:** Ground Surface  
**WELL COMPLETION:**  

4125 S. Hwy 89, Suite 3B  
Jackson, WY 83001  
Telephone: (307) 733-7209  
Fax: (307) 733-8005
**PROJECT NAME:** START Facility  
**PROJECT LOCATION:** Jackson, Wyoming  
**DATE:** 6/24/10  
**HOLE NO.:** TP-18  

**TEST HOLE LOCATION:** South end of project site, in fill/rubble mounds, see site map  

**ELEVATION G.S. (ft.):** ~6168  
**TOTAL DEPTH (ft.):** 9  
**GROUNDWATER LEVEL (ft.):** 6.9  
**MEASURED FROM:** Ground Surface  

**DRILL TYPE:** 580 Super L  
**HAMMER:** Backhoe  
**DRILL CO:** Fish Creek Excavation  
**DRILLER:** Bill  
**LOGGED BY:** ds  

<table>
<thead>
<tr>
<th>DEPTH (ft.)</th>
<th>GRAPHICAL LOG</th>
<th>SAMPLE</th>
<th>S.P. T. (N)</th>
<th>RECOVERY (%)</th>
<th>UNCONFINED STRENGTH (TSF)</th>
<th>CLASSIFICATION</th>
<th>DESCRIPTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>0.0-1.8ft</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>0.0-1.8ft Clayey sandy GRAVELS and COBBLES: Dark brown, slightly moist, loose to medium dense, massive, cobbles typically 5 inches in diameter or smaller, one 1' concrete stone, fill encountered at north end of pit only [FILL]</td>
</tr>
<tr>
<td>1.8-4.3ft</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1.8-4.3ft Gravelly CLAY: Black, slightly moist, stiff, massive, ~20% gravel up to 1/4 inch in diameter, ~80% clay, encountered at ground surface at all sides of pit except for north (see above fill) [TOPSOIL]</td>
</tr>
<tr>
<td>4.3-5.3ft</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>4.3-5.3ft Sandy CLAY: Pale gray, slightly moist, very stiff, massive, ~20% sand, ~80% clay, calcareous matrix, moderate pinhole voids [ALLUVIUM]</td>
</tr>
<tr>
<td>5.3-9.0ft</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>5.3-9.0ft Clayey sandy GRAVELS and COBBLES: Yellow-brown, slightly moist to wet, very dense, stratified, ~10% clay, ~25% sand, ~65% subangular to subround gravels and cobbles up to 8 inches in diameter [ALLUVIUM]</td>
</tr>
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<td>Note: Encountered groundwater at 6.9 feet Backfilled hole with spoils</td>
</tr>
</tbody>
</table>
AGREEMENT  made as of the 23rd day of September in the year 2013

BETWEEN the Owner:
Larry Pardee, Public Works Director, Owner’s Representative
The Town of Jackson, Wyoming
P.O. Box 1657
Jackson, Wyoming 83001

and the Contractor:
GE Johnson Construction Wyoming, LLC
1110 Maple Way, Suite E
P.O. Box 377
Jackson, Wyoming 83001
307.734.2605

for the following Project:
START Operations and Storage Facility
Jackson Hole, WY

The Architect Engineer:
Jorgensen Associates (Engineer of Record)
P.O. Box 9550
2304 E 1315 S Hwy 89, Simpson Ave
Jackson, WY 83002

The Owner and Contractor agree as follows.

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TABLE OF ARTICLES

ARTICLE 1   THE CONTRACT DOCUMENTS

ARTICLE 2   THE WORK OF THIS CONTRACT

ARTICLE 3   DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be the date of this Agreement unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner.
(Insert the date of commencement if it differs from the date of this Agreement or, if applicable, state that the date will be fixed in a notice to proceed.)
«September 9, 2013 »

If, prior to the commencement of the Work, the Owner requires time to file mortgages and other security interests, the Owner’s time requirement shall be as follows:
« »

§ 3.2 The Contract Time shall be measured from the date of commencement.

§ 3.3 The Contractor shall achieve Substantial Completion of the entire Work not later than « » (« ») days from the date of commencement, or as follows:
(Insert number of calendar days. Alternatively, a calendar date may be used when coordinated with the date of commencement. If appropriate, insert requirements for earlier Substantial Completion of certain portions of the Work.)
«December 15, 2014 »
Portion of Work Substantial Completion Date

(subject to adjustments of this Contract Time as provided in the Contract Documents.
*Insert provisions, if any, for liquidated damages relating to failure to achieve Substantial Completion on time or for bonus payments for early completion of the Work.*

«Liquidated Damages in the amount of $1,000 per calendar day shall be assessed commencing on the first day following December 15, 2014 until Substantial Completion is issued. »

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor’s performance of the Contract. The Contract Sum shall be « $13,906,000.00 », subject to additions and deductions as provided in the Contract Documents.

§ 4.2 The Contract Sum is based upon the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

(State the numbers or other identification of accepted alternates. If the bidding or proposal documents permit the Owner to accept other alternates subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date when that amount expires.)

«Base Bid and Alternate 1 (Vegetative Roof Assemblies) totaling $13,906,000.00 Contractor will participate in a Value Engineering effort with a goal of a five percent (5%) reduction in the Final Contract Sum. Any contract savings will be held in reserve as a Construction Contingency and only be used as directed by Owner’s Representative. All Construction Contingency remaining at the time of Substantial Completion, shall be deducted from the Final Contract Sum via Change Order. »

§ 4.3 Unit prices, if any:

(Identify and state the unit price; state quantity limitations, if any, to which the unit price will be applicable.)

| Item | Units and Limitations | Price per Unit ($0.00) |

§ 4.4 Allowances included in the Contract Sum, if any:

(Identify allowance and state exclusions, if any, from the allowance price.)

| Item | Price |

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

§ 5.1.1 Based upon Applications for Payment submitted to the ArchitectEngineer by the Contractor and Certificates for Payment issued by the ArchitectEngineer, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

« »

§ 5.1.3 Provided that an Application for Payment is received by the ArchitectEngineer not later than the 20th day of a month, the Owner shall make payment of the certified amount to the Contractor not later than the 20th day of the following month. If an Application for Payment is received by the ArchitectEngineer after the application date fixed above, payment shall be made by the Owner not later than (« » days after the ArchitectEngineer receives the Application for Payment.

(Federal, state or local laws may require payment within a certain period of time.)
§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the ArchitectEngineer may require. This schedule, unless objected to by the ArchitectEngineer, shall be used as a basis for reviewing the Contractor’s Applications for Payment.

§ 5.1.5 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.6 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

.1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of «10» percent («10 »%)

.2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage of «10 » percent («10 »%);

.3 Subtract the aggregate of previous payments made by the Owner; and

.4 Subtract amounts, if any, for which the ArchitectEngineer has withheld or nullified a Certificate for Payment as provided in Section 9.5 of AIA Document A201–2007 SP.

§ 5.1.7 The progress payment amount determined in accordance with Section 5.1.6 shall be further modified under the following circumstances:

.1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to the full amount of the Contract Sum, less such amounts as the ArchitectEngineer shall determine for incomplete Work, retainage applicable to such work and unsettled claims; and (Section 9.8.5 of AIA Document A201–2007 SP requires release of applicable retainage upon Substantial Completion of Work with consent of surety, if any.)

.2 Add, if final completion of the Work is thereafter materially delayed through no fault of the Contractor, any additional amounts payable in accordance with Section 9.10.3 of AIA Document A201–2007 SP.

§ 5.1.8 Reduction or limitation of retainage, if any, shall be as follows:

(If it is intended, prior to Substantial Completion of the entire Work, to reduce or limit the retainage resulting from the percentages inserted in Sections 5.1.6.1 and 5.1.6.2 above, and this is not explained elsewhere in the Contract Documents, insert here provisions for such reduction or limitation.)

§ 5.1.9 Except with the Owner’s prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.2 Final Payment

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

.1 the Contractor has fully performed the Contract except for the Contractor’s responsibility to correct Work as provided in Section 12.2.2 of AIA Document A201–2007 SP, and to satisfy other requirements, if any, which extend beyond final payment; and

.2 a final Certificate for Payment has been issued by the ArchitectEngineer.

§ 5.2.2 The Owner’s final payment to the Contractor shall be made no later than 30 days after the issuance of the ArchitectEngineer’s final Certificate for Payment, or as follows:
ARTICLE 6   DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

The Architect/Engineer will serve as Initial Decision Maker pursuant to Section 15.2 of AIA Document A201–2007 SP, unless the parties appoint below another individual, not a party to this Agreement, to serve as Initial Decision Maker.

(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect/Engineer.)

§ 6.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Section 15.3 of AIA Document A201–2007 SP, the method of binding dispute resolution shall be as follows:

(Check the appropriate box. If the Owner and Contractor do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.)

- Arbitration pursuant to Section 15.4 of AIA Document A201–2007 SP
- Litigation in a court of competent jurisdiction
- Other: (Specify)

ARTICLE 7   TERMINATION OR SUSPENSION

§ 7.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201–2007 SP.

§ 7.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2007 SP.

ARTICLE 8   MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A201–2007 SP or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 8.2 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

(Insert rate of interest agreed upon, if any.)

§ 8.3 The Owner’s representative:

(Larry Pardee, Public Works Director, Owner’s Representative)

(The Town of Jackson, Wyoming)

(P.O. Box 1657)

Jackson, Wyoming  83001
§ 8.4 The Contractor’s representative:
(Name, address and other information)

« Ben Aufderheide »
« GE Johnson Construction Wyoming, LLC »
« P.O. Box 377 »
« Jackson, Wyoming 83001 »

§ 8.5 Neither the Owner’s nor the Contractor’s representative shall be changed without ten days written notice to the other party.

§ 8.6 Other provisions:

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated in the sections below.

§ 9.1.1 The Agreement is this executed AIA Document A101–2007 SP, Standard Form of Agreement Between Owner and Contractor, for use on a Sustainable Project.

§ 9.1.2 The General Conditions are AIA Document A201–2007 SP, General Conditions of the Contract for Construction, for use on a Sustainable Project.

§ 9.1.3 The Supplementary and other Conditions of the Contract:

<table>
<thead>
<tr>
<th>Document</th>
<th>Title</th>
<th>Date</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td>00 73 00</td>
<td>Supplementary Conditions</td>
<td></td>
<td>1-12</td>
</tr>
<tr>
<td>00 73 83</td>
<td>Wyoming Rural Transit Agreement with Attachment A-E</td>
<td></td>
<td>1-35</td>
</tr>
<tr>
<td>00 31 32</td>
<td>Geotechnical Data</td>
<td>December 6, 2010</td>
<td>1-38</td>
</tr>
<tr>
<td>00 21 14</td>
<td>Supplementary Instructions to Bidders</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

§ 9.1.4 The Specifications:
(Either list the Specifications here or refer to an exhibit attached to this Agreement.)

« Project Manual for Permit and Construction (Rev#2) Dated July 24, 2013 »

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Date</th>
<th>Pages</th>
</tr>
</thead>
</table>

§ 9.1.5 The Drawings:
(Either list the Drawings here or refer to an exhibit attached to this Agreement.)


<table>
<thead>
<tr>
<th>Number</th>
<th>Title</th>
<th>Date</th>
</tr>
</thead>
</table>
§ 9.1.6 The Addenda, if any:

<table>
<thead>
<tr>
<th>Number</th>
<th>Date</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Portions of Addenda relating to bidding requirements are not part of the Contract Documents unless the bidding requirements are also enumerated in this Article 9.

§ 9.1.7 The Sustainability Plan:

(Identify the document or documents that comprise the Sustainability Plan by title, date and number of pages, and include other identifying information.)

<table>
<thead>
<tr>
<th>Title</th>
<th>Date</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Other identifying information:

« »

§ 9.1.8 Additional documents, if any, forming part of the Contract Documents:

.1 AIA Document E201™–2007, Digital Data Protocol Exhibit, if completed by the parties, or the following:

« »

.2 Other documents, if any, listed below:

(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201–2007 SP provides that bidding requirements such as advertisement or invitation to bid, Instructions to Bidders, sample forms and the Contractor’s bid are not part of the Contract Documents unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.)

« »

ARTICLE 10 INSURANCE AND BONDS

The Contractor shall purchase and maintain insurance and provide bonds as set forth in Article 11 of AIA Document A201–2007 SP.

(State bonding requirements, if any, and limits of liability for insurance required in Article 11 of AIA Document A201–2007 SP.)

<table>
<thead>
<tr>
<th>Type of Insurance or Bond</th>
<th>Limit of Liability or Bond Amount ($0.00)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>
This Agreement entered into as of the day and year first written above.

**OWNER**

(Signature)

Larry Pardee, Public Works Director, Owner's Representative

(Printed name and title)

**CONTRACTOR**

(Signature)

(Printed name and title)
<table>
<thead>
<tr>
<th>PROJECTED REVENUE FOR START FACILITY</th>
<th>Project Total</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>REVENUES</strong></td>
<td></td>
</tr>
<tr>
<td>FTA SGR Grant</td>
<td>$3,844,694</td>
</tr>
<tr>
<td>FTA Map 21 Funding</td>
<td>$500,000</td>
</tr>
<tr>
<td>Consensus SLIB</td>
<td>$949,646</td>
</tr>
<tr>
<td>SPET</td>
<td>$2,086,038</td>
</tr>
<tr>
<td>JHESP</td>
<td>$55,000</td>
</tr>
<tr>
<td>TIGER GRANT</td>
<td>$6,050,000</td>
</tr>
<tr>
<td>TOWN OF JACKSON</td>
<td>$0</td>
</tr>
<tr>
<td>TETON COUNTY</td>
<td>$0</td>
</tr>
<tr>
<td><strong>Total Revenue</strong></td>
<td>$13,485,378</td>
</tr>
</tbody>
</table>

| **START FUND BALANCE**              |              |
| SPET Carryover                      | $641,621     |
| Other START fund Balance            | $681,001     |
| **Total**                           | $1,322,622   |

Revenue plus use of Fund Balance: $14,808,000

| **EXPENSES**                         |              |
| GE JOHNSON                           | $13,906,000  |
| Construction Mgmt                   | $770,000     |
| Building Permit fees                | $77,000      |
| Commissioning                       | $55,000      |
| **Total**                            | $14,808,000  |

Balance of TIGER Grant: $1,950,000