

BID MANUAL

FOR
CITY OF SAN LUIS
WEST WWTP 3.0 MGD MBR UPGRADES
2025-050



City of San Luis
1090 East Union Street
P.O. Box 1170
San Luis, Arizona 85349

APPROVED BY:

Acting City Manager:

Jenny Torres

Mayor:

Nieves Riedel

Vice-Mayor:

Javier Vargas

Council Members:

Luis Cabrera

Maria Cecilia Cruz

Esteban C. Rosales

Lizeth Servin

Tadeo Azael De La Hoya

PREPARED BY:



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CITY OF SAN LUIS SUPPLEMENTAL TO THE MAG UNIFORM STANDARD SPECIFICATIONS FOR PUBLIC WORKS CONSTRUCTION AND CITY OF YUMA CONSTRUCTION STANDARD DETAIL DRAWINGS - DATED OCTOBER 2016 (Separate Publication)



ADVERTISEMENT FOR BIDS
CITY OF SAN LUIS, ARIZONA
WEST WWTP 3.0 MGD MBR
2025-050

NOTICE IS HEREBY GIVEN THAT sealed bids will be received in the Office of the City Clerk, City Hall, 1090 E. Union Street, City of San Luis, Arizona until 3:00 P.M. Arizona Time on Thursday, April 9, 2026, for furnishing all labor, materials, equipment, tools and performing all services required for the construction of the **City of San Luis — West Wastewater Treatment Plant (WWTP) 3.0 MGD MBR** project and work incidental thereto. Bids will then be publicly opened and read aloud. Each Bid should be submitted on the Bid Form and be accompanied by a certified or cashiers check or bid bond in the amount of ten (10%) percent of the total amount of the bid.

The proposed work is located within the city limits of the City of San Luis, Arizona at its West Wastewater Treatment Plant site. Work consists of, but is not limited to, construction upgrades and conversion of the existing 1.5 MGD SBR treatment process to a 3.0 MGD Membrane Bioreactor (MBR) treatment process. Upgrades will include modifications to the headworks, secondary process, tertiary, disinfection, sludge storage & digestion, sludge dewatering, odor control, plant drains, and plant reuse & distribution processes, along with associated civil, mechanical, structural, and electrical/ Instrumentation & Controls works and all incidentals required by the project as specified in the Contract Document and Project Plans. Integration of Instrumentation and Controls shall be performed by the City.

Bidding Documents can be downloaded at www.questcdn.com under an individual login for a non-refundable charge of \$22.00. Quest CDN Project number is 10050750. Registration with Quest CDN is required to be on plan holders list and receive project communications. Please contact QuestCDN.com at (952) 233-1632 or info@questcdn.com for assistance in free membership registration, downloading, and working with this digital project information. Any questions about obtaining documents can be forwarded to Andrea Jaycox at ajaycox@pacewater.com.

A mandatory Pre-Bid Conference will be held at the City of San Luis Pedro Julian Conference Room in City Hall on Thursday, March 5, 2025, at 10:00 AM Arizona Time to discuss requirements. A site visit to the WWTP will follow this pre-bid conference. The Pre-bid conference may also be attended virtually via the following link:

Pre-Bid Meeting West WWTP 3.0 MGD MBR - 2025-050

[Meeting Link](#)

MS Teams Meeting ID: 250 960 197 877 88

Passcode: 26Pp3km6

All bids must be submitted in a sealed envelope and plainly marked: "CITY OF SAN LUIS — WEST WWTP — WEST WWTP 3.0 MGD MBR — 2025-050."

The City of San Luis reserves the right to cancel this procurement, and/or to reject any or **all bids**, and/or to waive any informality in any bid. No bidder may withdraw his bid for a period of thirty (30) days after the date set for the bid opening thereof:

City of San Luis, Arizona

Jenny Torres
Acting City Manager
Yuma Sun: 02/08/26, 02/15/26

Instructions for Bidders

City of San Luis

Project Name: City of San Luis
West WWTP 3.0 MGD MBR Upgrade

To be considered, bids must be made in accordance with these Instructions to Bidders.

ARTICLE 1 - DEFINITIONS

- 1.1 All definitions set forth in the General Conditions are applicable to these Instructions to Bidders.
- 1.2 Bidding Documents include the Advertisement for Bids, Instructions to Bidders, Bid Form, Bid Bond Form, and the proposed Contract Documents, including any addenda issued prior to the receipt of bids.
- 1.3 Addenda are written or graphic instructions issued prior to the execution of the contract which modify or interpret the Bidding Documents, including Drawings, conditions of the Contract and Specifications, by additions, deletions, clarifications or corrections. Addenda will become part of the Contract Documents when the Construction Contract is executed.
- 1.4 The term "Owner" or "City" shall be interpreted to mean City of San Luis, Arizona.

ARTICLE 2 - BIDDER'S REPRESENTATION

- 2.1 Before submitting a bid, bidders shall carefully examine the Drawings, Bidding Requirements, Bid Document Contract Forms, General Conditions, Specifications, and Related Documents, visit the site of the work, and fully inform themselves as to all existing conditions and limitations and shall include in the bid a sum sufficient to cover the cost of all items included in the Contract. The Bidder, if awarded the Contract, shall not be allowed any extra compensation by reason of any matter or thing concerning the Project, which said Bidder might have fully informed himself prior to the building.

ARTICLE 3 - BIDDING DOCUMENTS

- 3.1 Bidders may obtain copies of the bidding Documents at:

Bidding Documents can be downloaded at www.questcdn.com under an individual login for a non-refundable charge of \$22.00. Quest CDN Project number is 10050750. Registration with Quest CDN is required to be on plan holders list and receive project communications. Please contact QuestCDN.com at (952) 233-1632 or info@questcdn.com for assistance in free membership registration, downloading, and working with this digital project information. Any questions about obtaining documents can be forwarded to Andrea Jaycox at ajaycox@pacewater.com or (602) 502-9683.

ARTICLE 4 - INTERPRETATION OF BIDDING DOCUMENTS

- 4.1 Should a Bidder find discrepancies, inconsistencies, or obscurities in, or omissions from the bidding documents, or should he be in doubt as to their meaning, he shall, at once, notify the Engineer in writing via email, who will issue a written Addendum, clarifying the intent of the documents. Any such item not brought to the Engineer's attention during the bidding period shall be done in accordance with the Engineer's interpretation for the good of the work in accordance with the intent and meaning of the Contract

Documents. Neither owner nor Engineer will be responsible for oral instruction or information. Addenda may not be issued less than 5 Working Days before the time specified for receipt of bids. Questions received after the deadline noted in section 4.4 below cannot be answered in writing. Should any discrepancies not be clarified by Addendum, the Contractor shall use the most expensive condition shown or specified in bid.

- 4.2 Prior to the receipt of bids, each person or firm recorded by the Engineer as having received the bidding documents will be notified of any addendum. Addenda will also be available for Inspection wherever the bidding documents are made available for that purpose.
- 4.3 All Addenda issued by the Engineer during the time of bidding are to be included in the bid and shall become a part of the bidding documents (bidder's responsibility to check for addendums). Acknowledge receipt of Addenda on the Bid form in space provided.
- 4.4 Point of Contact for questions is: Nathan Tesch, PACE, ntesch@pacewater.com. The deadline for questions is Thursday, March 12, 2026.

ARTICLE 5 - SUBSTITUTIONS

- 5.1 When a specific manufacturer, trade name or material is specified, or indicated, it is to establish a standard of quality and shall not be construed as limiting competition. However, components of electrical systems shall be standard items and/or interchangeable with specified manufacturer to facilitate repairs and upkeep by the Owner.
- 5.2 It shall be the Contractor's responsibility to provide materials of equal standards to those specified. The Engineer shall be the sole judge as to whether or not the products meet the established standards. The Contractor MUST request written approval of equal materials from the Engineer prior to the bid date.

ARTICLE 6 - OWNER FURNISHED EQUIPMENT

- 6.1 The OWNER has pre-purchased several items of treatment process equipment. One piece of equipment is onsite, and two others need to be delivered. The Contractor shall be responsible for planning delivery of pending equipment in order to meet the construction schedule. All treatment process equipment will become the CONTRACTOR'S responsibility. The CONTRACTOR shall coordinate delivery and confirm that the shipments are complete and accurate for all equipment. Contract shall provide safe and secure storage, provide transportation from onsite storage to install location, install per the construction documents and manufacturer's requirements, and schedule the manufacturer's representative for construction, installation certification, start up, operational training, etc.

The following pieces of Equipment have been pre-purchased by the OWNER:

- 6.1.1 Membrane Bioreactor, (MBR) (Kubota) to include membranes, mixers, pumps, blowers, diffusers and control panels. See Appendices B & C of the Specifications for more complete information and shop drawings. Contractor must plan and coordinate delivery to meet the contractor schedule. Contractor will be required to pay the storage fees; allowance has been provided. The delivery date is to be scheduled directly with Kubota.
- 6.1.2 Sludge Dewatering Screw Press (KFC). Screw Press, Sludge Pump, polymer dosing flocculation tank, conveyors and control panels. See Appendices B & C of the Specifications for more complete information. **(On-site)**

- 6.1.3 Headworks Screen, grit removal and control panels (Hydro-Dyne) - Manufacturing completed and being stored at Hydro-Dyne, a waiting Contractor coordination for delivery. Contractor must plan and coordinate delivery to meet the contractor schedule. Contractor will be required to pay the storage fees; allowance has been provided. See Appendices B & C of the Specifications for complete information.

ARTICLE 7 - BIDDING PROCEDURES

- 7.1 A bid is invalid if it has not been deposited at the designated location prior to the time and date for receipt of bids indicated in the Invitation to Submit Proposals, or prior to any extension thereof issued to the bidders. No bid will be acceptable unless the entire PROPOSAL PAMPHLET is submitted with the appropriate forms provided and completed. [NO SUBSTITUTE FORMS SHALL BE SUBMITTED].
- 7.2 All bids must be prepared on the "Bid Form" with all blank spaces filled, the signature in longhand, and without alterations or erasures. Blank spaces requiring dollar amounts must be filled in with dollar amounts. If a line unit price is left blank the price will be considered as zero [\$0.00] and extended as such. The total base bid amount must be in words as well as figures. Should any difference in words and figures occur, the amount stated in words shall govern. The form must be executed in either ink or type written. Where bidder is a corporation, the Bid Form must be signed by the legal name of the corporation followed by the name of state of incorporation, date of incorporation and the legal signature of an officer authorized to bind the corporation to a contract.
- 7.3 Bids shall be submitted as follows:
- 7.3.1 Submit one (1) original and one (1) copy in a **sealed** envelope. This is to be put inside a shipping envelope or box that is clearly marked "City of San Luis – Lift Station 300 Influent Sewer Force" on the outside and addressed as indicated immediately below:

- If submitter is sending the proposal by US Mail, the proposal package should be sent only to:

Sonia Cornelio
Office of City Clerk
City of San Luis
P.O. Box 1170
San Luis, AZ 85349

- If submitter is sending the proposal package via a delivery service or hand delivered, the proposal should be sent only to:

Sonia Cornelio
Office of City Clerk
City of San Luis
City Hall
1090 E. Union St.
San Luis, AZ 85349

Deadline for receipt of proposals is at 3:00 P.M. Arizona Time on Thursday, April 9, 2026. Late proposals will be returned unopened.

FAX and Internet submissions are NOT acceptable and will be rejected.

- 7.3.2 The Bid envelope shall also contain the following:

- Bid Security
- Subcontractors list form

7.3.3 Bidders Contact Information - It is important that the City of San Luis keeps accurate records of potential bidders. It is the bidder's responsibility to complete registration with Quest CDN per the Advertisement for Bids to be on plan holders list, download bid package and receive project communications.

7.4 Bid Security:

7.4.1 Each bidder is required to submit, with his bid, a certified or cashier's check upon a solvent bank, or a surety bond for ten percent (10%) of the amount of the Base Bid made payable to the Owner.

7.4.1.1 If more than one proposal is submitted, only one Bid Security is required for the largest base Bid amount, however, this Bid Security shall apply to any and/or all bids submitted.

7.4.2 The Bid Security shall be given as a guarantee that the bidder will enter into a contract to perform the work, if awarded to him, and provide a satisfactory Performance Bond, Payment Bond, and Warranty Bond as required under the provisions of Title 34, Chapter 2, Article 2, Arizona Revised Statutes. Bid Security shall be declared forfeited as liquidated damages if the bidder refuses to enter into said contract upon request to do so by the Owner.

7.4.3 Bid Security will be returned to the unsuccessful bidders, and to the successful bidder upon the execution of a satisfactory Performance Bond, Payment Bond and Warranty Bond, and Construction Contract.

7.4.4 Bidders may withdraw their bid at any time prior to bid opening but may not resubmit them. No bid may be modified or withdrawn after the bid opening for a period of 120 days.

7.5 A mandatory Pre-Bid Conference will be held at the City of San Luis Pedro Julian Conference Room in City Hall on Thursday, March 5, 2026, at 10:00 AM Arizona Time to discuss specifications and any questions Bidders may have. The Pre-bid conference may also be attended virtually via the following link:

Pre-Bid Meeting West WWTP 3.0 MGD MBR - 2025-050

[Meeting Link](#)

MS Teams Meeting ID: 250 960 197 877 88

Passcode: 26Pp3km6

ARTICLE 8 - SUBCONTRACTOR LIST FORM

8.1 Complete the Subcontractor List Form, listing a single company, firm, or organization name only for each branch of the work.

8.2 If a change occurs in the list, brought about by the exercising of ANY of the alternates (if applicable) involved in the bidding, the bidder must show said changes on the list. If no name appears other than those listed under the Base Bid, adherence to those names shall be mandatory, no matter which alternate, if any, is exercised.

8.3 The competency and responsibility of bidders and their proposed subcontractors will be considered in making the award.

8.4 The Contractor shall pay the cost of all permits, changes, meters, connections, fees, etc., directly to governmental agencies having jurisdiction to comply with the law of the place of the Project in order to complete the work. The bidders' attention is directed to the fact that all applicable state laws, municipal ordinances, and the rules and regulations of all authorities having jurisdiction shall apply to the Contract.

ARTICLE 9 - REJECTION OF BIDS

9.1 The Bidder acknowledges the right of the Owner to reject any or all bids, to waive any informality or irregularity in any bid received, or to withhold the award for any reason he determines. In addition, the Bidder recognizes the right of the Owner to reject a bid if the Bidder failed to furnish any required Bid Security or to submit the data required by the Bidding Documents, or if the bid is in any way incomplete or irregular. Bidders shall understand that the Owner will not be responsible for any errors or omissions in the preparation of the bid.

ARTICLE 10 - AGREEMENT

10.1 The form of Agreement which the successful Bidder will be required to execute in four (4) original counterparts.

Progress payments will be made to the Contractor by the Owner in an amount equal to 90% of that due until substantial completion of the project. Payment of 95% of the due will be made upon substantial completion of the project. Payment of full payment due will be made upon Final Completion and acceptance of the project.

ARTICLE 11 - WARRANTY

11.1 The Contractor certifies by submitting his bid that he has familiarized himself with all specified products, materials, and systems which are proposed for inclusion in the required work, and that said materials, products, and systems are appropriate for the use(s) intended. He additionally certifies by submitting this bid that he shall, in fact, install said materials, products, and systems in the work properly and in rigid compliance with the terms and conditions of the Contract Documents, and shall issue his written warranty applicable to the work as required by the applicable General Conditions. If the Bidder determines that the proposed materials, products, and/or systems are not appropriate for the use(s) intended, he shall submit his written exceptions attached to the Bid Form.

The Contractor, by entering into this Contract, guarantees the Work against defective workmanship or materials for a period of two (2) years from the date established by the date of Substantial Completion.

ARTICLE 12 - PERFORMANCE, PAYMENT AND WARRANTY BONDS

12.1 The Contractor is hereby required to provide and pay for Performance, Payment and Warranty Bonds. Bonds shall secure the faithful performance (100%) of the Contract and the payment of all obligations (100%) arising there under, in such form as the Owner may prescribe and with such sureties that the Owner may approve. Bonds shall be active and held by the Owner for duration of the guaranty (warranty).

ARTICLE 13 - CONTRACTOR LICENSE LAW, ELIGIBILITY & PREFERENCE

13.1 The Contractor shall comply with and require all subcontractors to comply with State of Arizona and City Contractor's License Laws. Contractor shall comply with the provisions of "an Act to Regulate the Business of Contracting", Title 32, Chapter 10, Arizona Revised Statutes with latest adopted revisions and 'Contractor's License Laws and Regulations' dated July, 1981, published by the Arizona State Registrar of

Contractors, or the latest revision thereof adopted under the provision of AIRS title 32, chapter 10, Articles 2 and 3.

The prime Contractor shall have a State of Arizona Classification "A" Contractor's license to perform the work. A bid submitted by any Contractor not properly licensed at the time of bid opening shall be considered non-responsive and will be rejected.

ARTICLE 14 - NONDISCRIMINATION

- 14.1 In connection with the performance of work under this Contract, the Contractor agrees (as prescribed in A.R.S. Section 23-373) not to discriminate against any employee or applicant for employment because of race, sex, religion, color, or national origin. The aforesaid provision 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 compensations and selection for training, including apprenticeship. The Contractor agrees to post hereafter in conspicuous places, available for employees and applicants for employment, notices setting forth the provisions of the nondiscrimination clauses. The contractor further agrees to insert the foregoing provision in all subcontracts hereunder, except subcontracts for standard commercial supplies or raw materials.

ARTICLE 15 - COPIES OF DOCUMENTS FURNISHED

- 15.1 The Contractor shall be furnished three (3) sets of appropriate Construction Documents free of charge at the Pre-Construction meeting.

Additional copies may be obtained from the Engineer by paying cost of reproduction of same.

ARTICLE 16 - INSURANCE

- 16.1 The Contractor is required to provide and pay for insurance as provided for in the Contract Documents. Contractor shall file, with the Performance, Payment and Warranty Bonds, all required Certificates of Insurance outlined in the Contract.
- 16.2 The Contractor shall not commence work under this Contract until the Contractor has obtained all the insurance required under this paragraph and such insurance has been approved by the Owner, nor shall the Contractor allow any Subcontractor to commence work on a subcontract until the insurance require of the subcontractor has been so obtained and approved.
- 16.3 The Contractor shall procure and maintain during the life of this contract, Workmen's Compensation Insurance as required by applicable State or Territorial Law for all of his employees to be engaged in work at the site of the project under this Contract, and in any such work sublet, the Contractor shall require all Subcontractors similarly to provide Workmen's Compensation Insurance for all of the latter's employees to be engaged in such work unless such employees are covered by the protection afforded by the Contractors Workmen's Compensation Insurance. In case any class of the employees engaged in hazardous work on the project under this contract are not protected under the Workmen's Compensation Statute, the Contractor shall provide and shall cause each subcontractor to provide adequate employer's liability insurance for the protection of such of his employees as are not otherwise protected.

ARTICLE 17 - ADDITIONAL SERVICES

- 17.1 Contractor agrees to pay for additional testing services, additional Engineering services, and any similar related additional costs as designated in the Contract Documents.

ARTICLE 18 - SUMMARY OF THE WORK

18.1 Refer to the Project Overview & Scope of Work for description of the work.

ARTICLE 19 - SUBSTANTIAL COMPLETION

19.1 Substantial Completion will be accomplished no later than 488 days from dated letter "Notice to Proceed".

ARTICLE 20 - LIQUIDATED DAMAGES

20.1 The liquidated damages for this project shall be determined by the Schedule of Liquidated Damages in City of San Luis Supplemental to the MAG Uniform Standard Specifications. Provisions for liquidated damages, if any, for failure to timely attain a completion milestone, Substantial Completion, or completion of the Work in readiness for final payment, are set forth in the Contract and General Conditions.

ARTICLE 21 - EVALUATION AND AWARD

21.1 Bid opening will take place immediately after the close of the bidding.

21.2 City staff will convene in the Pedro Julian Conference Room at the San Luis City Hall, open the proposals, and read the bids into the record.

21.3 Award will be made to the lowest qualified responsive bidder.

21.4 Formal award of contract is intended to be at a City Council meeting within 120 days of the close of bidding.

ARTICLE 22 - PROTESTS

22.1 All responders will receive notification via e-mail regarding their status vis-a-vis the proposed contract award. Responders not selected have 5 days from e-mail sent date to initiate protest proceedings. To do this, a dissatisfied party must lodge a protest with Melissa Lopez, via receipted e-mail (mlopez@sanluisaz.gov) or by certified mail (Attn: Melissa Lopez/City of San Luis/P.O. Box 1170/San Luis, AZ 85349). In the absence of a successful protest, the contract will be awarded to the most responsive qualified bidder.

Project Overview & Scope of Work

City of San Luis

PROJECT NAME

The name of this project is **CITY OF SAN LUIS WEST WWTP 3.0 MGD MBR UPGRADES**. All correspondence and documents are to reference "CITY OF SAN LUIS WEST WWTP 3.0 MGD MBR UPGRADES".

OVERVIEW

This PROPOSAL PAMPHLET contains the bid documents necessary to respond to the Request for Bid for **CITY OF SAN LUIS WEST WWTP 3.0 MGD MBR UPGRADES**. This project is being undertaken by the City of San Luis, Arizona funds. This bid pertains to those activities described herein under the Scope of Work.

It is especially important that bidders are aware of the following:

1. This solicitation is open to general contractors and subcontractors licensed to operate in the State of Arizona.
2. Davis-Bacon wage rates **DO** apply.

SCOPE OF WORK

Scope of Work, **CITY OF SAN LUIS WEST WWTP 3.0 MGD MBR UPGRADES**.

The proposed work is located within the city limits of the City of San Luis, Arizona at its West Wastewater Treatment Plant site. The work consists of, but is not limited to, construction upgrades and conversion of the existing 1.5 MGD SBR treatment process to a 3.0 MGD Membrane Bioreactor (MBR) treatment process. Upgrades will include modifications to the headworks, secondary process, tertiary, disinfection, sludge storage & digestion, sludge dewatering, odor control, plant drains, and plant reuse & distribution processes, along with associated civil, mechanical, structural, and electrical/ Instrumentation & Controls works and all incidentals required by the project as specified in the Contract Document and Project Plans. Integration of Instrumentation and Controls shall be performed by the City.

Bid Kit

City of San Luis

West WWTP 3.0 MGD MBR Upgrades

BID FORM

TO: City of San Luis, Arizona
1090 East Union Street
P.O. Box 1170
San Luis, Arizona 85349

BIDDER:

Project Name: City of San Luis West WWTP 3.0 MGD MBR Upgrades

In compliance with the ADVERTISEMENT FOR BIDS:

Having examined the CONTRACT DOCUMENTS, site of work, and being familiar with the conditions to be met, hereby submits the following BID for furnishing the material, equipment, labor and everything necessary for the completion of the work listed and agrees to execute the CONTRACT DOCUMENTS and furnish the required CONTRACT AND LABOR AND MATERIAL SURETY BONDS and CERTIFICATES OF INSURANCE for the completion of said work, at the locations and for the prices set forth on the inside pages of this form;

Understands that construction of this PROJECT shall be in accordance with all applicable Maricopa Association of Governments (MAG) Uniform Standard Specifications and Details for Public Works Construction as adopted by the City of San Luis, the City of Yuma Construction Standard Detail Drawings – 2019 edition [details], the City of San Luis Supplemental to the MAG Uniform Standard Specifications and Details for Public Works Construction and the City of Yuma Construction Standard Detail Drawings, except as otherwise required by the PLANS, TECHNICAL SPECIFICATIONS and GENERAL CONDITIONS;

Understands that this BID for construction of this PROJECT shall be submitted with a proposal guarantee of cash, certified check, cashier's check or BID SURETY BOND for an amount not less than 10 percent of the amount bid;

Agrees that upon receipt of NOTICE OF AWARD, from the City of San Luis, Arizona, Bidder will execute the CONTRACT DOCUMENTS within ten (10) calendar days;

Understands that the work shall commence on day 1 of the Contract Time and be completed within **488 calendar days.**

Hereby acknowledges receipt of and agrees Bidder's PROPOSAL is based on the following Addenda listed by number and date issued):

Number	Date	Number	Date

(List any additional addenda on the back of this sheet)

And hereby submits the following BID SCHEDULE of units and quantities as a part of this BID KIT:

BID SCHEDULE

TO: City of San Luis, Arizona
1090 East Union Street, P.O. Box 1170
San Luis, Arizona 85349

BIDDER:

Project Name: City of San Luis West WWTP 3.0 MGD MBR

Bid Item	Description	Unit	Quantities	Unit Price	Total Cost
1	Mobilization / Demobilization	LS	1		
2	Earthworks for Grading, Cut, Fill, and Export	LS	1		
3	Asphalt Pavement	SF	38,413		
4	Yard Piping	LS	1		
5	Headworks Upgrades	LS	1		
6	FEB Conversion in SBR 4	LS	1		
7	Secondary Process Conversion in SBR 3 and Digesters 3&4	LS	1		
8	Installation of Feed Forward Pumps and Channel	LS	1		
9	MBR Conversion in SBRs 1 & 2 and Blower Gallery	LS	1		
10	Chemical Building Upgrades	LS	1		
11	Plant Drain Pump Station Upgrades	L	1		
12	Sludge Dewatering	LS	1		
13	Odor Control	LS	1		

Bid Item	Description	Unit	Quantities	Unit Price	Total Cost
14	Plant Process Water Booster Station	LS	1		
15	Installation of 24" PVC C900 Reuse Distribution Pipeline, Valves, Fittings and Appurtenances	LF	636		
16	Headwork Fabric Canopy	LS	1		
17	MBR Crane and Structure	LS	1		
18	MBR FRP Covers	Ft ²	2,400		
19	Handrails and Guardrails	LF	872		
20 a	Walkway Grating (Open)	Ft ²	2,400		
20 b	Walkway Grating (FRP/ Closed)	Ft ²	444		
21	Metal Stairways	LS	1		
22	Structural Canopies	LS	1		
23	Transition SBR 4 to Intensification Process	LS	1		
24	Electrical	LS	1		
25	Concrete and Concrete Structures	LS	1		
26	Coating and Painting	LS	1		
27	Digesters 1 & 2 Upgrades	LS	1		
28	Base Lump Sum	LS	1		
29	Hydro-dyne Storage Allowance	MO	10	\$3,860	\$38,600

NOTE: Detailed descriptions of bid items are on the following page.

TOTAL \$ _____

5% CONTINGENCY SUBTOTAL \$ _____

TOTAL BASE BID \$ _____

TOTAL BASE BID AMOUNT IN WORDS _____

Bid Item 1 - Mobilization / Demobilization

Payment shall be made for mobilization and demobilization to and from the site, for bonds and insurance. CONTRACTOR shall provide all the necessary mobilization requirements for the proper construction activities, include providing all the necessary accommodations for personnel and equipment as describe in these Specifications.

Bid Item 2 – Earthworks for Grading, Cut, Fill, and Export

Payment shall be made for the work associated with earthworks grading, cut, fill, and export of any excess material. Fill shall include screening, placement, and compaction of native material to meet the requirements of the Contract Documents. Excess material shall be screened and exported to a dedicated site per the contract. Excess material shall be spread evenly within the dedicated site by the CONTRACTOR. Screened material greater than 4” shall be disposed by the CONTRACTOR offsite. Payment shall be based on actual quantity and the unit price shown on the CONTRACTOR’s schedule of values as the items are completed and accepted by the Representative.

Bid Item 3 – Asphalt Pavement

Payment shall be made for asphalt road pavement as described in the Contract Documents. This includes the labor, equipment, material for the preparation and placement of the hot-mix asphalt, binder, base course, etc. where required. Quantities shown are estimated. Payment shall be based on actual quantity and the unit price shown on the CONTRACTOR’s schedule of values as the items are completed and accepted by the Representative.

Bid Item 4 – Yard Piping

Payment shall be made for site work associated with the installation of the yard piping as described in the Contract Documents. The work shall include all pipes, fitting, and associated labor and materials required for the proper trenching, installation, and backfill of the pipes. This shall also include any potholing, pavement restoration, wire tracing and surveying of the required work. Measurement and payment shall be made for each type of process yard pipe based on linear feet of pipe installed and the breakdown shown on the CONTRACTOR’s schedule of values as the items are completed and accepted by the Representative.

Bid Item 5 – Headworks Upgrades

Payment shall be made for the furnish and mechanical installation of the Headworks and associated appurtenances as shown on the drawings, specified in the contract documents. The Headworks Equipment is a pre-purchased item by the City. This bid item is only to include items, components and equipment not supplied by the City. Payment shall be made based on the breakdown shown on the CONTRACTOR’s schedule of values as the items are completed and accepted by the Representative.

Bid Item 6 – FEB Conversion in SBR 4

Payment shall be made for the furnish and mechanical installation associated with the conversion of SBR 4 to the new Flow Equalization Basin (FEB) with associated appurtenances as shown on the drawings, specified in the contract documents. Payment shall be made based on the breakdown shown on the CONTRACTOR’s schedule of values as the items are completed and accepted by the Representative.

Bid Item 7 – Secondary Process Conversion in SBR 3 and Digesters 3&4

Payment shall be made for the furnish and mechanical installation associated with the conversion of SBR 3 and Digesters 3 & 4 into the new Secondary Treatment Process with associated appurtenances as shown on the drawings, specified in the contract documents. The Secondary Process contains equipment that are pre-purchased by the City. This bid item is only to include items, components and equipment not supplied by the City. Payment

shall be made based on the breakdown shown on the CONTRACTOR's schedule of values as the items are completed and accepted by the Representative.

Bid Item 8 – Installation of Feed Forward Pumps and Channel

Payment shall be made for the furnish and mechanical installation associated with the installation of the Feed Forward Pumps and Channel with associated appurtenances as shown on the drawings, specified in the contract documents. The Feed Forward Pumps System contains equipment that are pre-purchased by the City. This bid item is only to include items, components and equipment not supplied by the City. Payment shall be made based on the breakdown shown on the CONTRACTOR's schedule of values as the items are completed and accepted by the Representative.

Bid Item 9 – MBR Conversion in SBRs 1 & 2 and Blower Gallery

Payment shall be made for the furnish and mechanical installation associated with the conversion of SBRs 1 & 2 into the new MBR Basins and construction of the Blower Gallery with associated appurtenances as shown on the drawings, specified in the contract documents. The MBR Process and Blowers contain equipment that are pre-purchased by the City. This bid item is only to include items, components and equipment not supplied by the City. Payment shall be made based on the breakdown shown on the CONTRACTOR's schedule of values as the items are completed and accepted by the Representative.

Bid Item 10 – Chemical Building Upgrades

Payment shall be made for the furnish and mechanical installation associated with the upgrades to the chemical storage and metering within the existing Chemical Building along with associated appurtenances as shown on the drawings, specified in the contract documents. The chemical metering contains equipment that are pre-purchased by the City. This bid item is only to include items, components and equipment not supplied by the City. Payment shall be made based on the breakdown shown on the CONTRACTOR's schedule of values as the items are completed and accepted by the Representative.

Bid Item 11 – Plant Drain Pump Station Upgrades

Payment shall be made for the furnish and mechanical installation associated with the Plant Drain Pump Station with associated appurtenances as shown on the drawings, specified in the contract documents. Payment shall be made based on the breakdown shown on the CONTRACTOR's schedule of values as the items are completed and accepted by the Representative.

Bid Item 12 – Sludge Dewatering

Payment shall be made for the furnish and mechanical installation associated with the installation of the Sludge Dewatering System along with associated appurtenances as shown on the drawings, specified in the contract documents. The Sludge Dewatering System contains equipment that are pre-purchased by the City. This bid item is only to include items, components and equipment not supplied by the City. Payment shall be made based on the breakdown shown on the CONTRACTOR's schedule of values as the items are completed and accepted by the Representative.

Bid Item 13 – Odor Control

Payment shall be made for the furnish and mechanical installation associated with the Odor Control System with associated appurtenances as shown on the drawings, specified in the contract documents. Payment shall be made based on the breakdown shown on the CONTRACTOR's schedule of values as the items are completed and accepted by the Representative.

Bid Item 14 – Plant Process Water Booster Station

Payment shall be made for the furnish and mechanical installation associated with the Plant Process Water Booster Station with associated appurtenances as shown on the drawings, specified in the contract documents. Payment shall be made based on the breakdown shown on the CONTRACTOR's schedule of values as the items are completed and accepted by the Representative.

Bid Item 15 - Installation of 24" PVC C900 Reuse Distribution Pipeline , Valves, Fittings and Appurtenances

Payment shall be made for the civil and mechanical work associated with the installation of the new 24" Reuse Distribution Pipeline as described in the Contract Documents. The work shall include all pipes, fitting, and associated labor and materials required for the proper trenching, installation, and backfill of the pipes. This shall also include all incidentals including potholing, pavement restoration, wire tracing, surveying, etc. of the required work. Quantities shown are estimated. Payment shall be based on actual quantity and the unit price shown on the CONTRACTOR's schedule of values as the items are completed and accepted by the Representative.

Bid Item 16 – Headwork Fabric Canopy

Payment shall be made for the furnish and mechanical installation associated with the Headworks Fabric Canopy with associated appurtenances as shown on the drawings, specified in the contract documents. Payment shall be made based on the breakdown shown on the CONTRACTOR's schedule of values as the items are completed and accepted by the Representative.

Bid Item 17 – MBR Crane and Structure

Payment shall be made for the furnish and mechanical installation associated with the MBR Crane and Structure with associated appurtenances as shown on the drawings, specified in the contract documents. Payment shall be made based on the breakdown shown on the CONTRACTOR's schedule of values as the items are completed and accepted by the Representative.

Bid Item 18 – MBR FRP Covers

Payment shall be made for the furnish and mechanical installation associated with the MBR FRP Covers with associated appurtenances as shown on the drawings, specified in the contract documents. Quantities shown are estimated. Payment shall be based on actual quantity and the unit price shown on the CONTRACTOR's schedule of values as the items are completed and accepted by the Representative.

Bid Item 19 – Handrails and Guardrails

Payment shall be made for the furnish and mechanical installation associated with handrails and guardrails along with associated appurtenances as shown on the drawings, specified in the contract documents. Quantities shown are estimated. Payment shall be based on actual quantity and the unit price shown on the CONTRACTOR's schedule of values as the items are completed and accepted by the Representative.

Bid Item 20 – Walkway Grating

Payment shall be made for the furnish and mechanical installation associated with walkway grating (both open metal grating and closed FRP grating) along with associated appurtenances as shown on the drawings, specified in the contract documents. Quantities shown are estimated. Payment shall be based on actual quantity and the unit price shown on the CONTRACTOR's schedule of values as the items are completed and accepted by the Representative.

Bid Item 21 – Metal Stairways

Payment shall be made for the furnish and mechanical installation associated with metal stairways along with associated appurtenances as shown on the drawings, specified in the contract documents. Payment shall be made based on the breakdown shown on the CONTRACTOR's schedule of values as the items are completed and accepted by the Representative.

Bid Item 22 – Structural Canopies

Payment shall be made for the furnish and mechanical installation associated with Structural Canopies along with associated appurtenances as shown on the drawings, specified in the contract documents. Payment shall be made based on the breakdown shown on the CONTRACTOR's schedule of values as the items are completed and accepted by the Representative.

Bid Item 23 – Transition SBR 4 to Intensification Process

Payment shall be made for the furnish and mechanical installation associated with the intensification of SBR 4 using World Water Works Migrate MBC media along with associated appurtenances as shown on the drawings, specified in the contract documents. Payment shall be made based on monthly lease agreement with World Water Works and on the breakdown shown on the CONTRACTOR's schedule of values as the items are completed and accepted by the Representative.

Bid Item 24 – Electrical

Payment shall be made for the furnish and electrical installation associated with the all electrical components along with associated appurtenances as shown on the drawings, specified in the contract documents. Payment shall be made based on the breakdown shown on the CONTRACTOR's schedule of values as the items are completed and accepted by the Representative.

Bid Item 25 – Concrete and Concrete Structures

Payment shall be made for the furnish and structural installation associated with all concrete components and concrete structures along with associated appurtenances as shown on the drawings, specified in the contract documents. Payment shall be made based on the breakdown shown on the CONTRACTOR's schedule of values as the items are completed and accepted by the Representative.

Bid Item 26 – Coating and Painting

Payment shall be made for the furnish and application associated with the all coating and painting along with associated appurtenances as shown on the drawings, specified in the contract documents. Payment shall be made based on the breakdown shown on the CONTRACTOR's schedule of values as the items are completed and accepted by the Representative.

Bid Item 27 – Aerobic Digesters 1 & 2 Upgrades

Payment shall be made for the furnish and mechanical installation associated with the upgrades of Digesters 1 & 2 with associated appurtenances as shown on the drawings, specified in the contract documents. Payment shall be made based on the breakdown shown on the CONTRACTOR's schedule of values as the items are completed and accepted by the Representative.

Bid Item 28 – Base Lump Sum

Payment shall be made for the work associated with the portion of the project not specifically included in the above bid schedule but required to be completed as part of the project as shown on the drawings, specified in the contract documents, and as required by the District. This may include, but not limited, to general conditions, testing, startup and training, survey, construction management, equipment rental, safety, overhead, etc. Payment shall be made based on the breakdown shown on the CONTRACTOR's schedule of values as the items are completed and accepted by the Representative.

Bid Item 29 – Hydro-Dyne Storage Allowance

Hydro-dyne equipment package is 100% complete and ready to ship, it is being stored at Hydr-dyne's headquarters in Florida on behalf of the city. The City chose to delay delivery to ensure it would align with the contractor's schedule. The Contractor will be responsible for coordinating delivery and paying Hydro-dyne a storage fee of \$3,860 a month. This storage is intended to be no longer than 10 months.

THIS BID IS SUBMITTED BY _____ ,

a corporation organized under the laws of the State of _____ ,

or a partnership consisting of _____ ,

or individual trading as _____ ;

of the City of _____ (City, State) and is the holder of Arizona State

Contractor's license(s): _____ (type)

Classification _____ License No. _____ .

The Bidder hereby certifies that as of the below date, the bond amount posted with the Arizona Registrar of Contractors is

\$ _____ and that the Bidder's actual volume of work has not exceeded the contemplated gross volume pursuant to Arizona Administrative Code, Title 4 Chapter 9 [Authority: ARS §32-1101 et seq.]

Respectfully Submitted,

Bidder _____

Address _____

City, State, ZIP _____

E-mail _____

By:

[Signature]

[Date]

Name _____

Title _____

ATTEST: [If Bidder is an Individual]

Witness:

[Signature]

[Date]

Name and Title _____

BID SURETY BOND

Project Name: City of San Luis West WWTP 3.0 MGD MBR

For: City of San Luis, Arizona

KNOW ALL MEN BY THESE PRESENTS:

That we, _____, as Principal, (hereinafter called the Principal),
and the _____, a corporation duly organized under the laws of the State of
_____ and duly licensed and possessing a certificate of authority to transact surety business in the State of Arizona, as Surety, (hereinafter called the Surety), are held and firmly bound unto City of San Luis, Arizona [hereinafter called City] as Obligee, in the sum of ten percent (10%) of the total amount of the bid of Principal, submitted by him to the City for the work described below, for the payment of which sum, well and truly to be made, the said Principal and the said Surety, bind ourselves, our heirs, executors, and administrators, successors, and assigns, jointly and severally, firmly by these presents, and in conformance with Arizona Revised Statutes [ARS].

WHEREAS, the said Principal is herewith submitting its PROPOSAL for the City of San Luis West WWTP 3.0 MGD MBR

NOW, THEREFORE, if the City shall accept the PROPOSAL of the Principal and the Principal shall enter into a CONTRACT with the City in accordance with the terms of the PROPOSAL and give the Bonds and Certificates of Insurance as specified in the Standard Specifications with good and sufficient Surety for the faithful performance of the CONTRACT and for the prompt payment of labor and materials furnished in the prosecution of the CONTRACT, or in the event of the failure of the Principal to enter into the CONTRACT and give the Bonds and Certificates of Insurance, if the Principal pays to the City the difference not to exceed the penalty of the bond between the amount specified in the PROPOSAL and such larger amount for which the Obligee may in good faith contract with another party to perform the work covered by the PROPOSAL then this obligation is void. Otherwise it remains in full force and effect provided, however, that this bond is executed pursuant to the provisions of Section 34-201, ARS, and all liabilities on this bond shall be determined in accordance with the provisions of the section to the extent as if it were copied at length herein.

Signed and sealed this _____ day of _____, 20____.

Principal Firm [Seal]

Surety Firm [Seal]

Principal Signature

Surety Signature

Name and Title

Name and Title

Agency of Record

Address
{NOTE: attach current power of attorney}

NON-COLLUSION AFFIDAVIT

Project Name: City of San Luis West WWTP 3.0 MGD MBR

For: City of San Luis, Arizona

That pursuant to Section 1128 of Title 23 USC, the undersigned in submitting a PROPOSAL for performing the following work by CONTRACT, being duly sworn, disposes and says that he has not, nor anyone associated with the business identified below, either directly or indirectly, entered into any agreement, participated in any collusion or otherwise taken any action in restraint of free competitive bidding in connection with this CONTRACT.

Description of CONTRACT:

Signature of Bidder

Title

Business Name

Address

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

Notary Public

Notary Public in and for the County of _____, State _____.

My Commission Expires _____, 20_____.

BIDDER'S PARTICIPATION, SUBCONTRACTOR AND SUPPLIER LIST

Project Name: City of San Luis West WWTP 3.0 MGD MBR For: City of San Luis, Arizona
1090 East Union Street
P.O. Box 1170
San Luis, Arizona 85349

This form shall be submitted along with the BID in the same sealed envelope.

The BIDDER must list below the names and addresses of all qualified subcontractors and major suppliers to be employed on the various portions of the work indicated.

BIDDER AND ALL CONTRACTORS SHALL BE DULY LICENSED IN ACCORDANCE WITH ARIZONA REVISED STATUTES AT THE TIME OF THE BID OPENING.

BIDDER,

SUB CONTRACTOR

CURRENT AZ LICENSE

AND/OR SUPPLIER

[SUB CONTRACTOR]

- 1. _____
- 2. _____
- 3. _____
- 4. _____
- 5. _____

Contract Kit

City of San Luis

West WWTP 3.0 MGD MBR Upgrades

CONTRACT

for the Construction of
**CITY OF SAN LUIS WWTP
WEST WWTP 3.0 MGD MBR UPGRADES**

This agreement (“Contract”) is made and entered into this ____ day of _____ 2026, by and between:

Contractor Name and Address.	City of San Luis 1090 East Union Street (Physical Address) P.O. Box 3750 (Mailing Address) San Luis, Arizona 85349
An Arizona for-profit corporation (“Contractor”) and	An Arizona municipal corporation (“City”)

The Contractor and City may be referred to individually as the “Party” and collectively as the “Parties.”

WHEREAS, the scope of work requires the Contractor to furnish any and all labor, materials, equipment, transportation, utilities, services, and facilities required to perform all work for the City of San Luis – West WWTP 3.0 MGD MBR Upgrades (“Project”), per the Contractor’s bid of 2025-050, (“Proposal”). and to completely and totally remove and install the materials therein for the City, in a good and workmanlike and substantial manner and to the satisfaction of the City through its engineers (“ENGINEERS”), or his properly authorized agents and strictly pursuant to and in conformity with the plans and specification prepared by the ENGINEERS, and with such modifications of the same and other documents that the OWNER may make through the ENGINEERS or his properly authorized agents, as provided herein; and

WHEREAS, San Luis City Council, at a properly noticed open meeting, awarded the Bid to the Contractor on ____ day of _____ 2026; and

WHEREAS, at the same meeting, San Luis City Council directed staff to finalize an agreement with _____, Inc.;

NOW, THEREFORE, the above recitals are incorporated into this Contract. In consideration of the City paying the sum of \$ _____ to the Contractor and the Contractor constructing an influent force main with appurtenances and other work incidental in the manner and at the time provided in this Contract, and in consideration of the other mutual benefits and obligations contained in this Contract the Parties agree as follows:

ARTICLE 1 - PARTICIPANTS AND PROJECT

City:	Jenny Torres, City Manager City of San Luis, Arizona Telephone: (928) 341-8520 E-mail: jtorres@sanluisaz.gov
City PROJECT MANAGER:	Jorge Perez, Assistant Director of Public Works City of San Luis Telephone: (928) 341-8577 E-mail: jperez@sanluisaz.gov
Contractor:	Contractor Representative Contractors Name. Telephone: E-mail:
Contractor MANAGER:	_____ Contractor Name. Telephone: _____ E-mail: _____
PROJECT ENGINEER / DESIGNER:	Duong Do, P.E., F.ASCE PACE Telephone: (714) 481-7223 E-mail: ddo@pacewater.com
PROJECT DESCRIPTION:	City of San Luis, West WWTP 3.0 MGD MBR Upgrades
PROJECT LOCATION:	West WWTP on Cesar Chavez Blvd in San Luis, Arizona

ARTICLE 2 - CONTRACT DOCUMENTS

The Contract between the City and the Contractor shall consist of the following items, collectively the “Contract Documents:”

1. this Contract;
2. Change Orders (if any);
3. Performance bond and payment bond (required by A.R.S. § 41-2574, also known as contract bond and labor & materials bond), bid bond, and other bonds;
4. Project General Requirements and Technical Specifications;
5. Construction Plans;
6. General Conditions of the Contract;
7. Bid documents {including but not limited to the advertisement for bids, bid schedule, addenda (if any), additive bid items (if any)}, and the Proposal;
8. 2016 City of San Luis Supplemental to the 2015 MAG Uniform Standard Specifications and Details for Public Works Construction and City of Yuma Construction Standard Detail Drawings, MAG Uniform Standard Specifications and Details for Public Works Construction, City of Yuma Construction Standard Detail Drawings – Edition 2019; and

9. Certificates of Insurance.

By this reference, the above Contract Documents are made a part of this Contract to the same extent as if set forth in full here.

In the event of a conflict of language between the items, the documents shall govern in the order listed above. The Contract Documents shall govern in all other matters not otherwise specified by the Contract between the Parties. All previous contracts (if any) between the Contractor and City are not applicable to this Contract or other resultant contracts.

ARTICLE 3 - DESIGN PHASE SERVICES

The Contractor is not required to provide design phase services to the City in relation to this Project.

ARTICLE 4 - CONSTRUCTION SERVICES

4.1 General.

- 4.1.1 The Contractor agrees, at its own cost and expense, to do all Work necessary and required to fully, timely, and properly complete the construction of the Project in strict accordance with the Contract Documents in a good and workmanlike manner, free and clear of all claims, liens, and charges whatsoever, in the manner and under the conditions specified, within the Project Schedule.
- 4.1.2 The Contractor shall provide all the labor and materials and perform the Work in accordance with Division 01 - General Requirements of the Specifications and Section 4 of the General Conditions. Below are some but not all of the major components of the construction services and the corresponding subsections of Division 01 - General Requirements of the Specifications and Section 4 of the General Conditions.
- 4.1.3 At all times relevant to this Contract and performance of the Work, the Contractor shall fully comply with all laws, regulations, or legal requirements applicable to the City, the Project, and the Contract, including, without limitation, those set forth in the General Conditions.
- 4.1.4 The Contractor shall perform the Work under this Contract using only those firms, team members, and individuals designated by Contractor consistent with the Contractor's accepted Bid, or otherwise, approved by the City pursuant to the General Conditions. No other entities or individuals may be used without the prior written approval of the Project Manager.
- 4.1.5 The Contractor shall comply with all terms and conditions of the General Conditions and the requirements of the Specifications.
- 4.1.6 The terms of this Contract shall control in the event of a conflict between it and the General Conditions, General Requirements of the Specifications, or any exhibit to the Contract or appendix to the General Conditions.
- 4.1.7 For purposes of this provision, "Work Product" shall include all designs, drawings, plans, specifications, ideas, renderings, and other information or matter in whatever form created (e.g., electronic or printed) and in all media now known or in the future created. All Work Product shall be considered Work Made for Hire as defined in the United States Copyright Act 17 U.S.C. § 101 (Copyright Act). If, for any reason, any such Work is found not to be a Work Made for Hire, the Contractor, by entering into this Contract, transfers and assigns ownership of the copyright in such

Work to the City. Notwithstanding anything to the contrary in this Contract, all Work Product prepared or otherwise created in connection with the performance of this Contract, including the Work, are to be and remain the property of the City. The rights in this Section are exclusive to the City in perpetuity.

- 4.2 The Contractor's Pre-Contract and Pre-Work Deliverables. The Contractor shall provide the deliverables in accordance with Division 01 - General Requirements of the Specifications and Section 4.2 of the General Conditions.
- 4.3 Pre-Construction Conference. The Contractor shall attend the pre-construction conference in accordance with Division 01 - General Requirements of the Specifications and Section 4.3 of the General Conditions.
- 4.4 Performance of the Work (Including Field Measurements, Subcontractors, and Suppliers). The Contractor shall control and maintain the Project site in accordance with Section 4.4 of the General Conditions and Division 01 - General Requirements of the Specifications.
- 4.5 Control of the Project Site. The Contractor shall control and maintain the Project site in accordance with Division 01 - General Requirements of the Specifications and Section 4.5 of the General Conditions.
- 4.6 Project Safety. The Contractor shall implement and enforce Project safety in accordance with Section Division 01 - General Requirements of the Specifications and 4.6 of the General Conditions.
- 4.7 Materials Quality, Substitutions, and Shop Drawings. The Contractor shall provide materials testing and submit substitute materials and shop drawings in accordance with Division 01 - General Requirements of the Specifications and Section 4.7 of the General Conditions.
- 4.8 Project Record Documents. The Contractor shall maintain and make available the Project Record Document in accordance with Division 01 - General Requirements of the Specifications and Section 4.8 of the General Conditions.
- 4.9 Warranty and Correction of Defect Work. The Contractor shall provide warranties and correct defective Work in accordance with Division 01 - General Requirements of the Specifications and Section 4.9 of the General Conditions.
- 4.10 The OWNER has pre-purchased several items of treatment process equipment. One piece of equipment is onsite, and two others need to be delivered. The Contractor shall be responsible for planning delivery of pending equipment in order to meet the construction schedule. All treatment process equipment will become the CONTRACTOR'S responsibility. The CONTRACTOR shall coordinate delivery and confirm that the shipments are complete and accurate for all equipment. Contract shall provide safe and secure storage, provide transportation from onsite storage to install location, install per the construction documents and manufacturer's requirements, and schedule the manufacturer's representative for construction, installation certification, start up, operational training, etc.

The following pieces of Equipment have been pre-purchased by the OWNER:

- 4.10.1 Membrane Bioreactor, (MBR) (Kubota) to include membranes, mixers, pumps, blowers, diffusers and control panels. See Appendices B & C of the Specifications for more complete information and shop drawings. Contractor must plan and coordinate delivery to meet the contractor schedule. Contractor will be required to pay the storage fees; allowance has been provided. The delivery date is to be scheduled directly with Kubota.

- 4.10.2 Sludge Dewatering Screw Press (KFC). Screw Press, Sludge Pump, polymer dosing flocculation tank, conveyors and control panels. See Appendices B & C of the Specifications for more complete information. (**On-site**)
- 4.10.3 Headworks Screen, grit removal and control panels (Hydro-Dyne) - Manufacturing completed and being stored at Hydro-Dyne, a waiting Contractor coordination for delivery. Contractor must plan and coordinate delivery to meet the contractor schedule. Contractor will be required to pay the storage fees; allowance has been provided. See Appendices B & C of the Specifications for complete information.

ARTICLE 5 - CITY'S RESPONSIBILITIES

- 5.1 The City shall have the responsibilities and provide the information specified in, and subject to, the conditions set forth in Section 5 of the General Conditions and Division 00 – Procurement and Contracting Requirements of the Specifications.

ARTICLE 6 - CONTRACT TIME

- 6.1 Contract Time.

The Contract Time shall start with the Notice to Proceed (NTP) and end with Final Acceptance, as set forth in Article 6.3 below. The Notice to Proceed cannot be issued prior to the City's approval and acceptance of the Bid.

- 6.1.1 The Contract Time shall be as set forth in the Project Schedule. The Contractor agrees that it will commence the performance of the Work and complete the Project within the Contract Time.
- 6.1.2 Time is of the essence of this Contract, for the Project, and for each phase and designated milestone of the Contract.
- 6.1.3 Failure on the part of the Contractor to adhere to the approved Project Schedule will be deemed a material breach and sufficient grounds for the City to terminate this Contract.
- 6.2 Project Schedule. The Project Schedule, as required by Division 01 - General Requirements of the Specifications and Section 6.2 of the General Conditions, shall be updated and maintained throughout the Contractor's performance under this Contract in accordance with Division 01 - General Requirements of the Specifications and Section 6.2 of the General Conditions.
- 6.3 Completion Milestones.
 - 6.3.1 **Substantial Completion.** The Work will be substantially complete within **four hundred eighty-eight (488) calendar Days after the Notice to Proceed** when the Contract Times commence. The Contractor, by entering into this Contract, guarantees the Work against defective workmanship or materials for a period of two (2) years from the date established by the date of Substantial Completion.
 - 6.3.2 **Final Completion.** Following established Substantial Completion date, Contractor must address punch list items to the City's satisfaction within **forty-five (45) calendar days**. The City and/or Engineer shall perform a Final Completion inspection for verification.

6.3.3 **Final Acceptance.** At **month twenty-three (23)** of the Warranty Period, the City and/or Engineer shall perform a Final Acceptance inspection to verify all warranty items have been addressed to the City's satisfaction. The City will then provide a written Final Acceptance notice.

6.4 Liquidated Damages.

6.4.1 The Contractor acknowledges and agrees that if the Contractor fails to obtain **Substantial Completion** or **Final Completion** of the Work within the Contract Time, the City will sustain extensive damages and serious loss as a result of such failure.

The Contractor agrees to commence Work within ten (10) Days of the date of the Notice to Proceed from the City and to achieve **Substantial Completion** within **four hundred eighty-eight (488) calendar Days after the Notice to Proceed**. The Contractor agrees to pay liquidated damages, the sum of \$1,190.00, for each consecutive calendar Day thereafter.

6.4.2 The City may deduct liquidated damages described in Subsection 6.4.1 above from any unpaid amounts then or thereafter due to the Contractor under this Contract. Any liquidated damages not so deducted from any unpaid amounts due the Contractor shall be payable to the City at the demand of the City, together with interest from the date of the demand at the highest lawful rate of interest payable by the Contractor.

6.4.3 Nothing in this Contract shall be deemed to constitute a waiver of any other remedy available to the City in the event of the Contractor's default under this Contract prior to full performance of the Work, including, as applicable, specific performance or completion of the Work on behalf of the Contractor, the cost and expense of which shall be offset against any monies then or thereafter due to Contractor (if any) and otherwise immediately reimbursed to City by the Contractor.

ARTICLE 7 - CONTRACT PRICE

7.1 Contract Price.

7.1.1 In exchange for the Contractor's full, timely, and acceptable performance and construction of the Work under this Contract, and subject to all of the terms of this Contract, the City will pay the Contractor the Contract Price, which is \$_____

7.1.2 The Contract Price is all-inclusive and specifically includes all fees, costs, insurance and bond premiums, and taxes of any type necessary to fully, properly, and timely perform and construct the Work.

ARTICLE 8 - PAYMENT

Payments shall be made to the Contractor in accordance with Division 01 - General Requirements of the Specifications and Article 8 of the General Conditions.

ARTICLE 9 - CHANGES TO THE CONTRACT

Changes to the Contract may be made in strict accordance with Division 01 - General Requirements of the Specifications and Section 9 of the General Conditions.

ARTICLE 10 - TERMINATION

The Contract may be terminated in accordance with Section 10 of the General Conditions.

ARTICLE 11 - INSURANCE AND BONDS

- 11.1 The Contractor shall provide Insurance as provided in the Insurance Requirements and in accordance with Section 11.1 of the General Conditions. The Contractor shall provide proof of such insurance and all required endorsements in forms acceptable to the City prior to commencing any Work under this Contract.
- 11.2 The Contractor shall provide performance, payment and warranty bonds to the City in accordance with Section 11.2 of the General Conditions and A.R.S. § 34-222.
- 11.3 The Contractor's failure to provide proof of insurance and the required endorsements, or the required bonds, in forms acceptable to the City will be a material breach and grounds for termination for cause under this Contract.

ARTICLE 12 - INDEMNIFICATION

The Contractor shall have and assume the indemnity obligations set forth in Section 12 of the General Conditions.

ARTICLE 13 - DISPUTE RESOLUTION

Any claims or disputes relating to this Contract shall be resolved according to the dispute resolution process set forth in Section 13 of the General Conditions.

ARTICLE 14 - MISCELLANEOUS PROVISIONS

The miscellaneous provisions set forth in Section 14 of the General Conditions shall apply to this Contract.

ARTICLE 15 - COUNTERPARTS

This Contract may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The signature pages from one or more counterparts may be removed from such counterparts. Such signature pages may all be attached to a single instrument so that the signatures of all Parties may be physically attached to a single document.

ARTICLE 16 - AUTHORITY

Each Party represents and warrants to the other Party: (i) that such Party is duly organized and validly existing under the laws of the State of Arizona and has full corporate power and authority to enter into this AGREEMENT and to carry out the provisions of this AGREEMENT; (ii) such Party is duly authorized to execute and deliver this AGREEMENT and to perform its obligations under this AGREEMENT; (iii) the person executing this AGREEMENT on such Party's behalf has been duly authorized to do so by all requisite corporate action, and (iv) this AGREEMENT is a legal and valid obligation binding upon the Parties and enforceable in accordance with its terms.

The Parties have executed this Contract in Yuma County, Arizona, on the day and year set forth above, which is the day the last Party signed this Contract. The original Contract will be filed with the City of San Luis Clerk.

City of San Luis

Nieves Riedel, Mayor

Date: _____

Attest:

Sonia Cornelio, City Clerk

Approved As to Form

Kay Marion Macuil, City Attorney

Contractor

Contractor Representative

Date: _____

CONTRACT PERFORMANCE SURETY BOND

STATUTORY PERFORMANCE BOND PURSUANT TO
TITLE 34, CHAPTER 2, ARTICLE 2,
OF THE ARIZONA REVISED STATUTES
(Penalty of this Bond must be 100% of the Contract amount)

Project Name: City of San Luis West WWTP 3.0 MGD MBR

For: City of San Luis, Arizona

KNOW ALL MEN BY THESE PRESENTS:

That _____, (hereinafter called the Principal), as Principal,
and _____, a corporation organized and existing under the laws of the State of
_____ and duly licensed and possessing a certificate of authority to transact surety business in the State of
Arizona, with its principal office in the City of _____, (hereinafter called the Surety) as Surety, are held firmly
bound unto City of San Luis, Arizona (hereinafter called Obligee) in the amount of
_____ Dollars (\$ _____) for the payment whereof, the said Principal
and Surety bind themselves, and their heirs, administrators, executors, successors and assigns, jointly and severally, firmly
by these presents.

WHEREAS, the Principal has entered into a certain written CONTRACT with the Obligee, dated the _____ day of
_____ 20____, to construct the **City of San Luis West WWTP 3.0 MGD MBR**, which CONTRACT is hereby
referred to and made a part hereof as fully and to the same extent as if copied at length herein.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the said Principal shall faithfully perform
and fulfill all the undertakings, covenants, terms, conditions and agreements of the CONTRACT during the original term of
CONTRACT and any extension of the CONTRACT, with or without notice to the Surety, and during the life of any guaranty
required under the CONTRACT, and also performs and fulfills all the undertakings, covenants, terms, conditions, and
agreements of all duly authorized modifications of the CONTRACT that may hereafter be made, notice of which
modifications to the Surety being hereby waived; then the above obligation is void. Otherwise to remain in full force and
effect.

PROVIDED, HOWEVER, that this bond is executed pursuant to the provisions of Title 34, Chapter 2, Article 2, of the
Arizona Revised Statutes, and all liabilities on this bond shall be determined in accordance with the provisions of Title 34,
Chapter 2, Article 2, Arizona Revised Statutes, to the extent as if it were copied at length herein.

The prevailing party in a suit on this bond shall be entitled to such reasonable attorney's fees as may be fixed by a judge of
the Court.

Witness our hands this _____ day of _____, 20_____.

Agency of Record

Agency Address

Surety Firm

Surety Signature

By _____

Name and Title {Attach current power of attorney}

Principal Firm

[Seal]

Principal Signature

By _____

Name and Title

LABOR AND MATERIALS SURETY BOND

STATUTORY PAYMENT BOND PURSUANT TO
TITLE 34, CHAPTER 2, ARTICLE 2,
OF THE ARIZONA REVISED STATUTES
(Penalty of this Bond must be 100% of the Contract amount)

Project Name: City of San Luis West WWTP 3.0 MGD MBR

For: City of San Luis, Arizona

KNOWN BY ALL MEN THESE PRESENTS:

That, _____, (hereinafter called the Principal), as Principal,
and _____, a corporation organized and existing under the laws of the State of
_____ and duly licensed and possessing a certificate of authority to transact surety business in the State of Arizona,
with its principal office in the City of _____, (hereinafter called the Surety) as Surety, are held firmly bound unto the City of San
Luis, Arizona (hereinafter called Obligee) in the amount of _____ Dollars
(\$ _____) for the payment whereof, the said Principal and Surety bind themselves, and their heirs,
administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a certain written CONTRACT with the Obligee, dated the _____ day of
_____, 20____, for **City of San Luis West WWTP 3.0 MGD MBR Project** which CONTRACT is hereby
referred to and made a part hereof as fully and to the same extent as if copied at length herein.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the Principal promptly pays all moneys due to
all persons supplying labor or materials to the Principal or the Principal's subcontractors in the prosecution of the work provided
for in the CONTRACT, this obligation is void, otherwise it remains in full force and effect.

PROVIDED, HOWEVER, that this bond is executed pursuant to the provisions of Title 34, Chapter 2, Article 2, of the Arizona
Revised Statutes, and all liabilities on this bond shall be determined in accordance with the provisions, conditions and
limitations of Title 34, Chapter 2, Article 2, Arizona Revised Statutes, to the same extent as if they were copied at length in this
agreement.

The prevailing party in a suit on this bond shall recover as a part of the judgment reasonable attorney fees that may be
fixed by a judge of the court.

Witness our hands this _____ day of _____, 20____.

Agency of Record

Agency Address

Surety Firm _____ Principal Firm _____ [Seal]

By _____ By _____

Surety Signature _____ Principal Signature _____

Name and Title {Attach current power of attorney} Name and Title

WARRANTY BOND

(City of San Luis, Arizona)

West WWTP 3.0 MGD MBR

WHEREAS, the City of San Luis, Arizona (hereafter "City") and

_____ (hereafter "Principal") have entered into an agreement ("Agreement") dated _____, 20____, whereby Principal agreed to install and complete certain designated public improvements as a condition of contract, relating to the project known as West WWTP 3.0 MGD MBR Upgrades, at Principal's own expense and which Agreement is hereby referred to and made a part hereof; and

WHEREAS, Principal is required under the terms of the Agreement to furnish warranty security for the Work performed and equipment supplied and installed pursuant to the Agreement in the amount of one hundred percent percent (100%) of the amount to be paid by City to Principal to guarantee replacement and repair of the improvements as described in the Agreement for a period of two years following substantial completion of said improvements.

NOW, THEREFORE, we, Principal, and _____ ("Surety"), are held and firmly bound unto City in the penal sum of _____ dollars (\$_____) lawful money of the United States, for the payment of which we bind ourselves, our heirs, successors, executors, and administrators, jointly and severally. The condition of this obligation is such that if Principal shall indemnify City for all loss that City may sustain by reason of any defective materials, equipment, components, or workmanship which become apparent during the period of two years from and after substantial completion of the improvements, as provided by the terms of the Agreement, then this obligation shall be null and void; otherwise, this obligation shall remain in full force and effect.

As a part of the obligation secured hereby and in addition to the face amount specified, costs and reasonable expenses and fees shall be included, including reasonable attorneys' fees incurred by City in successfully enforcing the obligation, all to be taxed as costs and included in any judgment rendered.

Surety shall provide City with thirty (30) days' written notice of Principal's default prior to Surety terminating, suspending or revoking the bond.

Witness our hands this _____ day of _____, 2024.

Principal Seal

Surety Seal

By: _____
Attorney in fact

By: _____
Its: _____

Agency of Record

Agency Address

CERTIFICATE OF INSURANCE

(City of San Luis, Arizona)

Project Name: City of San Luis West WWTP 3.0 MGD MBR

The _____

Certifies that the following insurance policies have been issued on behalf of:

Name of Insured: _____

Address of Insured: _____

	Type of Insurance	Policy No.	Effective Date	Expiration Date	Amount	Limits of Liability
(1)	Employer's Liability Disease				\$100,000 \$100,000 \$250,000	Each Accident Each Employee Policy Limit
(2)	Contractors General Liability Bodily Injury & Property Personal/Advertising Injury Products Completed Ops.				\$6,000,000 \$6,000,000 \$2,000,000 \$2,000,000	General Aggregate Each Occurrence Each Occurrence Aggregate
(3)	Professional Liability Errors and Omissions				\$1,000,000	Each Occurrence
(3)	Contractual Bodily injury				\$2,000,000 \$2,000,000	Each Occurrence Aggregate
(3)	Contractual Property Damage				\$2,000,000 \$2,000,000	Each Accident Aggregate
(4)	Automobile Liability Bodily Injury Property Damage				\$1,000,000 \$1,000,000	Each Occurrence Each Occurrence

When the project includes construction of a new, or modification of an existing building [in addition to the above types]:

- (0) Fire and extended coverage plus Vandalism and Malicious Mischief for the full amount of the CONTRACT, with the County of Yuma named as an additional insured.

		Policy No.	Expiration Date	Amount
(5)	Umbrella Coverage [if required within Special Provisions]			

Policy Includes coverage for:

- (1)
 - a. Damage caused by blasting
 - b. Damage caused by collapse or structural injury
 - c. Damage to underground utilities
- (2) Liability assumed in construction agreements and other types of CONTRACTS or agreements in effect in connection with insured operations.

- (3) All owned, hired or non-owned automotive equipment used in connection with the insured operation.

CERTIFICATE OF INSURANCE [CONTINUED]

(City of San Luis, Arizona)

Project Name: City of San Luis West WWTP 3.0 MGD MBR

It is agreed that none of these policies will be canceled or changed so as to affect this certificate until thirty (30) days written notice of such cancellation or change has been delivered to the City of San Luis, 1090 East Union Street, P.O. Box 1170, San Luis, Arizona 85349.

It is further agreed that:

- (1) These policies shall not expire until all work has been completed and the PROJECT has been accepted in writing by the City of San Luis. A renewal Certificate of the required coverage must be sent to the City of San Luis not less than thirty (30) days prior to expiration date).
- (2) the policy shall be endorsed to include the following additional insured language: "City of San Luis, Arizona" shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor, including completed operations".

This certificate is not valid unless countersigned by an authorized representative of the Insurance Company.

Countersigned by: _____

Date

Signature

Address

Telephone Number

CONTRACTOR'S AFFIDAVIT REGARDING SETTLEMENT OF CLAIMS

(City of San Luis, Arizona)

PART 100, SECTION 109, GENERAL CONDITIONS

Project Name: City of San Luis
West WWTP 3.0 MGD MBR Project

To: City of San Luis, Arizona

Whom it may concern:

This is to certify that all lawful claims for materials, rental of equipment and labor used in connection with the construction of the above PROJECT, whether by subcontractor or claimant in person, have been duly discharged.

The undersigned, for the consideration of \$ _____, as set out in the final pay estimate, as full and complete payment under the terms of the CONTRACT, hereby waives and relinquished any and all further claims or right of lien under, in connection with, or as a result of the above described PROJECT. The undersigned further agrees to indemnify and save harmless the City of San Luis, Arizona against any and all liens, claims of liens, suits, actions, damages, charges and expenses whatsoever, which said City may suffer arising out of the failure of the undersigned to pay for all labor performance and materials furnished for the performance of said installations.

Signed and dated at _____, this _____ day of _____ 20_____.

CONTRACTOR

Signed _____ Name/Title

STATE OF ARIZONA)
) ss.

COUNTY OF _____)

THE FOREGOING INSTRUMENT WAS SUBSCRIBED AND SWORN TO BEFORE ME THIS _____ DAY OF
_____, 20_____.

NOTARY PUBLIC _____

MY COMMISSION EXPIRES _____

GENERAL CONDITIONS OF THE CONTRACT

These terms will be the General Conditions for the Contract and are incorporated therein and shall be fully binding upon the Contractor.

ARTICLE 1 - SCOPE OF THESE GENERAL CONDITIONS

These General Conditions encompass provisions that apply and are incorporated into all construction contracts entered into by the City of San Luis unless otherwise specifically excluded in the executed Contract. Sections 2 through 14 of these General Conditions apply to all construction contracts, in whatever form, including without limitation, Fixed Price, Unit Price, Construction Manager at Risk (CM@Risk), Guaranteed Maximum Price (GMP) Cost-Based, and Job Order Contracts (JOC).

ARTICLE 2 - GENERAL DEFINITIONS

- 2.1 The Definitions in the Invitation for Bid (IFB), the Request for Proposals (RFP), the Request for Qualifications (RFQ), and/or the JOC Solicitation (JOC) giving rise to the Contract shall apply to these General Conditions and the Contract for the Project.
- 2.2 **Change Order** – A written instrument issued after execution of the Contract Documents signed by City and Contractor, stating their agreement upon all of the following: the addition, deletion, or revision in the scope of services or deliverables; the amount of the adjustment to the Contract Price, the extent of the adjustment to the Contract Time, or modifications of other contract terms. Only a Change Order allows the Contract Price or the Contract Time or both to be changed.
- 2.3 **City** – City of San Luis, Arizona, a municipal corporation, with whom the Contractor has entered into the Contract and for whom the Services and/or Work are to be provided pursuant to the Contract(s).
- 2.4 **Contract** - The written agreement executed between the City and Contractor, including all of the Contract Documents.
- 2.5 **Contract Documents** - The documents which together form the Contract between City and Contractor, as identified in Article 2 of the Contract, or are otherwise incorporated into the Contract, including the Contract, the exhibits and attachments to it, these General Conditions, any Notice to Proceed, and any Job Order (if applicable), the Plans and Specifications, Project Schedule, written and properly executed Change Orders, and any other documents so designated in the Contract.
- 2.6 **Contract Price** - The agreed-upon price to be paid to the Contractor for full, timely, and acceptable completion of the Services or Work under the terms of the Contract.
- 2.7 **Contract Time(s)** - The number of days or the dates related to the Completion Milestones as stated in Contract Documents. The Contract Time is set forth in the Contract and is based upon the Project Schedule agreed to by the City in writing.
- 2.8 **Contractor** - The person or corporation with whom the City has entered into a contract for construction-related work or services related to the Project at issue.

- 2.9 **Contractor Payment Request** - The form that is accepted by the City and used by the Contractor in requesting progress payments or final payment and which shall include such supporting documentation as is required by the Contract Documents and/or City.
- 2.10 **Construction Documents** - The plans, specifications, and drawings prepared and issued by the Design Professional and approved by the City for construction, meaning the documents are sealed by the Contractor (as required), acceptable for permitting, and incorporated into the Contract by reference. All amendments and modifications to the Construction Documents must be approved in writing by the City prior to incorporation into the Contract.
- 2.11 **Critical Path** - The critical path is the sequence of Project network activities that add up to the longest overall duration. Once established in the Project Schedule, the Critical Path for the Project shall not be changed without prior written approval of the City.
- 2.12 **Day** - Calendar day(s) unless otherwise specifically stated in the Contract Documents.
- 2.13 **Final Acceptance** - The written notice from the City to the Contractor that Final Acceptance has occurred following the end of the Warranty Period. At month twenty-three (23) of the Warranty Period, the City and/or Engineer shall perform a Final Acceptance inspection to verify all warranty items have been addressed to the City's satisfaction. The City will then provide a written Final Acceptance notice.
- 2.14 **Final Completion** - Following established Substantial Completion date, Contractor must address punch list items to the City's satisfaction. The City and/or Engineer shall perform a Final Completion inspection for verification. The date when, in the opinion of the City, all items of the Work, including punch list items, have been completed to the City's satisfaction in accordance with the Contract Documents, and delivery of all Close-Out Documents required by the Contract Documents and this Contract have been received by the City. The Final Completion date is the date on which the Warranty period commences.
- 2.15 **Float** - The number of Days by which an activity can be delayed without lengthening the Critical Path and extending the Contract Time. Unless otherwise expressly agreed in writing, all Float belongs to City.
- 2.16 **MAG Specifications** – The latest edition adopted by the City of the Uniform Standard Specifications for Public Works Construction published by Maricopa Association of Governments (“MAG”), or the latest revision published by MAG.
- 2.17 **MAG Standard Details** – The latest edition adopted by the City of the Uniform Standard Details for Public Works Construction published by Maricopa Association of Governments (“MAG”), or the latest revision published by MAG.
- 2.18 **Notice to Proceed (NTP)** - A written notice given by the City to the Contractor fixing the date on which the Contractor will start to perform the Contractor's obligations under the Contract. The Notice to Proceed shall not be issued until the Contract Price is approved and accepted by the City.
- 2.19 **Project** – The Project specified in the Contract (including the Job Order).
- 2.20 **Project Manager** - The Project Manager designated in Article 1 of the Contract, or any successor Project Manager the City designates. The Project Manager has the authority to act on behalf of the City, as delineated and limited by the Contract Documents and applicable law. The City shall communicate with the Contractor through the Project Manager. However, the Project Manager has no authority to bind the City or City Council in contravention of any City code, State or Federal statute or regulation, or these General Conditions.

- 2.21 **Project Schedule** - The schedule for the completion of the Project agreed to and/or required by the City and incorporated into the Contract.
- 2.22 **Project Specific Provisions** - Additional conditions that apply to the specific Project and/or Scope of Work.
- 2.23 **Proposal** - A Proposal submitted to the City by a Contractor in response to an Invitation for Bid (IFB), Request for Qualifications (RFQ), a Request for Proposals (RFP), or other solicitation or request by the City. Bids may be Fixed Price, Guaranteed Maximum Price (GMP), Unit Price, or other form as required or requested by the City in the Bid Schedule.
- 2.24 **Requests for Information (RFIs)** - Formal written request from the Contractor to the City and/or Contractor for the Project seeking clarification or additional information needed for the Contractor to properly complete the Work and/or Services under the Contract. The City may require RFI's to be submitted on a specific form or in a specified format.
- 2.25 **Schedule of Values (SOV)** - The specified document prepared by the Contractor and approved and accepted by the City, which divides the Contract Price into pay items, such that the sum of all pay items equals the Contract Price for the construction phase Work, or for any portion of the Work having a separate specified Contract Price.
- 2.26 **Scope of Work** - The scope of work agreed to and/or required by the City and incorporated into the Contract as set forth in the IFB and/or an Exhibit to the Contract.
- 2.27 **Subconsultant** - A person, firm, or corporation having a Contract with a Consultant/Contractor to furnish services required as its independent professional associate or consultant with respect to the Project.
- 2.28 **Subcontractor** - An individual or firm having a direct contract with the Contractor or any other individual or firm having a contract with the aforesaid contractors at any tier, who undertakes to perform a part of the pre-construction services or construction phase Work at the site for which Contractor is responsible. Subcontractors shall be selected through the Subcontractor selection process described in the Contract Documents, if any.
- 2.29 **Substantial Completion** - The Work will be substantially complete within the number of calendar days after the Notice to Proceed when the Contract Times commence according to Article 6.3 of the Contract. Substantial Completion shall be the date on which the construction services for the Work, or an agreed upon portion thereof, has progressed to the point where, in the opinion of the City, as evidenced by a Certificate of Substantial Completion and/or Certificate of Occupancy, such construction services are sufficiently complete in accordance with the Contract Documents so that the Work (or specified part) can be utilized for the purposes for which it is intended, without any outstanding concurrent Work at the site, except as may be required to complete or correct Punch List items. If no such certificate is issued, Substantial Completion takes place when the construction services Work or a Construction Phase is complete and ready for final payment as evidenced by the City's written recommendation of final payment. The terms "substantially complete" and "substantially completed" as applied to all or part of the construction Work refers to Substantial Completion thereof.
- 2.30 **Supplier** - Any person or entity providing materials or property for the Project.
- 2.31 **Total Float**. The number of Days by which the pre-construction services or construction phase Work or any part of the same may be delayed without necessarily extending a pertinent Contract Time or schedule milestone in the Project Schedule.

2.32 **Work** - The entire completion of construction or the various separately identifiable parts thereof, required to be furnished during the construction phase. Work includes and is the result of:

2.32.1 performing or furnishing labor;

2.32.2 furnishing and incorporating materials, resources, and equipment into the construction; and

2.32.3 performing or furnishing services and documents as required by the Contract Documents for the construction phase.

2.33 **Working Days** - Days exclusive of Saturday, Sunday and City recognized legal holidays.

ARTICLE 3 - STANDARD SPECIFICATIONS AND DETAILS

- 3.1 The City operates under the 2016 City of San Luis Supplement to the 2015 MAG Uniform Standard Specifications for Public Works Construction.
- 3.2 The City also operates under the 2009 City of Yuma Construction Standard Detail Drawings.
- 3.3 The City also operates under the 2006 Yuma County Public Works Standards – Volume III – Storm Drainage Facilities.
- 3.4 The above standard specifications and details may be viewed and downloaded at the City of San Luis website: <https://www.sanluisaz.gov/DocumentCenter/Index/268>.
- 3.5 The City may require particular sections of the revisions of the MAG Specifications and Standard Details after the 2015 revision that the City adopted.
- 3.6 Current and Historical MAG Specifications and Standard Details may be viewed at the Maricopa Association of Governments website at <https://azmag.gov/Programs/Public-Works/Specifications-and-Details>.
- 3.7 The MAG Specifications and Standard Details and the City's amendments to them are incorporated into the Contract.

ARTICLE 4 - CONTRACTOR'S RESPONSIBILITIES FOR CONSTRUCTION SERVICES

- 4.1 General
 - 4.1.1 The Contractor shall construct the Work in accordance with the Contract Documents and as outlined in the Contract Documents to the satisfaction of the City, exercising the degree of professional care, skill, diligence, quality, and judgment that a professional Contractor engaged, experienced, and specializing in the construction of facilities of similar scope, function, size, quality, complexity, and detail in urban areas throughout the United States comparable to the City would exercise at such time, under similar conditions. The Contractor shall, at all times, perform the Work in conformance with sound and generally accepted engineering principles and construction management and construction contracting practices.
 - 4.1.2 The Contractor shall comply with, and require all Subcontractors to comply with, the Arizona Contractors' license laws, including all requirements with respect to being duly registered and licensed.
 - 4.1.3 Pursuant to A.R.S. §41-4401, the Contractor warrants to the City that the Contractor and all its Subcontractors are in compliance and will comply with all Federal Immigration laws and regulations that relate to their employees and with the E-Verify Program under A.R.S. § 23-214(A). The Contractor acknowledges that a breach of this warranty by the Contractor or any of its Subcontractors is a material breach of this Contract subject to penalties up to and including termination of the Contract or any subcontract. The City retains the legal right to inspect the papers of any employee related to this statute and of the Contractor or any Subcontractor who works on this Contract to ensure compliance with this warranty. The City may conduct random verification of the Contractor's employment records and any of its Subcontractors' employment records to ensure compliance with this warranty. The City will not consider the Contractor or any of its Subcontractors in material breach of the foregoing warranty if the Contractor and its Subcontractors establish that they have complied with the employment verification provisions prescribed by 8 USCA §1324(a)

and (b) of the Federal Immigration and Nationality Act and the e-verify requirements prescribed by Arizona Revised Statutes §23-214(A). The provisions of this Section must be included in any agreement the Contractor enters into with its Subcontractors who provide services under this Contract or any subcontract. "Services" are defined as furnishing labor, time, or effort in the State of Arizona by a contractor or Subcontractor. Services include construction or maintenance of any structure, building, or transportation facility or improvement to real property. Breach of this warranty shall constitute a material breach of the contract and shall subject the Contractor to penalties, including termination of the Contract at the sole discretion of the City.

4.1.4 The Contractor further understands and acknowledges the applicability of the Americans with Disabilities Act, the Immigration Reform and Control Act of 1986, and the Drug-Free Workplace Act of 1989 to the Contract. The Contractor understands and acknowledges that it must also comply with A.R.S. § 34-301, "Employment of Aliens on Public Works Prohibited," and A.R.S. § 34-302, as amended, "Residence Requirements for Employees," and A.R.S. §§ 12-2701 through 12-2704 "Immigration and Nationality Law Practice Act" as amended.

4.2 Contractor's Pre-Contract and Pre-Work Deliverables

4.2.1 Before beginning any Work under the Contract, the Contractor shall execute the Contract and deliver to the City the items listed in Section 4.2.2 below within seven (7) days after the award of the Contract, and the City must execute the Contract. Failure to do so will be a material breach of the Contract, entitling the City to terminate the Contract for Cause.

4.2.2 When the Contractor delivers the executed Contract to the City, the Contractor shall also deliver to the City such bonds and certificates of insurance with endorsements in such amounts (and other evidence of insurance requested by the City) required under Article 11 of these General Conditions, and as the Contract requires.

4.2.3 The Contractor shall obtain all necessary permits for the Work and pay all applicable fees unless otherwise noted on the plans and in the specifications. The City has obtained the required ADEQ Aquifer Protection Permit. The City does not require a building, grading, or encroachment permit for the WWTP scope of work. The city does require a business license.

4.2.4 Copies of all permits and the associated notices must be provided to the City prior to starting the permitted activity.

4.3 Pre-Construction Conference

4.3.1 Prior to the commencement of any Work, the City may schedule a Pre-Construction Conference.

4.3.2 Prior to the Pre-construction Conference, the Contractor shall provide the Project Manager with a Schedule of Values reflecting the subcontracts and other categories that will be used to submit pay applications for the Work. The total amount of the Schedule of Values shall not be greater than the Contract Price. The Schedule of Values shall be reviewed at the Pre-Construction Conference and revised in response to comments and questions from the City. Once accepted by the City in writing, the Schedule of Values for the Project will not be changed without the City's prior written approval.

4.4 Performance of the Work (Including Field Measurements, Subcontractors, and Suppliers)

4.4.1 Unless otherwise provided in the Contract Documents to be the responsibility of the City or a separate Contractor, the Contractor shall provide through itself or its Subcontractors the necessary

supervision, labor, inspection, testing, start-up, material, equipment, machinery, temporary utilities, and other temporary facilities to permit Contractor to complete the Work consistent with the Contract Documents.

- 4.4.2 The Contractor's Superintendent shall be present at the Project site at all times that material Work under this Contract is taking place. The Contractor's Superintendent or designee shall be present at the Project site at all times any other Work under this Contract is taking place. All elements of the Work shall be under the direct supervision of a foreman or his designated representative on the Project site, who shall have the authority to take actions required to carry out that particular element of the Work properly.
- 4.4.3 Before ordering materials or doing work, the Contractor and each Subcontractor shall verify measurements at the Project site and shall be responsible for the correctness of such measurements. No extra charge or compensation will be allowed because of differences between the actual dimensions and the dimensions indicated on the Contract Documents, including the drawings.
- 4.4.4 If the Contractor observes errors, discrepancies, or omissions in the Contract Documents, it shall promptly notify the Contractor and City and request clarification. The Contractor shall be liable to the City for damages resulting from errors, inconsistencies, or omissions in the Contract Documents or for differences between field measurements or conditions in the Contract Documents. If the Contractor, with the exercise of reasonable care, should have recognized such error, inconsistency, omission, or difference and fails to report it to the City, and if the Contractor proceeds with the Work affected by such observed errors, discrepancies, or omissions, without receiving such clarifications, it does so at its own risk.
- 4.4.5 In all cases of interconnection of its Work with existing or other work, the Contractor shall verify at the Project site all dimensions relating to such existing or other work. Any errors due to the Contractor's failure to so verify all such grades, elevations, locations, or dimensions shall be promptly rectified by the Contractor without any increase in the Contract Price. Any design errors or omissions noted by the Contractor during this review shall be reported promptly to the City.
- 4.4.6 The Contractor shall be responsible for the proper performance of the Work of Subcontractors and any acts and omissions in connection with such performance. Nothing in the Contract Documents is intended or deemed to create any legal or contractual relationship between the City and any Subcontractor or Sub-Subcontractor, including but not limited to any third-party beneficiary rights.
- 4.4.7 The Contractor will not substitute or change any Subcontractor or Supplier without the City's prior written approval. Any substitute or replacement Subcontractor or Supplier shall be required to meet the same qualifications and selection criteria and process as the original Subcontractor or supplier. If a Subcontract or Supplier selection plan has been approved by the City, the Contractor will follow that plan unless otherwise approved by the City in writing.
- 4.4.8 The Contractor shall not change or replace the Contractor's Project Manager or Superintendent on this Project without an explanation for the change being given to the City and receiving prior written approval of the change from the City, which approval will not be unreasonably withheld.
- 4.4.9 Subcontractors whose scope of work has a value greater than fifteen percent (15%) of the total Contract Price may be required to furnish performance and payment bonds to the Contractor if directed in writing by the City.

4.4.10 Owner Furnished Equipment - The OWNER has pre-purchased several items of the process equipment. One piece of equipment is onsite, and two others need to be delivered. The Contractor is responsible for planning delivery in order to meet the construction schedule. All the equipment will become the CONTRACTOR'S responsibility. The CONTRACTOR shall coordinate delivery and confirm that the shipments are complete and accurate for all equipment. Contract shall provide safe and secure storage, provide transportation from onsite storage to install location, install per the construction documents and the manufacture's requirements, and schedule manufacturer's representative for construction, installation certification, start up, operational training, etc. Specific equipment and details are noted in Article 4.10 of the Contract.

4.5 Control of the Project Site

Throughout all phases of construction, including suspension of Work, the Contractor shall keep the Project site reasonably free from debris, trash, and construction wastes to permit the Contractor to perform its construction services efficiently, safely, and without interfering with the use of adjacent land areas. Prior to the Final Acceptance of the Work, or a portion of the Work, the Contractor shall remove all debris, trash, construction wastes, materials, equipment, machinery, and tools arising from the Work or applicable portions thereof to permit the City to occupy the Project or a portion of the Project for its intended use.

4.5.1 The Contractor shall take whatever steps, procedures, or means necessary to prevent dust nuisance due to construction operations. The dust control measures shall be maintained at all times to the satisfaction of the City and in accordance with the requirements of the Yuma County dust control regulations.

4.5.2 The Contractor shall be responsible to the City for the acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and any other person performing any of the Work under a contract with Contractor, or claiming by, through, or under Contractor, for all damages, losses, costs, and expenses resulting from such acts or omissions.

4.6 Project Safety

4.6.1 The Contractor is responsible for the safety of the job site for the Contractor's employees as well as for members of the general public and others who may drive or walk through or be at the Project site.

4.6.2 The Contractor assumes responsibility for implementing and monitoring all safety precautions and programs related to the performance of the Work.

4.6.3 The Contractor shall provide a "competent person" as required by O.S.H.A. regulations. The "competent person" shall be identified at the Pre-Construction Conference, and the City will be advised in writing of any changes.

4.6.4 The Contractor and Subcontractors shall comply with all legal and regulatory requirements relating to safety, as well as any City-specific safety requirements set forth in the Contract Documents, provided that such City-specific requirements do not violate any applicable legal and regulatory requirements.

4.6.5 As between the City and the Contractor, the Contractor is responsible to the City for any and all the safety issues relating to the Work on the Project. The Contractor shall administer and manage the safety program. The safety program will include, but not necessarily be limited to, reviews of the safety programs of each Subcontractor. The Contractor shall monitor the establishment and

execution of compliance with all applicable regulatory and advisory agency construction safety standards.

4.6.6 The Contractor shall maintain and have sole responsibility for safety on the job site.

4.7 Materials Quality, Substitutions, and Shop Drawings

4.7.1 All construction materials to be used or incorporated in the Project are subject to inspection, quality control and quality assurance testing, and approval or rejection by the City. Any material rejected by the City shall be removed immediately and replaced in an acceptable manner to the City at no additional cost to the City. When quality control and quality assurance tests indicate noncompliance with the Contract Documents, retesting shall be performed by the same testing laboratory that performed the tests that indicated noncompliance.

4.7.2 A schedule of shop drawing submissions shall be submitted with the Project Schedule for City approval that avoids bulk submissions to the extent reasonably possible. Unless otherwise noted, shop drawings will not be required for items specified or detailed in the Uniform Standard Specifications and Details or the Technical Specifications. The schedule of shop drawing submissions shall include all of the items for which shop drawings are required by the Contract Documents, including the specifications.

4.7.3 Long Lead Time Items. The Contractor shall submit shop drawings, as required by the Project Engineer, on all long lead items to be furnished and installed as part of the Project within ten (10) days after execution of the Contract. In addition, the Contractor shall order all long lead items to be furnished and installed as part of this Project within (3) days after receiving approved shop drawings. For all long lead times for which shop drawings are not required, the Contractor shall order said long lead items within fifteen (15) days after execution of the Contract. Within two (2) days after ordering long lead items, the Contractor shall supply copies of all purchase orders, along with an accurate delivery schedule from the supplier.

4.8 Project Record Documents

The Contractor shall ensure that any and all changes or modifications done as a result of field changes are accurately reflected in red-lined markings. At the completion of construction, all red lines and markings shall be compiled to aid in the creation of "as-built" plans.

4.9 Warranty and Correction of Defect Work

4.9.1 The Contractor warrants to the City that the construction of the Work shall be of good and workmanlike quality and completed in strict conformance with all applicable laws, rules, and regulations and the plans and specifications and all other terms and conditions of the Contract Documents, including all materials and equipment furnished as part of the construction, shall be new unless otherwise specified in the Contract Documents, of good quality, in conformance with the Contract Documents and free of defects in materials and workmanship.

4.9.2 The date of **Final Completion** shall be the beginning of the Warranty Period, regardless of early completion by some Subcontractors of their work.

4.9.3 Unless otherwise specified in the Contract Documents, the Contractor and Subcontractors shall provide to the City all of the following written warranties that apply to the Work in a form acceptable to the City.

- (i) General Warranty — Two (2) years
 - (ii) Mechanical Contractor — Two (2) years
 - (iii) Plumbing Contractor — Two (2) years
 - (iv) Electrical Contractor — Two (2) years
 - (v) Caulking — One (1) year
 - (vi) Steel Joists, Certificate of Manufacturer
 - (vii) Exterior Metal Wall System — Five (5) years
 - (viii) Painting — One (1) year
 - (ix) Termite — Five (5) years
 - (x) Sheet Metal: Zinc coating thickness on hot-dipped galvanized Metals — One (1) year
- 4.9.4 Nothing in the warranties contained in the Contract Documents are intended to limit any manufacturer's warranty, which provides the City with greater warranty rights than set forth in this Section or the Contract Documents. The Contractor will provide the City with all manufacturers' warranties prior to Final Acceptance.
- 4.9.5 A progress payment, or partial or entire use or occupancy of the Project by the City, shall not constitute Acceptance of Work not in accordance with the Contract Documents.
- 4.9.6 Without limiting the foregoing or anything in these General Conditions or the Contract to the contrary, the Contractor shall obtain and provide to the City all warranties for any portion of the Project offered by the manufacturer, installer, or provider thereof. The City and the user of the facility shall have the right to the full value and benefit of all such warranties. The Contractor will ensure all such warranties are fully transferrable to facilitate the full value of this Section.

ARTICLE 5 - CITY'S RESPONSIBILITIES

- 5.1 **City Project Manager** The Project Manager is responsible for providing City-supplied information and approvals in a timely manner to assist the Contractor to fulfill its obligations under the Contract Documents.
- 5.2 **Contract Services** The City may contract separately with one or more contractors to provide construction administration of the Project. The Contractor's Contract, as well as other firms hired by the City, shall be furnished to the Contractor. The contractor shall not have the right to limit, restrict, or reject any Contract modifications that are mutually acceptable to the City and the Contractor.

ARTICLE 6 - CONTRACT TIME

- 6.1 Contract Time
- 6.1.1 The Contract Time shall start with the Notice to Proceed ("NTP") and end with Final Completion, as set forth in Article 6.3 below.
- 6.1.2 The Contract Time shall be as set forth in the Project Schedule. The Contractor agrees that it will commence the performance of the Work and complete the Project within the Contract Time.

6.1.3 Time is of the essence of this Contract, for the Project, for the Work, and for each phase and/or designated milestone of the Project.

6.2 Project Schedule

6.2.1 The Project Schedule shall be updated and maintained throughout the Contract Time.

6.2.2 The Project Schedule shall be revised as required by conditions and progress of the Work. However, such revisions shall not relieve the Contractor of its obligations to complete the Work within the Contract Time, as adjusted in accordance with the Contract Documents. No modification to the Contract Documents or the Contract Time shall be effective unless approved in advance by the City.

6.2.3 An updated Project Schedule shall be submitted monthly to the City as part of the Payment Request.

6.2.4 The Contractor shall provide the City with a monthly status report with each Project Schedule detailing the progress of the Work, including:

6.2.5 Acceptance of a submitted schedule by the City should in no way be construed as an affirmation or admission that the schedule is reasonable or workable by the Contractor. The responsibility for completing the Work on the Project within the Contract Time remains the obligation of the Contractor. The City's review shall not relieve the Contractor from compliance with the requirements of the Contract Documents or be construed as relieving the Contractor of its complete and exclusive control over the means, methods, sequences, and techniques for executing the Work.

6.2.6 Critical Path Method (CPM)

6.2.6.1 Unless otherwise specified in the Contract, the Project Schedule shall include a Critical Path Method (CPM) diagram schedule showing the sequence of activities, the interdependence of each activity, and identifying the Critical Path.

6.2.6.2 The CPM diagram schedule shall be in calendar Days and indicate duration, earliest and latest start and finish dates for all activities, and total Float Times for all activities except critical activities. The CPM diagram shall be presented in a time-scaled graphical format for the Project as a whole.

6.2.7 Float Time

6.2.7.1 The total Float time within the overall schedule is for the exclusive use of the City. However, the City may approve the Contractor's use of Float time as needed to meet contract milestones and the Project completion date.

6.2.7.2 The Contractor shall not be allowed to sequence, hide, or reallocate Float time through such strategies as extending activity duration estimates to consume available Float, using preferential logic, or using extensive crew or resource sequencing. No time extensions will be granted nor delay damages paid until a delay occurs which extends the Work beyond the Contract Time.

6.2.7.3 Rain-Related Delays. In preparing the Project Schedule, The Contractor is required to take into account all relevant weather conditions, including normal rainfall and distribution. No

additional Compensation shall be given for any rain-related delays or impacts on the Work or the Project Schedule. The burden of documenting normal rainfall, excessive rainfall, and the impact on Critical Path activities is on the Contractor.

6.3 Final Completion and Final Acceptance

- 6.3.1 Unless otherwise expressly agreed to in writing by the City, Final Completion must be obtained by no later than **four hundred eighty-eight (488)** calendar days after the date of Notice to Proceed. Failure to timely obtain Final Completion will be a material breach of the Contract.
- 6.3.2 Upon receipt of written notice that the Work is ready for final inspection and Acceptance, the City and the Contractor will jointly inspect to verify that the remaining items of Work have been completed. There shall be no partial acceptance. Final Completion shall not occur until all items of Work, including punch list items, have been completed to the City's satisfaction as reflected in the written Final Completion notice.
- 6.3.3 Final Payment under Section 8.2 below shall not be due, owing, or paid by the City until the Final Completion is obtained.

6.4 Liquidated Damages

- 6.4.1 Liquidated Damages. The Contractor acknowledges and agrees that if the Contractor fails to obtain Final Completion of the Work within the Contract Time, the City will sustain extensive damages and serious loss as a result of such failure. The exact amount of such damages will be extremely difficult to ascertain. Therefore, the City and the Contractor agree that if Contractor fails to achieve Final Completion of the Work within the Contract Time, the City shall be entitled to retain or recover from the Contractor, as liquidated damages and not as a penalty, the applicable dollar sum amount in the Table 108-1 Schedule of Liquidated Damages in the 2016 City of San Luis Supplement to MAG Standard Specification and to City of Yuma Standard Details per calendar day, commencing from the Milestone Completion Dates required under Article 6.4 of the Contract.
- 6.4.2 The City may deduct liquidated damages described in this Section 6.4 from any unpaid amounts then or thereafter due Contractor under this Contract. Any liquidated damages not so deducted from any unpaid amounts due to the Contractor shall be payable to the City at the demand of the City, together with interest from the date of the demand at the highest lawful rate of interest payable by the Contractor.
- 6.4.3 Nothing herein shall be deemed to constitute a waiver of any other remedy available to the City in the event of Contractor's default under this Contract prior to the full performance of the Work, including, as applicable, specific performance or completion of the Work on behalf of Contractor, the cost and expense of which shall be offset against any monies then or thereafter due to Contractor (if any) and otherwise immediately reimbursed to City by Contractor.

ARTICLE 7 - CONTRACT PRICE

- 7.1 Fixed Price Contracts The Contract Price shall be the amount set forth in the Contract.
- 7.2 City Sales Tax The Contractor is required to pay Sales Taxes on any contracting activity done for the City, and this cost shall be included in all Contract Prices.

ARTICLE 8 - PAYMENT

8.1 Payment for Construction Services

- 8.1.1 Monthly progress payments for certified work and material delivered to the Project site for the preceding month shall be paid on or before fourteen (14) business days after the estimate of the Work is certified and approved. The submittal estimate shall be deemed certified and approved for payment after seven (7) days from the date of submission unless the City's Project Manager issues a written finding setting forth items not approved for payment.
- 8.1.2 The City shall retain ten percent (10%) of all progress payments, until **Substantial Completion** is achieved, as insurance of proper performance of the Contract or, at the option of the Contractor, a substitute security may be provided by the Contractor in an authorized form approved by the City.
- 8.1.3 Upon request of Contractor, and subject to the approval of the City in its sole discretion, the 10% retained by the City under this Article may be substituted for an irrevocable letter of credit issued by an approved financial institution equal to the amount that would otherwise be retained.
- 8.1.4 Unless the City Project Manager delivers specific written findings of deficiencies and expected cost to cure, any retention shall be paid, or substitute security shall be returned to the Contractor within sixty (60) Days after Final Completion and Acceptance of Work under the Contract. The City may withhold an amount from the progress payment sufficient to pay the expenses the City's Project Manager reasonably expects to incur in correcting the deficiency set forth in the written finding.
- 8.1.5 The Contractor, and all Subcontractors, shall pay to Subcontractors or material Suppliers within seven (7) days of receipt of each progress payment unless otherwise agreed in writing by the parties, the respective amounts allowed the Contractor or Subcontractor on account of the Work performed or materials delivered to the extent of each such Subcontractor's or material Supplier's interest therein. No agreement for construction may materially alter the rights of any Contractor, Subcontractor, or material Supplier to receive prompt and timely payment as provided under this Section. These monthly progress payments to Subcontractors or material Suppliers shall be passed on payments received pursuant to this Section. Any diversion by the Contractor or Subcontractor of payments received for Work performed or failure to reasonably account for the application or use of such payments constitutes grounds for disciplinary action by the Registrar of Contractors. The Subcontractor or material Supplier shall notify the Registrar of Contractors and the City in writing of any payment less than the amount or percentage approved for the class or item of work as set forth in this Section. The Subcontractor may notify the City's Project Manager in writing, requesting that the City notify the Subcontractor in writing within five (5) days from payment of each progress payment made to the Contractor. The Subcontractor's request remains in effect for the duration of the Subcontractor's work on the Project.
- 8.1.6 Nothing in this Section 8.1 prevents the Contractor at the time of application/certification to the City from withholding application or certification to the City for payment to the Subcontractor or material Supplier for unsatisfactory job progress, defective work, or materials not remedied, disputed work or materials, third party claims filed or reasonable evidence that claim will be filed, failure of a Subcontractor to make timely payment for labor, equipment and materials, the Subcontract.

- 8.2 **Final Payment** Subject to all of the City's rights to withhold or offset payment and other rights under the Contract, Final Payment, including remaining retainage, shall be paid only after:

- 8.2.1 The Work has been fully completed (including completion of all incorrect or incomplete work items), and the City has issued the written Final Completion notice and the required Warranty Bond has been submitted to the City;
 - 8.2.2 necessary operating manuals, any excess materials and supplies necessary for matching materials and supplies incorporated into the Work, and complete “as-built” drawings (including the Building Information Model, if required by the Contract Documents), plans, and specifications have been delivered to City;
 - 8.2.3 full and unconditional lien waivers and releases by Contractor and any person performing labor or supplying material, machinery, fixtures, or tools for the Work have been delivered to the City;
 - 8.2.4 all conditions and requirements imposed by the City or any financing entity for the corresponding disbursement have been met; and
 - 8.2.5 the Contractor delivers to the City a Contractor Payment Request Form requesting Final Payment.
- 8.3 **The City’s Right to Withhold Payment** The City may withhold payment to such extent as may be necessary in the City’s opinion to protect the City from loss for which the Contractor is responsible, including, without limitation:
- 8.3.1 Defective Work not remedied;
 - 8.3.2 Third-party claims filed or reasonable evidence indicating probable filing of such claims unless Contractor provides security acceptable to the City;
 - 8.3.3 Failure of Contractor to make payments properly to Subcontractors or for labor, materials, or equipment;
 - 8.3.4 Reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Price;
 - 8.3.5 Damage to the City or another Contractor or any third party for which the Contractor may have an obligation under Article 12 of the General Conditions;
 - 8.3.6 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
 - 8.3.7 Persistent failure to carry out the Work in accordance with the Contract Documents.
- 8.4 **Joint/Direct Checks** Payments to the Contractor may be made by checks payable jointly to the Contractor and its employees, agents, Subcontractors, and Suppliers, or any of them. When in the sole opinion of the City, it is advisable, payments may be made directly to the Contractor’s Subcontractors. Any amount so paid shall be deducted from the amounts owed to the Contractor under this Contract.
- 8.5 **Payment Not A Waiver** No payment (nor use or occupancy of the Project by the City) shall be deemed Acceptance or approval of the Work or as a waiver of any claims, rights, or remedies of the City.
- 8.6 **Liens and Bond Claims** The Contractor shall make all payments, in the time required, of all labor and materials furnished to the Contractor in the course of the Work and shall promptly furnish evidence of such payments as the City may require. The Contractor shall pay when due all claims arising out of the

performance of the Work covered by this Contract for which a lien may be filed either against the real estate or leasehold interest of City, or against payments due from City to Contractor, or for which a claim may be made against any payment or performance bond or both. To the fullest extent permitted by law, Contractor agrees that no liens or other claims in the nature of a lien against the real estate, leasehold, or other interest of City, against payment due from City to Contractor, or against any payment or performance bond, shall be filed or made in connection with the Work by any party who has supplied professional services, labor, materials, machinery, fixtures, tools, or equipment used in or in connection with the performance of this Contract. The Contractor agrees to remove or to cause to be removed any such liens or claims in the nature of a lien or bond claim within ten (10) days upon receiving notice or obtaining actual knowledge of the existence of such liens or claims. In addition, the Contractor agrees to defend, indemnify, and hold harmless the City from and against any and all such liens and claims. This paragraph does not apply to claims and liens of Contractor due to non-payment for work performed by Contractor. The obligations under this Article 8.4 survive termination of this Contract.

8.7 Financial Record Keeping and City's Audit Right

8.7.1 Records for all Contracts between the City and the Contractor shall, upon reasonable notice, be open to inspection and subject to audit, scanning, and/or reproduction during normal business working hours. The City or its designee may conduct such audits or inspections throughout the term of this Contract and for a period of three years after Final Payment or longer if required by law.

8.7.2 The City, its authorized representative, and/or the appropriate agency reserve the right to audit the Contractor's records in compliance with local, state, or federal policies, statutes, or at the City's discretion within three (3) years of Final Acceptance of the Work.

ARTICLE 9 - CHANGES TO THE CONTRACT

9.1 Extra Work/Changes in the Work

9.1.1 The City reserves the right to make such changes in the plans and specifications for the Work as it may deem appropriate. Any such change as set forth in a written Change Order or Extra Work Order shall be deemed a part of this Contract as if originally incorporated into this Contract.

9.1.2 Not used

9.1.3 The Contractor shall not be entitled to payment for additional work unless a written Change Order or Extra Work Order, in form and content prescribed by the City, has been executed by the City prior to starting the additional work.

9.1.4 Any agreement that modifies the terms of the Contract (including Change Orders) shall be approved in writing by the Project Manager and approved by the San Luis City Council if necessary. Once properly executed by both Parties, these modifications to the Contract shall have the same effect as if they had been included in the original Contract.

9.2 **Accuracy of Change Order Pricing Information** Signature by the contracting Parties shall constitute full accord and satisfaction between the City and the Contractor for all costs, damages, and expenses of whatever kind of nature, including delay, impact, or acceleration damages, which may be occasioned by a Change Order or other modification of the Contract, the Parties agreed to in writing.

ARTICLE 10 - TERMINATION

10.1 Termination by the City for Cause

10.1.1 If, for any reason, the Contractor fails to fulfill in a timely and proper manner its obligations under the Contract Documents, or if the Contractor violates any of the covenants, agreements, or stipulations of this Contract, the City shall thereupon have the right to terminate the Contract by giving written notice to the Contractor of such termination and specifying the effective date of the termination. In such event, all finished or unfinished site or structural improvements, as well as all materials or equipment acquired or stored by the Contractor under this Contract, shall, at the option of the City, become the City's property. The Contractor shall be entitled to receive just and equitable compensation for any Work satisfactorily completed under this Contract.

10.1.2 Notwithstanding Section 10.1.1, the Contractor shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of this Contract by the Contractor, and the City may withhold any payments to the Contractor for the purpose of set-off until such time as the exact amount of damages due the City from the Contractor is determined.

10.2 **Termination by the City for Convenience** The City may also terminate the Contract at any time for its convenience upon seven (7) business days' written notice to the Contractor specifying the termination date. In the event of termination, which is not the fault, in whole or in part, of the Contractor, the City shall pay to the Contractor only such compensation, including reimbursable expenses, due for Work properly performed on the Project prior to the termination date. Upon any termination of the Contract, no further payments shall be due from the City to the Contractor.

10.3 **A.R.S. § 38-511 and Other Statutory Requirements** This Contract is subject to and may be terminated by the City in accordance with the conflict provisions of A.R.S. § 38-511. The Contractor certifies, to the extent permitted by law, that it is not currently engaged in and agrees that for the duration of this Contract, it will not engage in a boycott of Israel, as that term is defined in A.R.S. § 35-393. The Contractor certifies, to the extent permitted by law, that it does not currently, and agrees for the duration of this Contract, it will not use the forced labor of the ethnic Uyghurs in the People's Republic of China, nor use any goods or services produced by them, nor use any contractors, Subcontractors, or Suppliers that use them. If the Contractor becomes aware during the term of this Contract that the Contractor is not in compliance with this certification, it shall follow the notice procedures in A.R.S. § 35-393.

10.4 **Non-Appropriation** The City is a government agency that relies upon the appropriation of funds by its governing body to satisfy its obligations. If the City determines that it does not have funds to meet its obligations under the Contract, the City shall have the right to terminate the Contract without penalty on the last day of the fiscal period for which funds were legally available for the Project.

10.5 **Limited Liability** Under no circumstances shall the City have any liability for any costs, expenses, overhead, or profits in relation to any work not actually performed or for any future or anticipated profits, recovery, damages, expenses, or losses.

ARTICLE 11 - **INSURANCE AND BONDS**

11.1 Insurance Requirements

11.1.1 **Contractor's Obligation:** The Contractor shall secure and maintain, at the Contractor's expense, until the Final Completion of the Project, general liability and property insurance as shall protect the Contractor and the City from claims for bodily injury, personal injury, and property damage which may arise because of the nature of the work or from operations under this Contract. The Contractor's insurance coverage shall be primary insurance with respect to all other available

sources. Any coverage maintained by the City shall not contribute to any claims arising from the Contractor's performance of this Contract. The Contractor shall file these certificates with OWNER's Public Works Department within ten (10) days of execution of this Contract and prior to engaging in any operation or activities set forth in this AGREEMENT. The foregoing insurance policies shall provide that no cancellation, major change in coverage, or expiration by the insurance company or the insured.

11.1.2 **General Liability Coverage:** Contractor shall have general liability coverage on a per occurrence, and in comprehensive form. General liability coverage shall include Products, Completed Operations, Products Liability, Explosion, Underground and Collapse Hazard, Premises, Operations, Contractual, Independent Contractors, Broad Form Property Damage and Personal Injury. General Liability coverage shall include and eliminate the exclusion for property under the care, custody, and control of the Contractor.

11.1.3 **Coverage Amounts:** Contractor shall provide general liability and excess general liability coverage in the following amounts, at a minimum:

Employer's Liability

a. Each Accident	\$100,000
b. Disease for Each Employee	\$100,000
c. Disease Policy Limit	\$250,000

Contractors General Liability

a. General Aggregate	\$6,000,000
b. Products-Completed Operations Aggregate	\$2,000,000
c. Each Occurrence (Bodily Injury and Property Damage)	\$6,000,000
d. Personal Injury and Advertising Injury	\$2,000,000
Property Damage liability insurance will provide Explosion, Collapse, and Underground coverages.	

Automobile Liability

a. Bodily Injury:	
Each Person	\$1,000,000
Each Accident	\$1,000,000
b. Property Damage	
Each Accident	\$1,000,000
c. Combined Single Limit	\$1,000,000

Contractual Liability

a. Bodily Injury:	
Each Accident	\$2,000,000
Annual Aggregate	\$2,000,000
b. Property Damage:	
Each Accident	\$2,000,000
Annual Aggregate	\$2,000,000
Each Accident	\$2,000,000
Annual Aggregate	\$2,000,000

Professional Liability Errors and Omissions \$1,000,000

11.1.4 **Additional Provisions:**

- 11.1.5 **Additional Insured:** Contractor shall name the **City of San Luis, Arizona (an Arizona municipal corporation) and its elected officials, officers, agents, and Pacific Advanced Civil Engineering, Inc. (a California Corporation registered in Arizona)** as “Additional Insureds” on all insurance policies, except Worker’s Compensation and Errors and Omissions, and this shall be reflected on the Certificate(s) of Insurance, with corresponding endorsement relative to the additionally insured indemnification. Contractor shall name the City of San Luis as certificate holder.
- 11.1.6 **Cancellation Notice of Material Change of Coverage:** The Contractor shall keep all policies in force for the duration of the Contract and any possible extension thereof. Contractors’ required insurance shall be endorsed to provide that the policies will not be canceled, reduced, discontinued, or otherwise materially altered during the period of performance without thirty (30) days prior written notice to the City of San Luis Public Workers Department.
- 11.1.7 **Certificate(s) of Insurance:** Certificates of Insurance shall be Project-specific. Prior to commencing work under the Contract, Certificates of Insurance shall be submitted and approved by the City. Contractor is responsible for obtaining Certificates of Insurance, establishing that the Contractor and all subcontractors have complied with insurance requirements previously stated. Copies of Certificates of Insurance shall be forwarded to the City Risk Manager for review and filing. Failure of the City to demand such Certificate or other evidence of full compliance with these insurance requirements or failure of the City to identify a deficiency from the evidence that is provided shall not be construed as a waiver of the Contractor’s obligation to maintain such insurance. City shall have the right, but not the obligation, to prohibit Contractor or any of its subcontractors from entering the Project Site until such certificates or other evidence that insurance has been placed in complete compliance with these requirements is received and approved by City.
- 11.1.8 **Rating of Insurance Companies:** Any and all insurance companies supplying coverage to the Contractor shall be approved to write insurance in the State of Arizona and must possess no less than an “A” rating in accordance with the A.M. Best rating guide.
- 11.1.9 **Deductible:** Contractor shall be solely responsible to satisfy any deductible or self-insured retention with respect to any of the coverages required by the Contract Documents. Such deductibles or self-insured retention shall not be applicable with respect to the policy limits provided to the City of San Luis. The City of San Luis, at its option, may require the Contractor to secure payment of such deductible or self-insured retention by a surety bond or irrevocable and unconditional Letter of Credit.
- 11.1.10 **Rental Equipment:** In the event that rental of equipment is undertaken to complete and/or perform the Work, the Contractor agrees that it shall be solely responsible for such rental equipment. Such responsibility shall include, but not be limited to, theft, fire, vandalism, and use by unauthorized persons.
- 11.1.11 **Personal Property:** In the event that materials or any other type of personal property are acquired for the Project or delivered to the Project site, the Contractor agrees that it shall be solely responsible for such property until it becomes a fixture on the Project, or otherwise is installed and incorporated as a final part of the Project. Such responsibility shall include, but not be limited to, theft, fire, vandalism, and use by unauthorized persons. Contractor shall maintain “all risk” insurance on a replacement cost basis, covering loss or damage to personal property (for which it has title and/or risk of loss), which is to become a final part of the Project, during any time such personal property is in transit and while stored or worked upon away from the Project site. City and

its officials, officers, employees, and agents shall be named as additional insured under such insurance.

11.1.12 Waiver of Subrogation: City and Contractor waive all rights against each other and Architect/Engineer, and separate contractors for damages caused by fire or other perils covered by Builder's Risk or any other property insurance, except such rights as they may have to the proceeds of such insurance.

11.1.13 Right to Require Higher Limits: City reserves the right, in its sole discretion, to require higher limits of liability coverage if, in the City's opinion, operations by or on behalf of the Contractor create higher-than-normal hazards and to require the Contractor to name additional parties in interest to be Additional Insureds.

11.1.14 Waiver of Requirements: The City Manager, in consultation with the City Risk Manager and/or City Attorney, reserves the right to waive or reduce insurance requirements should it be in the best interest of the City.

11.2 Bonds and Other Performance Security

11.2.1 Prior to the execution of the Contract, the Contractor shall provide a Performance Bond and a Payment Bond, each in an amount equal to the full amount of the Contract Price.

11.2.2 Each such bond shall be executed by a surety company or companies holding a Certificate of Authority to transact surety business in the State of Arizona, issued by the Director of the Arizona Department of Insurance. A copy of the Certificate of Authority shall accompany the bonds.

11.2.3 The bonds shall be made payable and be acceptable to the City. The bond forms for the performance and payment bonds shall be in the forms required under A.R.S. § 34-221, et seq.

11.2.4 All bonds submitted for this Project shall be provided by a company that has been rated AM Best rating of B++6 or better for the prior four (4) quarters by the latest edition of the *Results Best's Key Rating Guide (Property/Casualty)* published by the A.M. Best Company.

11.2.5 Personal or individual bonds are not acceptable.

11.2.6 Warranty Bond. Unless the surety issuing the Performance Bond specifically includes language that such bond covers the entire warranty period, Contractor shall provide a separate Warranty Bond for the Warranty Period. The Warranty Bond shall be in a minimum penal sum of 25% of the Contract Price.

ARTICLE 12 - INDEMNIFICATION

12.1 To the fullest extent permitted by law, the Contractor, its successors, and assigns shall defend, indemnify, and hold harmless the City and its agents, representatives, officers, elected officials, and employees from all demands, proceedings, suits, actions, claims, damages, or losses relating to, arising out of, resulting from or alleged to have resulted from the performance of the Work or failure to comply with Contractor's obligations under the Contract Documents or any laws, regulations, or legal requirements. The Contractors' duty to defend, indemnify, and hold harmless the City and its agents, representatives, officers, elected officials, and employees shall arise in connection with all demands, proceedings, suits, actions, claims, workers' compensation claims, unemployment claims, damages, losses or expenses (including but not limited to attorney's fees, expert fees, court costs, and the cost of appellate proceedings) that are attributable to personal or bodily injury, sickness, disease, death or injury to, impairment or destruction of

property including loss of use resulting therefrom, caused by any act or omission of Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable.

- 12.2 The Contractor shall also defend, indemnify, and hold harmless the City, any jurisdiction or agency issuing permits for any work involved in the Project and their consultants and each of their officers, officials, employees, representatives, directors, and agents from and against all losses, expenses, damages (including damages to the Work itself), attorney's fees and other costs including costs of defense, which any of them may incur with respect to the failure, neglect, or refusal of Contractor to faithfully perform the Work and all of the Work and all of Contractor's obligations under the Contract. Such costs, expenses, and damages shall include all costs, including attorney's fees, incurred by the indemnified parties in any lawsuit to which they are a party.
- 12.3 The indemnified party shall have the right to approve the legal counsel selected by the Contractor or the insurer of the liability, which approval shall not be unreasonably withheld.
- 12.4 The defense, indemnification, hold harmless provisions, and City's Liability Insurance set forth herein shall survive any termination of the Contract.

ARTICLE 13 - DISPUTE RESOLUTION

- 13.1 **Informal Dispute Resolution** The Parties to the Contract agree that time is of the essence in relation to the performance of the Contract and completion of the Project. Therefore, any and all disputes in relation to the Contract will initially be referred to the City Project Manager and Contractor Project Manager, as applicable to the dispute, for immediate resolution. If, after good faith efforts to reach a resolution, none is reached, any party to the dispute may submit the dispute to the Dispute Resolution Representative ("DRR") process set forth below, which is intended to be an expedited process.
- 13.2 Dispute Resolution Representative (DRR) Process
 - 13.2.1 The Parties under the Contract agree that all claims and disputes in relation to the Project that are not resolved in the ordinary course of the Project ("Claim or Claims") shall, as a prerequisite to any mediation or litigation of the Claim, first be submitted for resolution between the designated Dispute Resolution Representatives of the Parties as set forth herein (the "DRR Process").
 - 13.2.2 The DRR Process shall be initiated through the service of a DRR Notice as set forth below:
 - (xi) For claims by the Contractor, the DRR Process shall be initiated by the party asserting the claim serving written notice on the City setting forth in detail:
 - (a) the basis for the claim;
 - (b) the effect of the Claim upon the construction of, and/or Project Schedule for, the Project;
 - (c) the specific relief requested, the amount thereof, and how such was calculated;
 - (d) the parties involved in the Claim and how they are involved;
 - (e) the specific contract provisions in the Contract Documents (including, if applicable, drawings and specifications) which apply; and
 - (f) efforts made to date to resolve the Claim.

(xii) For claims by the City, the DRR process will be initiated by the City providing written notice to the other parties of the basis and amount of its claim, the parties involved in the Claim, and how they are involved, the provisions in the Contract Documents that apply, and the relief requested.

(xiii) The DRR Notice shall be hand-delivered and e-mailed to the other parties' designated Dispute Resolution Representatives.

13.2.3 The other parties shall respond in writing to the DRR Notice ("DRR Response") within ten (10) calendar days of receipt of the DRR Notice, setting forth those items set forth in the DRR Notice that they agree with, dispute, and/or have questions concerning. The DRR Response shall be hand-delivered and e-mailed to the other parties' Dispute Resolution Representatives.

13.2.4 The designated Dispute Resolution Representatives for the parties to the claim shall then meet as soon as possible and, in any event, within twenty (20) calendar Days of submission of the DRR Notice (regardless of whether a DRR Response has been submitted by all parties involved in the dispute), at a mutually agreed upon time and place, to attempt to resolve the Claim based upon the DRR Notice and DRR Response.

13.2.5 At any time after the first meeting required above, either party may terminate the DRR Process by written notice to the other party.

13.2.6 The parties may agree, in writing, to extend or modify the time limits or other provisions of the DRR process in relation to a specific pending Claim.

13.2.7 Unless otherwise designated in a written notice to the other parties, the Project Manager, the representatives of the Contractor, and of the Design Professional shall act as the parties' designated Dispute Resolution Representatives.

13.2.8 If a resolution of the Claim is reached, that resolution shall be set forth in writing. The resolution shall be signed by the Parties' designated Dispute Resolution Representatives. If the resolution involves a change in any Contract Documents, the Contract Price, the Project Schedule, or any other change requiring a written Change Order or Amendment, the parties shall execute an appropriate written Change Order or Amendment pursuant to the terms of the Contract Documents.

13.3 Mediation

13.3.1 Unless extended by written agreement of the parties involved in the dispute, any Claim not resolved through the DRR process set forth above within five (5) calendar days after the meeting required under 13.2.4 or after the DRR is terminated pursuant to 13.2.5 above, whichever is earlier, shall be submitted to mediation as a condition precedent to litigation by either party.

13.3.2 The mediation shall be commenced by written demand upon the other party for mediation. If the parties cannot agree upon a mediator within ten (10) calendar Days of the written demand, either party may make a request to the Civil Presiding Judge of the Yuma County Superior Court to appoint a mediator. The mediation shall occur within forty (40) calendar Days of the written demand for mediation unless the parties agree, in writing, to a longer period of time.

13.3.3 The qualifications for the mediator shall be that the mediator be:

(xiv) an experienced mediator, arbitrator, or litigator of construction disputes; and

(xv) having engaged a significant portion of their time involving and/or resolving construction disputes for at least the past five (5) years.

13.3.4 Each party shall provide to the other party and the mediator all of the information and documentation required under 13.2.2 and 13.2.3 above, together with any additional information and documentation that the party believes relevant. In addition, the parties shall exchange and provide to the mediator such additional memoranda, information, and/or documentation, as the mediator may request, and in the form and at such times as the mediator may direct.

13.3.5 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in San Luis, Arizona unless another location is mutually agreed upon. Agreements reached in mediation shall be specifically enforceable in any court having jurisdiction over the dispute.

13.4 Arbitration

13.4.1 If the mediation is unsuccessful, the parties shall submit the dispute and/or claim to be resolved through binding arbitration conducted according to the then-current Construction Industry Arbitration Rules of the American Arbitration Association ("AAA") but not administrated or conducted by the AAA. The arbitration shall be held in Yuma County, Arizona, utilizing a single arbitrator selected by the parties unless the parties agree, in writing, to an alternative arbitration procedure.

13.4.2 If: (a) the parties cannot agree on a single arbitrator within two (2) weeks of the demand for arbitration; or (b) the parties at any time prior to the arbitrator being appointed or before the arbitrator has accepted the appointment, cannot agree upon any significant aspect of the arbitration, not already addressed herein, either party may submit the Claim directly to the AAA to select the arbitrator, and thereafter the arbitration shall be administered by the AAA.

13.4.3 The arbitrator shall be an attorney with at least fifteen (15) years of experience in construction-related practice and whose practice, for at least the last five (5) years, consists of at least 50% construction law.

13.4.4 At the request of either party, the arbitration may include as parties, through joinder, consolidation, or otherwise, additional persons or entities involved in the Project, involving claims and/or disputes with common issues and/or facts. The arbitrator shall promptly rule upon any request for joinder or consolidation.

13.4.5 In relation to claims in which the amount in controversy is less than \$250,000, no discovery other than the exchange of documents, designation of witnesses, and detailed disclosure of claims and defenses (including specifically a detailed basis for calculating all claims) and no more than three (3) depositions and one (1) expert per issue per side, shall be allowed, subject to disclosure of such other information as approved by the arbitrator. Otherwise, discovery shall be allowed and/or limited as decided by the arbitrator.

13.4.6 The prevailing party in any arbitration or court proceeding under this Contract shall be entitled to an award of its attorneys' fees, costs, and expenses (including expert witness fees) incurred.

- 13.4.7 A demand for arbitration shall be made within the time limits specified in the Contract Documents as applicable, and in other cases within a reasonable time after the Claim has arisen, and in no event shall it be made after the date when the applicable statute of limitations would bar institution of legal or equitable proceedings based on such Claim.
- 13.4.8 The Parties agree to participate as a party, by joinder and/or consolidation, in any arbitration, litigation, or other dispute resolution involving as an issue, claim, or defense, any action, inaction, or service provided under this Contract or in relation to the Project or the Work, or any defect or deficiency in the Work.
- 13.4.9 The party filing a notice of demand for arbitration, or a counterclaim, must assert in the demand or counterclaim all Claims then known to that party on which arbitration is permitted to be demanded.
- 13.4.10 Any award by the arbitrator shall not include any consequential or punitive damages.
- 13.4.11 The award entered by the arbitrator shall be a reasoned award.
- 13.4.12 The award entered by the arbitrator shall be final, and judgment may be entered upon the award in the Arizona Superior Court.

ARTICLE 14 - MISCELLANEOUS PROVISIONS

- 14.1 **Assignment** Neither the Contractor nor the City shall, without the written consent of the other, assign, transfer, or sublet any portion of this Contract or part of the Work or the obligations required by the Contract Documents. Any such assignment will be void, will transfer no rights to the purported assignee, and would be a material breach of the Contract.
- 14.2 **Governing Law and Venue.** In the performance of the Contract, Contractor shall abide by and conform to any and all laws of the United States, State of Arizona, Yuma County, and the City, including but not limited to federal and state executive orders providing for equal opportunities, the Federal Occupational Safety and Health Act and any other federal, state, county, or local laws applicable to the Contract. This Contract shall be governed by and construed in accordance with the substantive and procedural laws of the State of Arizona, including choice of law and conflict of laws and principles. Exclusive jurisdiction and venue for any action brought to enforce or construe any provision of this Contract shall be proper in the Superior Court of Yuma County, Arizona. Both Parties consent to jurisdiction and venue in such court for such purposes. The Party prevailing in any such action or other proceeding to resolve a dispute shall be paid all reasonable costs, reasonable expert services fees, and reasonable attorney's fees by the other Party. In the event any judgment is secured by said prevailing Party, all such costs, expert fees, and attorney's fees shall be included in the judgment, such fees to be set by the court and not by jury.
- 14.3 **San Luis Business License** The Contractor shall obtain a San Luis Business License before commencing Work.
- 14.4 **Survival** All warranties, representations, and indemnifications by Contractor shall survive the completion or termination of this Contract.
- 14.5 **No Waiver** The failure of either Party to enforce any of the provisions of the Contract Documents or to require the performance of the other Party of any of the provisions under this Contract shall not be construed to be a waiver of such provisions, nor shall it affect the validity of the Contract Documents or any part them, or the right of either Party to thereafter enforce each and every provision. Unless otherwise specifically agreed to in writing by both Parties, any consent to delay in the Contractor's performance of its

obligation is applicable only to the particular transaction to which it relates and is not applicable to any other obligation or transaction.

14.6 Project Communications

14.6.1 All communications concerning the performance of the Work or the Project shall be provided to the designated Project Manager and Contractor's Representative set forth in Article 1 of the Contract.

14.6.2 Project communications may be exchanged by e-mail upon the written agreement of the Project Manager and Contractor Representative. However, e-mail communications are not binding upon the City. E-mail communications cannot change the terms of the Contract or the scope of work or effectuate any change that requires a written change order. The use of e-mails is for information only, and e-mails will have no legal or binding effect.

14.7 **Independent Contractor** The parties intend that this Contract will create an independent contractor relationship and not an employer-employee relationship. The City is interested only in the results to be achieved, and the conduct and control of the performance of the services contemplated under this Contract will be solely with the Contractor. Contractor's employees, agents, and Subcontractors shall not be considered to be employees or agents of the City for any purpose. They shall not be entitled to any of the benefits the City provides for its employees. The Contractor shall furnish at its own expense all materials and equipment necessary to carry out the terms of this Contract.

14.8 **No Partnership** Nothing in this Contract constitutes a partnership, joint venture or similar arrangement between the Parties. Neither Party is the principal or agent of the other.

14.9 **No Third-Party Beneficiaries** There are no third-party beneficiaries to this Contract and no person or entity, not a Party, shall have any right or cause of action under this Contract.

14.10 **Force Majeure** If the Contractor or the City or both are prevented or materially restricted from performing any of their obligations under this Contract by an event of *force majeure*, then the obligations of each Party shall be suspended or reduced to the extent made necessary by the event. As used in this section, "*force majeure*" means any act or cause not reasonably within the control of the Party whose ability to perform is impaired and which that Party could not have prevented by the exercise of reasonable diligence. *Force majeure* events include but are not limited to natural disasters, fire, flood, explosions, strikes (or labor disputes) over which the affected Party has no control, sabotage, riots, civil commotion, acts of civil or military authority, wars, public health emergencies, or material changes in applicable business laws (including but not limited to through statutes, regulations, executive orders, or emergency declarations and proclamations).

14.11 **Notices** The notices under this Contract shall be validly given and fully received when in compliance with all of the following:

- In writing,
- Delivered or refused delivery,
- By personal delivery, or by major commercial delivery courier service which requires a signature of the recipient, or by registered or certified United States Postal Service mail, return receipt requested with the signature of the recipient, postage prepaid to the addresses in the first paragraph of this Contract.

14.11.1 Either Party may designate in writing and deliver notice of a different address in the same way as above. Any such change of address notice shall be delivered at least ten (10) Days before the date on which the change is to become effective.

14.11.2 Notices for delivery to the City shall be to the attention of the Public Works Director, copies to the City Manager, City Attorney, and City Clerk.

- 14.12 **Severability** If any terms, parts, or provisions of this Contract are for any reason invalid or unenforceable, the remaining terms, parts, or provisions are nevertheless valid and enforceable.
- 14.13 **Entire Agreement** This Contract (including the incorporated documents) contains the entire agreement between the Parties, and no oral or written statement, promise, or inducement made by either Party or its agents not contained or specifically referred to in this Contract is valid or binding. All modifications to this Contract must be in writing, signed, and endorsed by the Parties.
- 14.14 **Headings** The headings of this Contract are solely for the convenience of the Parties and shall not be used to explain, modify, simplify, or aid in the interpretation of the provisions of this Contract.
- 14.15 **Further Acts** Each of the Parties shall execute and deliver all such documents and perform all such acts as reasonably necessary, from time to time, to carry out the matters contemplated by this Contract.