

**TRILLIUM MANAGEMENT DEVELOPMENT COMPANY, LLC**



**TERAVALIS™**

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CFD-Eligible Contract Documents and Specifications  
for Construction of

**Teravalis Phase 1 & 2 Box Culvert Infrastructure CFD**  
For the

**Trillium Community Facilities District**

Located at

**The West Half of Section 17 and All of Section 18, Township 3 North, Range 4 West of the Gila and Salt River  
Base and Meridian, Maricopa County, Arizona**



Contract Documents and Specifications  
for Construction of

**Teravalis Phase 1 & 2 Box Culvert Infrastructure CFD**

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## INVITATION TO BIDDERS

For

### TERAVALIS PHASE 1 & 2 BOX CULVERT INFRASTRUCTURE CFD

PUBLIC NOTICE IS HEREBY GIVEN THAT SEALED PROPOSALS will be received at the office of EPS Group, Inc located at 1130 N. Alma School Road, Suite 120, Mesa AZ 85201, up to but no later than 10:00 AM, Wednesday November 22, 2023, Arizona local time, at which time they will be publicly opened and read for the work generally described as follows:

TERAVALIS PHASE 1 & 2 BOX CULVERT INFRASTRUCTURE CFD:

Teravalis Phase 1 & 2 Box Culvert Infrastructure CFD.

All Plans, Specifications, Special Provisions and other Contract Documents can be requested for download by emailing Greg Hahn at [greg.hahn@epsgroupinc.com](mailto:greg.hahn@epsgroupinc.com). Please reference the project name above in the email subject line.

No bid will be accepted unless it is made on the Bidder's Proposal Forms furnished by EPS Group, Inc.. Every bid made by a Contractor pursuant to this Notice shall be accompanied by a surety bond for ten percent (10%) of the bid amount, listing Trillium Management Development Company, LLC as the Oblige, as a guarantee that the Contractor will enter into a contract to perform the Work, or as liquidated damages in the event the Contractor refuses or fails to enter into the Contract with Trillium Management Development Company, LLC upon award and/or failure to execute the Construction Contract Agreement and/or submit the required Performance Bond, Maintenance Bond, Insurance Certificates, and all other documents required to Trillium Management Development Company, LLC. within seven (7) calendar days after the date of the award of the Contract may be just cause for the annulment of the award and forfeiture of the proposal guarantee.

Neither Owner nor Engineer assumes any responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents. Owner and Engineer, in making copies of Bidding Documents available on the above terms, do so only for the purpose of obtaining Bids on the work and do not confer a license or grant for any other use.

**A MANDATORY PRE-BID CONFERENCE IS SCHEDULED FOR Teravalis Phase 1 & 2 Box Culvert Infrastructure CFD at 10:00 AM, Friday November 3, 2023, at EPS Group's office located at 1130 N. Alma School Road, Suite 120, Mesa AZ 85201.**

The Contract will be awarded to the lowest responsible and responsive bidder for this project.

Statement of Qualifications: Each bid shall be accompanied by a statement of qualifications that demonstrates experience in at least five (5) projects of similar scope within the past three (3) years with references.

The Owner reserves the right to reject any and all bids and to waive any irregularity, informality or technicality in any bid to the extent permitted by law. Bidder(s) may not withdraw his/her bid for sixty (60) calendar days after the bid opening.

The Owner requires that bidders be able to demonstrate to the Owner's satisfaction that they have successfully completed construction contracts of similar scope and value within the State of Arizona.

No questions will be answered verbally. No explanations, answers to technical questions, representations, nor comments will be made by the Owner's personnel concerning this Project. Technical questions regarding this Project may be submitted via email to the following:

EPS Group, Inc  
Greg Hahn  
1130 N. Alma School Road, Suite 120  
Mesa AZ 85201  
greg.hahn@epsgroupinc.com

Technical questions received prior to the Pre-Bid Conference and questions raised at the Pre-Bid Conference will be answered at said conference. Subsequent to the Conference, minutes of said meeting will be issued to all official Plan Holders. An Addendum or Addenda will be issued on technical questions received in writing, by EMAIL and/or raised at the Conference, which in the opinion of the Owner , or EPS Group, Inc meets the requirements *thereof*.

Technical questions, in the format described hereinabove, will be received up to 5:00 P.M. on Wednesday November 15, 2023.

ADVERTISEMENT DATES: West Valley View – October 18, 2023, and October 25, 2023

## **INSTRUCTIONS TO BIDDERS**

Trillium Management Development Company, LLC seek a qualified General Contractors to complete the work (the “Work”) outlined herein. Bidder must be licensed to work in the City of Buckeye at the time of bid submittal.

Scope of Work:

The Work described herein includes, but not limited to, all labor, materials, equipment and supervision to complete the following per the plans and specifications:

All work associated with the plans and specifications listed below (the “Work”).

Bidder shall include the cost to supply and install all required material. Bidder shall bid only materials that will comply with applicable regulatory agency standards (per plans).

Scope of Work also includes all necessary construction staking, as-builts, dust control and maintenance of SWPPP in place.

Plans & Specifications for Bid: The plans and specifications listed below, along with these Instructions to Bidders, shall be used for bidding purposes:

- Sun Valley Parkway – Paving Plans
- Sun Valley Parkway – Structural Plans
- Collector Roads Ph 1– Paving Plans
- Collector Roads Ph 2– Paving Plans
- Floreo Circle – Paving Plans
- Johnson Rd and Teravalis Pkwy – Paving Plans

### **Specifications**

#### **Construction Water**

Water will be supplied by the owner. A pond is located onsite. Bidders shall include costs for obtaining all pumping, transporting, and dispensing of water for their construction operations.

#### **Sales Tax**

Bidders are responsible for paying all state and county taxes. The owner has chosen to defer city sales tax. An Owner/Builder written declaration or an Arizona form 5005 will be supplied when requested.

#### **Bonding**

Bidders are responsible for obtaining the necessary bonds as listed in the attached contract. Bonds will need to be provided at the time the contract is signed by contractor. The costs of these bonds will be included in the bid as a Non Pay item.

#### **Soils Testing**

The owner shall pay for all testing necessary for the project. Bidder shall coordinate with the soils testing company on when testing will be needed. Any retests due to failures will be paid for by the appropriate contractor.

**MAG Specifications**

All work shall be completed in accordance with the latest edition of ADWR and MAG specifications and standard details, including the latest edition of the appropriate city supplements. These specifications will be used unless otherwise specified on the plans or bid documents.

**Permits**

All permits should be pre-paid, but if additional permits are required, bidder shall be reimbursed for all cost of any permits obtained. The owner will only reimburse the bidder the cost of the permit, NOT including sales tax.

**Box Culverts**

This item shall include all necessary equipment, labor and materials necessary to install these improvements per the Engineering plans and specifications. This includes, but is not limited to, all excavation, reinforcing steel, hand railing, trash racks, concrete, backfill, compaction, and any other necessary appurtenances to complete the box culverts per plans and specifications and city requirements.

Bidders shall assume a wash out area will be provided within 1000 feet of each box culvert location.

Concrete for box culvert will NOT be colored.

Bidders need to provide construction durations for each box culvert.

Compaction testing will be completed by the owner at the owner’s cost.

Headwalls in the bid schedule shall refer to the curb that is to be built into the edge of the culvert. Refer to sheet S2.1 (I.L.O. S2.3)

Handrail shall be painted using a Dunn Edwards Paint – Color is Charcoal Sketch – Model # is DET628 RL#925

Excavation will be performed by others and bidders shall assume that the excavation will be 18” away from each side of the outside walls and will be left as a vertical cut and will be cut to flowline. Any additional excavation required to construct the box culverts shall be included in the bid.

All backfill shall be compacted per MAG and City specifications and shall backfill two (2) feet above each box. If any

Rock excavation is not included in this project. Rock excavation shall be defined as a material that cannot be reasonably excavated with a CAT345 excavator equipped with an approved two (2) cubic yard “V” bottom bucket with minimum three (3) ripper shanks or equal in trenching work at a production of 40 cy/hr. Determination of “reasonably” and/or “equal” shall be determined by the Project Manager.

Sequence and estimated start dates for box culverts will be as follows.

- Sun Valley Parkway December 1, 2023
- Teravalis Pkwy/Johnson Rd February 1, 2024
- Collectors PH 1 March 1, 2024
- Collectors PH 2 May 1, 2024
- Floreo Circle June 1, 2024

## **1. Defined Terms.**

Terms used in these Instructions to Bidders that are not defined below or elsewhere in the Contract Documents shall have the meaning generally assigned such terms in the construction industry.

Certain additional terms used in these Instructions to Bidders have the meanings indicated below which are applicable to both the singular and plural thereof.

- 1.1. Bidder - one who submits a Bid directly to Owner as distinct from a sub-bidder, who submits a bid to a Bidder.
- 1.2. Issuing Office - the office from which the Bidding Documents are to be issued and where the bidding procedures are to be administered. For this project the issuing office is EPS Group, 1130 N. Alma School Road, Suite 120, Mesa, Arizona 85201 (Phone: (480) 503-2250)
- 1.3. Successful Bidder - the most qualified, responsible and responsive Bidder to whom Owner (on the basis of Owner's evaluation, in its sole discretion) makes an award.
- 1.4. Owner - the Owner is understood to be **Trillium Management Development Company LLC**. Funding for the project will be provided in accordance with the terms and conditions described in the Contract Documents.
- 1.5. Engineer — Professional Licensed Engineer and/or Licensed Landscape Architect or Architect.

## **2. Copies of Bidding Documents.**

- 2.1. Complete sets of the Bidding Documents in the number and for the purchase price, if any, stated in the Invitation to Bidders may be obtained by email at [greg.hahn@epsgroupinc.com](mailto:greg.hahn@epsgroupinc.com).
- 2.2. Complete sets of Bidding Documents must be used in preparing Bids; neither Owner nor Engineer assume any responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.
- 2.3. Owner and Engineer in making copies of Bidding Documents available on the above terms do so only for the purpose of obtaining Bids for the Work and do not confer a license or grant for any other use.

## **3. Qualifications of Bidders.**

To demonstrate qualifications to perform the Work, each Bidder must be prepared to submit within ten (10) days after Bid opening, upon Owner's request, detailed written evidence such as audited financial data, proposed subcontractors, present commitments, previous experience, equipment lists, evidence of authority to conduct business in the State of Arizona and other such data as required to evaluate the Bidder's capability to perform the Work described in the Bidding Documents.

## **4. Examination of Contract Documents and Site.**

- 4.1. It is the responsibility of each Bidder before submitting a Bid:
  - 4.1.1. To examine thoroughly the Contract Documents and other related data identified in the Bidding Documents (including "technical data" referred to below);
  - 4.1.2. To visit the site to become familiar with and satisfy Bidder as to the general, local and site conditions that may affect cost, progress, performance or furnishing of the Work;
  - 4.1.3. To consider federal, state and local statutes, regulations, codes, ordinances, rules and other governmental orders or restrictions that may affect cost, progress, performance or furnishing of the Work;

4.1.4. To study and carefully correlate Bidder's knowledge and observations with the Contract Documents and such other related data; and

4.1.5. To promptly notify Engineer of all conflicts, errors, ambiguities or discrepancies which Bidder has discovered in, or between, the Contract Documents and such other related documents.

4.2. Bidder may not rely upon the data, interpretations, opinions or information contained in reports of explorations and tests of subsurface conditions at or contiguous to the site which have been utilized by Engineer in preparation of the Contract Documents or otherwise relating to the subsurface conditions at the site, nor upon the completeness thereof for the purposes of bidding or construction.

4.2.1. Copies of such subsurface reports will be made available by Owner to any Bidder on request. Those reports are not part of the Contract Documents, and are not a warranty of surface or subsurface conditions. Bidder is responsible for any interpretation or conclusion drawn from any "technical data" contained therein. Bidder acknowledges that Owner and Engineer disclaim any responsibility for the accuracy, true location, and extent of the soils, surface, and subsurface investigations that have been prepared by others and disclaim responsibility for Bidder's interpretation of or conclusions or opinions drawn from such reports, e.g., without limitations, projecting soil-bearing values, rock profiles, soil stability and the presence, level and extent of underground water. Bidder is expected to examine the site and such reports and then decide for itself the character of the materials to be encountered. The Owner will not approve any request, other than specified in the Contract Documents, for change order based upon the contention that subsurface conditions or materials vary from those indicated on the soil boring logs.

4.3. Information and data shown or indicated in the Contract Documents with respect to existing underground facilities at or contiguous to the site is based upon information and data furnished to Owner and Engineer by Owners of such underground facilities or others, and Owner and Engineer do not assume responsibility for the accuracy or completeness thereof, or for Bidder's interpretation of or conclusions or opinions drawn from such information and data. The Contractor is advised to coordinate closely with Engineer prior to the commencement of any underground construction activities. Such information and data is furnished for information purposes only, is not a part of the Contract Documents, and is not a warranty of subsurface conditions.

4.4 Before submitting a Bid, each Bidder will be responsible for obtaining such additional or supplementary examinations, investigations, explorations, tests, studies and data concerning conditions (surface, subsurface and underground facilities) at or contiguous to the site or otherwise, which may affect cost, progress, performance or furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences or procedures of construction to be employed by Bidder and safety precautions and programs incident thereto or which Bidder deems necessary to determine its Bid for performing and furnishing the Work in accordance with the time, price and other terms and conditions of the Contract Documents.

4.5 On request, Owner will provide each Bidder access to the site to conduct such examinations, investigations, explorations, tests and studies as each Bidder deems necessary for submission of a Bid. Bidder must fill all holes and clean up and restore the site to its former conditions upon completion of such explorations, investigations, tests and studies.

4.6 Reference is made to the Contract Documents for the identification of the general nature of work that is to be performed at the site by the Owner or others (such as utilities and other prime Contractors) that relates to the work for which a Bid is to be submitted. On request, Owner will provide, to each Bidder for examination, access to or copies of Contract Documents (other than portions thereof related to price) for such work.

4.7 The submission of a Bid will constitute an incontrovertible representation by Bidder that Bidder has complied with every requirement of this Article 4; that without exception the Bid is premised upon performing and furnishing the Work required by the Contract Documents and applying the specific means, method, techniques, sequences or procedures of construction (if any) that may be shown or indicated or expressly required by the Contract Documents;



that Bidder has given Engineer written notice of all conflicts, errors, ambiguities and discrepancies that Bidder has discovered in the Contract Documents and that the written resolutions thereof by Engineer are acceptable to Bidder; and, that the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performing and furnishing the Work.

4.8 The Construction Drawings include a Storm Water Pollution Prevention Plan (SWPPP) prepared in accordance with all government regulatory requirements. The Contractor will not be required to submit a NOI for the project, nor will they be required to install sediment control devices or other BMP's listed in the SWPPP. The Owner has hired a different operator to prepare and submit the NOI for the project. That operator will have day to day operational control of activities on the project that are necessary to provide AZDEQ Permit compliance including but not limited to: installation, maintenance, and removal of all controls associated with the SWPPP for the duration of the contract.

Contractor shall submit copies of all government regulatory permits to Greg Hahn/EPS Group, Inc. prior to mobilization.

Contractor shall properly cover all structures during the course of construction and maintain the covers until the final tops and throats are installed. Siltation filters shall be provided, installed and maintained as required until the Contractor's work is completed and shall be left in good and working condition when Contractor leaves site.

The bidder agrees to indemnify Owner and any joint venture or other owner related entity from any costs, damages, fines or penalties arising out of bidder's failure to comply with any local, state or federal storm water requirements.

## **5. Availability of Lands for Work.**

5.1 The lands upon which the Work is to be performed, rights-of-way and easements for access thereto and other lands designated for use by Contractor in performing the Work are identified in the Contract Documents. All additional lands and access thereto required for temporary construction facilities, construction equipment or storage of materials and equipment to be incorporated in the Work are to be obtained and paid for by Contractor. Easements for permanent structures or permanent changes in existing facilities are to be obtained and paid for by Owner unless otherwise provided in the Contract Documents.

5.2 **Reserved.**

5.3 **Reserved.**

5.4 **Reserved.**

5.5 **Reserved.**

## **6. Interpretations and Addenda.**

6.1. All questions about the meaning or intent of the Bidding Documents are to be directed to EPS Group. Interpretations or clarifications considered necessary by EPS Group in response to such questions will be issued by email. All parties recorded by EPS Group as having received the Bidding Documents will be notified of the interpretations or clarifications. Questions received less than seventy-two (72) hours prior to the date for opening of Bids may not be answered. Only questions answered by formal written interpretations or clarifications will be binding. Oral and other interpretations or clarifications will be without legal effect.

6.2. Addenda may also be issued to modify the Bidding Documents as deemed advisable by Owner and/or EPS Group.

## **7. Annulling Notice of Award.**

If the Successful Bidder fails to execute and deliver the Agreement, and furnish the required performance, payment and maintenance bonds within ten (10) working days after the Notice of Award, Owner may annul the Notice of Award.

## **8. Contract Times.**

The number of days (**calendar days**) within which, or the dates by which, the Work is to be completed and ready for final payment are set forth in the Agreement (or incorporated therein by reference to the attached Bid Form).

## **9. Substitutes and “Or-Equal” Items.**

The Contract, if awarded, will be on the basis of materials and equipment described in the Drawings or specified in the Specifications without consideration of possible substitute or “or-equal” items. Whenever it is indicated in the Drawings or specified in the Specifications that a substitute or “or-equal” item of material or equipment may be furnished or used by Contractor if acceptable to Engineer, application for such acceptance will not be considered by Engineer and Owner until after the Effective Date of the Agreement.

## **10. Subcontractors, Suppliers and Others.**

10.1. If the Contract Documents require, or if the Owner requests, the identity of certain subcontractors, suppliers and other persons and organizations (including those who are to furnish the principal items of material and equipment) must be submitted to Owner prior to the Effective Date of the Agreement by the apparent Successful Bidder, and any by other Bidder so requested. An experience statement shall accompany such list with pertinent information regarding similar projects and other evidence of qualification for each such subcontractor, supplier, person or organization, if requested by Owner. An Owner or Engineer who, after due investigation, has objection to any proposed subcontractor, supplier, other person or organization may, before the Notice of Award is given, request the apparent Successful Bidder to submit an acceptable substitute without an increase in price.

If the apparent Successful Bidder declines to make any such substitution, Owner may award the contract to another qualified, responsible, and responsive Bidder, in the sole discretion of the Owner, that proposes to use acceptable subcontractors, suppliers and other persons and organizations. The declining to make requested substitutions will not constitute grounds for sacrificing the Bid security of any Bidder. Any subcontractor, supplier, other person or organization listed and to whom Owner or Engineer does not make written objection prior to the giving of the Notice of Award will be deemed acceptable to Owner and Engineer.

10.2. No Contractor shall be required to employ any subcontractor, supplier, other person or organization against whom Contractor has reasonable objection.

## **11. Bid Form.**

11.1. The Bid Form is included with the Bidding Documents.

11.2. All blanks on the Bid Form must be completed in ink or typewritten.

11.3. A properly and legibly completed contractor information form in the format attached behind these Instructions to Bidders must be submitted by each bidder and each bidder that is a corporation, professional corporation, limited liability company or limited partnership must also submit a certificate of formation.

11.4. Bids by corporations must be executed in the corporate name by the president or a vice-president (or other corporate officer accompanied by evidence of authority to sign) and the corporate seal must be affixed and attested

by the secretary or an assistant secretary. The corporate address and state of incorporation must be shown below the signature.

11.5. Bids by partnerships must be executed in the partnership name and signed by a partner, whose title must appear under the signature and the official address of the partnership must be shown below the signature.

11.6. All names must be typed or printed in ink below the signature.

11.7. The Bid shall contain an acknowledgment of receipt of all Addenda (the numbers of which must be filled in on the Bid Form).

11.8. The address and telephone number for communications regarding the Bid must be shown.

11.9. Evidence of authority to conduct business as an out-of-state corporation in the state where the Work is to be performed shall be provided in accordance with Paragraph 3 above. State Contractor license number, if any, must also be shown.

11.10. The bid price shall include such amount as the Bidder deems proper for overhead and profit and state, county and local sales or transaction privilege taxes.

11.11 All unit prices established under the Contract Documents, or proposed by any Bidder, shall be deemed to include all overhead and profit of bidder and any subcontractors or suppliers.

## **12. Submission of Bids.**

Bids shall be submitted in-person as indicated in the Invitation to Bidders. Emailed bids will not be accepted. Bids not received by the time specified will not be opened/read.

## **13. Modification and Withdrawal of Bids.**

13.1. Bids may be modified or withdrawn by an appropriate document duly executed (in the manner that a Bid must be executed) and delivered to the place where Bids are to be submitted at any time prior to the opening of Bids.

13.2. If, within twenty-four (24) hours after Bids are opened, any Bidder files a duly signed, written notice with Owner and promptly thereafter demonstrates to the reasonable satisfaction of Owner that there was a material and substantial mistake in the preparation of its Bid, that Bidder may withdraw its Bid. Thereafter, that Bidder will be disqualified from further bidding on any Work to be provided under the Contract Documents.

## **14. Opening of Bids.**

Bids will be opened by Owner and award made solely based on the Owner's sole and unsolicited discretion.

## **15. Bids to Remain Subject to Acceptance.**

All Bids will remain subject to acceptance for ninety (90) days after the day of the Bid opening, but Owner may, in its sole discretion, release any Bid prior to that date.

## **16. Award of Contract.**

16.1. Owner reserves the right to reject any or all Bids as may be permitted by applicable law, including, without limitation, the right to reject any or all nonconforming, non-responsive, unbalanced or conditional Bids and to reject the Bid of any Bidder if Owner believes that the Bidder is not responsible or fails to meet other criteria whereby the Owner may reject the bid, in its discretion. Owner also reserves the right to waive all formalities or technical defects,

except the time that bids are received, and to negotiate contract terms with the Successful Bidder. Discrepancies between the multiplication of units of Work and unit prices will be resolved in favor of the unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum. Discrepancies between words and figures will be resolved in favor of the words.

16.2. In evaluating Bids, Owner will consider the qualifications of Bidders, compliance with the prescribed requirements, and such alternates, unit prices and other data, as may be requested in the Bid Form or prior to the Notice of Award.

16.3 A bidder may be disqualified and its bid not considered for any of the following specific reasons, however the following is not a restrictive list and other reasons may be considered by Owner, at Owner's discretion:

- A. Reasons for believing collusion exists among the bidders;
- B. Reasonable grounds for believing that any bidder is interested in more than one bid for work contemplated;
- C. The bidder being interested in any litigation against the Owner;
- D. The bidder being in arrears or defaults of any existing contract or having defaulted on a previous contract;
- E. Lack of competency as revealed by financial statements, experience and equipment questionnaires, etc.;
- F. Uncompleted work which, in the judgment of the Owner, will prevent or hinder the prompt completion of additional work if awarded; or
- G. Bids in which prices are obviously unbalanced.

16.3. Owner may consider the qualifications and experience of subcontractors, suppliers, and other persons and organizations proposed for those portions of the Work as to which the identity of subcontractors, suppliers, and other persons and organizations must be submitted as provided in the Contract Documents. Owner may also consider the operating costs, maintenance requirements, performance data and guarantees of major items of materials and equipment proposed for incorporation in the Work when such data is required to be submitted prior to the Notice of Award.

16.4. Owner may conduct such investigations as Owner deems necessary to assist in the evaluation of any Bid and to establish the responsibility, qualifications and financial ability of Bidders, proposed subcontractors, suppliers and other persons and organizations to perform and furnish the Work in accordance with the Contract Documents to Owner's satisfaction within the prescribed time.

16.5. If the contract is to be awarded, it will be awarded to the most qualified, responsible and responsive Bidder that, in Owner's judgment, will be most advantageous and result in the best and most economical completion of the Work, subject to any additional criteria, at the Owner's discretion allowed to the Owner by law.

16.6. If the contract is to be awarded, Owner will give Successful Bidder a Notice of Award within ninety (90) days after the day of the Bid opening.

## **17. Contract Security.**

The Owner's requirements as to performance, payment and maintenance bonds are set forth in the Contract Documents. When the Successful Bidder delivers the executed Agreement to Owner, the required performance, payment and maintenance bonds must accompany it.

**18. Signing of Agreement.**

When Owner gives a Notice of Award to the Successful Bidder, it will be accompanied by the required number of unsigned counterparts of the Agreement with all other written Contract Documents attached. Within five (5) working days thereafter, Contractor shall sign and deliver the required number of counterparts of the Agreement and attached documents to Owner with the required performance, payment and maintenance bonds. The parties consent to entering into this Agreement with **electronic signatures** and agree that their electronic signatures are intended to authenticate this Agreement and to have the same force and effect as manual handwritten signatures. The term "electronic signature" is intended to be constructed consistent with the Uniform Electronic Act to mean any electronic sound, symbol, or process that is both: (1) Attached to or logically associated with a contract or record, and (2) executed or adopted with the intent to sign such a contract or record.

**19. Reserved.**

**20. Reserved.**

**21. Permits.**

The successful Bidder shall be responsible for obtaining all required permits, including, but not limited, to the following:

Permits required by the regulations of Maricopa County, Arizona for Flood Plain Management regarding placement of fill.

Permit for construction within existing Maricopa County or City of Buckeye street right-of-way, as applicable.

Regulations of Maricopa County, Arizona, for discharge of water into storm water and flood control facilities.

**22. Locations for Examining Contract Documents.**

Bidders may examine the contract documents for these contracts by email at [greg.hahn@epsgroupinc.com](mailto:greg.hahn@epsgroupinc.com).

**23. Workers' Compensation Insurance Coverage.**

(A) Definitions

Certificate of coverage ("certificate") - A copy of a certificate of insurance, a certificate of authority to self-insure issued by the appropriate regulatory agency, or other coverage agreement showing statutory workers' compensation insurance coverage, acceptable to Owner, in its sole discretion, for the person's or entity's employees providing services on a project, for the duration of the project.

Duration of the project includes the time from the beginning of the work on the project until the Bidder's/person's work on the project has been completed and accepted by the governmental entity.

Persons providing services on the project - includes all persons or entities performing all or part of the services the Bidder has undertaken to perform on the project, regardless of whether that person contracted directly with the Bidder and regardless of whether that person has employees. This includes, without

limitation, independent Contractors, subcontractors, leasing companies, motor carriers, Owner-operators, employees of any such entity or employees of any entity which furnishes persons to provide services on the project. "Services" include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

- (B) The Bidder shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreement, which meets the statutory requirements of all applicable laws for all employees of the Bidder providing services on the project, for the duration of the project.
- (C) The Bidder must provide a certificate of coverage to the Owner prior to being awarded the contract.
- (D) If the coverage period shown on the Bidder's current certificate of coverage ends during the duration of the project, the Bidder must, prior to the end of the coverage period, file a new certificate of coverage with the Owner, showing that the coverage has been extended.
- (E) The Bidder's shall obtain from each person providing services on the project, and provide to the Owner:
  - (1) a certificate of coverage prior to that person beginning work on the project so that the Owner will have on file certificates of coverage showing coverage for all persons providing services on the project; and
  - (2) no later than seven (7) days after receipt by the Bidder, a new certificate of coverage showing extension of coverage if the coverage period shown on the current certificate of coverage ends during the duration of the project;
- (F) The Bidder shall retain all required certificates of coverage on file for the duration of the project and for one (1) year thereafter;
- (G) The Bidder shall notify the Owner in writing by certified mail or personal delivery, within ten (10) days after the Bidder knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project;
- (H) The Bidder shall post on each project site a notice, in the text, form and manner prescribed by the applicable laws and regulations, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify current coverage and report failure to provide coverage.
- (I) The Bidder shall contractually require each person with whom it contracts to provide service on a project to:
  - (1) provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of applicable laws and regulations for all its employees providing services on the project, for the duration of the project;
  - (2) provide to the Bidder prior to that person beginning work on the project a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project for the duration of the project;
  - (3) provide the Bidder prior to the end of the coverage period a new certificate of coverage showing extension of coverage if the coverage period shown on the current certificate of coverage ends during the duration of the project;

- (4) obtain from each other person with whom it contracts and provide to the Bidder:
    - (a) a certificate of coverage prior to the other person beginning work on the project; and
    - (b) a new certificate of coverage showing extension of the coverage period prior to the end of the coverage period if the coverage period shown on the current certificate of coverage ends during the duration of the project;
  - (5) retain all required certificates of coverage on file for the duration of the project and for one year thereafter;
  - (6) notify the Owner in writing by certified mail or personal delivery within ten (10) days after the person knew or should have known of any change that materially affects the provision of coverage of any person providing service on the project; and
  - (7) contractually require each other person with whom it contracts to perform as required by Paragraphs (1) - (7) with the certificate of coverage to be provided to the person for whom they are providing services.
- (J) By signing this contract or providing or causing to be provided a certificate of coverage, the Bidder is representing to the Owner that all employees of the Bidder who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with all of the appropriate regulatory authorities. Providing false or misleading information may subject the Bidder to administrative penalties, criminal penalties, civil penalties or other civil actions.
- (K) The Bidder's failure to comply with any of these provisions is a breach of contract by the Bidder which entitles the Owner to terminate the contract if the Bidder does not remedy the breach within ten (10) days after receipt of notice of breach from the Owner.

#### **24. Sales and Use Tax Exemption.**

If the Work is exempt from Arizona sales and use taxes pursuant to state law as being performed on behalf of a political subdivision of the State of Arizona, Owner shall provide Bidder with completed required documents as evidence of the applicability of such exemption and, accordingly, Bidder shall not collect such sales and use taxes from Owner with respect to this contract. In addition, Bidder and all subcontractors to Bidder (i) shall not include any provision for Arizona sales and use taxes with respect to such exempt items in any bid or contract amount, and (ii) shall pass on to the Owner cost savings due to the exempt status of such exempt items. Bidder's contracts with all subcontractors to Bidder shall include the foregoing provision regarding the exemption from Arizona Sales and use taxes.

#### **25. Reserved.**

#### **26. Surety Bonds**

The successful Bidder must submit, within ten (10) working days after the date of the Owner's Notice of Award, Performance, Payment and Maintenance Bonds on the forms furnished, each in the amount of one hundred percent (100%) of the total contract price. The surety company issuing Performance, Payment and Maintenance Bonds must (a) be authorized to do business in the State of Arizona as evidenced by licensing through the appropriate state authorities; (b) be authorized to issue Performance, Payment and Maintenance Bonds in the amount required for the contract as indicated by the records of the appropriate state authorities; (c) for contracts over \$100,000, the surety must also hold a certificate of authority from the United States Secretary of Treasury to qualify as a surety or

reinsurer on obligations permitted or required under federal law (“Certificate of Authority”) or have obtained reinsurance for any liability in excess of \$100,000 from a reinsurer that is authorized and admitted as a reinsurer in the State of Arizona and is the holder of a Certificate of Authority; and (d) have a rating of at least “B+” in the current Best’s Key Rating Guide or, if the surety company does not have any such rating due to the length of time it has been a surety company, the surety company must demonstrate eligibility to participate in the surety bond guarantee program of the Small Business Administration and must be an approved surety company listed in the current United States Department of Treasury Circular 570.

If the surety company does not have a rating in Best’s Key Rating Guide and is eligible to participate in the surety bond program of the Small Business Administration, the Performance, Payment and Maintenance Bonds issued by such surety, in addition to the criteria set out above, also must meet the criteria contained in the rules and regulations promulgated by the United States Department of Treasury with respect to Performance, Payment and Maintenance Bonds for federal jobs, including specifically the rules related to the underwritten limitation.

The person executing the Performance, Payment and Maintenance Bonds must be licensed as required by the laws of the State of Arizona and such licensing must be recorded in the files of the appropriate state authorities.

The person executing the Payment and Performance Bonds, and the Maintenance Bond, must hold an appointment from the surety company to execute Payment and Performance Bonds, and the Maintenance Bond, and bind such surety, and such appointment must be recorded in the office of the appropriate state authorities.

**27. Arizona Revised Statutes 35-393. et seq.**

If this contract involves a public entity, the selected Bidder will need to provide proof of compliance to Owner with A.R.S. Sections 35-393, et seq., if applicable.

**28. Reserved.**

**29. Reserved.**

**30. Reserved.**

**31. Reserved.**

**32. Confidential Information.** If a Bidder believes any information it submits constitutes proprietary, trade secret or otherwise confidential information must be appropriately and prominently marked as CONFIDENTIAL prior to submittal to Owner, with a statement advising the Owner the Bidder considers the specifically identified information should be withheld from public disclosure, and the information shall be so identified wherever it appears. The Owner shall review all requests for confidentiality and may provide a written determination to designate specified documents confidential or the request may be denied. If the confidential request is denied, such information may be disclosed as public information, unless the offeror submits a formal written objection. Notwithstanding the foregoing provisions, in the event records marked CONFIDENTIAL are requested for public release pursuant to A.R.S. Sections 39-121 et seq., Owner will release records marked CONFIDENTIAL ten (10) business days after the date of notice to the Bidder of the request for release, unless Contractor has, within the ten (10) day period, secured a protective order, injunctive relief or other appropriate order from a court of competent jurisdiction, enjoining the release of the records.

**33. Non-Collusion.** Each Bidder, by signing and submitting a Bid, is certifying that the Bidder has not, 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 Bid.

**34. Certification.** By signature on the Bid or cover letter accompanying the Contractor Bid, Bidder certifies:



- A. The submission of the offer did not involve collusion or other anti-competitive practices.
- B. The Bidder shall not discriminate against any employee or applicant for employment in violation of Federal or State law.
- C. The Bidder has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, meal or service to a public servant in connection with the submitted offer.
- D. The Bidder hereby certifies that the individual signing the submittal is an authorized agent for the Offeror and has the authority to bind the Bidder for all purposes hereunder.

**35. Additional Obligee Rider.** Owner may include, in its sole discretion, additional obligees on any Owner approved additional obligee rider.

**36. CFD/Public Infrastructure.** The successful bidder shall be requested to follow all community facilities district bidding, contract and reporting requirements should the work involve infrastructure dedicated to the public or work eligible for Owner CFD reimbursement.

**Contractor Information**

Contractor's full legal name: \_\_\_\_\_

The Contractor is organized as a:

Corporation

Date and State of Incorporation: \_\_\_\_\_

Executive Officers (Names, Titles and Addresses): \_\_\_\_\_

Professional Corporation

Date and State of Incorporation: \_\_\_\_\_

Executive Officers (Names, Titles and Addresses): \_\_\_\_\_

Partnership

Date and State of Organization: \_\_\_\_\_

Type of Partnership:  General  Limited  Limited Liability  Other:

Current General Partners (Names and Addresses): \_\_\_\_\_

Joint Venture

Date and State of Organization: \_\_\_\_\_

Joint Venturers: (For each indicate the name, address and form and state of organization, as well as the managing or controlling Joint Venturer, if applicable.)

\_\_\_\_\_

\_\_\_\_\_

Limited Liability Company

Date and State of Organization: \_\_\_\_\_

Members (Names and Addresses): \_\_\_\_\_. If any Member is a corporate entity, also provide the required information for each entity type

Please select one of the following:  Member Managed OR  Manager Managed

Managers (if applicable) (Names, Titles and Addresses)

Sole Proprietorship

Owner (Name and Address): \_\_\_\_\_

Other

Type of Organization: \_\_\_\_\_

State of Organization: \_\_\_\_\_

Owners and/or Principals (Names and Addresses): \_\_\_\_\_

**BID**

**BID for Construction of Teravalis Phase 1 & 2 Box Culvert Infrastructure CFD, Maricopa County, Arizona.**

EPS Group  
Attention: Greg Hahn  
1130 N. Alma School Road, Suite 120  
Mesa, Arizona 85201

---

(Legal Name of Company)

ADDRESS: \_\_\_\_\_  
\_\_\_\_\_  
County: \_\_\_\_\_  
TELEPHONE: \_\_\_\_\_ FAX: \_\_\_\_\_  
E-MAIL: \_\_\_\_\_

The undersigned BIDDER proposes and agrees, if this Bid is accepted, to enter into an agreement with OWNER in the form included in the Contract Documents to perform and furnish all Work as specified or indicated in the Contract Documents for the Bid Price and within the Bid Times indicated in this Bid and in accordance with the terms and conditions of the Contract Documents.

BIDDER accepts all of the terms and conditions of the Invitation to Bidders and Instructions to Bidders. This Bid will remain subject to acceptance for **ninety (90) days** after the day of Bid opening. BIDDER will sign and deliver the required number of counterparts of the Agreement with the Performance, Payment and Maintenance bonds and other documents required by the Bidding Requirements within ten (10) calendar days after the date of OWNER'S Notice of Award.

In submitting this Bid, BIDDER represents, as more fully set forth in the Agreement, that: BIDDER has examined and carefully studied the Bidding Documents and the following Addenda receipt of all which are hereby acknowledged:

<u>Addendum No.</u>	<u>Date Received</u>	<u>Acknowledgement</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

This Bid is genuine and not made in the interest of or on behalf of any undisclosed person, firm or corporation and is not submitted in conformity with any agreement or rules of any group, association, organization or corporation; BIDDER has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid; BIDDER has not solicited or induced any person, firm or corporation to refrain from bidding; and BIDDER has not sought by collusion to obtain for itself any advantage over any other Bidder or over OWNER.

BIDDER will complete the Work in accordance with the Contract Documents for the following prices:

BIDDER agrees that the Work will be completed and ready for final payment in accordance with the Contract Documents within the Contract Time. The Contract Time shall commence on the date of Owner's written notice to proceed with the work, and shall end:

( ) calendar days after the date when the Contract Time commences for Sun Valley Box

- on \_\_\_\_\_, 20\_\_.
- (     ) **calendar days** after the date Sun Valley Box is complete for Teravalis/Johnson Box.
- (     ) **calendar days** after the date Teravalis/Johnson Box is complete for Collector Ph 1
- (     ) **calendar days** after the date Collector Phase 1 Box is complete for Collector Ph 2
- (     ) **calendar days** after the date Collector Phase 2 Box is complete for Floreo Circle

Terms used in this Bid which are defined in the Contract Documents or Instructions to Bidders will have the meanings indicated in the Contract Documents or Instructions to Bidders.

SUBMITTED on \_\_\_\_\_, 20\_\_.

State Contractor License No. \_\_\_\_\_

**INDIVIDUAL:**

(individual) \_\_\_\_\_ (Seal)  
 doing business as \_\_\_\_\_  
 Business Address \_\_\_\_\_  
 Business Phone \_\_\_\_\_

**PARTNERSHIP:**

By (firm) \_\_\_\_\_ (Seal)  
 (General Partner) \_\_\_\_\_  
 Business Address \_\_\_\_\_  
 Business Phone \_\_\_\_\_

**CORPORATION:**

By (corp.) \_\_\_\_\_ (Seal)  
 State of Incorporation \_\_\_\_\_  
 By (person authorized) \_\_\_\_\_  
 Title \_\_\_\_\_

Attest (Secretary) \_\_\_\_\_  
 Business Address \_\_\_\_\_  
 Business Phone \_\_\_\_\_  
 Date of Qualification to do business is \_\_\_\_\_

**JOINT VENTURE:**

By (name) \_\_\_\_\_ (Seal)  
 Address: \_\_\_\_\_  
 By (name) \_\_\_\_\_ (Seal)  
 Address: \_\_\_\_\_  
 Address & Phone No. for official communications:  
 \_\_\_\_\_  
 \_\_\_\_\_

Trillium Community Facilities District  
 BUCKEYE, ARIZONA

TERAVALIS PHASE 1 & 2 BOX CULVERTS INFRASTRUCTURE CFD

Bid Schedule

<u>ITEM #</u>	<u>ITEM DESCRIPTION</u>	<u>UNIT</u>	<u>QUANTITY</u>	<u>UNIT PRICE</u>	<u>TOTAL PRICE</u>
<b>Sun Valley Parkway</b>					
<b>Sun Valley Parkway - SWPP</b>					
1	Install and maintain SWPP per plans	LS	1	Lump Sum	\$ _____
<b>Sun Valley Parkway - Box Culverts</b>					
2	Remove Existing Headwall	EA	2	\$ _____	\$ _____
3	Extend existing three barrel 6x12 box culvert	LF	51	\$ _____	\$ _____
4	Construct ADOT SD 6.01 Headwall for 6x12 box culvert	EA	1	\$ _____	\$ _____
5	Construct ADOT SD 6.02 Wing Wall for 6x12 box culvert	EA	2	\$ _____	\$ _____
6	Install loose riprap D50=9" thickness 24" with filter fabric - Mirafi erosion geo-textile	SY	1,246	\$ _____	\$ _____
7	Extend existing three barrel 5x10 box culvert	LF	54	\$ _____	\$ _____
8	Construct ADOT SD 6.01 Headwall for 5x10 box culvert	EA	1	\$ _____	\$ _____
9	Construct ADOT SD 6.02 Wing Wall for 5x10 box culvert	EA	2	\$ _____	\$ _____
10	Install loose riprap D50=9" thickness 24" with filter fabric - Mirafi erosion geo-textile	SY	931	\$ _____	\$ _____
11	Backfill Box culverts per plans	LS	1	\$ _____	\$ _____
				\$ _____	\$ _____
				\$ _____	\$ _____
<b>Sun Valley Parkway: General Items</b>					
12	Mobilization	LS	1	LUMP SUM	\$ _____
13	AZPDES Permit Compliance/Dust Control	LS	1	LUMP SUM	\$ _____
14	Construction Survey and Staking	LS	1	LUMP SUM	\$ _____
15	Off-Duty Police Officer (Contingency Item)	HRS	40		\$ -
16	Buckeye Police Department Patrol Car (Contingency Item)	HRS	40		\$ -
<b>TOTAL Sun Valley Parkway: BASE BID (Sum of Items 1 to 16)</b>					<b>\$ _____</b>

Trillium Community Facilities District  
BUCKEYE, ARIZONA

TERAVALIS PHASE 1 & 2 BOX CULVERTS INFRASTRUCTURE CFD

Bid Schedule

<u>ITEM #</u>	<u>ITEM DESCRIPTION</u>	<u>UNIT</u>	<u>QUANTITY</u>	<u>UNIT PRICE</u>	<u>TOTAL PRICE</u>
<b><u>Johnson Road &amp; Teravalis Parkway</u></b>					
<b>Johnson Road and Teravalis Parkway - SWPP</b>					
1	Install and maintain SWPP per plans	LS	1	Lump Sum	\$ _____
<b>Johnson Road and Teravalis Parkway - Box Culverts</b>					
2	Construct Five Barrel 10x4 Box Culvert per plans	LF	309	\$ _____	\$ _____
3	Construct Inlet Wing Per ADOT SD 6.08 including hand rail	EA	1	\$ _____	\$ _____
4	Construct Outlet Wing Per ADOT SD 6.09 including hand rail	EA	1	\$ _____	\$ _____
5	Install loose riprap D50=15" thickness 24" with filter fabric - Mirafi erosion geo-textile	SY	486	\$ _____	\$ _____
				\$ _____	\$ _____
				\$ _____	\$ _____
<b>Johnson Road and Teravalis Parkway: General Items</b>					
6	Mobilization	LS	1	LUMP SUM	\$ _____
7	AZPDES Permit Compliance/Dust Control	LS	1	LUMP SUM	\$ _____
8	Construction Survey and Staking	LS	1	LUMP SUM	\$ _____
<b>TOTAL Johnson Road and Teravalis Parkway: BASE BID (Sum of Items 1 to 8)</b>					<b>\$ _____</b>

Trillium Community Facilities District  
BUCKEYE, ARIZONA

TERAVALIS PHASE 1 & 2 BOX CULVERTS INFRASTRUCTURE CFD

Bid Schedule

<u>ITEM #</u>	<u>ITEM DESCRIPTION</u>	<u>UNIT</u>	<u>QUANTITY</u>	<u>UNIT PRICE</u>	<u>TOTAL PRICE</u>
<b>Floreo Collector Phase 1</b>					
<b>Floreo Collector Phase 1 - SWPP</b>					
1	Install and maintain SWPP per plans	LS	1	Lump Sum	\$ _____
<b>Floreo Collector Phase 1 - Box Culverts</b>					
2	Construct Five Barrel 10x4 Box Culvert per plans	LF	136	\$ _____	\$ _____
3	Construct Inlet Wing Per ADOT SD 6.08 including hand rail	EA	1	\$ _____	\$ _____
4	Construct Outlet Wing Per ADOT SD 6.09 including hand rail	EA	1	\$ _____	\$ _____
5	Install loose riprap D50=6" thickness 15" with filter fabric - Mirafi erosion geo-textile	SY	1,118	\$ _____	\$ _____
				\$ _____	\$ _____
				\$ _____	\$ _____
<b>Floreo Collector Phase 1: General Items</b>					
6	Mobilization	LS	1	LUMP SUM	\$ _____
7	AZPDES Permit Compliance/Dust Control	LS	1	LUMP SUM	\$ _____
8	Construction Survey and Staking	LS	1	LUMP SUM	\$ _____
<b>TOTAL Floreo Collector Phase 1: BASE BID (Sum of Items 1 to 8)</b>					<b>\$ _____</b>



Trillium Community Facilities District  
BUCKEYE, ARIZONA

TERAVALIS PHASE 1 & 2 BOX CULVERTS INFRASTRUCTURE CFD

Bid Schedule

<u>ITEM #</u>	<u>ITEM DESCRIPTION</u>	<u>UNIT</u>	<u>QUANTITY</u>	<u>UNIT PRICE</u>	<u>TOTAL PRICE</u>
<b>Floreo Circle</b>					
<b>Floreo Circle - SWPP</b>					
1	Install and maintain SWPP per plans	LS	1	Lump Sum	\$ _____
<b>Floreo Circle - Box Culverts</b>					
2	Construct Five Barrel 10x4 Box Culvert per plans	LF	125	\$ _____	\$ _____
3	Construct Inlet Wing Per ADOT SD 6.08 including hand rail	EA	1	\$ _____	\$ _____
4	Construct Outlet Wing Per ADOT SD 6.09 including hand rail	EA	1	\$ _____	\$ _____
5	Install loose riprap D50=6" thickness 15" with filter fabric - Mirafi erosion geo-textile	SY	-	\$ _____	By Others
6	Construct Three Barrel 10x4 Box Culvert per plans	LF	258	\$ _____	\$ _____
7	Construct Inlet Wing Per ADOT SD 6.08 including hand rail	EA	1	\$ _____	\$ _____
8	Construct Outlet Wing Per ADOT SD 6.09 including hand rail	EA	1	\$ _____	\$ _____
9	Install loose riprap D50=6" thickness 15" with filter fabric - Mirafi erosion geo-textile	SY	-	\$ _____	By Others
10	Construct 96" Box Culvert per plans	LF	157	\$ _____	\$ _____
11	Construct Wing Per ADOT SD 6.08 including hand rail	EA	1	\$ _____	\$ _____
12	Construct Wing Per ADOT SD 6.09 including hand rail	EA	1	\$ _____	\$ _____
<b>Floreo Circle: General Items</b>					
13	Mobilization	LS	1	LUMP SUM	\$ _____
14	AZPDES Permit Compliance/Dust Control	LS	1	LUMP SUM	\$ _____
15	Construction Survey and Staking	LS	1	LUMP SUM	\$ _____
<b>TOTAL Floreo Circle: BASE BID (Sum of Items 1 to 15)</b>					<b>\$ _____</b>

Trillium Community Facilities District  
BUCKEYE, ARIZONA

TERAVALIS PHASE 1 & 2 BOX CULVERTS INFRASTRUCTURE CFD

Bid Schedule

<u>ITEM #</u>	<u>ITEM DESCRIPTION</u>	<u>UNIT</u>	<u>QUANTITY</u>	<u>UNIT PRICE</u>	<u>TOTAL PRICE</u>
<b>Floreo Collector Phase 2</b>					
<b>Floreo Collector Phase 2 - SWPP</b>					
1	Install and maintain SWPP per plans	LS	1	Lump Sum	\$ _____
<b>Floreo Collector Phase 2 - Box Culverts</b>					
2	Construct Three Barrel 10x4 Box Culvert per plans	LF	136	\$ _____	\$ _____
3	Construct Inlet Wing Per ADOT SD 6.08 including hand rail	EA	1	\$ _____	\$ _____
4	Construct Outlet Wing Per ADOT SD 6.09 including hand rail	EA	1	\$ _____	\$ _____
5	Install loose riprap D50=15" thickness 24" with filter fabric - Mirafi erosion geo-textile	SY	63	\$ _____	\$ _____
				\$ _____	\$ _____
				\$ _____	\$ _____
<b>Floreo Collector Phase 2: General Items</b>					
6	Mobilization	LS	1	LUMP SUM	\$ _____
7	AZPDES Permit Compliance/Dust Control	LS	1	LUMP SUM	\$ _____
8	Construction Survey and Staking	LS	1	LUMP SUM	\$ _____
<b>TOTAL Floreo Collector Phase 2: BASE BID (Sum of Items 1 to 8)</b>					<b>\$ _____</b>

Trillium Community Facilities District  
BUCKEYE, ARIZONA

TERAVALIS PHASE 1 & 2 BOX CULVERTS INFRASTRUCTURE CFD

<u>DESCRIPTION</u>	<u>TOTAL PRICE</u>
A. Sun Valley Parkway	\$ _____
B. Johnson Road & TeraValis Parkway	\$ _____
C. Floreo Collector Phase 1	\$ _____
D. Floreo Circle	\$ _____
E. Floreo Collector Phase 2	\$ _____
TOTAL OF LINES A THROUGH E	\$ _____ -

**STANDARD FORM OF AGREEMENT  
BETWEEN OWNER AND CONTRACTOR**

THIS CONSTRUCTION CONTRACT (hereinafter "Contract") is entered into this \_\_\_\_\_ day of \_\_\_\_\_ 2023, by and between Trillium Management Development Company LLC, a Delaware limited liability company ("Owner") and \_\_\_\_\_, a \_\_\_\_\_ ("Contractor") with respect to the "Construction of Teravalis Phase 1 & 2 Box Culvert Infrastructure CFD(work/location) project (the "Project"). Contractor is an independent contractor at all times and for all purposes during the Project.

**WITNESSETH**, that the parties hereto, in consideration of the mutual promises and benefits flowing to each of the parties as provided in this Contract, do mutually agree as follows:

**ARTICLE I**  
**SCOPE OF WORK**

**1.1 Scope of Work.** Contractor shall furnish all labor, materials, equipment, supervision and other services to perform the work described in the Drawings and Specifications attached as **Exhibit A**, and any requirements set forth in any other Contract Documents enumerated in Article XIX (hereinafter the "Work"). Contractor acknowledges and agrees that Contractor shall not utilize the specific designations, headings or other arrangements of information in the Specifications or on the Drawings as a basis for refusing to perform a portion of the Work as defined by the totality of the terms and conditions of this Contract. Contractor shall exercise a high degree of skill, care and diligence in the performance of the Work. Contractor warrants that Contractor will (i) perform, supervise and direct the Work using the Contractor's best skill and judgment, in a good and workmanlike manner and in the best and most expeditious and economical manner consistent with the interests of Owner, (ii) utilize his best skill, efforts and judgment in furthering the interests of Owner, (iii) perform the Work in strict compliance with applicable laws such that the Work, no later than the date for Final Completion will comply with all applicable laws, and (iv) furnish efficient business administration and supervision strictly in compliance with the Contract Documents. Contractor agrees to employ only orderly, competent and skillful people to do the Work and agrees that whenever Owner shall inform Contractor in writing that any person(s) or subcontractors on the Work are, in Owner's opinion, incompetent, unfaithful or disorderly, such person(s) shall be discharged from the Work and shall not again be employed on the Work without Owner's written consent, which consent may be withheld in Owner's discretion.

**1.2 Conflicting Requirements.** All documents forming a part of the Contract are complementary, and what is required by one document shall be deemed to be required by the Contract, and the Contract Price shall be deemed to include the more expensive option in any situation where there is a conflict in the drawings and specifications or in any other portion of the Contract. The Contract shall include all Work expressly included in the Contract and reasonably inferable therefrom.

**1.3 Definitions.** The following terms shall be defined as described below, unless such definition is expressly modified by the Contract Documents. Any capitalized terms used in the Contract Documents not defined in this section shall have the meaning assigned to such term under the Contract Documents.

a. **Change Order.** A document signed by Owner and Contractor and entered into in accordance with the Contract Documents that authorizes an addition, deletion or revision in the Work or an adjustment in the Contract Price or the Contract Time.

b. **Contract Time.** The number of days or the dates stated in Section 2.1 to achieve Final Completion of the Work, expressed as a number of calendar days immediately following Owner's written notice to proceed with the work, or as a reference to the date by which Final Completion of the Work is required.

c. Final Completion. The date on which the entire Work or an agreed portion thereof is complete in strict conformance with the Contract Documents. If any governmental entity has jurisdiction to approve or accept the Work, or any portion thereof, Final Completion is not achieved unless and until written approval or acceptance of the entity is received.

d. Indemnified Parties. Owner, Engineer and the officers, directors, employees, agents and representatives of each such party.

## **ARTICLE II** **SCHEDULE**

**2.1 Completion Date.** Time is of the essence under this Contract. The Contractor agrees to begin the Work within three (3) calendar days from receipt of written notice to proceed from the Owner, and to achieve Final Completion of the Work within the Contract Time. The Contract Time shall commence on the date of Owner's written notice to proceed with the work, and shall end:

\_\_\_\_ **calendar days** (hereinafter defined) after the date when the Contract Time commences.

on \_\_\_\_\_, 20\_\_.

The Contractor shall furnish detailed schedules as may be requested by Owner relative to the Contractor's Work. Extensions of time shall be by written Change Order, and any review or approval by the Owner of an interim, periodic or remedial schedule shall not be construed to change the date of Final Completion, unless a written Change Order is signed by both parties. The Contractor shall not rely on any purported verbal agreement on the part of the Owner or its representatives concerning an extension of required completion dates, and shall undertake to have the Owner sign a written Change Order as referenced above in the event it believes the Owner has agreed to extend required completion dates.

### **Schedule**

In addition to other obligations of the Contractor, prior to Contractor's commencement of the work, Contractor shall prepare a construction time schedule (the "Schedule") setting forth the times by which each significant segment of the work must be commenced and completed and the schedule pursuant to which the work must be performed in order for the work to be completed on time. Owner shall be entitled to reasonably approve the Schedule prior to commencement of the work and during the prosecution of the work.

Contractor shall update the Schedule monthly, with submitted applications for payment, to reflect any authorized changes in the Contract Time and shall provide a chart showing the progress of each separate segment and the entire Project. The allocation of time extensions authorized by the Contract Documents among different segments of the work in the Schedule shall be subject to the reasonable approval of the Owner. The Schedule should at a minimum specify whether the Project is on schedule, and if not, the reasons therefore, measures being taken to get back on schedule and the new projected schedule, if any. Projected completion times in the updated Schedule shall not relieve the Contractor from its obligation to complete the Project in the Contract Time substantially in accordance with the original schedule, and only changes to the Schedule necessitated by authorized change orders modifying the Contract Time shall cause a permanent revision to the Schedule. Failure to meet any Schedule submission dates or to comply with any requested submittal or failure to provide an acceptable submittal will be cause to withhold payment of all or portions of the next scheduled progress payment or any portions of future progress payments until an acceptable submittal has been made.

Contractor is to hold weekly progress meetings at the Project Site with Owner or Owner's representative, or at such other time and frequency as required by the Owner. The progress of the work shall be reported in detail with reference to the Schedule.

### **Extension of time**

Should Contractor be delayed in the Final Completion of the work by an act or neglect of Owner or Engineer, or by an employee of either, or by other Contractors employed by Owner, or by changes ordered in the work, or unavoidable cause or caused beyond Contractor's control, an extension of time shall be allowed for completing the work sufficient to compensate for the delay, the amount of extension to be determined by the Owner; provided, however, that the Contractor shall give Owner notice in writing of the cause of such delay within five (5) calendar days, with supporting documentation, after such cause is reasonably apparent.

Weather extensions shall be granted when the Owner or Owner's representative determine that weather conditions prevented construction of the principal units of the work for a continuous period of not less than seven (7) hours between 7:00 AM and 6:00 PM on any working day. Notice of weather related delay shall be reported by the Contractor to the Owner on the same day as the delay by telephone or email. Written notice for weather related delay shall also be reported in writing, with supporting documentation, monthly with submitted application for payment.

**2.2 Delays and Delay Damages.** The Work will be completed and ready for final payment in accordance with paragraph 8.3 and 8.4 of Article VIII within the Contract Time.

Achieving Final Completion of the work within the Contract Time is an essential element of the contract in order to allow subsequent development projects to begin as part of residential and/or commercial development. The Contractor and Owner understand and agree that a breach of this contract, as to Final Completion on time, will cause damage to the Owner. The parties agree that each and every calendar day the work has not reached Final Completion after the expiration of the time limit, the amount of **\$500 (Five Hundred Dollars)** per day and will be deducted from the money due or to become due the Contractor and/or recovered from the Contractor surety, not as a penalty, but as liquidated damages and added expense of engineering and overhead.

The CONTRACTOR shall give verbal notification to the Owner and to the Project Representative within two (2) days and written notification within ten (10) days from the beginning of any delay. The written notification to the OWNER shall specify of the causes of delay. The OWNER shall ascertain the facts and the extent of delay, and his finding of the facts thereon shall be final and conclusive.

### **2.3 Calendar Days**

2.3.1 The term calendar day is a unit of contract time and can be any day of the year including Saturdays, Sundays, and holidays. The calendar day is the standard measurement of construction time in the contract standard documents. The first day of contract time is the date of the notice to proceed, unless otherwise designated in the contract.

2.3.2 The Contractor shall notify the Owner and Engineer a minimum of forty-eight (48) hours in advance if planning to work Sundays or holidays.

## **ARTICLE III**

### **EXISTING CONDITIONS AND REVIEW OF CONTRACT DOCUMENTS**

**3.1 Existing Conditions.** By executing this Agreement, the Contractor warrants and represents that it has reviewed the conditions at the Project, and has satisfied itself as to the conditions under which the Work will be performed. By executing this Agreement, Contractor certifies that it has reviewed, observed and accepted as suitable for its Work the existing conditions at the Project site. In the event Contractor believes that the work of another Contractor has not been performed in such fashion as to allow for the proper installation of Contractor's Work, Contractor shall immediately notify the Owner in writing and shall not proceed with the Work without further

instruction from the Owner. Contractor shall notify the Owner in writing immediately of any other issues at the Project site that may impact the progress or cost of its Work. The Contractor's failure to notify the Owner in writing, in advance, of conditions that might lead to a claim by the Contractor for additional compensation shall be deemed a waiver by the Contractor of such claim. Contractor shall not be entitled to a time extension for differing site conditions unless Contractor could not have reasonably anticipated the conditions forming the basis for the time extension request. On discovery of materials with potential archeological or historical significance, Contractor shall stop work and notify the Owner. The Contractor shall protect the site from disturbance until it is cleared by the Owner to resume work.

**3.2 Review of Contract Documents.** The Contractor shall carefully review all Contract Documents applicable to the Work, and notify the Owner in writing promptly if it discovers any errors or omissions in the Contract Documents. In the event Contractor fails to promptly notify the Owner in writing as required herein, the Contractor shall be responsible for any additional costs resulting from such failure.

**3.3 Field Conditions and Measurements.** The Contractor shall take field measurements and verify field conditions and dimensions on the Contract drawings, and shall carefully compare such field measurements and conditions and other information known to the Contractor with the Contract Documents before proceeding with the Work. The Contractor shall report any errors or inconsistencies promptly in writing to the Owner and shall be responsible for any costs from its failure to do so.

#### **ARTICLE IV** **SITE MANAGEMENT**

**4.1 Ongoing Business Operations.** The Contractor acknowledges that the Work may be performed at a location where the Owner has ongoing business operations. Therefore, the Contractor shall follow the reasonable requirements of the Owner, any of its Construction Managers and the Property Manager, and shall maintain good order among its agents and employees performing the Work, and shall comply with all rules and requirements of the Owner concerning the Project, including safety requirements, regulatory compliance and any limitations on hours of operation, staging and storage areas, construction parking, use and shutdown or interruption to Owner facilities and utilities, temporary signage, and ingress and egress to occupied tenant areas. Contractor shall insure that any special needs or requirements relating to its Work are included in the Contract Price. The Contractor shall be responsible for all of the means and methods of construction relating to its Work.

**4.2 Trash and Debris.** In the event the Contractor fails to keep the Project site free of unnecessary trash and debris from its operations, Owner shall notify the Contractor in writing, and if Contractor fails to cure the problem within forty-eight (48) hours of the written notice, Owner may hire other forces to remove the trash and debris and charge the cost against any funds otherwise due to Contractor. Owner's decision as to the responsibility of respective trade Contractors for trash and debris shall be final.

**4.3 Work of Other Contractors.** Contractor acknowledges and agrees that Owner may retain other Contractors to perform other work at the Project site concurrently with the activities of the Contractor. Contractor shall insure that any particular coordination requirements that will be necessary in connection with the work of other Contractors at the Project are reflected in the Contract Price. Contractor shall take appropriate steps to protect the work of other Contractors at the site from damage as a result of Contractor's operations. Contractor shall also coordinate its schedule of activities with the work of other Contractors of the Owner at the Project site, so as to avoid delay in the progress of the Work, or the work of other Contractors, and shall attend job site progress meetings as requested by Owner. The Contractor shall assist in the preparation of coordination drawings with other Contractors of the Owner, if reasonably requested by Owner, with respect to its Work on the Project.

**ARTICLE V**  
**SUBCONTRACTORS**

**5.1      Delegation of Work.** The Contractor shall not delegate or subcontract a substantial portion of the Work without the written consent of the Owner, and any attempt to subcontract such Work without approval shall be deemed null and void. The Contractor shall have complete and direct responsibility to the Owner for the acts and omissions of Contractor’s employees, agents, subcontractors (if any), and consultants (if any); provided that this Contract shall not be construed to confer rights and causes of action upon any third parties against the Owner, its joint venture partners, or its affiliated entities. The Contractor is fully responsible to the Owner for any cutting or patching necessary to complete its Work, unless otherwise expressly provided for herein.

**5.2      Subcontractors Bound by Contract Documents.** The Contractor shall require each subcontractor to be bound to the Contractor by the terms of the Contract Documents. The Contractor shall require all of its subcontractors to maintain the insurance described in **Exhibit B** hereto, unless otherwise provided by the Owner in writing.

**ARTICLE VI**  
**INSURANCE AND BONDS**

**6.1      Insurance Requirements.** The Contractor shall furnish and pay for the insurance required in **Exhibit B** hereto. The Contractor shall, prior to the commencement of Work on the Project, furnish to the Owner a Certificate of Insurance evidencing the existence of the required coverage. Contractor’s insurance shall be primary as to any insurance maintained by Owner, and Owner and Engineer shall be named as Additional Insureds.

**6.2      Bonds.** The Contractor shall furnish performance, payment and maintenance bonds in the form attached hereto as **Exhibit D** from a surety reasonably acceptable to Owner and authorized to transact surety business in Arizona. Such bonds must name Owner and lender as obligees, must be in an amount at least equal to the Contract, and must provide that any increase in the Contract amount shall automatically result in a corresponding increase in the Bond’s penal sum without notice to or consent from the surety, such notice and consent hereby being waived. All additional obligee rider language and the number of additional obligees are subject to the approval of the Owner. Unless otherwise specified, the cost of furnishing bonds is included in the Contract Price.

**ARTICLE VII**  
**TAXES AND ASSESSMENTS**

**7.1      Taxes.** The Contractor shall pay, if necessary (and subject to the terms of the Instructions to Bidders) all sales taxes, use taxes, social security, old age benefit and unemployment compensation taxes and similar taxes or assessments upon the labor and materials furnished under this Contract as part of the Contract Price. Unless otherwise provided herein, Owner shall pay for any permits necessary for the Work.

**ARTICLE VIII**  
**PAYMENT**

**8.1      Contract Price.** Contractor agrees to perform all of the Work described in the Contract Documents for the lump sum price of \$\_\_\_\_\_ (the “Contract Price”).

**8.2      Progress Payments.** By the 25<sup>th</sup> of each month, or as directed by Owner and agreed to by Contractor, Contractor shall submit to Owner and Engineer a written application for payment on a form approved by Owner showing the value of Work (on a percentage or unit price basis, as applicable) completed to date pursuant to an approved schedule of values, along with other substantiating data and information, and lien waivers on the forms attached hereto as **Exhibit E**. Contractor shall also submit sworn statements for Contractor and subcontractor attached hereto as **Exhibit F**. In accordance with A.R.S. § 32-1182, progress payments shall be made within twenty-one (21) days of receipt of a correct and complete application for payment. Owner and Engineer shall verify all



payments, and, if applicable, unit price quantities prior to payment. Owner or Engineer shall have fourteen (14) days to object to the application for payment. Owner may decline to certify and approve an Application for Payment, or a portion thereof, for any reason permitted by A.R.S. § 32-1182. Ten percent (10%) retainage shall be held on all Work until the date of substantial completion as such term is defined in A.R.S. § 32-1181(7). Payment of retention upon substantial completion is subject to the Owner's right to withhold one hundred fifty percent (150%) of the expected cost to complete the work or otherwise protect the Owner from losses which the Contractor is responsible. No payment (final or otherwise) made under or in connection with this Contract shall be conclusive evidence of the performance of the work or of the Contract, in whole or in part, and no such payment shall be construed to be an acceptance of defective, faulty, or improper work or materials, nor shall it release Contractor from any of its obligations under this Contract nor shall entrance and use of user constitute acceptance of the work or any part thereof.

**8.3 Final Payment.** Final payment, including retainage, shall be made to Contractor within twenty-one (21) days after submission of the final application for payment, after Contractor has achieved all of the following: (a) Final Completion of the Work in complete accordance with the Contract Documents (including all punch list items); (b) acceptance of the Work by Owner, Engineer and the governmental authorities having jurisdiction over the Work; (c) satisfaction of all conditions precedent contained in the Contract Documents; (d) certification from Contractor that all subcontractors (if any), laborers, materialmen and suppliers have been paid in full; and (e) receipt of final waivers of lien (on forms attached as **Exhibit E**) from the Contractor and all subcontractors and suppliers furnishing labor, materials or services to the Project. The furnishing of all as-built documents, manuals, warranties, manuals, documents and/or certificates to the Owner, as required by the Contract Documents, shall be a specific condition precedent to final payment. Owner may decline to certify and approve Contractor's final application for payment, or a portion thereof, for any reason permitted by A.R.S. § 32-1182. All final warranties or guarantees shall be assignable to the Owner or shall name them as an additional beneficiaries.

As to all inspections hereunder, Contractor shall give a minimum of two (2) working days' notice to the independent testing laboratory employed by the Owner when requesting testing services and a minimum of four (4) working hours' notice to the independent testing laboratory employed by the Owner for cancellation of scheduled testing services. Contractor will pay all charges for retesting required due to Contractor's failure to pass initial tests, and for charges resulting from Contractor's improper cancellation of scheduled testing services. The Owner shall have the option to deduct and withhold the amount of any retesting charges and charges for improper cancellation of scheduled testing services from any monies due to the Contractor or recover such amount from the Contractor or the Contractor's Surety at the Contractor's expense.

**8.4 Withholding of Payment.** The Owner shall have the right to withhold payment as may be reasonably necessary to protect Owner from any potential loss or damage due to Contractor's breach of any provision of this Contract in accordance with A.R.S. § 32-1182.

## **ARTICLE IX** **ENGINEER**

**9.1 Owner's Engineer.** The Project has been designed by HilgartWilson, 1830 N. 95<sup>th</sup> Ave. Ste 110, Phoenix, AZ 85037 (Telephone 623-248-3467) who is herein referred to as Engineer, and who shall act as Owner's liaison, and assume those duties and responsibilities described in **Exhibit G** and otherwise assigned to Engineer in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents. Engineer shall not have the authority to sign contracts or change orders for the Owner, and shall not have the authority to bind the Owner to any obligation to pay additional compensation to the Contractor or to extend the dates of completion set forth in this Contract. All change orders providing for additional compensation or extensions of time shall be executed by an authorized employee of the Owner, and Contractor shall rely on no other document or verbal indication from any person or party to the contrary. With approval of the Owner, the Engineer shall have the authority to reject defective Work.

**9.2 Liability of Engineer.** This Contract creates no contractual obligation between Engineer and the Contractor, and Contractor shall not be entitled to demand payment for Work performed on the Project from Engineer under any circumstances.

**ARTICLE X**  
**CLAIMS**

**10.1 Notice of Claims.** Notice of any and all claims for additional compensation, extra work, delay, extensions of time, or loss, injury or damages of any kind, as may be allowed under this Contract, shall be submitted in writing by Contractor to the Owner within ten (10) days after the occurrence giving rise to the claim, or the claim shall be deemed waived by the Contractor. This Notice shall include the Contractor's estimate of the amount of any delay to the progress of the Work caused by the occurrence.

**10.2 Preparation of Claims and Change Order Requests.** The Contractor shall prepare and submit a detailed claim, with backup documentation, within thirty (30) days of the notice required under Section 10.1. The Contractor shall prepare and submit a detailed change order proposal for changed Work within fifteen (15) days of request by the Owner on the form attached as **Exhibit H**. The Contractor's failure to prepare timely change order proposals upon request by Owner shall be deemed a material breach of this Contract.

**10.3 Damages.** In the event Owner is damaged in the course of the Work by the act, negligence, omission or default of Contractor, or should Contractor delay the progress of the work being done by others on the job so as to cause loss or liability to Owner, Contractor shall reimburse Owner for such loss.

NOTWITHSTANDING ANY OTHER PROVISIONS OF THE CONTRACT DOCUMENTS, IN NO EVENT (INCLUDING, WITHOUT LIMITATION, DEFAULT BY OWNER), SHALL OWNER'S LIABILITIES, IF ANY, TO CONTRACTOR EVER EXCEED THE TOTAL CONTRACT PRICE LESS ALL SUMS FOR WORK, MATERIALS AND/OR LABOR PREVIOUSLY PAID TO CONTRACTOR BY OWNER.

**ARTICLE XI**  
**COMPLIANCE WITH APPLICABLE LAW**

**11.1 Compliance with Applicable Law.** The Contractor assumes responsibility for complying with all federal, state and local statutes, ordinances, codes, rules and regulations that may apply to the Work or the Project, including all of the requirements of any utility district, community facilities district or other quasi- governmental agency that may have any applicability to the Project. The Owner will be retaining the Contractor on the basis of the Contractor's knowledge of the locale of the Project, and claims arising out of allegedly onerous inspection requirements of the state or local governmental agencies shall not serve as a basis of a claim for additional compensation.

**11.2 Licensing.** Contractor shall not execute this Contract if the Contractor is not properly licensed to perform the Work in Arizona, or if there is any other licensing or business registration issue that would prevent the Contractor from properly performing the services required hereunder. In the event the Contractor's license lapses during the Project, the Owner shall have the right to terminate this Agreement for cause. Owner has the right to file a written complaint for an alleged violation of Arizona Revised Statutes § 32-1154(A) with the Arizona Registrar of Contractors, whose phone number is (602) 542-1525 and website address is roc.az.gov. Complaints must be made within the applicable time period as set forth in A.R.S. § 32-1155(A).

**11.3 Hazardous Materials.** Contractor shall not use or install hazardous materials at the site without the written consent of the Owner. Contractor shall not be liable for the handling, removal or disposal of hazardous materials not brought to the Project site by the Contractor. If the Contractor discovers any hazardous materials during the performance of the Work, Contractor shall notify the Owner in writing and shall not proceed with any of the Work in the area of the hazardous materials without further written direction from the Owner. Contractor shall not conduct any testing, hire any environmental consultants or notify any governmental agency of the presence of hazardous materials at the Project site without first consulting with the Owner.

**11.4 Governing Law.** The Contract Documents shall be governed by the laws of the state of Arizona.

**ARTICLE XII**  
**CHANGES IN THE WORK**

**12.1 Changes in the Work.** The Contractor agrees to perform or implement any changes or modifications in the Work that are requested by the Owner in writing. In the event of a disagreement concerning a purported change made by the Owner, the Contractor shall proceed with the Work as modified, on a unit price, “not to exceed” or “time and material” basis, as determined by the Owner, and Contractor shall comply with the terms of Paragraph 10.1 for any changes that may entitle the Contractor to a Change Order for an adjustment in the Contract Price or required completion dates including, without limitation, the date of Final Completion. The Contractor shall not perform any work for, or at the direction of, a third party other than Owner without express written approval of the Owner. The requirement of prior written authorization for extra work may not be waived, verbally or by conduct, by the Engineer; however, written authorization from Owner by facsimile and electronic mail shall be enforceable under this Contract. In the event of changed work being performed on a unit price, not to exceed or time and material basis, Contractor shall submit for approval unit prices, equipment rental rates, labor rates, and overtime rates relative to the changed work. All unit prices and minimum wage rates are set forth in the Exhibits, and shall be followed as provided therein. All change order costs are subject to full audit, review and approval by Owner. For all changes in the Work not governed by unit prices, the Contractor shall be entitled to a five percent (5%) markup for profit on the actual labor, material and equipment cost of the changed Work (excluding supervision labor and general conditions items). This markup shall cover all profit and general overhead related to the Change Order. There shall be no automatic markup for general conditions costs, as such costs shall be included in the Change Order if they are actually required as a result of the changed Work. All unit prices shall include all costs associated with the unit price work, including field overhead costs, general overhead costs and profit.

**ARTICLE XIII**  
**SUBMITTALS**

**13.1 Submittals.** Contractor shall prepare, review, stamp with approval and submit all samples, shop drawings and product data as may be directed by the Owner and Engineer, and shall not perform Work on the Project without approved submittals. Contractor’s submittal of shop drawings shall constitute a representation that the Contractor has checked all relevant dimensions and other information in the drawings and specifications and that such shop drawings are accurate and consistent with the approved Contract Documents. Contractor shall not proceed with construction of any item without submittals approved by Engineer and Owner.

**ARTICLE XIV**  
**WARRANTY**

**14.1 Contractor Warranty.** Contractor warrants to Owner that all materials and equipment furnished on the Project shall be new unless otherwise specified, and that all Work and materials furnished under this Contract shall be of good quality, free from faults and defects and in conformance with the Contract Documents. Contractor shall promptly make good any and all defects that appear within a period of one (1) year from Final Completion of the Project. This warranty period shall be construed as a cumulative remedy, and shall not prevent the Owner from exercising any other right or claim it may have by contract or applicable law in connection with defective Work or materials installed on the Project by the Contractor.

**ARTICLE XV**  
**TERMINATION**

**15.1 Termination for Cause.** In the event Contractor fails to perform the Work on the Project in accordance with the Contract Documents, the Owner may terminate the Contract for cause upon five (5) days written (by facsimile or hand delivery) notice to the Contractor, unless Contractor cures, or diligently commences to cure, the default within the five (5) day period. The Contractor consents to an automatic assignment of its subcontract and supplier

agreements to the Owner in the event of a termination hereunder, and shall ensure that such agreements are assignable to the Owner. The Owner shall be entitled to hold all contract balances hereunder until the Work is fully completed by others, and all costs and damages suffered by the Owner as a result of the Contractor's default are deducted from the contract balance, or otherwise paid by Contractor. As an alternative remedy to a termination for cause, the Owner may, after five (5) days written notice to the Contractor of deficiencies in the Contractor's Work or progress, correct such deficiencies, or supplement the Contractor's forces as necessary to remedy any delay, all at the expense of the Contractor. The Contractor shall immediately turn over all Project documents and records upon termination of this Contract.

**15.2 Termination for Convenience.** Subject to any restrictions of applicable law, the Owner reserves the right to terminate this Contract for its convenience, in which event the Contractor shall be paid (subject to setoffs allowed by law) the reasonable cost of Work properly performed (including earned overhead and profit), but shall not be entitled to recover lost profits, or incidental and consequential damages. The Contractor shall immediately turn over all Project documents and records upon termination of this Contract.

**ARTICLE XVI**  
**INDEMNITY**

**16.1 Indemnity.** TO THE FULLEST EXTENT PERMITTED BY LAW, CONTRACTOR SHALL PROTECT, DEFEND, INDEMNIFY AND HOLD HARMLESS THE INDEMNIFIED PARTIES FROM AND AGAINST EVERY LOSS, ITEM OF DAMAGE, INJURY, EXPENSE, DEMAND, CLAIM, CAUSE OF ACTION, JUDGMENT OR LIABILITY, OF WHATSOEVER KIND OR CHARACTER, WHETHER ARISING IN CONTRACT OR TORT OR UNDER ANY STATUTE, FOR EVERY ELEMENT OF RECOVERY, WHETHER DIRECT OR INDIRECT, INCLUDING SPECIAL AND CONSEQUENTIAL DAMAGES, AND INCLUDING ALL RELATED FINES, FEES AND COSTS, TO INCLUDE ALL FEES AND CHARGES OF ENGINEERS, ARCHITECTS, ATTORNEYS AND OTHER PROFESSIONALS AND ALL COURT OR ARBITRATION OR OTHER DISPUTE RESOLUTION COSTS, ARISING OUT OF OR RELATED TO:

BODILY INJURY TO OR DEATH OF ANY PERSON, PROPERTY DAMAGE OR ECONOMIC LOSS (INCLUDING LOSS OF USE) CAUSED BY OR ARISING OUT OF ANY BREACH OF THIS CONTRACT, OR THE BREACH OF ANY COMMON LAW DUTY, OR THE VIOLATION OF ANY STATUTE OR REGULATION BY THE CONTRACTOR PARTIES IN CONNECTION WITH THE PERFORMANCE (OR NON-PERFORMANCE) OF THE WORK, IN EACH INSTANCE, EVEN IF DUE IN PART TO THE NEGLIGENCE, BREACH OF CONTRACT, BREACH OR VIOLATION OF A STATUTE, ORDINANCE, GOVERNMENTAL REGULATION, STANDARD, OR RULE, OR OTHER FAULT OF AN INDEMNIFIED PARTY, PROVIDED, HOWEVER, THAT CONTRACTOR'S OBLIGATION OF INDEMNIFICATION AND DEFENSE OBLIGATIONS SHALL NOT APPLY TO ANY LIABILITY FOR LOSS OR DAMAGE RESULTING FROM THE SOLE NEGLIGENCE OF THE INDEMNIFIED PARTIES.

THE TERM "FAULT" IN THE PREVIOUS SENTENCE INCLUDES THE VIOLATION OR BREACH BY THE INDEMNIFIED PARTIES OF ANY COMMON LAW DUTY, ANY TERM OF THIS CONTRACT, OR ANY STATUTE OR REGULATION.

THIS INDEMNIFICATION OBLIGATION SHALL NOT BE LIMITED IN ANY WAY BY ANY OTHER PROVISION OF THIS CONTRACT OR BY ANY LIMITATIONS ON THE AMOUNT OR TYPE OF DAMAGES, COMPENSATION OR BENEFITS PAYABLE BY OR FOR THE CONTRACTOR PARTIES UNDER WORKERS' COMPENSATION ACTS, DISABILITY BENEFIT ACTS OR OTHER EMPLOYEE BENEFITS ACTS.

THIS INDEMNIFICATION OBLIGATION IS IN ADDITION TO ALL OTHER LEGAL, EQUITABLE, OR INDEMNIFICATION REMEDIES AVAILABLE TO THE INDEMNIFIED PARTIES. THIS INDEMNIFICATION OBLIGATION SURVIVES THE TERMINATION OR EXPIRATION OF THIS CONTRACT.

In the event that any statute, rule of law or equitable principle should be held applicable to any indemnity clause contained in this Contract in favor of one or more of the Indemnified Parties which would render void, voidable, or unenforceable any such indemnity clause as to any party by reason of any provisions contained therein, then and in only such event, such indemnity clause shall be deemed modified and read, construed and enforced as to such party with respect to the provisions held to violate the statute, rule of law or equitable principle to require indemnity by Contractor of the Indemnified Parties to the fullest extent required by such indemnity provision modified and limited only to the degree or extent necessary to bring such indemnity into compliance with such statute, rule of law or equitable principle, but otherwise, the indemnity shall remain in full force and effect and binding upon the parties hereto.

Each party hereto agrees and covenants that it will not contest the validity or enforceability of any indemnity or exculpatory provision of this Contract on the basis that the party has no notice or knowledge of such provision or that the provision is not "conspicuous."

If other provisions contain any indemnities or limitations, such indemnities shall be deemed to be cumulative of and to operate independently of the indemnities provided herein to the end that all indemnities provided in the Contract Documents shall be construed to grant indemnity to the Indemnified Parties to the fullest extent of each such indemnity.

Contractor shall include in each of its subcontracts with its subcontractors of every tier provisions the same as in all material respects those contained herein. Such provisions shall be for the benefit of and in favor of the Indemnified Parties and such other parties on whom Contractor and such subcontractors may agree. Contractor shall turn the Work over to Owner free and clear of all liens, claims and encumbrances, and shall defend, indemnify and hold harmless Owner from all such liens, claims and encumbrances arising out of the Contractor's performance of the Work, including attorney's fees and legal expenses. Contractor shall bond off or otherwise discharge any lien or encumbrance filed against any Project within ten (10) days of written demand by Owner, whether or not Contractor believes the claim is valid.

## **16.2 Intellectual Property Rights and Indemnification.**

- a. Contractor shall not furnish or provide to Owner any materials or Work that discloses or infringes a Third Party Intellectual Property Rights (defined as, including but not limited to, confidential information, ideas, concepts, improvements, discoveries, inventions, or forms of expression of ideas or patents, trademarks or copyrights claimed by a third party or which Contractor does not own or otherwise have the right to disclose or provide to Owner). Contractor shall not disclose or provide to Owner any Third Party Intellectual Property Rights.
- b. Contractor represents and warrants that the materials and the Work shall be free from Third Party Intellectual Property Rights and that Owner's right to own, use, or otherwise disclose such materials and the Work shall be free from third party claims associated with intellectual property rights.
- c. Contractor represents and warrants to Owner that all information, ideas, concepts, improvements, discoveries, inventions, or forms of expression of ideas disclosed or provided to Owner shall be free from third party claims of ownership and that Owner's right to own, use, or otherwise disclose such information, ideas, concepts, improvements, discoveries, inventions, or forms of expression of ideas shall be free from third party claims associated with intellectual property rights.
- d. Contractor represents and warrants that all processes or methods utilized by Contractor to provide its services to Owner are free from Third Party Intellectual Property Rights.
- e. THE INDEMNITY AGREEMENT PROVIDED IN CONTRACTOR'S INDEMNITY OBLIGATION PROVIDED IN SECTION 16.1, ABOVE, INCLUDES, BUT IS NOT LIMITED TO THE FOLLOWING:

(I) CONTRACTOR'S BREACH OF ANY COVENANT, REPRESENTATION OR WARRANTY, WHETHER EXPRESS OR IMPLIED, REGARDING INTELLECTUAL PROPERTY RIGHTS; (II) ALLEGATIONS THAT OWNER, BY USE OF THE MATERIALS OR THE WORK, INFRINGES ANY THIRD PARTY INTELLECTUAL PROPERTY RIGHTS; (III) ALLEGATIONS THAT A THIRD PARTY OWNS INFORMATION, IDEAS, CONCEPTS, IMPROVEMENTS, DISCOVERIES, INVENTIONS, OR FORMS OF EXPRESSION OF IDEAS, DESCRIBED OR PROVIDED BY CONTRACTOR TO OWNER; (IV) ALLEGATIONS THAT OWNER'S OWNERSHIP OR USE OF INFORMATION, IDEAS, CONCEPTS, IMPROVEMENTS, DISCOVERIES, INVENTIONS, OR FORMS OF EXPRESSION OF IDEAS DISCLOSED OR PROVIDED BY CONTRACTOR TO OWNER INFRINGE A THIRD PARTY'S INTELLECTUAL PROPERTY RIGHTS; (V) ALLEGATIONS THAT THE PROCESSES UTILIZED BY CONTRACTOR IN PROVIDING ITS SERVICES TO OWNER INFRINGE THIRD PARTY INTELLECTUAL PROPERTY RIGHTS; OR (VI) THE COSTS, AND EXPENSES, INCLUDING ATTORNEY'S FEES INCURRED BY OWNER, IN ENFORCING THE INTELLECTUAL PROPERTY INDEMNITY INCLUDED IN THIS PARAGRAPH.

**IN ADDITION TO CONTRACTOR'S INDEMNITY OBLIGATION PROVIDED IN SECTION 16.1, ABOVE, TO THE FULLEST EXTENT PERMITTED BY LAW, CONTRACTOR SHALL PROTECT, DEFEND, INDEMNIFY AND HOLD HARMLESS THE INDEMNIFIED PARTIES FROM AND AGAINST EVERY LOSS, ITEM OF DAMAGE, INJURY, EXPENSE, DEMAND, CLAIM, CAUSE OF ACTION, JUDGMENT OR LIABILITY, OF WHATSOEVER KIND OR CHARACTER, WHETHER ARISING IN CONTRACT OR TORT OR UNDER ANY STATUTE, FOR EVERY ELEMENT OF RECOVERY, WHETHER DIRECT OR INDIRECT, INCLUDING SPECIAL AND CONSEQUENTIAL DAMAGES, AND INCLUDING ALL RELATED FEES AND COSTS, TO INCLUDE ALL FEES AND CHARGES OF ENGINEERS, ARCHITECTS, ATTORNEYS AND OTHER PROFESSIONALS AND ALL COURT OR ARBITRATION OR OTHER DISPUTE RESOLUTION COSTS, BASED UPON, ARISING OUT OF, OR RELATING TO ANY ALLEGATION OF VIOLATION OF COPYRIGHT LAWS AS A RESULT OF CONTRACTOR'S PERFORMANCE (OR NON-PERFORMANCE) OF THE WORK AND EVEN IF DUE TO THE NEGLIGENCE, BREACH OF CONTRACT, VIOLATION OF STATUTE, OTHER FAULT OR LIABILITY OF ANY INDEMNIFIED PARTY UNLESS RESULTING FROM THE SOLE NEGLIGENCE OF THE INDEMNIFIED PARTIES.**

f. Contractor confirms and agrees that the Owner has and shall retain all rights, title, and interest in and to the drawings, documents, designs and information, including, without limitation, any intellectual property rights, provided to Contractor or on behalf of Owner, and that by use of such drawings, documents, designs and information, the Contractor shall not acquire any right, title, or interest in such drawings, documents, designs and information, including, without limitation, any intellectual property rights. The Owner makes no representation or warranty, and hereby disclaims any such warranty, that any information provided to the Contractor by or on behalf of the Owner in connection with the Work is accurate, correct, sufficient, complete, fit for its intended purpose or can be used without infringing any intellectual property rights of third parties under any intellectual property rights of the world.

#### **ARTICLE XVII**

#### **PAYMENT OF SUBCONTRACTORS AND SUPPLIERS**

**17.1 Payment of Subcontractors and Suppliers.** The Contractor shall pay for all labor, materials, equipment, supplies and services necessary to perform the Work, and shall comply with all prompt payment acts or similar statutes in the state where the Project is located.

**17.2 Filing of Notices.** To the extent provided for in the jurisdiction of the Project, Contractor shall file contracts, payment bonds and/or notices of commencement or similar notices or documents at the beginning of the Project in order to limit the Owner's exposure to liens and other claims. Specifically, Contractor shall file a Notice of Contract, bonds and any other documentation necessary to preclude lien claims against the Project, as may be applicable under Arizona law, and shall file a Notice of Completion upon the Final Completion of the Project.

**ARTICLE XVIII**  
**DISPUTES**

**18.1 Disputes.** Any and all disputes and claims between Owner and Contractor shall be resolved by agreement of the parties, or decided by arbitration (as governed by rules of American Arbitration Association). Any claim, dispute or other matter in question relating to the Work shall be governed by the law of the state in which the Project is located, not including its choice of law rules.

**ARTICLE XIX**  
**INTEGRATION CLAUSE**

**19.1 Integration Clause.** This Contract, in conjunction with all exhibits and documents incorporated by reference, represents the entire agreement between the parties and supersedes all prior negotiations, representations or agreements, either oral or written. This Contract may only be amended or modified in writing, as signed by both Contractor and Owner, on Change Order forms approved by Owner.

**19.2 List of Contract Documents.** This Contract includes the following documents, and any other documents incorporated by reference into this Contract or any of the following documents:

- a) This Agreement;
- b) Exhibits to this Agreement;
- c) Performance, Payment, Maintenance and other Bonds identified;
- d) Invitation to Bidders;
- e) Instructions to Bidders;
- f) Notice to Proceed;
- g) Standard and Special Specifications;
- h) Construction Drawings;
- i) Prevailing Wage Rates;
- j) Addenda;
- k) All Change Orders and written modifications that amend or supplement the Contract Documents pursuant to the Contract Documents;
- l) All documents incorporated by reference into the Contract Documents.

There are no Contract Documents other than those described in this Article. The Contract Documents may only be amended, modified, or supplemented as provided by the terms of the Contract Documents. The parties agree that the Contract Documents shall not be construed against any party hereto on the basis that such party did or did not draft the Contract Documents.

**ARTICLE XX**  
**EQUAL OPPORTUNITY EMPLOYER**

**20.1 Equal Opportunity Employer.** It is the policy of the Owner to comply with all applicable state and federal laws prohibiting discrimination in employment based on race, age, color, sex, religion, national origin, disability or other protected classification. Contractor acknowledges that it is an equal opportunity employer and that it, its employees, agents and subcontractors will comply with all applicable state and federal laws prohibiting discrimination in employment based on race, age, color, sex, religion, national origin, disability or other protected classification.

**ARTICLE XXI**  
**NOTICES**

**21.1 Notices.** All notices pursuant to this Contract shall be sent via overnight delivery by recognized courier, by facsimile transmission, by hand delivery or by certified United States Mail, return receipt requested, and addressed to the following persons:

To the Owner: Trillium Management Development Company LLC  
c/o The Howard Hughes Corporation  
Attention: Heath Melton  
4150 N. Drinkwater Blvd, Suite 100  
Scottsdale, Arizona 85251

With a copy to: c/o The Howard Hughes Corporation  
Attention: General Counsel  
9950 Woodloch Forest Drive, Suite 1100  
The Woodlands, Texas, 77380  
(281) 929-7741

With a copy to Owner's representative: EPS Group  
Attention: Greg Hahn  
1130 N. Alma School Road, Suite 120  
Mesa, Arizona 85201  
(480) 503-2250

To the Contractor: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attn: \_\_\_\_\_  
Phone No. \_\_\_\_\_

**IN WITNESS WHEREOF**, Owner and Contractor have hereby executed this Contract the day and year first written above.

**CONTRACTOR:**

\_\_\_\_\_  
a \_\_\_\_\_

**OWNER:**

**TRILLIUM MANAGEMENT DEVELOPMENT COMPANY  
LLC**, a Delaware limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_



**EXHIBIT A  
LIST OF DRAWINGS AND SPECIFICATIONS**

**DRAWINGS**

**(NAME OF PLAN SET) ( List of Plans pertaining to the Scope of Work)**

*(list name of each sheet in plan set here)*

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_

SPECIFICATIONS [RESERVED]

**(Insert Final Plat Maps after this Page)**

**EXHIBIT B  
INSURANCE REQUIREMENTS**

For purposes of this Exhibit: (i) “**Subcontractor**” shall mean any person or entity that enters into a Contract with or is otherwise engaged by Contractor to provide or furnish any portion of the Work, including without limitation, artisans, suppliers, installers, fabricators and professionals (for clarity, the term Subcontractor includes lower-tier parties contracting with Subcontractors to perform any part of the Work); and (ii) “**Owner Insureds**” shall mean (a) the Owner, (b) the owner(s) and lessee(s), as applicable, of the real property on and/or for which the Work will be performed and, if any, its development manager and property manager, (c) any lender providing financing secured by a lien against the Work or the real property for which the Work will be performed, (d) their respective direct and indirect parents, subsidiaries, affiliates, successors, assigns, and their current or future officers, directors, managers, members, partners, shareholders, employees and agents, and (e) other parties reasonably requested by Owner, including but not limited to parties with insurable interest in the Work and/or the real property accessed during the Work. Capitalized but undefined terms used herein shall have those meanings ascribed to them in the document(s) to which this Exhibit is attached.

**1. Minimum Insurance Requirements for Contractor.**

**1.1 Commercial General Liability (“CGL”).**

\$1,000,000	bodily injury and property damage occurrence limit
\$2,000,000	general aggregate (other than products/completed operations aggregate)
\$2,000,000	products-completed operations aggregate
\$1,000,000	personal and advertising injury limit

CGL on an “occurrence” coverage form at least as broad as that provided under the ISO form CG 0001 with coverage for bodily injury, broad form property damage, personal and advertising injury, premises and ongoing operations, products and completed operations, contractual liability, and with a general aggregate limit that applies per project or per location, and with additional insured status for the Owner Insureds for both ongoing operations and products-completed operations. If and when the Work may include labor or man-hours associated with or related to onsite work, renovation, repairs, maintenance, remodeling, demolition, erection, installation or similar construction and/or service industry operations (“**Site Operations**”) performed by or on behalf of Contractor the CGL must also (a) cover explosion, collapse, and underground property damage, and (b) cover operations performed “within 50 feet” of a railroad, if applicable, and (c) utilize ISO additional insured endorsement forms CG2010 10/01 and CG2037 10/01 or equivalent as approved by Owner (or form CG2010 11/85 if commercially available).

**1.2 Workers’ Compensation and Employer’s Liability.**

Workers’ Compensation	Limits in accordance with the laws of the state or jurisdiction;
Employer’s Liability	\$1,000,000 accident, disease/employee and disease/policy limit

Including “other states” insurance so as to include all states not named on the declarations page of the insurance policy, except for monopolistic states, and coverage shall include employer’s liability with separate limits. Contractor shall maintain workers’ compensation insurance regardless of eligibility for waiver or exemption of coverage under state statute. Maritime coverage (USL&H) is required if the Work is performed on or adjacent to a body of water.

**1.3 Business Automobile Liability.**

\$1,000,000	combined single limit
-------------	-----------------------

Placed on ISO form CA 0001 or equivalent covering the use or operation of any auto associated with the Work, including autos owned, hired, non-owned or otherwise operated or used by or on behalf of Contractor. If and when Work involves remediation, removal or demolition of hazardous substances, the policy must contain current editions of endorsement MCS-90 and CA 9948.

- 1.4 **Umbrella/Excess Liability.**  
 \$5,000,000 per occurrence  
 \$5,000,000 general aggregate  
 \$5,000,000 products-completed operations aggregate

Policies shall be excess to the commercial general liability, employer’s liability, and business automobile liability coverages and shall be written as follow form or alternatively with a form that provides coverage that is at least as broad as the primary insurance policies provided, however, a higher minimum limit of \$10,000,000 is required if and when the Work involves Site Operations and the primary commercial general liability aggregate limits do not apply per project or per location.

- 1.5 **Pollution Liability.**  
 \$2,000,000 per occurrence and in the aggregate

If applicable, to cover the testing, analysis, handling or remediation of known or suspected toxic or hazardous substances performed by or on behalf of Contractor and the policy shall not contain an endorsement or clause excluding the Work or excluding such known or suspected toxic or hazardous substances. The policy must be on an “occurrence” form or the retroactive date of a “claims made” policy must be equal to or prior to commencement of the Work. However, if and when the Work involves extensive remediation, removal and/or demolition of hazardous substances a higher minimum limit of \$10,000,000 is required and Contractor must evidence non-owned disposal site insurance as well as pollution liability insurance from landfills or disposal sites utilized for the Work.

- 1.6 **Professional Liability.**  
 \$2,000,000 per claim and in the aggregate

If applicable, to cover financial loss, bodily injury and property damage arising from errors and omissions committed in the performance of or failure to perform professional services (which might include but are not limited to remediation planning, architectural, engineering, design-build, media/marketing, technology, construction management, consulting, surveying, testing, financial, etc.) by Contractor or anyone directly or indirectly employed by Contractor. However, if and when the policy’s aggregate limit is reduced by professional liability and pollution liability claims, or if the Work involves extensive design-build services or construction/design assist services, a higher minimum limit of \$5,000,000 is required. The policy must include coverage for contingent bodily injury and property damage without being subject to any sublimit and the policy’s retroactive date must be equal to or prior to commencement of the Work.

1.7 **Builder’s Risk.** If requested by Owner at its sole discretion, on a Special Cause of Loss Form (formerly known as “all risk”) and in an amount equal to the contract sum plus change orders plus, if applicable, Owner’s soft costs. At Owner’s discretion, an installation floater may satisfy this requirement. The policy must name Owner Insureds (as defined herein) as additional loss payees.

1.8 **Commercial Property / Contractor’s Equipment.** To cover 100% of the value of all Contractor-supplied property for the Work including but not limited to equipment (stationary or mobile), machinery, tools (including employee tools), supplies, materials or any other property owned, leased or the legal responsibility of Contractor.

1.9 **Other Insurance.** Such as cyber liability, damage to rented premises, employment practices liability, marine liability, aircraft liability, crime/fidelity bond, railroad protective liability, etc. to insure Contractor and Owner Insureds against claims arising out of the Work.

2. **Minimum Insurance Requirements for Subcontractors.** Unless otherwise insured by Contractor, Contractor shall cause its Subcontractors to (a) obtain and maintain separate insurance coverages with terms and conditions as outlined herein with minimum limits of \$1,000,000 (or such higher limit as otherwise required by Contractor), and (b) comply with the ADDITIONAL INSURED PROVISIONS, Section 3.1, and Waiver of Subrogation, Section 3.2.

### 3. **General Requirements Applicable to Insurance.**

3.1 **ADDITIONAL INSURED PROVISIONS:** To the fullest extent permitted by law, the policies of commercial general liability (“CGL”), business automobile liability, umbrella/excess liability and (if applicable) pollution liability insurance shall name Owner Insureds as additional insureds with no restriction of coverage beyond that which applies to the policyholder. Primary insurance, umbrella/excess insurance, self-insurance, retentions and deductibles maintained by Contractor and Subcontractor shall be primary to and shall not contribute with and shall not apply as excess over other primary, umbrella/excess insurance, or self-insurance programs afforded the Owner Insureds. The CGL policy must provide additional insured status for ongoing and products-completed operations and as respects Site Operations (as defined herein) Contractor must evidence additional insured status as per Section 1.1(c).

3.2 **Waiver of Subrogation.** To the fullest extent permitted by law, Contractor hereby agrees to waive and shall require all Subcontractors of any tier to waive any rights of recovery from Owner Insureds and all insurance policies carried by Contractor or Subcontractors shall confirm or otherwise allow for such waiver of subrogation without restricting or limiting coverage, whether such insurance policy is specifically required herein or not. The parties intend for the foregoing waivers of subrogation to apply to deductibles and self-insured retentions and to be effective through the running of applicable statute of limitations and statute of repose.

3.3 **Certificates of Insurance.** The insurance required herein may be satisfied by maintaining any combination of primary policies and umbrella/excess policies written as follow form or with coverage at least as broad as the primary policies. Upon the earlier of commencement of the Work or Contractor’s execution of the Contract Contractor shall furnish to Owner a certificate of insurance and other documents needed and/or requested by Owner to evidence (a) active insurance policies required herein and the limits purchased on each, which shall not be less than the minimum limits indicated herein, and (b) compliance with the ADDITIONAL INSURED PROVISIONS, Section 3.1, and (c) compliance with the Waiver of Subrogation, Section 3.2, and (d) unless waived in writing by Owner, thirty (30) days’ prior written notice of cancellation of insurance from the insurance carrier to Owner. Evidence by means of approved “blanket” policy endorsements or policy provisions is acceptable. A renewal certificate of insurance is required prior to expiration of any policy required herein and upon Owner’s request.

3.4 **Maintenance and Minimums.** Contractor shall procure and maintain the insurance coverages with minimum policy limits and other provisions described herein at its expense for the duration of the Work, including any extensions thereof or additions thereto, and through the running of applicable statute of limitations and statute of repose (either through continuous renewal of insurance coverage or the purchase of an extended reporting period) with insurance companies admitted to do business in the state where the Work is performed and rated by A.M. Best Company with a rating of “A, VII” or higher. **The insurance coverages, policy limits and other policy provisions required in this Exhibit are minimums only. Contractor and Subcontractors must meet these minimums and hereby agree such broader coverage and full policy limits available in the insurance policies shall not be limited by these requirements.** The provisions of this Exhibit shall survive the full performance or earlier termination of the Contract between the parties. Owner reserves the right to adjust, expand or waive any or all requirements set forth in this Exhibit or, at its sole discretion, accept or reject lesser coverage or lower limits.

3.5 **Deductibles and Other Provisions.** Deductibles or retentions above \$50,000 must be declared by Contractor and approved by Owner. When applicable, the policies shall include severability of interests or cross liability coverage such that coverage applies to each insured or additional insured. Defense costs shall be provided in addition to the policy limits when commercially available. Each policy shall have a coverage territory that includes the jurisdiction(s) governing the Contract and the location(s) where the Work is performed and shall provide worldwide coverage for claims or lawsuits. Owner’s receipt of or failure to request Contractor’s evidence of insurance does not constitute approval or agreement that these requirements have been fulfilled and does not waive Contractor’s obligation to comply with any of the insurance requirements provided in this Exhibit. At the request of Owner, Contractor shall, at its expense, furnish to Owner copies of all Contractor’s required insurance policies. Failure of Contractor to maintain the required insurance shall constitute a default under the Contract and, at Owner’s option, shall allow Owner to terminate the Contract for cause, withhold payment and/or purchase the required

insurance at Contractor's expense or, if insurance is not in effect, at Owner's request Contractor shall discontinue the Work until the insurance has been provided. To the fullest extent permitted by law the insurance coverages and requirements set forth shall not be construed to relieve liability in excess of insurance, nor shall they preclude Owner from taking such other actions permitted by law or under other provisions of the Contract.

3.6 **Residential Work and Controlled Insurance Programs.** If and when the Work is in, on or involving "for rent" or "for sale" residential property the insurance policies shall not contain an exclusion or limitation of coverage for such residential property or for the Work except to the extent Owner elects to procure and maintain a controlled insurance program, a wrap-up or other project specific insurance. If and when a controlled insurance program, a wrap-up program or other project specific insurance is in effect any Contract documents regarding alternate requirements and protocol shall be incorporated by reference herein as if fully set forth herein.

3.7 **Suitability.** The insurance required herein or otherwise maintained by Contractor is separate and independent to (and is intended to stand alone and not solely support, alter or limit) any indemnity obligation agreement between the parties. In specifying insurance requirements Owner does not represent that such insurance is adequate to protect from loss, damage or liability arising from the Work; Contractor and any Subcontractor, at its own cost and expense, is solely responsible to inform itself of and purchase the types or amounts of insurance it may need for the Work and to protect itself, its employees, agents, materials and equipment.

**EXHIBIT C  
UNIT PRICES**

SEE Section III-BID.

**EXHIBIT D**

**PERFORMANCE BOND**

Bond No. \_\_\_\_\_

KNOW ALL PERSONS BY THESE PRESENTS:

THAT Contractor, as Principal, and hereinafter called "Principal," and \_\_\_\_\_, a corporation organized and existing under the laws of the State of Arizona, as Surety, hereinafter called "Surety," are held and firmly bound unto **Trillium Management Development Company LLC**, as Obligee, and hereinafter called "Owner," in the sum of \_\_\_\_\_ (\$ \_\_\_\_\_), lawful money of the United States of America, for the payment of which Principal and Surety bind themselves, their successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, Principal has entered into and agreed to perform a construction contract dated \_\_\_\_\_, with Owner for the construction of:

**Teravalis Phase 1 & 2 Box Culvert Infrastructure CFD**(work/location)

on land of Owner located in Maricopa County, Arizona, in accordance with such contract and the contract documents referred to therein, which contract is made a part hereof and incorporated herein by this reference and is hereinafter called the "Contract."

NOW, THEREFORE, the condition of this obligation is such that, if Principal shall well and truly perform all the undertakings, covenants, terms, conditions and agreements of the contract on its part, including all guarantees and warranties provided therein, during the original term of the 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 perform and fulfill all of 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, and fully indemnify and save harmless said Obligee from all cost and damage which they may suffer by reason of Principal's failure to do so, and fully reimburse and repay said Obligee all outlay and expense which it may incur in making good such default, then this obligation shall be null and void; otherwise it shall remain in full force and effect;

Provided, however, that this bond is executed pursuant to the provisions of title 34, chapter 2, article 2, 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 in this agreement.

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

There shall be no liability of the part of the Principal or Surety under this bond to the Obligee unless the Obligee shall make payments to the Principal, or to the Surety in case it arranges for completion of the Contract upon default of the Principal, strictly in accordance with the terms of said Contract as to payments, and shall perform all other obligations required to be performed under said Contract at the time and in the manner therein set forth.



SURETY does hereby consent to any and all alterations, modifications and revisions to the Contract secured by this bond, including, but not limited to, any extensions of time for performance which may be agreed upon by and between the Owner and the Principal. Surety does hereby waive notice of any such alterations, modifications and revisions.

Dated \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
[Name of Principal]

\_\_\_\_\_  
[Name of Surety]

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

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

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

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

PRINCIPAL

SURETY

**PAYMENT BOND**

Bond No. \_\_\_\_\_

KNOW ALL PERSONS BY THESE PRESENTS:

THAT Contractor, as Principal, and hereinafter called "Principal," and \_\_\_\_\_, a corporation organized and existing under the laws of the State of Arizona, as Surety, hereinafter called "Surety," are held and firmly bound unto **Trillium Management Development Company LLC**, as Obligee, and hereinafter called "Owner," in the sum of \_\_\_\_\_ (\$ \_\_\_\_\_), lawful money of the United States of America, for the payment of which Principal and Surety bind themselves, their successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, Principal has entered into and agreed to perform a construction contract dated \_\_\_\_\_, with Owner for the construction of:

**Teravalis Phase 1 & 2 Box Culvert Infrastructure CFD(work/location)**

on land of Owner located in Maricopa County, Arizona, in accordance with such contract and the contract documents referred to therein, which contract is made a part hereof and incorporated herein by this reference and is hereinafter called the "Contract."

NOW, THEREFORE, the condition of this obligation is such, that if the Principal promptly pays all monies 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, 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. This bond is executed and made at the request of Owner and it shall inure solely to the benefit of all claimants giving and filing the applicable notices and claims or making claims as provided by state law.

Dated \_\_\_\_\_, 20\_\_.

[Name of Principal]

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

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

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

[Name of Surety]

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

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

Title: Attorney-in-Fact \_\_\_\_\_

The name, mailing address, physical address and telephone number, including the area code, of the Surety to which any notice of claim should be sent:

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

APPROVAL OF OWNER

**Trillium Management Development Company LLC**, as the Owner named and referred to in the foregoing bond and the construction contract incorporated in the foregoing bond, hereby endorses and approves the foregoing bond and approves the filing of same in the office of the County Clerk of Maricopa County, Arizona, this \_\_\_\_ day of \_\_\_\_\_, 2023.

**TRILLIUM MANAGEMENT DEVELOPMENT COMPANY LLC**, a  
Delaware limited liability company

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

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

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

**MAINTENANCE BOND**

BOND No. \_\_\_\_\_

STATE OF ARIZONA

COUNTY OF MARICOPA

KNOW ALL MEN BY THESE PRESENTS: That Contractor, of the City of \_\_\_\_\_, County of \_\_\_\_\_, and State of \_\_\_\_\_ as Principal, and \_\_\_\_\_ authorized under the Laws of the State of Arizona to act as surety on bonds for principals, are held and firmly bound unto **Trillium Management Development Company LLC**, as Obligee, and hereinafter called "Owner," in the amount equal to 100 % of the total contract price, in the penal sum of \_\_\_\_\_ (\$ \_\_\_\_\_), for the payment whereof, the said Principal and Surety bind themselves, and their heirs, successors and assigns, jointly and severally, by these presents:

WHEREAS, the Principal has entered into a certain written contract with the Owner, dated \_\_\_\_\_, for construction of:

**Teravalis Phase 1 & 2 Box Culvert Infrastructure CFD(work/location)**

which contract is hereby referred to and make a part hereof as fully and to the same extent as if copied at length herein.

NOW, THEREFORE, THE CONDITIONS OF THIS OBLIGATION IS SUCH, that if the said Principal shall repair any and all defects in said work occasioned by or resulting from defects in materials furnished by, or workmanship of, the Principal in performing the work covered by the Contract, occurring within a period of one (1) year beginning on the date of termination of the Performance Bond as required under this Contract, in accordance with the provisions of the Contract, then, this obligation shall be void; otherwise to remain in full force and effect;

Surety, for value received, stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract, or to work performed thereunder, or the plans, specifications, or drawings, accompanying the same, shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract, or the work to be performed thereunder.

IN WITNESS WHEREOF, the above-bounden parties have executed this instrument under their several seals on this date, the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

[Name of Principal]

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

[Name of Surety]

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Attorney-in-Fact \_\_\_\_\_

The name, mailing address, physical address and telephone number, including the area code, of the Surety to which any notice of claim should be sent:

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

**EXHIBIT E**  
**CONDITIONAL WAIVER AND RELEASE ON PROGRESS PAYMENT**  
**(Pursuant to A.R.S. § 33-1008)**

Project:

On receipt by the undersigned of a check from \_\_\_\_\_  
(Maker of Check)

in the sum of \$ \_\_\_\_\_ payable \_\_\_\_\_  
(Amount of Check) (Payee or Payees of Check)

and when the check has been properly endorsed and has been paid by the bank on which it was drawn, this document becomes effective to release any mechanics' lien, any state or federal statutory bond right, any private bond right, any stop notice, any claim for payment and any rights under any similar ordinance, rule or statute related to claim or payment rights for persons in the undersigned's position, that the undersigned has on the job of

\_\_\_\_\_  
(Owner(s))

located at \_\_\_\_\_ to the following extent.  
(Job Description)

This release covers a progress payment for all labor, services, equipment, or materials furnished to the jobsite or to \_\_\_\_\_ (person with whom signer contracted) as indicated in the attached statement(s) or progress payment request(s) through \_\_\_\_\_ (date) only, except for unpaid retention, pending modifications and changes, or other items furnished after that date.

Before any recipient of this document relies on it, the person should verify evidence of payment to the undersigned.

The undersigned warrants that he either has already paid or will use the monies he receives from this progress payment to promptly pay in full all of his laborers, subcontractors, materialmen and suppliers for all work, materials, equipment or services provided for or to the above referenced project up to the date of this waiver.

**DATED:** \_\_\_\_\_

\_\_\_\_\_  
*(Company Name)*

**By:** \_\_\_\_\_  
*(Signature)*

\_\_\_\_\_  
*(Title)*

**CONDITIONAL WAIVER AND RELEASE ON FINAL PAYMENT**

**(Pursuant to A.R.S. § 33-1008)**

Project:

On receipt by the undersigned of a check in the amount of \$\_\_\_\_\_ payable to \_\_\_\_\_ and when the check has been properly endorsed and has been paid by the bank on which it is drawn, this document becomes effective to release any mechanic's lien, any state or federal statutory bond right, any private bond right, any stop notice, any claim for payment and any rights under any similar ordinance, rule or statute related to claim or payment rights for persons in the undersigned's position that the undersigned has on the job of \_\_\_\_\_  
**(Owner)**

located at \_\_\_\_\_  
**(Job Description)**

This release covers the final payment to the undersigned for all labor, services, equipment or materials furnished to the jobsite or to \_\_\_\_\_  
**(Person with whom Undersigned Contracted)**

except for disputed claims in the amount of \$\_\_\_\_\_. Before any recipient of this document relies on it, the person should verify evidence of payment to the undersigned.

The undersigned warrants that he either has already paid or will use the monies he receives from this final payment to promptly pay in full all of his laborers, subcontractors, materialmen and suppliers for all work, materials, equipment or services provide for or to the above referenced project up to the date of this waiver.

**DATED:** \_\_\_\_\_  
\_\_\_\_\_ **(Company Name)**

**By:** \_\_\_\_\_  
**(Signature)**

\_\_\_\_\_  
**(Title)**



**UNCONDITIONAL WAIVER AND RELEASE ON PROGRESS PAYMENT**

**(Pursuant to A.R.S. § 33-1008)**

Project:

The undersigned has been paid and has received a progress payment in the sum of \$\_\_\_\_\_ for all labor, services, equipment or material furnished to the jobsite or to

\_\_\_\_\_ on the job of \_\_\_\_\_ located at  
*(Person with whom undersigned contracted)* *(Owner)*

\_\_\_\_\_ and does hereby release any mechanic's lien, any state or federal  
*(Job Description)*

statutory bond right, any private bond right, any stop notice, any claim for payment and any rights under any similar ordinance, rule or statute related to claim or payment rights for persons in the undersigned's position that the undersigned has on the above referenced project to the following extent. This release covers a progress payment for all labor, services, equipment, or materials furnished to the jobsite or to \_\_\_\_\_ (person with whom signer contracted) as indicated in the attached statement(s) or progress payment request(s) through \_\_\_\_\_ (date) only, except for unpaid retention, pending modifications and changes, or other items furnished after that date.

As of \_\_\_\_\_, there are no pending modifications or changes, except as follows:

The undersigned warrants that he either has already paid or will use the monies he receives from this progress payment to promptly pay in full all of his laborers, subcontractors, materialmen and suppliers for all work, materials, equipment or services provide for or to the above referenced project up to the date of this waiver.

**DATED:** \_\_\_\_\_

\_\_\_\_\_  
*(Company Name)*

By: \_\_\_\_\_  
*(Signature)*

\_\_\_\_\_  
*(Title)*

**Notice: This document waives rights unconditionally and states that you have been paid for giving up those rights. This document is enforceable against you if you sign it, even if you have not been paid. If you have not been paid, use a conditional release form.**

**UNCONDITIONAL WAIVER AND RELEASE ON FINAL PAYMENT**

**(Pursuant to A.R.S. section 33-1008)**

Project:

The undersigned has been paid in full for all labor, services, equipment of material furnished to the jobsite or to \_\_\_\_\_ on the job of \_\_\_\_\_ located at \_\_\_\_\_ and does hereby waive and release any mechanic's lien, any state or federal statutory bond right, any stop notice, any private bond right, any claim for payment and any rights under any similar ordinance, rule or statute related to claim or payment rights for persons in the undersigned's position, except for disputed claims for extra work in the amount of \$\_\_\_\_\_.

The undersigned warrants that he either has already paid or will use the monies he receives from this final payment to promptly pay in full all of his laborers, subcontractors, materialmen and suppliers for all work, materials, equipment or services provide for or to the above referenced project up to the date of this waiver.

DATED: \_\_\_\_\_

\_\_\_\_\_  
*(Company Name)*

By: \_\_\_\_\_  
*(Signature)*

\_\_\_\_\_  
*(Title)*

**Notice: This document waives rights unconditionally and states that you have been paid for giving up those rights. This document is enforceable against you if you sign it, even if you have not been paid. If you have not been paid, use a conditional release form.**

**AFFIDAVIT OF BILLS PAID**

STATE OF ARIZONA

COUNTY OF MARICOPA

BEFORE ME, the undersigned authority, on this day personally appeared \_\_\_\_\_ party to that certain Contract entered into on \_\_\_\_\_, 202\_\_, between **Trillium Management Development Company LLC** (Owner) and \_\_\_\_\_ (Contractor) for the erection, construction, and completion of certain improvements and/or additions upon the following described premises, to wit:

**Teravalis Phase 1 & 2 Box Culvert Infrastructure CFD(work/location)**

Said party being by me duly sworn states upon oath that the said improvements as per pay application dated \_\_\_\_\_ have been erected and completed in full compliance with the above referred to Contract and the agreed plans and specifications therefor.

Deponent further states that he has paid all bills and claims for materials furnished and labor performed on said Contract and that there are no outstanding unpaid bills or legal claims for labor performed or materials furnished upon said job.

This affidavit is being made by the undersigned realizing that it is in reliance upon the truthfulness of the statements contained therein that final and full settlement of the balance due on said payment application is being made, and in consideration of the disbursement of funds by Owner, deponent expressly waives and releases all liens, claims and rights to assert a lien on said premises and agrees to indemnify, defend, and hold Owner safe and harmless from and against all losses, damages, costs and expenses of any character whatsoever specifically including court costs, bonding fees and attorney fees, arising out of or in any way relating to claims for unpaid labor or material used or associated with construction of improvements on the above-described premises.

**CONTRACTOR**

\_\_\_\_\_

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

Subscribed and sworn to before me, the undersigned authority, on this the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

\_\_\_\_\_  
Notary Public in and for Maricopa County

**EXHIBIT F  
SWORN STATEMENT FOR CONTRACTOR & SUBCONTRACTOR TO OWNER**

STATE OF ARIZONA

Commitment # \_\_\_\_\_

COUNTY OF MARICOPA

This affiant, \_\_\_\_\_, being duly sworn, on oath deposes and says that he/she is \_\_\_\_\_ of \_\_\_\_\_ ("Contractor"), that Contractor has a contract with Trillium Management Development Company LLC for Teravalis Phase 1 & 2 Box Culvert Infrastructure CFD (work/location) Teravalis Phase 1 Wet Utilities Infrastructure CFD. That, for the purpose of said contract, the following persons and/or companies have been contract with, and have furnished, or are furnishing, and preparing materials for, and have done or are doing labor on said improvement. That there is due and to become due them, respectively, the amounts set opposite their name for materials and/or labor as stated. That this statement is a full, true and complete statement of all such persons subcontracted with and of the amounts paid and now owing.

<b>Name &amp; Address</b>	<b>Kind of Work</b>	<b>Adjusted Total Contract (including extras &amp; credits)</b>	<b>Total Retention (including this App.)</b>	<b>Net Previously Paid</b>	<b>Net Amount of this Payment</b>	<b>Balance to Become Due (including Retention)</b>
Subtotal from page 2:						
TOTAL:						

Check this box if no subcontractors or suppliers were used in the performance of the above-referenced project.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Notary Public, State of \_\_\_\_\_

**SUBCONTRACTOR LIST, page 2 (if needed)**

Name & Address	Kind of Work	Adjusted Total Contract (including extras & credits)	Net Previously Paid	Balance Due (or to become due)
		<b>SUBTOTAL:</b>		

**EXHIBIT G  
DUTIES, RESPONSIBILITIES AND  
LIMITATIONS OF AUTHORITY OF THE PROJECT REPRESENTATIVE**

The ENGINEER (hereby referred to as ENGINEER in this EXHIBIT G) shall furnish a Project Representative (PR) to assist ENGINEER in observing performance of the work of Contractor.

Through more extensive on-site observations of the work in progress and field checks of materials and equipment by the PR, ENGINEER shall endeavor to provide further protection for OWNER against defects and deficiencies in the work of CONTRACTOR; but, the furnishing of such services will not make ENGINEER responsible for or give ENGINEER control over construction means, methods, techniques, sequences or procedures or for safety precautions or programs, or responsibility for CONTRACTOR's failure to perform the Work in accordance with the Contract Documents, as ENGINEER'S liability to the Owner is governed by Owner-Engineer Agreement.

The duties and responsibilities of the PR are limited to those of ENGINEER in ENGINEER's agreement with the OWNER and in the construction Contract Documents, and are further described as follows:

**A. General**

PR is ENGINEER's agent at the site, will act as directed by and under the supervision of ENGINEER, and will confer with ENGINEER regarding PR's actions. PR's dealings in matters pertaining to the on-site work shall in general be with ENGINEER, OWNER and CONTRACTOR. PR's dealings with subcontractors shall be only through or with the full knowledge and approval of CONTRACTOR. PR shall generally communicate with OWNER with the knowledge of and under the direction of ENGINEER.

**B. Duties and Responsibilities of PR**

1. *Conferences and Meetings:* Attend meetings as requested by OWNER, such as preconstruction conferences, and meetings related to required inspections.
2. *Liaison:*
  - a. Serve as ENGINEER's liaison with CONTRACTOR, working principally through CONTRACTOR's superintendent and assist in understanding the intent of the Contract Documents; and assist ENGINEER in serving as OWNER's liaison with CONTRACTOR when CONTRACTOR's operations affect OWNER's on-site operations.
  - b. Assist in obtaining from OWNER additional details or information when directed by Engineer and when required for proper execution of the Work.
3. *Shop Drawings and Samples:* Advise ENGINEER and CONTRACTOR of the commencement of any Work requiring a Shop Drawing or sample if the submittal has not been approved by ENGINEER.
4. *Review of Work, Rejection of Defective Work, Inspections and Tests:*
  - a. Conduct on-site observations of the Work in progress to assist ENGINEER in determining if the Work is in general proceeding in accordance with the Contract Documents. Time spent on the project site should be the minimum necessary to ensure the Work is in general conformance with the Contract Documents.
  - b. Report to ENGINEER and OWNER whenever PR believes that any Work is unsatisfactory, faulty or defective or does not conform to the Contract Documents, or has been damaged, or does not meet the requirements of any inspection, test or approval required to be

- make; and advise ENGINEER and OWNER of Work that PR believes should be corrected or rejected or should be uncovered for observation, or requires special testing, inspection or approval.
- c. Verify that tests, equipment and systems startups and operating and maintenance training are conducted in the presence of appropriate personnel, and that CONTRACTOR maintains adequate records thereof; and observe, record and report to ENGINEER and OWNER appropriate details relative to the test procedures and startups.
  - d. At OWNER'S request, accompany visiting inspectors representing public or other agencies having jurisdiction over the Project, record the results of these inspections and report to ENGINEER.
5. *Interpretation of Contract Documents:* Report to ENGINEER when clarifications and interpretations of the Contract Documents are needed and transmit to CONTRACTOR clarifications and interpretations as issued by ENGINEER.
6. *Modifications:* CONTRACTOR'S requests for modifications will be handled directly with OWNER and not through PR. At Owner's request, PR and ENGINEER will assist with Contract Document Modifications approved by OWNER.
7. *Records:* Maintain a diary or logbook that reflects project data required to evaluate change order requests, time extension requests, and changed project conditions. The documentations shall include any significant on-site project meetings, and daily observations required to ensure construction conformance with Contract Documents.
8. *Reports:*
- a. Furnish or OWNER'S representative periodic reports as required of progress of the Work.
  - b. Consult with or OWNER'S representative in advance of scheduled major tests, inspections or start of important phases of the Work.
  - c. Report immediately to or OWNER'S representative and OWNER upon the occurrence of any accident.
9. *Completion:*
- a. Before ENGINEER issues a Certificate of Final Completion, submit to CONTRACTOR a list of observed items requiring completion or correction in order for Work to be in general conformance with Contract Documents.
  - b. Conduct final inspection in the company of OWNER, CONTRACTOR, and any required governing agencies, and prepare a final list of items to be completed or corrected prior to Maricopa County and MCEQ inspections.
  - c. Attend and observe required inspections by the City of Buckeye. Prepare a final list of items to be completed or corrected to pass inspections and submit to ENGINEER and OWNER. No acceptance of Work shall be deemed a waiver of the OWNER' s right to correction of defective Work, whenever and wherever identified, as may otherwise be allowed under the Contract Documents.

C. **Limitations of Authority**

Project Representative:

1. Shall not authorize any deviation from the Contract Documents or substitution of materials or equipment, unless authorized by ENGINEER and OWNER.
2. Shall not exceed limitations of ENGINEER's authority as set forth in the Agreement or the Contract Documents.
3. Shall not undertake any of the responsibilities of the CONTRACTOR, subcontractors or CONTRACTOR's superintendent.
4. Shall not advise on, issue directions relative to or assume control over any aspect of the means, methods, techniques, sequences or procedures of construction unless such advice or directions are specifically required by the Contract Documents.
5. Shall not advise on, issue directions regarding or assume control over safety precautions and programs in connection with the Work.
6. Shall not authorize OWNER to occupy the Project in whole or in part, except as otherwise provided by the Contract Documents.
7. Shall not participate in specialized field or laboratory tests or inspections conducted by others except as specifically authorized by ENGINEER.



**EXHIBIT H**  
**CHANGE ORDER FORM**

See next page

**CHANGE ORDER**

**DEVELOPMENT MANAGER:**

**CHANGE ORDER NUMBER:**

**CONTRACTOR:**

**CHANGE ORDER DATE:**

**PROJECT:**

**CONTRACT DATE:**

This Change Order is made by the Development Manager and Contractor identified above for the following change(s) in the Work:

Item	Description	Amount
		\$
		\$
		\$
		\$

Original Contract Sum (or GMP),..... \$

Total Amount of Prior Change Orders,..... \$

Amount of this Change Order ..... \$

Adjusted Contract Sum (or GMP),..... \$

The time for performing the Work will be (*check one*):

- Extended by \_\_\_\_ days; the new required date of substantial completion is \_\_\_\_\_
- Shortened by \_\_\_\_ days; the new required date of substantial completion is \_\_\_\_\_
- Unchanged

Except for the change(s) described above, all terms, conditions, covenants and obligations of the above-referenced contract remain in full force and effect.

By signing below, the parties agree that this document shall become effective immediately as a Change Order to the above-referenced contract, and that the amount of this Change Order shall be final and complete compensation for the change(s) described herein and all effects and impacts of this document on the Work.

**DEVELOPMENT MANAGER:**

\_\_\_\_\_  
a \_\_\_\_\_

**CONTRACTOR:**

\_\_\_\_\_  
a \_\_\_\_\_

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

*Signature*

\_\_\_\_\_

*Name and Title*

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

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

*Signature*

\_\_\_\_\_

*Name and Title*

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

**OWNER'S REPRESENTATIVE:**

\_\_\_\_\_  
a \_\_\_\_\_

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

*Signature*

\_\_\_\_\_

*Name and Title*

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

## STANDARD SPECIFICATIONS

### PART I GENERAL

- A. All work to be performed under this contract is to be performed in accordance with these Standard Specifications, unless these Standard Specifications are superseded by the attached Special Specifications or if they are determined unlawful.
1. The city of Buckeye adopted building codes, regulations, and policies.
  2. The Maricopa County, Arizona adopted codes, regulations, and policies.
    - a. Latest edition of the [Regulations of Maricopa County, Arizona for the Approval and Acceptance of Infrastructure].
    - b. Latest edition of the [Maricopa County Engineering Department, Specifications for the Construction of Roads and Bridges within Maricopa County, Arizona].
  3. The Flood Control District of Maricopa County adopted codes, regulations, and policies.
    - a. Latest edition of the [Standard Specifications Book for Flood Control District of Maricopa County]
  4. The Arizona Department of Environmental Quality (ADEQ) adopted rules and regulations.
    - a. Rules and Regulations for Water Systems and Sanitary Sewers
  5. Other local state or federal agencies or departments adopted laws, rules, regulations, and codes.

These forms in their current issue with all revisions and addenda, are made a part of the Contract Documents with the same force and effect as though bound herein. All construction performed under these Contract Documents shall be in accordance with the terms of these items used in conjunction with the other sections of the Contract Documents.

SPECIAL SPECIFICATIONS

[RESERVED]

**ADDENDUM NO. 1**

**ADDENDUM TO STANDARD FORM OF AGREEMENT  
BETWEEN OWNER AND CONTRACTOR<sup>1</sup>**

**THIS ADDENDUM TO STANDARD FORM OF AGREEMENT BETWEEN OWNER AND CONTRACTOR** (this “Addendum”) is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2023 by and between Trillium Management Development Company LLC, a Delaware limited liability company (“Owner”), and \_\_\_\_\_, a(n) \_\_\_\_\_ (“Contractor”).

1. **Integrated Agreement.** This Addendum is executed in connection with and forms an integral part of the Contract. Capitalized terms not otherwise defined in this Addendum shall have the same meanings ascribed to such terms in the Contract. The provisions of this Addendum are intended to supplement, not supersede, the provisions of the Contract. However, in the event of any actual irreconcilable conflict between the provisions of this Addendum and any provisions of the Contract, the provisions of this Addendum shall control over the conflicting provision of the Contract to the extent necessary to satisfy Public Bid Requirements. For purposes of this paragraph, mere inconsistency, discrepancy, or redundancy between provisions is not, by itself, to be construed as a conflict. Additionally, the existence of additional rights of Owner or additional obligations of Contractor in this Addendum or the Contract shall not constitute a conflict. Any inconsistency, discrepancy, or redundancy between provisions of this Addendum and provisions of the Contract is to be interpreted and construed in a way that gives effect to each provision and that, if possible, reconciles both documents when read as a whole.

**Definitions.** The following definitions are added to Section 1.3 of the Contract in alphabetical order:

**“CFD Development Agreement”** means the Development, Financing Participation and Intergovernmental Agreement No. 1 for Trillium Community Facilities District (Buckeye, Arizona) recorded as Instrument No. 2006-0055382, Records of Maricopa County, Arizona, as it may be amended, modified, supplemented, restated, or replaced from time to time.

**“City”** means the City of Buckeye, Arizona, a municipal corporation under the laws of the State of Arizona, and its successors and assigns.

**“District”** means the Trillium Community Facilities District, a community facilities district formed by the Town of Buckeye, Arizona, and duly organized and validly existing, pursuant to the laws of the State of Arizona, and its successors and assigns.

**“Public Bid Requirements”** means the public bidding requirements under Title 34, Arizona Revised Statutes, and Chapter 24, Procurement, of the City’s Code of Ordinances, and any successor or replacement statutes or ordinances, the CFD Guidelines promulgated by the District, as amended from time to time, and the CFD Development Agreement.

**Compliance with Public Bid Requirements.** Owner intends to sell, transfer, and convey the Work to the District after the Work is completed and accepted by the District. Therefore, it is the express intent of Owner and Contractor that the Contract and the other Contract Documents comply in all respects with the Public Bid Requirements. Owner and Contractor shall consult with the City or District concerning the terms and conditions of

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<sup>1</sup> To be included as part of the Standard Form of Contract Between Owner and Contractor for CFD-Eligible Public Infrastructure. The Addendum, together with the Standard Form of Contract Between Owner and Contractor, should be approved by the District Engineer or District Attorney for CFD compliance.

proposed agreements and other bid documents and concerning the means of satisfying the Public Bid Requirements. Plans, specifications, bid documents, and bidding procedures are subject to review and approval by the District. Bids will be submitted to, or as directed by, the District for opening and review. Except for contracts with Subcontractors that are not required to be bid pursuant to the Public Bid Requirements, no award of a contract shall be made without the concurrence of the District. If there is a conflict between the terms of the Contract Documents and the Public Bid Requirements, or that the terms of the Contract Documents are less stringent than the Public Bid Requirements, the Public Bid Requirements will govern and prevail.

Limitation on City and District Recourse. Neither Contractor nor any Subcontractor of any element or system of the Work shall have any recourse, directly or indirectly, to the City or the District for the payment of any costs under the Contract or any subcontract or any liability, claim or expense arising therefrom, and the Owner shall have sole liability for payment under the Contract of all such amounts, subject to the conditions and limitations in the Contract.

Change Orders. Any Change Order shall be subject to approval by the District Engineer and District Manager and shall be certified to in the Certificate of the Engineers (as defined in the CFD Development Agreement); provided, however, that any Change Order increasing the Contract Price by more than 10% of the original Contract Price or significantly modifying the scope of the Work shall be subject to approval by the District Board.

Assignment of Warranties and Guarantees. City and District shall be deemed benefited parties of any and all warranties, guaranties, and indemnities provided by the Contractor, and Contractor shall cause City and District to be named as express benefited parties of all warranties, guaranties, and indemnities provided by any Subcontractor of any element or system of the Work. City and District shall be entitled to enforce all such warranties, guaranties, and indemnities without the necessity of any assignment or joinder by Contractor. Contractor shall, and shall cause any Subcontractor of any element or system of the Work, to execute and deliver such additional assignment documents with respect to the warranties, guaranties, and indemnities as City or District shall require.

Payment and Performance Bonds. Contractor shall provide Performance, Payment and Maintenance Bonds in form and substance required by the Public Bid Requirements, and satisfactory in Owner's sole discretion. All dual obligee rider language is subject to the approval of the Owner, City, and District.

Accounting Records. To the extent necessary to verify the Cost of the Work, Contractor shall provide the City and District, and their respective accountants and representatives access to Contractor's records, books, correspondence, instructions, drawings, receipts, subcontracts, purchase orders, vouchers, memoranda and other data relating to the Contract, and permit the City and District, and their respective accountants and representatives to copy and audit same.

Indemnification. For all purposes under the Contract, the terms "Indemnified Party", "Indemnified Parties", and "Owner Insureds" include the City and District and their public officials, employees, agents, and representatives.

No Boycott of Israel. To the extent applicable, Contractor certifies that it is not currently engaged in, and agrees for the duration of the Contract that it will not engage in, a "boycott" (as that term is defined in Section 35-393 of the Arizona Revised Statutes) of Israel.

E-verify Compliance. To the extent applicable under A.R.S. §41-4401, Contractor and its Subcontractors warrant compliance with all federal immigration laws and regulations that relate to their employees and their compliance with the E-verify requirements under A.R.S. §23-214(A). The failure by Contractor or its Subcontractors' failure to comply with such warranty shall be deemed a material breach of the Contract and may result in the termination of the Contract by Owner.

No Forced Labor of Ethnic Uyghurs. To the extent applicable under A.R.S. §35-394, Contractor hereby certifies it does not currently, and for the duration of the Contract shall not use: (a) the forced labor of ethnic Uyghurs in the People's Republic of China, (b) any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China, and (c) any contractors or Subcontractors that use the forced labor or any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China. If Contractor becomes aware during the duration of the Contract that it is not in compliance with such certification, Contractor shall take such actions as provided by law, including providing notice to Owner. If Owner determines that Contractor is not in compliance with the foregoing certification and has not taken remedial action, such failure to comply with the certifications in this section shall be deemed a material breach of the Contract and may result in the termination of the Contract by Owner.

Full Force and Effect; Counterparts; Electronic Signatures. The Contract shall remain in full force and effect in accordance with its terms and provisions except as modified by this Addendum. This Addendum shall be binding on the parties hereto and their respective successors and assigns. This Addendum may be executed in two or more counterparts, each of which shall be deemed to be an original instrument and all of which combined shall constitute one and the same instrument for all purposes. The parties consent to signing this Addendum with electronic signatures and agree that their electronic signatures are intended to authenticate this Addendum and to have the same force and effect as handwritten signatures. The term "electronic signature" is intended to be construed consistent with the Uniform Electronic Transactions Act to mean any electronic sound, symbol, or process that is both: (1) attached to or logically associated with a contract or record, and (2) executed or adopted with the intent to sign such contract or record.

*[Signatures on following page]*



Owner and Contractor have caused this Addendum to be executed on the date corresponding to the signature of each party's authorized representative below, to be effective as of the date set forth in the preamble of this Addendum.

**OWNER:**

**TRILLIUM MANAGEMENT DEVELOPMENT COMPANY LLC,**  
a Delaware limited liability company

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

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

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

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

**CONTRACTOR:**

\_\_\_\_\_, a  
\_\_\_\_\_

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

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

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

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

**ADDENDUM NO. 2**

**ADDENDUM TO STANDARD FORM OF AGREEMENT  
ADDITIONAL OBLIGEE RIDER**

This Additional Obligee Rider is attached to and made a part of Performance and Payment Bond No. \_\_\_\_\_ (collectively, "Bond"), dated \_\_\_\_\_, 2023, issued by \_\_\_\_\_ as Surety, to \_\_\_\_\_ as Principal, in favor of TRILLIUM MANAGEMENT DEVELOPMENT COMPANY LLC as Obligee, in the sum of \_\_\_\_\_ (\$ \_\_\_\_\_) with respect to the Project referenced in the Bond.

The undersigned hereby agree as follows:

1. The undersigned hereby agree that MIZUHO CAPITAL MARKETS LLC, TRILLIUM DEVELOPMENT HOLDING COMPANY LLC, TRILLIUM LAND COMPANY, LLC and U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION are hereby added to the Bond as additional named Obligees.
2. Except as expressly modified in Section 1 of this instrument, nothing in this instrument shall alter or affect any of the terms, conditions and other provisions of the Bond, including, the aggregate liability of Surety as described in the Bond or any obligation of the Principal or Obligee under the Bond.

Signed and sealed this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

CONTRACTOR/PRINCIPAL:

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

\_\_\_\_\_

Name and Title

SURETY:

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

\_\_\_\_\_

Name and Title